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## Local Government Committee

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### HB 1359

**Brief Description:** Concerning local government procurement modernization and efficiency.

**Sponsors:** Representatives Leavitt, Irwin, Tharinger, Eslick and Pollet.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Allows a county to procure public works with a unit-priced contract and establishes bidding and other procedures for such contracts.</li></ul>
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**Hearing Date:** 1/30/19

**Staff:** Robbi Kesler (786-7153).

**Background:**

Public Works.

"Public works" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality. All public works, including maintenance when performed by contract, must comply with prevailing wage statutes.

County employees may perform public works in an annual or biennial budget period if the work does not exceed ten percent of the public works construction budget.

Counties with a population of 400,000 or more shall not have public employees perform a public works project:

- in excess of \$90,000 if more than one single craft or trade is involved with the public works project; or
- in excess of \$45,000 if only a single craft or trade is involved.

A public works project means a complete project; counties are not permitted to divide the project into units of work or classes of work to avoid meeting the contract limits. The cost of a separate

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

public works project is the cost of materials, supplies, equipment, and labor on the construction of that project.

#### Prevailing Wages on Public Works.

The hourly wages to be paid to workers on all public works and under all public building service maintenance contracts of the state, county, municipality, or political subdivision must not be less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where such labor is performed. The prevailing rate of wage is the rate of hourly wage, usual benefits, and overtime paid in the locality to the majority of workers in the same trade or occupation. Contractors and subcontractors on public works projects must submit to the awarding agency an "intent" to pay prevailing wage and an "affidavit" that prevailing wages have been paid. An awarding agency may not release payment of sums due on account of a public works contract until an affidavit is submitted.

#### Small Works Roster Process.

For public works projects estimated to cost \$300,000 or less, state agencies and local governments may use the small works roster (SWR) process to award contracts. Any responsible contractor may request to be on a SWR, which may be a single general list or may include lists for various specialties or categories of work. Under the SWR process, no advertising of such contract opportunities is required. Instead, a state agency or local government will solicit bids from all contractors who have requested to be on the appropriate SWR or from at least five of the listed contractors.

#### **Summary of Bill:**

A county may procure public works with a unit-priced contract to complete anticipated types of work based on hourly rates or unit-pricing for one or more categories of work or trades.

"Unit-priced contract" is defined as a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the county, under which the contractor agrees to a fixed period, indefinite quantity delivery of work, at a defined unit price, for each category of work. An initial contract term may not exceed three years, and the county may extend or renew a contract for one additional year. Invitations for unit-price bids must include the following information:

- estimated quantities of the anticipated types of work or trades; and
- specify how the county will issue or release work assignments, work orders, or task authorizations for projects based on the hourly rates or unit prices bid by the contractor.

Contracts must be awarded to the lowest responsible bidder. Whenever possible, the county must invite at least one proposal from a minority or woman contractor who otherwise qualifies.

Unit-price contractors must pay prevailing wages for all public works that are otherwise subject to prevailing wage requirements under existing statutes. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit-priced contracts must have prevailing wage rates updated annually. An "intent" to pay prevailing wage and an "affidavit" that prevailing wages have been paid must be submitted annually for all work completed within the previous 12-month period of the unit-priced contract.

The small works roster process for awarding contracts may be used for projects \$500,000 or less.

**Appropriation:** None.

**Fiscal Note:** Requested on January 24, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.