

FINAL BILL REPORT

HB 1970

C 231 L 25
Synopsis as Enacted

Brief Description: Concerning state highway construction project alternative contracting procedures.

Sponsors: Representatives Zahn and Donaghy.

House Committee on Transportation
Senate Committee on Transportation

Background:

Traditional Public Works Contracting.

Public work means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality. Once a public body secures design of a public works project, either through in-house engineering or hiring a consultant, a competitive bidding process is required for most of those projects. State law generally requires agencies to award public works contracts to a responsible bidder with the lowest responsive bid. Contractors that provide the bid are referred to as the prime contractor and this process of awarding public works contracts is often referred to as the design-bid-build process.

Alternative Public Works Contracting Procedures.

Alternative public works contracting procedures include: (1) the design-build (DB) procedure; (2) the general contracting/construction manager (GC/CM) contracting procedure, and (3) job order contracting. The DB procedure means a contract between a public body and another party in which the party agrees to both design and build the facility. The Washington State Department of Transportation (WSDOT) may and is encouraged to use the DB procedure for public works projects over \$2 million when construction activities are highly specialized and the DB approach is critical to develop construction methodology, the project selected provides for greater innovation and efficiency opportunities, or project delivery cost savings would be significant. A GC/CM is a firm with which a public body has selected to provide services during the design phase

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and negotiated a maximum allowable construction cost to act as the GC/CM during the construction phase.

Progressive design build (PDB) is generally defined as a method of contracting under which a public body selects a design-builder before establishing a final project design, price, and schedule, with the public body and design-builder collaborating on final project scope, schedule, and price thereafter. When using the PDB procedure, the WSDOT is subject to the DB procedure requirements applicable to other public bodies. The WSDOT has started using the PDB procedure on several projects.

Capital Projects Advisory Review Board.

The Capital Projects Advisory Review Board (Board) was created by the Legislature in 2005 to review alternative public works contracting procedures and provide guidance to state policymakers on ways to further enhance the quality, efficiency, and accountability of public works contracting methods. In addition to evaluating public works contracting procedures, the Board appoints members to the Project Review Committee (PRC) to certify public bodies to use either DB, GC/CM, or both procedures and to approve the use of DB or GC/CM procedures on a project-by-project basis.

When certified by the Board through the PRC, public bodies may use the DB procedure, including progressive DB, for public works projects in which the total project cost is over \$2 million and where the construction activities are highly specialized and a DB approach is critical in developing the construction methodology, or greater innovation, efficiencies, or savings would be realized. The WSDOT is encouraged to use the DB procedures when these conditions are met.

When certified by the Board through the PRC, public bodies may use the GC/CM procedure for public works projects where the involvement of the GC/CM during the design stage is critical to the success of the project. Other conditions where a GC/CM is allowed include a project involving complex scheduling, phasing, or coordination or the project is, and the public body elects to procure the project as, a heavy civil construction project.

Summary:

The WSDOT is not subject to the certification requirements in the Board's provisions to use the DB or GC/CM contracting procedures on individual projects. In addition to the authority the WSDOT has to use the DB procedure, the WSDOT is also authorized to use the PDB and GC/CM contracting procedures as defined in the Board's provisions.

The WSDOT must develop processes for awarding competitively bid highway construction projects for the three authorized alternative public works contracting procedures.

For the first three GC/CM projects that the WSDOT delivers after July 1, 2025, the WSDOT must pursue approval of the projects to use the GC/CM contracting procedure.

After three such approvals have been granted, the WSDOT is not subject to the Board's approval requirements.

Votes on Final Passage:

House	97	0	
Senate	48	1	(Senate amended)
House	97	0	(House concurred)

Effective: May 12, 2025