

SENATE BILL REPORT

HB 1970

As of April 1, 2025

Title: An act relating to state highway construction project alternative contracting procedures.

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

Sponsors: Representatives Zahn and Donaghy.

Brief History: Passed House: 3/5/25, 97-0.

Committee Activity: Transportation: 4/01/25.

Brief Summary of Bill

- Requires the Department of Transportation (WSDOT) to develop a process for awarding contracts for highway projects using alternative public works contracting procedures, including progressive design-build (PDB) or any general contractor/construction manager (GC/CM) procedure.
- Authorizes WSDOT to use the PDB or GC/CM procedures for public works projects, but must first seek approval from the Capital Projects Advisory Review Board for its first three GC/CM projects delivered after July 1, 2025.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Brandon Popovac (786-7465)

Background: Capital Projects Advisory Review Board. The Capital Projects Advisory Review Board (CPARB), in the Department of Enterprise Services, provides evaluations of public capital projects construction processes, including the impact of contracting methods on project outcomes, and advises the Legislature on policies related to public-works

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delivery methods and alternative public-works contracting procedures. In 2024, CPARB completed a review of the planned procurement methods of four highway projects as directed by the Legislature.

Alternative Project Delivery Methods. WSDOT may award competitively bid highway construction contracts for projects over \$2 million using the design-build (DB) procedure, which is a method of contracting under which WSDOT contracts with another party to design and build the structures, facilities, and other specified contract items. The DB award process must include the scope of services required, contractor prequalification requirements, criteria to evaluate technical information and project costs, contractor selection criteria, and resolution procedures. 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.

WSDOT and other public bodies may apply to CPARB for certification to use the progressive design-build (PDB) procedure or general contractor/construction manager (GC/CM) procedure on projects. Certification allows the public body to use either procedure without CPARB review for three years. To be eligible for certification, the public body must demonstrate successful management of at least one PDB or GC/CM project, respectively, in the previous five years. Otherwise, a public body not certified must apply for approval from CPARB on a project-by-project basis to use the PDB or GC/CM procedure.

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. WSDOT using the PDB procedure is subject to the DB procedure requirements applicable to other public bodies. WSDOT has started using the PDB procedure on several projects.

GC/CM is generally defined as a firm selected by a public body to provide services during the design phase, negotiate a maximum allowable construction cost, and act as construction manager and general contractor during the project construction phase. WSDOT and other public bodies using the GC/CM procedure for public works projects are subject to certain requirements, including additional requirements in using GC/CM for heavy civil construction projects.

Summary of Bill: WSDOT is exempt from the CPARB certification requirements to use the DB, PDB, or GC/CM contracting procedures on individual projects.

WSDOT must develop a process for awarding competitively bid highway construction projects using the DB, PDB, and GC/CM procedures.

WSDOT may also use the PDB and GC/CM contracting procedures for public works projects. WSDOT must pursue approval from CPARB for its first three projects to use the GC/CM contracting procedure after July 1, 2025, but is not subject to such CPARB approval requirements thereafter.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: Ten years ago, the Legislature strongly encouraged WSDOT to use the DB procedure on any projects over \$2 million, and since that time the industry has been morphing and changing. With the DB procurement process, the guaranteed maximum price is locked in before the partners know the best price for the scope of the project. Fewer contractors are willing to take that risk as some projects come back with a really large cost number. In the last five years, there have been over 100 projects around the state using the PDB procedure. WSDOT has been training their staff and developing procedures to use PDB and are ready to successfully deliver projects under this contracting method. For GC/CM, WSDOT has only done one project at Colman Dock that has had some stickiness, so the bill requires WSDOT to demonstrate it has the training and staff to pick the right projects for this procedure. It is important that public owners really understand each delivery method because each are nuanced.

Persons Testifying: PRO: Representative Janice Zahn, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.