

HOUSE BILL REPORT

ESHB 1410

As Passed Legislature

Title: An act relating to modifying provisions governing the competitive bidding process of water-sewer districts.

Brief Description: Modifying provisions governing the competitive bidding process of water-sewer districts.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Takko, Muri, Kilduff, Zeiger, Manweller, Pike, Stanford and Condotta).

Brief History:

Committee Activity:

Local Government: 1/29/15, 2/5/15 [DPS].

Floor Activity:

Passed House: 3/3/15, 97-0.

Passed Senate: 4/13/15, 41-5.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Increases the estimated cost threshold, above which all work ordered by a water-sewer district must be let by contract and competitive bidding, from \$20,000 to \$50,000.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Takko, Chair; Gregerson, Vice Chair; Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride, McCaslin, Peterson and Pike.

Staff: Michaela Murdock (786-7289).

Background:

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.

Special purpose districts are limited purpose local governments separate from a city, town, or county government. Water-sewer districts (districts), a type of special purpose district, are created to further public health and safety and to furnish water, sewerage, and drainage services to persons within and without the district.

Districts have many statutorily enumerated powers, including power to construct, condemn and purchase, maintain, and operate waterworks, systems of sewers, systems of reclaimed water, and systems of drainage. Additionally, districts may seek to reduce, minimize, or eliminate pollutants from lakes, streams, groundwater, or other waterways that are in or adjacent to the district. Districts are authorized to fix rates and charges for services, enter into contracts, have employees and fix salaries, loan and borrow funds, issue bonds and instruments evidencing indebtedness, and levy taxes.

Contract and Competitive Bidding.

All work ordered by a district, which has an estimated cost in excess of \$20,000, must be let by contract and competitive bidding. Any purchases by the district of materials, supplies, or equipment, which has an estimated cost in excess of \$40,000, must be let by contract. Purchases with an estimated cost of \$50,000 or more must be made by competitive bidding. Competitive bidding requirements may be waived if an applicable exemption applies to the purchase or public work.

Before a district contract requiring competitive bidding is awarded, notice inviting sealed bid proposals must be published. Bids submitted to the district must be accompanied by a deposit in an amount not less than 5 percent of the amount of the bid. The contract must be awarded to the lowest responsible bidder.

When a contract is let, the successful bidder's deposit is retained until the contract is entered into for the work and a performance bond for the full amount of the contract price is furnished to the district in accordance with the bid. If the bidder fails to enter into a contract and furnish a performance bond, the deposit is forfeited to the district.

Alternative Contract Procedure.

As an alternative to the competitive bidding process, a district may let works contracts using the small works roster process. A district may create a single general small works roster, or a small works roster for different specialties or categories of anticipated work, that consists of all responsible contractors who have requested to be on the list and are properly licensed or registered in this state, if applicable. Similarly, the district may award purchase contracts to suppliers designated on current state agency, county, city, or town purchasing rosters, when the roster has been established in accordance with applicable competitive bidding laws for purchases.

Summary of Engrossed Substitute Bill:

The estimated cost threshold for work ordered by a district, over which it must be let by contract and competitive bidding, is increased from \$20,000 to \$50,000.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Statute sets competitive bidding threshold requirements on numerous government entities and, after a while, the statutes need to be updated. The \$20,000 threshold for districts is too low; \$90,000 is more reasonable. All utilities, including cities, towns, and public utility districts, agree that the \$20,000 limit makes no sense.

This bill will save districts money. Districts are fiscally responsible. They only use ratepayer funds and do not use taxes. For 2013 there are numerous examples of projects that districts were not able to do in-house and were required to contract out, because of the current cost threshold. Districts are capable of completing such projects for approximately half the cost of letting them by contract. For small projects, prices can really inflate. Doing the work in-house means fewer costs for engineering, parts, labor, etc.

Under current law, even small utility projects are required to be let by public bidding, and sometimes they receive few or no responsive bids. Contracting out these small projects causes delays and increases the cost of the project and the burden on customers.

District staff are required to be certified for certain utility activities and the district is protected with regards to the work; however, when jobs are let, the same protections do not apply. Staff must review the work done by the outside contractor, and sometimes fix problems. In-house expertise will decrease redundant measures and costs, as well as protect the district.

The \$20,000 limit cripples a district's ability to train and instruct staff to handle emergencies. Districts are not able to give staff the practical experiences they need. Also, doing projects in-house creates pride of ownership in the project, and utility operators have the opportunity to comprehend the infrastructure better. This ultimately improves service to the customer.

This bill is identical to a bill that passed the House last year, which received broad bipartisan support.

(Opposed) Increasing the cost threshold to \$90,000 is like stealing \$90,000 worth of jobs from the private sector. It is disturbing to contractors to see projects being done in-house. Construction is typically a job for the private sector, and the government does not need to be taking over this work. In the past, the private sector has helped the public sector find better, easier ways to contract for work, for example, with the small works roster. If a construction project goes bad, a private contractor is bonded and insured, and it costs the government nothing to fix the problem. However, when a project done by the government goes bad, the taxpayers pay for it.

Persons Testifying: (In support) Representative Takko, prime sponsor; Bill Clarke and Jeff Johnson, Water Cooperative of Pierce County; Randy Black, Lakewood Water District; and Ted Hardiman, Valley Water District.

(Opposed) Larry Stevens, Mechanical Contractors Association of Western Washington.

Persons Signed In To Testify But Not Testifying: None.