

HOUSE BILL REPORT

ESSB 5997

As Reported by House Committee On:
Transportation

Title: An act relating to transportation project delivery.

Brief Description: Concerning transportation project delivery.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Lias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, O'Ban, Hewitt, Becker and Brown).

Brief History:

Committee Activity:

Transportation: 4/6/15, 4/7/15 [DPA].

**Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)**

- Authorizes and strongly encourages the Washington State Department of Transportation (WSDOT) to use design-build contracting for projects over \$10 million.
- Requires the Joint Transportation Committee (JTC) to convene an expert review panel to examine the WSDOT's implementation and use of design-build contracting.
- Requires the WSDOT to develop a construction program business plan that: (1) incorporates the findings of the JTC study; (2) outlines a sustainable staffing level of state-employed engineering staff; and (3) makes recommendations on the development of a strong-owner strategy.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 25 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist, Gregerson, Harmsworth, Hayes, Kochmar, McBride, Moeller, Morris, Ortiz-Self, Pike, Riccelli, Rodne, Sells, Shea, Takko, Tarleton, Wilson, Young and Zeiger.

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.

Staff: Alyssa Ball (786-7140).

Background:

Design-build construction is a contracting technique that allows the owner of a project to contract with a single entity for the design and construction of a project. Some construction work can often begin before the final design is complete, providing an opportunity for cost savings and expedited project delivery. The more common project contract, design-bid-build, requires the design to be complete before the construction portion of the project is awarded.

Current law allows the Washington State Department of Transportation (WSDOT) to use design-build construction if construction activities are highly specialized, efficiency opportunities through the use of a single entity for design and construction are greater, or significant savings in project delivery time would be realized. A design-build project must be over \$10 million, except that the WSDOT may also use the design-build process on up to five pilot projects costing between \$2 and \$10 million.

Summary of Amended Bill:

The WSDOT is strongly encouraged to use design-build for public works projects over \$10 million.

After the completion of the five pilot projects valued between \$2 and \$10 million, the authority to use design-build on projects of this size expires.

The Joint Transportation Committee (JTC) must convene a design-build contracting review panel to examine the WSDOT's implementation and use of design-build contracting. The design-build contracting review panel must be comprised of six members representing the following stakeholders: two members must be nationally recognized experts in the field of design-build project delivery; a representative from the Association of General Contractors; a representative from the American Council of Engineering Companies of Washington; a representative of the Professional and Technical Employees Local 17; and a representative from the WSDOT. The two nationally recognized experts must be selected cooperatively by the chairs and ranking members of the Transportation committees of the Legislature. The panel must report to the Legislature and the Governor by December 1, 2016. The experts must be compensated, including reimbursement for expenses. An expiration date of June 30, 2017, is provided for the panel and the JTC will provide support for the expert review panel.

The WSDOT must develop a construction program business plan that: (1) incorporates the findings of the JTC study; (2) outlines a sustainable staffing level of state-employed engineering staff; and (3) makes recommendations on the development of a strong-owner strategy. The report must be submitted to the Office of Financial Management and the Transportation committees of the Legislature no longer than 180 days after the JTC study is complete, and a progress report must be submitted biennially until 2030. The WSDOT must create an advisory group to assist in the development of the business plan consisting of the

following members: one representative from Professional and Technical Employees Local 17, one representative of the managerial engineering and technical staff at the WSDOT, one member appointed by the American Council of Engineering Companies of Washington, and one member appointed by the Associated General Contractors of Washington.

The act takes effect only if Engrossed Substitute Senate Bill 5987 (ESSB 5987) is enacted by June 30, 2015.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill additionally requires the WSDOT to develop a construction program business plan that: (1) incorporates the findings of the JTC study; (2) outlines a sustainable staffing level of state-employed engineering staff; and (3) makes recommendations on the development of a strong-owner strategy. The amended bill removes the provision that the bill only applies to projects identified as Connecting Washington projects and supported by revenues generated under ESSB 5987.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect on June 30, 2015, but only if ESSB 5987, concerning transportation revenue, is enacted by June 30, 2015.

Staff Summary of Public Testimony:

(In support) The use of design-build contracting is applicable and useful when used in the right place, and the use of design-build as one of many contracting tools is supported. It is suggested that another panel address all matters of contracting, particularly in regard to the ramping up of engineering staffing during new revenue. Additionally, defining a sustainable staffing level and what makes a strong owner should also be studied as part of this bill.

(With concerns) Design-build contracting was originally touted as a tool to speed up project delivery and shift risk; however, there has been a lack of evidence to support those assumptions. Having conclusive data on these assumptions would be most helpful as the state moves forward with the new revenue process. The bill speaks mainly towards design-build contracting, but does not take a broader look at overall project delivery and an amendment to this end would be welcomed.

(Opposed) None.

Persons Testifying: (In support) Tom Pierson, Tacoma-Pierce County Chamber of Commerce; Duke Schaub, Associated General Contractors of Washington; Sheri Call, Washington Trucking Association; and Van Collins, American Council of Engineering Companies.

(With concerns) Vince Olivera, Professional and Technical Employees Local 17.

Persons Signed In To Testify But Not Testifying: None.