

## SHB 1621 Review Committee

*Michael Transue - Questions Submitted Prior to the End of Legislative Session 2023*

Referenced - June 20, 2023

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### There are a lot of technical questions with HB 1621

- The bill asks that the existing PUD “contracting in” or “self-performance” limit be increased from \$50K to \$150K (more than 1 craft) and to \$75K (1 craft).... A large increase that hasn’t been justified or sufficiently socialized in our minds to change the PUD statute AND more importantly not well vetted enough for the granting of NEW similar authority to cities (section 2 and 3), water and sewer districts (section 4) and fire districts (section 5).
  - This can be addressed with a CPARB review due June 30, 2025.
  - The intent of the bill is to create a level playing field for utility providers and taking language that one municipality is able to enjoy and applying it across the board achieves that.
- So what happens in section 2(7) for projects that fall between \$40K and \$50K?
  - This is existing language in RCW 57.08.050, I believe the differentiation in the numbers regard “except for public work or improvement”.
- Places “prudent utility management” into the cities, towns, water/sewer and fire district statutes. Is this bill intended to be specific to only public works related to utilities as per the proposed definition of equipment?
  - No.
- How has this authority worked in the PUD environment since its authorization? How have other entities (ports for example) used this type of self-performance authority? What types of projects do the NEW authority cities, water/sewer/fire districts anticipate using this authority/process for?
  - This language has been used sparingly, and not abused. The PUDs indicated they only use this when necessary to complete an important project in a timely manner.
- How will “prudent utility management” inform the NEW authorities as to whether a project is suitable for the use of this authority? Is prudent utility management currently used by the NEW authority entities? Shouldn’t it be, for example, “prudent fire district system management” and without the definition of equipment?
  - The definition has only been used by PUDs since the late 1980s.
  - A district commission “may have its own regularly employed personnel perform work which is **an accepted industry practice**”.
  - This will allow employees trained under the industry practice to perform work under the \$300K threshold.
- The new definition of “lowest responsible bidder” needs further examination and vetting. This concept has been put forward before in the past, exists in the 2<sup>nd</sup> class/town statute but hasn’t had wide acceptance. This use should be further examined and vetted before being expanded to other entities. For consistency purposes, this should be done consistently in all the Title 39 RCW chapters? Are there others like what SB 5268 does across the board?
  - We can remove the language from other utilities and keep it for 2<sup>nd</sup> class cities.
- What is considered “accepted industry practice” under this bill and who determines this?
  - Employees trained in completing work, which goes back to “prudent utility management”.  
The district is responsible for having appropriately trained employees complete these jobs.
- A key focus of the Legislature right now is promoting more opportunities in public works for small, women, minority and veterans owned businesses. This bill will result in less work being done by the private sector and we don’t think will assist those types of businesses in getting into the public procurement arena at the entry level like SB 5268 does.
  - As we see a wave of retirements in our Districts, the workforce is inherently being diversified with the new applicants filling these positions.
  - I am working with Sen. Kauffman to address these concerns.

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- Are there reasons why the small works roster changes being put forward by SB 5268 - \$150K (direct contract) and \$350K and consolidation items in that bill couldn't be address by the circumstances trying to be corrected that you feel need addressing.
  - I do not believe this is the appropriate vehicle to include what 1621 addresses- given that 5268 is addressing small works roster and 1621 is focused more on work performed in-house.
- Proper performance measurements and oversight are needed to ensure the policy is meeting its intended goal(s) of the legislature.
  - The proposed CPARB review in June 2025 addresses these concerns.
- Self-performance and its appropriate level is and always has been a big deal for the construction industry for some time and it's use which is, by its very nature, extremely discretionary as such and needs strict usage and control methods.