

Week 14***Procurement Bill Needs House Vote by Wednesday***

Monday is day 92 of the 105-day regular session. Floor action will continue until Wednesday, April 17th, and then the Legislature will spend remaining time resolving bills that were amended in the opposite chamber. One of those bills could be SB 5418, the local procurement bill.

When first introduced, the bill provided counties with unit price contracting authority and increased small works roster eligibility by increasing the dollar threshold from \$300,000 to \$500,000. The Senate Local Government Committee substantially amended the bill by folding in several other procurement bills into it. It was again amended on the Senate floor and substantially amended again in the House Local Government Committee. The bill currently sits in the House Rules Committee and needs a House Floor vote by Wednesday to survive.

The currently of SB 5418 does the following:

- Allows counties, transits and water-sewer districts to procure public works with a unit priced contract.
- Increases the small works roster process and limited public works project cost thresholds (from \$300k to \$350k).
- Requires a municipality soliciting competitive bids for public works to disclose all bids received if requested by a bidder.
- Changes the date by which a bidder must protest to within two business days of when a municipality discloses all bids received or, if no request is made, bid opening.
- Increases public works contract thresholds for water-sewer districts, counties, cities, public utility districts, fire protection districts, and irrigation districts.
- Allows a second-class city or town to award certain competitive public works contracts to a bid within 5 percent of the lowest bid.
- Requires the Office of Financial Management to adjust bid limit thresholds every five years based upon changes in the consumer price index.

Assuming the House passes the bill by the Wednesday deadline, then the Senate will need to either concur with the amended version, or ask the House to recede from its amendments, or request a conference committee to work towards an agreed version. If concurrence or legislative agreement is reached, then the bill goes to the Governor.

Week 13***Budgets Pass Both Chambers with Significant Differences***

It is the 85th day of the 105-day legislative session. Last week the policy committees finished their work for the session while the fiscal committees have until Tuesday, April 9th. The fiscal committees are those committees that have budget impacts such as tax and spending committees, which include the transportation committees. Both chambers have passed their version of the budgets and will start their negotiations in earnest as we head towards floor action when each chamber considers the other chamber's bills.

Reviewing the transportation budgets as they passed the floor, the difference between is not as large as first assumed: The House provides a total of \$10,101,460,000 while the Senate provides \$10,086,253,000 for a difference of \$15,207,000. The capital budgets have a larger gap: The House provides a total of \$4,607,832,000 compared to the Senate's \$5,263,875,000. The Senate has more funding for natural resources and higher education but less on human services. The House allocates more on public schools.

The largest gap, about \$1.3 Billion, is in the operating budgets. The House provides more for basic education (k-12) but raises more additional revenue to cover its spending. While both the House and Senate budgets depend on a graduated REET increase, the House also relies on a capital gains tax and a targeted business and occupation tax. The Senate closes several tax exemptions and relies on state agency cuts. Both chambers are already criticizing each other's approaches as unsustainable.

Based on these differences, I assume that the capital and transportation budgets will be reconciled before the April 28th session deadline. The operating budget - with its disparate spending, different funding sources and differing priorities - will be a harder to negotiate.

Week 12

Focus Turns to Budgets

We are entering week 12 of the 105-day legislative session. The policy committees have until April 3rd to finish their work and fiscal committees have until April 9th. The budget proposals are taking center stage – the House released and passed their operating, capital and transportation last week. The Senate unveiled their proposals as well and held hearings on their operating budget proposal on April 1st. The Senate capital and transportation budgets were heard last Thursday. The budget documents can be found here: <http://leap.leg.wa.gov/index.html>

Of particular interest to those involved in public works, is how the House and Senate address the court injunction to replace culverts that create fish passage barriers. They court gave the State until 2030 to replace about \$3.1 billion worth of state culverts. Below is how each chamber addressed the issue:

Fish passage barrier removal:

- Senate Capital Budget: Sec. 1030, page 14: \$205,000,000 to Public Works Board for projects as recommended by the fish passage barrier removal board. This is not new money; rather this appropriation states the Public Works Board “may” spend this on culverts.
- Senate Transportation Budget:
 - \$350,000 for AWC to inventory and assess fish passage barriers associated with city roads.
 - \$1,141,500 for study, with priority for barriers that share the same stream system as state-owned fish passage barriers, to identify, map and assess county-owned barriers that need correction
 - \$3.1 billion for fish passage barrier removal with intent to comply with court injunction by 2030 (assumes passage for a transportation funding package, which is not likely this session).
- House Transportation Budget:
 - \$350,000 for AWC to inventory and assess fish passage barriers associated with city roads.
 - \$1,141,500 for study, with priority for barriers that share the same stream system as state-owned fish passage barriers, to identify, map and assess county-owned barriers that need correction
 - \$131,183,000 to remove state fish passage barriers with intent to comply with court injunction by 2030.
 - \$25,000,000 for local fish barrier replacement as ranked by fish passage barrier removal board.

The House and Senate will negotiate a solution within this framework. It is unlikely local jurisdictions will receive a significant allocation for fish passage barriers beyond the \$25 million set forth in the House Transportation budget.

Week 11

The Economic Forecast Predicts Increased Revenues and the Senate’s Procurement Bill Moves to a Hearing in the House

On March 20th, the Economic and Revenue Council (ERFC) released the spring quarterly revenue forecast. The ERFC must release the spring forecast by March 20th in odd numbered years (long sessions) and by February 20th in even numbered years (short sessions).

In the March 20th forecast, Near General Fund-State (NGF-S) revenue for the current 2017-19 biennium is forecasted to increase by \$307 million, bringing the total 2017-19 NGF-S to \$46.106 billion, which is 18.1% more than the 2015-17 biennium. NGF-S revenue for the upcoming 2019-21 biennium is forecasted to increase by \$553 million, bringing the total 2019-21 NGF-S to \$50.555 billion, which is 9.6% higher than the expected 2017-19 biennial revenue.

Now, that the forecast is public, the House will unveil its budget proposals on March 25th, with hearings on the proposals that afternoon. The House will likely vote their budgets out of their chamber by the end of the week. By then, the Senate will make public their budget proposals.

Of particular interest to APWA members, the House Local Government Committee will hear SB 5418 on Tuesday. The current draft of SB 5418 contains the following provisions:

- Allows counties of any population to create a purchasing department.
- Allows counties and water-sewer districts to procure public works with a unit priced contract.
- Increases the small works roster process and limited public works project cost thresholds.
- Requires a municipality soliciting competitive bids for public works to disclose all bids received if requested by a bidder.
- Changes the date by which a bidder must protest to within two business days of when a municipality discloses all bids received or, if no request is made, bid opening. Increases public works contract thresholds for public utility districts, second class cities and towns, first class cities, and fire protection districts.
- Allows a second class city or town to award certain competitive public works contracts to a bid within 5 percent of the lowest bid until July 2022.
- Requires a Capital Projects Advisory Review Board study of local government public works contracting processes by November 1, 2020.
- Expires all provisions in the act on March 31, 2021.

The committee chair, Rep. Pollet, is expected to make changes to the bill in committee.

Week 9

2019 Session Mid-Point is Behind Us - Budget Challenges Lie Ahead.

It's the 57th day of the 105 day legislative session. The House and Senate are cranking out floor votes – sending bills across to the other chamber. They have until next Wednesday, March 13th, to do so; after that they start up the committee process again. Bills that are not tied to the budget and that do not pass out of their chamber of origin are dead.

The state fiscal forecast is likely to occur on March 22nd and the House budget proposals will be unveiled at the end of the month. The Senate will unveil their budget proposals soon thereafter. The House operating budget is expected to rely on new revenue – whether that is a capital gains tax, an escalating real estate excise tax, and perhaps a B & O tax increase of some sort is unknown.

The transportation budget is unlikely to be much of a departure from last biennium's budget. It's likely that bills relating to tolling along I-405, SR 509 and SR 167 will be tied to that budget. One of the unknowns is how the Legislature will address the fish passage barriers litigation. The transportation funding proposal bills (SB 5970, SB 5971, and SB 5972) passed out of the Senate Transportation Committee with mixed votes last week. It remains to be seen whether there is enough bandwidth to consider a transportation funding package when the operating budget may need new revenue.

Week 8

Only a Small Number of Bills Survive Cutoff Dates

Two bill cutoffs have passed, and the 2019 session is reaching its halfway point. Committee hearings have abated somewhat, and House and Senate floor action will pick up. There are a lot of bills to consider and only two weeks for each chamber to pass their own bills before they transition to considering the bills from the opposite chamber. Here are the primary bills that are still alive that APWA is tracking:

Local Government procurement: HB 1359 and SB 5418 both contain provisions related to unit price contracting and both increase the dollar threshold for small works roster projects. SB 5418 has additional provisions related to a JLARC study and bid challenges.

Contractor requirements & liability: HB 1395 concerns direct contractor liability for payment of wages and benefits, and SB 5457 requires each prime contract bidder to submit, as part of the bid on public works contracts, the names of the subcontractors.

Transportation funding proposals: On Thursday, the Senate Transportation Committee held a hearing on Sen. Hobbs' transportation funding proposal. SB 5970 contains the bonding provisions; SB 5971 contains the provisions that raise the revenue (e.g., 6 cent gas tax increase, \$15 carbon tax fee) and SB 5972 contains the spending portion of the package.

Regarding those bills that did not survive the bill deadlines, below are several of the notable ones:

HB 1006 – new requirements for locating underground facilities.

HB 1680 – local government infrastructure funding (ends the deposit of 4.1 percent of the Real Estate Excise Tax (REET) into the Education Legacy Trust Account in fiscal year 2019, rather than fiscal year 2020).

SB 5952 – funding local public works through the creation of a state infrastructure bank.

The budgets will likely be unveiled by the end of the month. The House goes first this year and will likely depend on new revenue sources to meet its obligations.

Week 7

Focus Shifts to the Budget

The first bill cutoff came Friday, February 22nd. The Transportation Committees and the other fiscal committees will continue to meet next week, but the policy committees are done until March 14th, when they start considering bills from the other chamber. Next month, much of the focus will turn to the budgets once the March fiscal forecast is released.

Bill introductions have slowed considerably, but not before a large number of bills concerning transportation electrification were introduced and heard. On this bill cutoff day, several of those bills failed in committee but several bills are still moving. Electrification bills that are still moving include:

- HB 1512 which provides incentives to promote electrification of transportation
- SHB 1832, which directs the Joint Transportation Committee to study how Washington Governments can achieve a fully electric vehicle fleet
- HB 2042 which provides a significant number of incentives to advance electric vehicle infrastructure and use
- SSB 5336 (a Governor's request bill) which also provides a number of incentives for use of electric vehicles and clean alternative fuels

The GAC continues to watch a number of procurement bills that are still moving. Some contain provisions that we feel will further complicate public works procurement processes.

On Tuesday, both House and Senate Transportation Committees will hold a hearing on Initiative 976, which pertains to vehicle license fees. This is an initiative to the legislature so the Legislature can either pass it (and it becomes law), pass a substitute version (which would go on the ballot with I-976), or take no action and let I-976 go to the ballot with no competing option. At this point, the latter option is the most likely.

On Thursday, the committee will hear the bills associated with Sen. Hobbs' transportation funding proposal:

- SB 5970 – relating to transportation bonds,
- SB 5971 – relating to revenue and transportation funding
- SB 5972 – relating to additional transportation funding.

These bills reflect much of what has been discussed and over the last several months. While few expect this to be enacted this session, the conversation regarding a new transportation funding package has started in earnest, and that conversation is expected to last into next session, and, perhaps, to the 2021 session.

Week 6

Policy Bill Cutoff is Three Days Away!

We are over a third of the way through the 2019 session. The first bill cutoff is February 22nd and the House and Senate have until March 13th to hear their own bills before they start considering the each other's bills. Consequently, bill introductions have slowed to a trickle.

Of those hearings still occurring, the House Capital budget is holding hearings on three bills concerning local infrastructure: HB 1441, which allows the Housing Finance Commission to provide financing for local government infrastructure projects; HB 1680, which ends the diversion of 4.1% of the REET from the general fund to back to the Public Works Assistance Account, and HB 1691, which ends the diversion of the Refuse Tax to the General Account to back to the Public Works Assistance Account.

In the Senate, the State Government Committee is holding a hearing on SB 5457. This bill requires bid documents for public works projects over \$1 million include names of all subcontractors. On Friday, the Senate Transportation Committee is hearing SB 5825, which addressing the tolling of Interstate 405, state route 167 and state route 509.

After this week, while the financial committees will continue meeting until March 1st, the focus will shift to floor action.

Week 5

The 2019 Session Approaches Its First Cut-off Date

We are about 35 days into the 105 day legislative session. The Legislature closed down on the 29th day due to snow, and reopened on Tuesday. With only five days until the first bill cutoff (February 22nd), and with over 2,000 bills introduced, this closure will likely "kill" many bills that would have otherwise had hearings.

The major issues facing the legislature this year are the State's mental health system, homelessness and affordable housing and fish-passage associated with culvert replacement. These were reflected in the Governor's budget proposal that was released in December. The first weeks of session were marked by hearings related those proposals.

The early days of session were also marked by a relatively slow start due to the large number of new members in both houses. The pace increase significantly as we entered the third and fourth weeks of session resulting in the over 2,000 bills mentioned above.

Last week, the Senate Transportation Committee held a hearing on SB 5505, which would require that local storm water fees paid by WSDOT be spent solely on WSDOT properties and that reports be sent to WSDOT describing those expenditures. Essentially, this bill would go back to pre-2014 practices. APWA testified against the bill, stating that those requirements would make it harder for local governments to implement their stormwater programs.

Public procurement is a popular topic this session, with over 20 such bills introduced. Some of these bills authorize the use of unit price contracting; others concern subcontractor relationships and procedures. A few of those bills have hearings this week: SB 5702 (concerning the fairness of public works bidding) in the Senate Local Government Committee while SB 5656 (concerning public works contracting procedures) will be heard in the Senate State Government Committee.

As this long budget session unfolds, we will resume weekly legislative updates to you informed about what the members of the Government Affairs Committee is seeing and acting on.