

# Capital Projects Advisory Review Board

---

SHB 1621 Recommendations

December 2023

## Intent:

Substitute House Bill 1621 passed by the house on April 13, 2023 including revisions to the RCW. In accordance with new section 7, sections 1-5 of this act take effect on June 30, 2024.

SHB 1621 - AN ACT Relating to standardizing local government procurement rules among special purpose districts, first-class and second-class cities, and public utility districts; amending RCW 54.04.070, 35.23.352, 35.22.620, 57.08.050, and 52.14.110; creating a new section; and providing an effective date.

New section 6 includes the following statement:

**“The capital projects advisory review board shall review this act and make recommendations to the appropriate committees of the legislature by December 31, 2023.”**

CPARB established the SHB 1621 Review Committee on 4/13/2023 to assemble a group of industry stakeholders to evaluate and identify the recommendations included in this report.

<https://des.wa.gov/about/committees-groups/capital-projects-advisory-review-board-cparb/shb-1621-review-committee>

### Committee members:

- [Mark Nakagawara](#) (Cities) - Co-Chair
- [Keith Michel](#) (General Contractors) - Co-Chair
- [Sharon Harvey](#) (OMWBE)
- [Bruce Hyashi](#) (Architects)
- [Irene Reyes](#) (Private Industry)
- [Mark Riker](#) (Labor)
- [Michael Transue](#) (MCA)

### Committee Stakeholders:

Liz Anderson, WA PUD Association  
Judi Gladstone, WASWD  
Logan Bahr, Tacoma Public Utilities  
Scott Middleton, MCAWW  
Randy Black, Lakewood Water District  
Diane Pottinger, North City Water District  
George Caan, WA PUD Association  
Paul Richart, Alderwood Water & Wastewater District  
Bill Clark, WA PUD Association  
Abigail Vizcarra Perez, MetroParks Tacoma  
Joren Clowers, Sno-King Water District Coalition  
Rob Wettleson, Forma Construction  
Linda De Boldt

Maggie Yuse, Seattle Public Utilities  
Brandy DeLange, Assoc. WA Cities

DRAFT

## SHB 1621 BACKGROUND

SHB 1621 uniformly establishes a limit of \$75,000 for single trade bodies of work and \$150,000 for multiple trade bodies of work for work that can be performed by regularly employed personnel for public utility districts, sewer/water districts, fire districts. These limits match the pre-existing first-class and second-class cities' limits established in RCW 35.22 and RCW 35.23. Further, SHB 1621 adds authority for first-class cities, second-class cities, water/sewer districts and fire districts to self-perform work with regularly employed personnel utilizing material not to exceed \$300,000 permissible under the guidance of "prudent utility management." This provision mirrors the authority currently given to public utility districts in RCW 54.04. The definition of "Prudent Utility Management" also asserts definitions of "equipment" that include "conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications."

Additionally, SHB 1621 adds authority for public utility districts, first-class cities, water/sewer districts and fire districts to reject low bids based on responsibility determination. This provision mirrors the authority currently given to second-class cities in RCW 35.23.

### SHB 1621 CPARB AREAS OF CONCERN:

#### "Prudent Utility Management" Definition:

The subcommittee has expressed concerns regarding the term "Prudent Utility Management." While it is an existing term that is currently used within RCW 54.04 by the public utility districts, the term's usage and applicability is less common with water/sewer districts, first-class cities, second-class cities and fire districts.

#### Subcommittee Responses:

- The term, "Prudent Utility Management" should remain in use with only the public utility districts as in RCW 54.04.
- More applicable terminology replacing "Prudent Utility Management" is needed to identify permissible use of the \$300,000 threshold by water/sewer districts, first-class cities, second-class cities and fire districts.
- First-class and second-class cities proposed new language to replace the term, "Prudent Utility Management. The intent of the proposed language is to narrowly describe the circumstances when regularly employed personnel would be allowed to work on projects with values up to \$300,000.
  - Proposed Language: "...a first class-city may have its own regularly employed personnel perform public works activities with the requisite experience, capability and qualifications to address the exigency, efficiency or financial needs of the public body without a contract in the sum not to exceed \$300,000."
- Water/sewer districts are open to accept the conditions of the proposed language presented by the first-class and second-class cities.

- Stakeholders representatives of first-class cities, second-class cities and water/sewer districts were open to consider the simplification of applying a \$300,000 threshold limit in lieu of the “equipment” (material) cost waiver as part of the \$300,000 threshold calculation.
- Contractor representative have expressed concerns that the “Prudent Utility Management” and the proposed language presented by the first-class and second-class cities is overly broad and ripe for misuse. Concerns regarding a loss of projects available to the contracting community were raised.
- Construction Trades Labor expressed their opposition towards the augmentation of the thresholds that govern work allowed by regularly employed personnel of public entities.

#### Equipment definition and equipment cost exclusion:

The subcommittee expressed concerns regarding the definition of “equipment” in the context of “Prudent Utility Management” which states equipment consists of “...conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optics, or telecommunications.” Within the context of “Prudent Utility Management,” cost of equipment are waived from the calculation of the work threshold of \$300,000.

#### Subcommittee Response:

- No exclusions should be included in the act within the \$300,000 threshold for work performed by regularly employed personnel.

#### Bidder Responsibility Determinations:

The subcommittee expressed concerns regarding the provision to allow for the rejection of a low bidder in light of an issue with a bidder’s responsibility or lack thereof. While this language pre-exists for the second-class cities in RCW 35.23, general public works provisions for bidder responsibility exist in RCW 39.04.350.

#### Subcommittee Responses:

- First-class cities, water/sewer districts and public utilities are open to striking bidder responsibility language of SHB 1621.
- Second-class cities are not subject to SHB 1621 and do not support any changes to RCW 35.23 in regards to bidder responsibility provisions contained therein.

**Attachments:**

- SHB 1621 Committee Summary comments/Matrix Spreadsheet
- SHB 1621 w/committee comments included

DRAFT