

## SHB 1621 Committee

Meeting Notes 10/24/2023

Page 1 of 4

### Committee Members: (9 positions, 5 = quorum)

X Keith Michel, General Contractors – Co-Chair	Brandy Delange, Assoc. WA Cities (Proxy for Mark Nakagawara)
X Liz Anderson, WA PUD Association	X Irene Reyes, Private Industry
X Sharon Harvey, OMWBE	Mark Riker, Construction Trades & Labor
X Bruce Hayashi, Architects	X Michael Transue, Contractors (MCAW)
X Diane Pottinger, North City Water District	

### Guests & Stakeholders:

Logan Bahr, Tacoma Public Utilities	Monique Martinez, DES
Randy Black, Lakewood Water District	
George Caan, WA PUD Association	Rob Wettleson, Forma Construction
Bill Clark, WA PUD Association	Judi Gladstone, WASWD
Joren Clowers, Sno-King Water District Coalition	Maggie Yuse, Seattle Public Utilities
Linda De Boldt	Scott Middleton, MCAWW
Nancy Deakins, DES	Janice Zahn, Port of Seattle, CPARB Chair
Abigail Vizcarra Perez, MetroParks Tacoma	Paul Richart, Alderwood Water & Wastewater District
Jack Donahue, MFA	Roe Pualasi-Gonzalez, Pierce County

The meeting began at 11:31 a.m.

#### 1. Welcome and introductions.

#### 2. Review and approve agenda.

Co-Chair Keith Michel reviewed the agenda and asked the group for any edits before proceeding. *Sharon Harvey moved, seconded by Michael Transue, to approve the agenda. The motion was approved by a voice vote.*

#### 3. Review current version of the draft report, review voting matrix and vote labels.

Co-Chair Michel established that he had re-reviewed all comments made to the Capital Projects Advisory Review Board's (CPARB) SHB 1621 Recommendations report and incorporated those comments and edits. The most recent incorporated edits pertained to facts, ensuring accuracy in definitions, acronyms, and company names, while wordsmithing edits were not incorporated.

Voting tables were also added to the report, which recorded vote totals for each category that the committee ran through in the Oct. 10 meeting. There is also a voting matrix, which goes through each vote item-by-item and shows how each committee member voted. The summary for each individual vote will include the voting from the upcoming CPARB special meeting on Nov. 8.

One error was identified in the "Prudent Utility Management" (PUM) Definition section, where the word "he" should be changed to "the." Co-Chair flagged that error to address later.

Co-Chair Michel reiterated the importance of ensuring votes were accurate and asked for committee members to double check each voting statement and confirm that their vote was accurately reflected. He pointed out that he had made an error in voting "yes" on Vote #7, which he then amended it to a "no" vote. Committee members were asked to review their votes and email the Department of Enterprise Services

## SHB 1621 Committee

Meeting Notes 10/24/2023

Page 2 of 4

(DES) CPARB inbox and copy Co-Chair Michel and Co-Chair Mark Nakagawara by Friday, Oct. 27 if they had any changes to their vote.

Michael Transue referred to Vote #7 and shared his confusion over the definition of the word “material” and “equipment,” and where they lie in terms of the budget. The question appeared to lean toward the total cost of the project, in which case Michael indicated he would change his “yes” vote to a “no.” It was brought up whether the vote on Vote #7 addressed the issue at hand or whether it still lacked clarity. Co-Chair Michel referred to Vote #6, which is where the discussion about the topic of equipment begins and asks if the definition should be modified. However, even with a different definition or modified version of the term “equipment,” it is still excluded from the \$300,000 threshold. Therefore, the second portion of that question, which notes that despite how “equipment” is defined, should be excluded.

Brandy Delange proposed that the group re-vote on Vote #7, noting widespread confusion on the verbiage of the question. It is important that this committee works through any questions or clarifications now, so they can avoid presenting a recommendation to CPARB with votes that do not reflect a clear understanding of the report.

Michael pointed out confusion with a few more questions, noting that in Vote #3, if the vote was “no” then Votes #3-B and #3-C were unnecessary. If PUM should not apply, there may not be a need to ask the second two questions. Co-Chair Michel disagreed, noting that the bill as written has PUM applying for cities. This committee believes that PUM is not an appropriate definition for this category of work. Because the committee unanimously has this viewpoint and is trying to find recommendations to share different ideas they can support, that is where the subsequent votes are important to consider—should the suggested language be applied from cities. The other component to the question was to change “or” to “and” within the suggested language. This is the reason the question was split up—so that individual utilities could be voted on.

Michael pointed out that in Vote #3, language that said “if YES” in the question would make it appear as though #3-B and #3-C were mutually exclusive. He stated that the way they were written, that voting “no” on #3-B meant an abstention from #3-C. The outcome of this committee as represented in the report is to present ideas that have support. Because these ideas get debated, Co-Chair Michel wanted to create an avenue for everyone to further discuss these ideas. This committee has done a good job of showing insight into the balance that they are trying to find.

Nancy Deakins, in the chat, suggested amendments to Votes #3-B and #3-C to remove “if YES” and “if NO” from the questions. Diane Pottinger proposed a vote on Nancy’s suggestions, but would like to include Votes #4-B, #4-C, #5-B, and #5-C, in order to distinguish between cities, fire districts, and sewer/water districts.

*Diane Pottinger moved, seconded by Michael Transue, to remove “if YES” and “if NO” from Votes #3-B, #3-C, #4-B, #4-C, #5-B, and #5-C. The motion was approved by a voice vote.*

Co-Chair Michel will send out the voting table to the committee so members can review and submit any changes by the end of the week.

The committee was asked to consider any updates to Votes #6 and #7. Vote #6 asked whether the definition of “equipment” as applied to cities, sewer/water districts, and fire districts be modified through revisions to SHB 1621. Michael noted his impression of the question was the distinction between

## SHB 1621 Committee

Meeting Notes 10/24/2023

Page 3 of 4

“equipment” and “material,” the definitions of which on the front end need to be fixed. However, not wanting to extend PUM to any of the jurisdictions in the bill, then this question may not be needed as they have already voted to not extend it. If they have agreed to not extend it, then the sections in the bill would be recommended to be removed, which would contain the definition of “equipment” and “material” within them. While Michael agreed that the definition of “equipment” needs to be modified through the definition of “materials,” then this may not be necessary due to the vote to not extend PUM. However, if the vote was to move PUM forward, then there may be a need to clarify the distinction between “material” and “equipment.” This was set up for Public Utility Districts (PUDs) and not other jurisdictions

Co-Chair Michel noted that the intent for the section was in recognition for how it is in the bill currently. “Equipment” is defined, and this committee is asking whether it should be modified. Regardless of how it is defined, the second question still remains on whether it should be excluded from a \$300,000 project. There is commentary earlier in the report that lays the groundwork on how the current definition does not match expectations on what “equipment” means.

As city stakeholders, there is some discomfort with the current definition, therefore there was an attempt to put forward the idea that this would entail all project costs in lieu of equipment and materials. There may be an assumption that the proposed new language remains in effect, and this committee voted to not extend to second-class cities and towns. However, the legislature is not guaranteeing that anything the committee votes on will be included.

If PUM was not changed for all of these jurisdictions, then the secondary approach may be to update the definition because there is allowance to exclude project costs from an increased threshold. If the definitions could be narrowed, then the exclusion is also narrowed. Vote #6 is still important as a fail-safe, ensuring that the definitions will be accurate and therefore the rates will be correct.

The question was raised about what the \$300,000 threshold would apply to if the definition of “equipment” was omitted. It means it would include all project costs, rather than up to \$300,000 and excluding materials and equipment. The question was also asked about how this \$300,000 threshold would affect the agreement to carry out in-house work up to \$75,000 if one craft or in-house work up to \$150,000 for two crafts. The perception is that the \$75,000 or \$150,000 threshold may apply to any project. However, when it is PUM, that is when the \$300,000 threshold applies. The definition is the type of effort in terms of what threshold in which they are working. That is why the definition of PUM for cities was asked whether it applied to them. The proposed language from cities helps categorize the type of work and circumstances that exist to allow the public entity to use the higher \$300,000 threshold for self-performed work.

Some of the confusion stemmed from the original vote, Vote #2, on the extension of PUM, when the vote recommends revisiting the appropriateness of the uniform application. The question is not whether to extend it or not, but rather if it is appropriate. In that case, the follow up questions would be appropriate because it informs that vote. If the question asked whether the committee recommended extending or not extending PUM to the entities, then it would be a clear vote. However, the current vote revisits the use of the language and whether it should be there.

The bill as presented does extend the definition to all the various entities, and the committee is evaluating whether this is appropriate. Then the committee must consider each entity and whether it is appropriate. That is where there has been variance in the votes, due to varying types of work with each entity and how they operate differently.

## **SHB 1621 Committee**

Meeting Notes 10/24/2023

Page 4 of 4

Michael noted that the way he understood Vote #2 is whether the committee needs to revisit what the legislature put forward. If one were to vote “no” on this vote, it would indicate that it does not need to be revisited and therefore the legislature’s bill as adopted and signed into law goes forward without any changes. Keith agreed that was the way he viewed the question and noted that the votes and conversations from the committee members reflected that understanding and viewpoint.

The committee was asked whether Vote #2 should be modified to improve clarity. It was suggested to add a reference to language currently adopted by the bill, which may create more clarity. It was reiterated that this committee is not charged with repealing the bill, but rather making recommendations that would improve the bill.

Co-Chair Michel re-established that everyone should re-read the questions and validate their votes, rather than making more edits or rewriting questions. The most important thing to do moving forward is to confirm voting accuracy. He once again showed the voting matrix, asking for input over email before Oct. 27. The report, feedback, and votes will be shown to CPARB for the Nov. 8 meeting. It was noted that there is an upcoming SHB 1621 Committee meeting the day prior, on Nov. 7, which may be unnecessary.

*Diane Pottinger moved, seconded by Sharon Harvey, to cancel the Nov. 7 SHB 1621 Committee meeting. The motion was approved by a voice vote.*

#### **4. Action items**

- a. Co-Chair Michel will send out updated voting table to the committee.
- b. All committee members will review their votes and send any updates to DES and copy Co-Chair Michel and Co-Chair Nakagawara by Friday, Oct. 27.

#### **5. Meeting Adjourned at 12:31 p.m.**