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**SUBSTITUTE SENATE BILL 5525**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Government Operations (originally sponsored by Senators Haugen, Horn, Jacobsen and Hale)

Read first time 03/05/97.

1 AN ACT Relating to exemptions from formal competitive bidding  
2 procedures for goods and services; amending RCW 35.22.620, 35.23.352,  
3 36.32.270, 52.14.110, 53.08.120, 54.04.070, and 70.44.140; reenacting  
4 and amending RCW 57.08.050; and adding a new chapter to Title 39 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** For the purposes of this chapter, the term  
7 "municipality" includes every city, county, town, district, or other  
8 public agency thereof that is authorized by law to require the  
9 execution of public work, except drainage districts, diking districts,  
10 diking and drainage improvement districts, drainage improvement  
11 districts, diking improvement districts, consolidated diking and  
12 drainage improvement districts, consolidated drainage improvement  
13 districts, consolidated diking improvement districts, irrigation  
14 districts, or any other districts as may from time to time be  
15 authorized by law for the reclamation or development of waste or  
16 undeveloped lands.

17 NEW SECTION. **Sec. 2.** (1) This section provides uniform exemptions  
18 to competitive bidding procedures utilized by municipalities when

1 awarding contracts for purchases of goods and services. The purpose of  
2 this section is to supplement and not to limit the current powers,  
3 requirements, or practices of any municipality to provide exemptions  
4 from competitive bidding procedures.

5 (2) Competitive bidding procedures may be waived by the governing  
6 body of the municipality for purchases in which the purchase price may  
7 be best established by direct negotiation, and:

8 (a) The purchases are clearly and legitimately limited to a single  
9 source of supply;

10 (b) The purchases involve special facilities or market conditions;  
11 or

12 (c) The municipality is purchasing insurance or bonds.

13 (3) The waiver of competitive bidding procedures under subsection  
14 (2) of this section may be by resolution or by the terms of written  
15 policies adopted by the municipality, at the option of the governing  
16 body of the municipality. If the governing body elects to waive  
17 competitive bidding procedures by the terms of written policies adopted  
18 by the municipality, immediately after the award of any contract is  
19 made, the contract and the factual basis for the exception must be  
20 recorded and open to public inspection.

21 (4) If a resolution is adopted by a governing body to waive  
22 competitive bidding procedures under subsection (2) of this section,  
23 the resolution must recite the factual basis for the exception.

24 (5) Competitive bidding procedures may be waived for purchases of  
25 goods and services in the event of an emergency under section 3 of this  
26 act.

27 NEW SECTION. **Sec. 3.** (1) The governing body of the municipality  
28 may designate by resolution a person or persons who shall declare that  
29 an emergency situation exists for the purpose of waiving competitive  
30 bidding requirements and awarding all necessary contracts for purchases  
31 of goods and services on behalf of the municipality to address the  
32 emergency situation.

33 (2) If a contract is awarded for purchases of goods or services due  
34 to an emergency, a written finding of the existence of an emergency  
35 must be made by the governing body or its designee and duly entered of  
36 record not later than two weeks following the award of the contract.

37 (3) For the purposes of this chapter, "emergency" means unforeseen  
38 circumstances beyond the control of the municipality that either: (a)

1 Present a real, immediate threat to the proper performance of essential  
2 functions; or (b) will likely result in material loss or damage to  
3 property, bodily injury, or loss of life if immediate action is not  
4 taken.

5 **Sec. 4.** RCW 35.22.620 and 1993 c 198 s 9 are each amended to read  
6 as follows:

7 (1) As used in this section, the term "public works" means as  
8 defined in RCW 39.04.010.

9 (2) A first class city may have public works performed by contract  
10 pursuant to public notice and call for competitive bids. As limited by  
11 subsection (3) of this section, a first class city may have public  
12 works performed by city employees in any annual or biennial budget  
13 period equal to a dollar value not exceeding ten percent of the public  
14 works construction budget, including any amount in a supplemental  
15 public works construction budget, over the budget period. The amount  
16 of public works that a first class city has a county perform for it  
17 under RCW 35.77.020 shall be included within this ten percent  
18 limitation.

19 If a first class city has public works performed by public  
20 employees in any budget period that are in excess of this ten percent  
21 limitation, the amount in excess of the permitted amount shall be  
22 reduced from the otherwise permitted amount of public works that may be  
23 performed by public employees for that city in its next budget period.  
24 Twenty percent of the motor vehicle fuel tax distributions to that city  
25 shall be withheld if two years after the year in which the excess  
26 amount of work occurred, the city has failed to so reduce the amount of  
27 public works that it has performed by public employees. The amount so  
28 withheld shall be distributed to the city when it has demonstrated in  
29 its reports to the state auditor that the amount of public works it has  
30 performed by public employees has been so reduced.

31 Whenever a first class city has had public works performed in any  
32 budget period up to the maximum permitted amount for that budget  
33 period, all remaining public works within that budget period shall be  
34 done by contract pursuant to public notice and call for competitive  
35 bids.

36 The state auditor shall report to the state treasurer any first  
37 class city that exceeds this amount and the extent to which the city

1 has or has not reduced the amount of public works it has performed by  
2 public employees in subsequent years.

3 (3) In addition to the percentage limitation provided in subsection  
4 (2) of this section, a first class city with a population in excess of  
5 one hundred fifty thousand shall not have public employees perform a  
6 public works project in excess of fifty thousand dollars if more than  
7 a single craft or trade is involved with the public works project, or  
8 a public works project in excess of twenty-five thousand dollars if  
9 only a single craft or trade is involved with the public works project  
10 or the public works project is street signalization or street lighting.  
11 In addition to the percentage limitation provided in subsection (2) of  
12 this section, a first class city with a population of one hundred fifty  
13 thousand or less shall not have public employees perform a public works  
14 project in excess of thirty-five thousand dollars if more than one  
15 craft or trade is involved with the public works project, or a public  
16 works project in excess of twenty thousand dollars if only a single  
17 craft or trade is involved with the public works project or the public  
18 works project is street signalization or street lighting. A public  
19 works project means a complete project. The restrictions in this  
20 subsection do not permit the division of the project into units of work  
21 or classes of work to avoid the restriction on work that may be  
22 performed by day labor on a single project.

23 (4) In addition to the accounting and record-keeping requirements  
24 contained in RCW 39.04.070, every first class city annually shall  
25 prepare a report for the state auditor indicating the total public  
26 works construction budget and supplemental public works construction  
27 budget for that year, the total construction costs of public works  
28 performed by public employees for that year, and the amount of public  
29 works that is performed by public employees above or below ten percent  
30 of the total construction budget. However, if a city budgets on a  
31 biennial basis, this annual report shall indicate the amount of public  
32 works that is performed by public employees within the current biennial  
33 period that is above or below ten percent of the total biennial  
34 construction budget.

35 After September 1, 1987, each first class city with a population of  
36 one hundred fifty thousand or less shall use the form required by RCW  
37 43.09.205 to account and record costs of public works in excess of five  
38 thousand dollars that are not let by contract.

1 (5) The cost of a separate public works project shall be the costs  
2 of materials, supplies, equipment, and labor on the construction of  
3 that project. The value of the public works budget shall be the value  
4 of all the separate public works projects within the budget.

5 (6) When any emergency shall require the immediate execution of  
6 such public work, upon the finding of the existence of such emergency  
7 by the authority having power to direct such public work to be done and  
8 duly entered of record, publication of description and estimate may be  
9 made within seven days after the commencement of the work. Within two  
10 weeks of the finding that such an emergency existed, the city council  
11 shall adopt a resolution certifying the existence of this emergency  
12 situation.

13 (7) In lieu of the procedures of subsections (2) and (6) of this  
14 section, a first class city may use ((a)) the small works roster  
15 process ((and)) in RCW 39.04.155 to award contracts for public works  
16 projects with an estimated value of one hundred thousand dollars or  
17 less ((as provided in RCW 39.04.155)).

18 Whenever possible, the city shall invite at least one proposal from  
19 a minority or woman contractor who shall otherwise qualify under this  
20 section.

21 (8) The allocation of public works projects to be performed by city  
22 employees shall not be subject to a collective bargaining agreement.

23 (9) This section does not apply to performance-based contracts, as  
24 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A  
25 RCW.

26 (10) Nothing in this section shall prohibit any first class city  
27 from allowing for preferential purchase of products made from recycled  
28 materials or products that may be recycled or reused.

29 **Sec. 5.** RCW 35.23.352 and 1996 c 18 s 2 are each amended to read  
30 as follows:

31 (1) Any second class city or any town may construct any public  
32 works, as defined in RCW 39.04.010, by contract or day labor without  
33 calling for bids therefor whenever the estimated cost of the work or  
34 improvement, including cost of materials, supplies and equipment will  
35 not exceed the sum of thirty thousand dollars if more than one craft or  
36 trade is involved with the public works, or twenty thousand dollars if  
37 a single craft or trade is involved with the public works or the public  
38 works project is street signalization or street lighting. A public

1 works project means a complete project. The restrictions in this  
2 subsection do not permit the division of the project into units of work  
3 or classes of work to avoid the restriction on work that may be  
4 performed by day labor on a single project.

5 Whenever the cost of the public work or improvement, including  
6 materials, supplies and equipment, will exceed these figures, the same  
7 shall be done by contract. All such contracts shall be let at public  
8 bidding upon publication of notice calling for sealed bids upon the  
9 work. The notice shall be published in the official newspaper, or a  
10 newspaper of general circulation most likely to bring responsive bids,  
11 at least thirteen days prior to the last date upon which bids will be  
12 received. The notice shall generally state the nature of the work to  
13 be done that plans and specifications therefor shall then be on file in  
14 the city or town hall for public inspections, and require that bids be  
15 sealed and filed with the council or commission within the time  
16 specified therein. Each bid shall be accompanied by a bid proposal  
17 deposit in the form of a cashier's check, postal money order, or surety  
18 bond to the council or commission for a sum of not less than five  
19 percent of the amount of the bid, and no bid shall be considered unless  
20 accompanied by such bid proposal deposit. The council or commission of  
21 the city or town shall let the contract to the lowest responsible  
22 bidder or shall have power by resolution to reject any or all bids and  
23 to make further calls for bids in the same manner as the original call.

24 When the contract is let then all bid proposal deposits shall be  
25 returned to the bidders except that of the successful bidder which  
26 shall be retained until a contract is entered into and a bond to  
27 perform the work furnished, with surety satisfactory to the council or  
28 commission, in accordance with RCW 39.08.030. If the bidder fails to  
29 enter into the contract in accordance with his or her bid and furnish  
30 a bond within ten days from the date at which he or she is notified  
31 that he or she is the successful bidder, the check or postal money  
32 order and the amount thereof shall be forfeited to the council or  
33 commission or the council or commission shall recover the amount of the  
34 surety bond. A low bidder who claims error and fails to enter into a  
35 contract is prohibited from bidding on the same project if a second or  
36 subsequent call for bids is made for the project.

37 If no bid is received on the first call the council or commission  
38 may readvertise and make a second call, or may enter into a contract

1 without any further call or may purchase the supplies, material or  
2 equipment and perform the work or improvement by day labor.

3 (2) The allocation of public works projects to be performed by city  
4 or town employees shall not be subject to a collective bargaining  
5 agreement.

6 (3) In lieu of the procedures of subsection (1) of this section, a  
7 second class city or a town may use the small works roster process  
8 provided in RCW 39.04.155 to award public works contracts with an  
9 estimated value of one hundred thousand dollars or less.

10 Whenever possible, the city or town shall invite at least one  
11 proposal from a minority or woman contractor who shall otherwise  
12 qualify under this section.

13 (4) The form required by RCW 43.09.205 shall be to account and  
14 record costs of public works in excess of five thousand dollars that  
15 are not let by contract.

16 (5) The cost of a separate public works project shall be the costs  
17 of the materials, equipment, supplies, and labor on that construction  
18 project.

19 (6) Any purchase of supplies, material, or equipment, except for  
20 public work or improvement, where the cost thereof exceeds seven  
21 thousand five hundred dollars shall be made upon call for bids.

22 (7) Bids shall be called annually and at a time and in the manner  
23 prescribed by ordinance for the publication in a newspaper of general  
24 circulation in the city or town of all notices or newspaper  
25 publications required by law. The contract shall be awarded to the  
26 lowest responsible bidder.

27 (8) For advertisement and formal sealed bidding to be dispensed  
28 with as to purchases between seven thousand five hundred and fifteen  
29 thousand dollars, the council or commission must authorize by  
30 resolution, use of the uniform procedure provided in RCW 39.04.190.

31 ~~(9) ((These requirements for purchasing may be waived by resolution  
32 of the city or town council or commission which declared that the  
33 purchase is clearly and legitimately limited to a single source or  
34 supply within the near vicinity, or the materials, supplies, equipment,  
35 or services are subject to special market conditions, and recites why  
36 this situation exists. Such actions are subject to RCW 39.30.020.))~~  
37 The city or town legislative authority may waive the competitive  
38 bidding requirements of this section pursuant to chapter 39.-- RCW  
39 (sections 1 through 3 of this act) if an exemption contained within

1 chapter 39.-- RCW (sections 1 through 3 of this act) applies to the  
2 purchase.

3 (10) This section does not apply to performance-based contracts, as  
4 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A  
5 RCW.

6 (11) Nothing in this section shall prohibit any second class city  
7 or any town from allowing for preferential purchase of products made  
8 from recycled materials or products that may be recycled or reused.

9 **Sec. 6.** RCW 36.32.270 and 1963 c 4 s 36.32.270 are each amended to  
10 read as follows:

11 ~~((In the event of an emergency when the public interest or property~~  
12 ~~of the county would suffer material injury or damage by delay, upon~~  
13 ~~resolution of the board of county commissioners declaring the existence~~  
14 ~~of such emergency and reciting the facts constituting the same, the~~  
15 ~~board)) The county legislative authority may waive the competitive  
16 bidding requirements of this chapter ((with reference to any)) pursuant  
17 to chapter 39.-- RCW (sections 1 through 3 of this act) if an exemption  
18 contained within chapter 39.-- RCW (sections 1 through 3 of this act)  
19 applies to the purchase ((or contract)).~~

20 **Sec. 7.** RCW 52.14.110 and 1993 c 198 s 11 are each amended to read  
21 as follows:

22 Insofar as practicable, purchases and any public works by the  
23 district shall be based on competitive bids. A formal sealed bid  
24 procedure shall be used as standard procedure for purchases and  
25 contracts for purchases executed by the board of commissioners. Formal  
26 sealed bidding shall not be required for:

27 (1) ~~((Emergency purchases if the sealed bidding procedure would~~  
28 ~~prevent or hinder the emergency from being addressed appropriately.~~  
29 ~~The term emergency means an occurrence that creates an immediate threat~~  
30 ~~to life or property;~~

31 ~~(2))~~ The purchase of any materials, supplies, or equipment if the  
32 cost will not exceed the sum of four thousand five hundred dollars.  
33 However, whenever the estimated cost is from four thousand five hundred  
34 dollars up to ten thousand dollars, the commissioners may by resolution  
35 use the process provided in RCW 39.04.190 to award contracts;

36 ~~((3))~~ (2) Contracting for work to be done involving the  
37 construction or improvement of a fire station or other buildings where

1 the estimated cost will not exceed the sum of two thousand five hundred  
2 dollars, which includes the costs of labor, material, and equipment.  
3 However, whenever the estimated cost is from two thousand five hundred  
4 dollars up to ten thousand dollars, the commissioner may by resolution  
5 use the small works roster process provided in RCW 39.04.155; and

6 ~~((4) Purchases which are clearly and legitimately limited to a  
7 single source of supply, or services, in which instances the purchase  
8 price may be best established by direct negotiation: PROVIDED, That  
9 this subsection shall not apply to purchases or contracts relating to  
10 public works as defined in chapter 39.04 RCW; and~~

11 ~~(5) Purchases of insurance and bonds.))~~ (3) Any contract for  
12 purchases or public work pursuant to chapter 39.-- RCW (sections 1  
13 through 3 of this act) if an exemption contained within chapter 39.--  
14 RCW (sections 1 through 3 of this act) applies to the purchase.

15 **Sec. 8.** RCW 53.08.120 and 1993 c 198 s 13 are each amended to read  
16 as follows:

17 All material required by a port district may be procured in the  
18 open market or by contract and all work ordered may be done by contract  
19 or day labor. All such contracts for work, the estimated cost of which  
20 exceeds one hundred thousand dollars, shall be let at public bidding  
21 upon notice published in a newspaper of general circulation in the  
22 district at least thirteen days before the last date upon which bids  
23 will be received, calling for sealed bids upon the work, plans and  
24 specifications for which shall then be on file in the office of the  
25 commission for public inspection. The same notice may call for bids on  
26 such work or material based upon plans and specifications submitted by  
27 the bidder. The competitive bidding requirements for purchases or  
28 public works may be waived pursuant to chapter 39.-- RCW (sections 1  
29 through 3 of this act) if an exemption contained within chapter 39.--  
30 RCW (sections 1 through 3 of this act) applies to the purchase.

31 Each port district shall maintain a small works roster, as provided  
32 in RCW 39.04.155, and may use the small works roster process to award  
33 contracts in lieu of calling for sealed bids whenever work is done by  
34 contract, the estimated cost of which is one hundred thousand dollars  
35 or less. Whenever possible, the managing official shall invite at  
36 least one proposal from a minority contractor who shall otherwise  
37 qualify under this section.

1       When awarding such a contract for work, when utilizing proposals  
2 from the small works roster, the managing official shall give weight to  
3 the contractor submitting the lowest and best proposal, and whenever it  
4 would not violate the public interest, such contracts shall be  
5 distributed equally among contractors, including minority contractors,  
6 on the small works roster.

7       **Sec. 9.** RCW 54.04.070 and 1993 c 198 s 14 are each amended to read  
8 as follows:

9       Any item, or items of the same kind of materials, equipment, or  
10 supplies purchased, the estimated cost of which is in excess of five  
11 thousand dollars, exclusive of sales tax shall be by contract:  
12 PROVIDED, That a district may make purchases of the same kind of items  
13 of materials, equipment and supplies not exceeding five thousand  
14 dollars in any calendar month without a contract, purchasing any excess  
15 thereof over five thousand dollars by contract. Any work ordered by a  
16 district commission, the estimated cost of which is in excess of ten  
17 thousand dollars exclusive of sales tax, shall be by contract, except  
18 that a district commission may have its own regularly employed  
19 personnel perform work which is an accepted industry practice under  
20 prudent utility management without a contract. Prudent utility  
21 management means performing work with regularly employed personnel  
22 utilizing material of a worth not exceeding fifty thousand dollars in  
23 value without a contract: PROVIDED, That such limit on the value of  
24 material being utilized in work being performed by regularly employed  
25 personnel shall not include the value of individual items of equipment  
26 purchased or acquired and used as one unit of a project. Before  
27 awarding such a contract, the commission shall publish a notice once or  
28 more in a newspaper of general circulation in the district at least  
29 thirteen days before the last date upon which bids will be received,  
30 inviting sealed proposals for the work or materials; plans and  
31 specifications of which shall at the time of the publication be on file  
32 at the office of the district subject to public inspection. Any  
33 published notice ordering work to be performed for the district shall  
34 be mailed at the time of publication to any established trade  
35 association which files a written request with the district to receive  
36 such notices. The commission may at the same time and as part of the  
37 same notice, invite tenders for the work or materials upon plans and  
38 specifications to be submitted by the bidders.

1 Notwithstanding any other provisions herein, all contract projects,  
2 the estimated cost of which is less than one hundred thousand dollars,  
3 may be awarded to a contractor using the small works roster process  
4 provided in RCW 39.04.155. All contract projects equal to or in excess  
5 of one hundred thousand dollars shall be let by competitive bidding.

6 Whenever equipment or materials required by a district are held by  
7 a governmental agency and are available for sale but such agency is  
8 unwilling to submit a proposal, the commission may ascertain the price  
9 of such items and file a statement of such price supported by the sworn  
10 affidavit of one member of the commission and may consider such price  
11 as a bid without a deposit or bond. ~~((In the event of an emergency  
12 when the public interest or property of the district would suffer  
13 material injury or damage by delay, upon resolution of the commission,  
14 or proclamation of an official designated by the board to act for the  
15 board during such emergencies, declaring the existence of such  
16 emergency and reciting the facts constituting the same, the board, or  
17 the official acting for the board, may waive the requirements of this  
18 chapter with reference to any purchase or contract, after having taken  
19 precautions to secure the lowest price practicable under the  
20 circumstances.~~

21 ~~After determination by the commission during a public meeting that  
22 a particular purchase is available clearly and legitimately only from  
23 a single source of supply, the bidding requirements of this section may  
24 be waived by the commission.))~~

25 The commission may waive the competitive bidding requirements of  
26 this section pursuant to chapter 39.-- RCW (sections 1 through 3 of  
27 this act) if an exemption contained within chapter 39.-- RCW (sections  
28 1 through 3 of this act) applies to the purchase.

29 **Sec. 10.** RCW 57.08.050 and 1996 c 230 s 311 and 1996 c 18 s 14 are  
30 each reenacted and amended to read as follows:

31 (1) All work ordered, the estimated cost of which is in excess of  
32 five thousand dollars, shall be let by contract. All contract  
33 projects, the estimated cost of which is in excess of five thousand  
34 dollars but less than fifty thousand dollars, may be awarded to a  
35 contractor using the small works roster process provided in RCW  
36 39.04.155. The board of commissioners may set up uniform procedures to  
37 prequalify contractors for inclusion on the small works roster. All  
38 contract projects equal to or in excess of fifty thousand dollars shall

1 be let by competitive bidding. Before awarding any such contract the  
2 board of commissioners shall publish a notice in a newspaper of general  
3 circulation where the district is located at least once thirteen days  
4 before the last date upon which bids will be received, inviting sealed  
5 proposals for such work((~~7~~)). The plans and specifications ((which))  
6 for such work must at the time of publication of such notice be on file  
7 in the office of the board of commissioners ((~~subject to the~~)) and be  
8 available for public inspection. The notice shall state generally the  
9 work to be done and shall call for proposals for doing the same to be  
10 sealed and filed with the board of ((~~water~~)) commissioners on or before  
11 the day and hour named therein.

12 Each bid shall be accompanied by a certified or cashier's check or  
13 postal money order payable to the order of the county treasurer for a  
14 sum not less than five percent of the amount of the bid, or accompanied  
15 by a bid bond in an amount not less than five percent of the bid with  
16 a corporate surety licensed to do business in the state, conditioned  
17 that the bidder will pay the district as liquidated damages the amount  
18 specified in the bond, unless the bidder enters into a contract in  
19 accordance with the bidder's bid, and no bid shall be considered unless  
20 accompanied by such check, cash, or bid bond. At the time and place  
21 named such bids shall be publicly opened and read and the board of  
22 commissioners shall proceed to canvass the bids and may let such  
23 contract to the lowest responsible bidder upon plans and specifications  
24 on file or to the best bidder submitting the bidder's own plans and  
25 specifications. However, no contract shall be let in excess of the  
26 cost of the materials or work. The board of commissioners may reject  
27 all bids for good cause and readvertise and in such case all checks,  
28 cash, or bid bonds shall be returned to the bidders. If the contract  
29 is let, then all checks, cash, or bid bonds shall be returned to the  
30 bidders, except that of the successful bidder, which shall be retained  
31 until a contract shall be entered into for doing the work, and a bond  
32 to perform such work furnished with sureties satisfactory to the board  
33 of commissioners in the full amount of the contract price between the  
34 bidder and the commission in accordance with the bid. If the bidder  
35 fails to enter into the contract in accordance with the bid and furnish  
36 the bond within ten days from the date at which the bidder is notified  
37 that the bidder is the successful bidder, the check, cash, or bid bonds  
38 and the amount thereof shall be forfeited to the district. If the  
39 bidder fails to enter into a contract in accordance with the bidder's

1 bid, and the board of commissioners deems it necessary to take legal  
2 action to collect on any bid bond required by this section, then the  
3 district shall be entitled to collect from the bidder any legal  
4 expenses, including reasonable attorneys' fees (~~occasioned thereby~~).  
5 A low bidder who claims error and fails to enter into a contract is  
6 prohibited from bidding on the same project if a second or subsequent  
7 call for bids is made for the project.

8 (2) Any purchase of materials, supplies, or equipment, with an  
9 estimated cost in excess of ten thousand dollars, shall be by contract.  
10 Any purchase of materials, supplies, or equipment, with an estimated  
11 cost of from (~~five~~) ten thousand dollars to less than fifty thousand  
12 dollars shall be made using the process provided in RCW (~~39.04.155~~)  
13 39.04.190 or by competitive bidding following the procedure for letting  
14 contracts for projects under subsection (1) of this section. Any  
15 purchase of materials, supplies, or equipment with an estimated cost of  
16 fifty thousand dollars or more shall be made by competitive bidding  
17 following the procedure for letting contracts for projects under  
18 subsection (1) of this section.

19 (~~In the event of an emergency when the public interest or~~  
20 ~~property of the district would suffer material injury or damage by~~  
21 ~~delay, upon resolution of the board of commissioners, or proclamation~~  
22 ~~of an official designated by the board to act for the board during such~~  
23 ~~emergencies, declaring the existence of such emergency and reciting the~~  
24 ~~facts constituting the same, the board or official acting for the board~~  
25 ~~may waive the requirements of this chapter with reference to any~~  
26 ~~purchase or contract. In addition, these requirements may be waived~~  
27 ~~for purchases which are clearly and legitimately limited to a single~~  
28 ~~source of supply and purchases involving special facilities, services,~~  
29 ~~or market conditions, in which instances the purchase price may be best~~  
30 ~~established by direct negotiation.)) The board may waive the  
31 competitive bidding requirements of this section pursuant to chapter  
32 39.-- RCW (sections 1 through 3 of this act) if an exemption contained  
33 within chapter 39.-- RCW (sections 1 through 3 of this act) applies to  
34 the purchase.~~

35 **Sec. 11.** RCW 70.44.140 and 1996 c 18 s 15 are each amended to read  
36 as follows:

37 (1) All materials purchased and work ordered, the estimated cost of  
38 which is in excess of five thousand dollars, shall be by contract.

1 Before awarding any such contract, the commission shall publish a  
2 notice at least thirteen days before the last date upon which bids will  
3 be received, inviting sealed proposals for such work. The plans and  
4 specifications must at the time of the publication of such notice be on  
5 file at the office of the public hospital district, subject to public  
6 inspection: PROVIDED, HOWEVER, That the commission may at the same  
7 time, and as part of the same notice, invite tenders for the work or  
8 materials upon plans and specifications to be submitted by bidders.  
9 The notice shall state generally the work to be done, and shall call  
10 for proposals for doing the same, to be sealed and filed with the  
11 commission on or before the day and hour named therein. Each bid shall  
12 be accompanied by bid proposal security in the form of a certified  
13 check, cashier's check, postal money order, or surety bond made payable  
14 to the order of the commission, for a sum not less than five percent of  
15 the amount of the bid, and no bid shall be considered unless  
16 accompanied by such bid proposal security. At the time and place  
17 named, such bids shall be publicly opened and read, and the commission  
18 shall proceed to canvass the bids, and may let such contract to the  
19 lowest responsible bidder upon plans and specifications on file, or to  
20 the best bidder submitting his or her own plans and specifications:  
21 PROVIDED, HOWEVER, That no contract shall be let in excess of the  
22 estimated cost of the materials or work, or if, in the opinion of the  
23 commission, all bids are unsatisfactory, they may reject all of them  
24 and readvertise, and in such case all bid proposal security shall be  
25 returned to the bidders; but if such contract be let, then and in such  
26 case all bid proposal security shall be returned to the bidders, except  
27 that of the successful bidder, which shall be retained until a contract  
28 shall be entered into for the purchase of such materials for doing such  
29 work, and a bond to perform such work furnished, with sureties  
30 satisfactory to the commission, in an amount to be fixed by the  
31 commission, not less than twenty-five percent of contract price in any  
32 case, between the bidder and commission, in accordance with the bid.  
33 If such bidder fails to enter into the contract in accordance with the  
34 bid and furnish such bond within ten days from the date at which the  
35 bidder is notified that he or she is the successful bidder, the bid  
36 proposal security and the amount thereof shall be forfeited to the  
37 public hospital district. A low bidder who claims error and fails to  
38 enter into a contract is prohibited from bidding on the same project if  
39 a second or subsequent call for bids is made for the project.

1 (2) In lieu of the procedures of subsection (1) of this section, a  
2 public hospital district may use a small works roster process and award  
3 public works contracts for projects in excess of five thousand dollars  
4 up to fifty thousand dollars as provided in RCW 39.04.155.

5 (3) For advertisement and formal sealed bidding to be dispensed  
6 with as to purchases between five thousand and fifteen thousand  
7 dollars, the commission must authorize by resolution a procedure as  
8 provided in RCW 39.04.190.

9 (4) The commission may waive the competitive bidding requirements  
10 of this section pursuant to chapter 39.-- RCW (sections 1 through 3 of  
11 this act) if an exemption contained within chapter 39.-- RCW (sections  
12 1 through 3 of this act) applies to the purchase.

13 NEW SECTION. Sec. 12. Sections 1 through 3 of this act constitute  
14 a new chapter in Title 39 RCW.

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