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HOUSE BILL 1049

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State of Washington

63rd Legislature

2013 Regular Session

By Representative Takko

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1 AN ACT Relating to the administration and operation of flood  
2 control districts; amending RCW 86.09.175, 86.09.178, 86.09.181,  
3 86.09.259, 86.09.268, and 86.09.271; adding a new section to chapter  
4 86.09 RCW; and repealing RCW 86.09.274, 86.09.277, and 86.09.280.

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

6 **Sec. 1.** RCW 86.09.175 and 1937 c 72 s 59 are each amended to read  
7 as follows:

8 (1) Contracts entered into by districts for construction (~~or~~  
9 ~~for~~) services (~~or~~) materials, or maintenance may provide that  
10 payments (~~shall~~) will be made in such monthly proportion of the  
11 contract price, as the board shall determine thereon, as the work  
12 progresses, or as the services (~~or~~) materials, or maintenance are  
13 furnished, on monthly estimates of the value thereof (~~, approved by the~~  
14 ~~state director. Before the district shall enter into any contract, the~~  
15 ~~plans, specifications and form of contract therefor shall be approved~~  
16 ~~by the state director~~)).

17 (2) The district must withhold five percent of all payments made  
18 under subsection (1) of this section until the contract is complete, as

1 evidenced by releases issued by the district. This subsection (2) does  
2 not apply to contracts for materials.

3 **Sec. 2.** RCW 86.09.178 and 1965 c 26 s 2 are each amended to read  
4 as follows:

5 ~~((Contracts for construction, or for labor or materials entering~~  
6 ~~into the construction of any improvement authorized by the district~~  
7 ~~shall be awarded at public bidding except as herein otherwise provided.~~  
8 ~~A notice calling for sealed proposals shall be published in such~~  
9 ~~newspaper or newspapers of general circulation as the board shall~~  
10 ~~designate for a period of not less than two weeks (three weekly issues)~~  
11 ~~prior to the day of the opening of the bids. Such proposals shall be~~  
12 ~~accompanied by a certified check for such amount as the board shall~~  
13 ~~decide upon, to guarantee a compliance with the bid and shall be opened~~  
14 ~~in public at the time and place designated in the notice. The contract~~  
15 ~~shall be awarded to the lowest and best responsible bidder: PROVIDED,~~  
16 ~~That the board shall have authority to reject any or all bids, in which~~  
17 ~~event they shall readvertise for bids and, when no satisfactory bid is~~  
18 ~~then received and with the written approval of the director, may~~  
19 ~~proceed to construct the works by force account.)) (1) Except as~~  
20 provided otherwise in subsection (4) of this section, contracts for  
21 construction or maintenance, or for labor or materials used in the  
22 construction or maintenance of any improvement authorized by the  
23 district, may only be awarded through a public bidding process that  
24 complies with the following:

25 (a) Notices calling for sealed bid proposals must be published in  
26 at least one newspaper of general circulation in the district. The  
27 notices must be published at least once fourteen or more days before  
28 the deadline for submitting proposals; and

29 (b) Bid proposals must be in writing, must be filed at the location  
30 specified in the notice, and must be opened and read in public by the  
31 board or its designee at a time and location also specified in the  
32 notice. Proposals must be filed in the official records of the  
33 district and available for public inspection. Proposals also must be  
34 accompanied by a bid proposal deposit, in the form of cash, a certified  
35 check, a cashier's check, or a surety bond, equaling five percent of  
36 the total cost of the project.

1       (2) If the successful bidder fails to enter into a contract and  
2 fails to furnish a satisfactory performance bond within the time  
3 specifications established by the district, the bid proposal deposit  
4 must be forfeited to the district.

5       (3) The contract must be awarded to the lowest and best responsible  
6 bidder, except that the board may reject any and all bids. If the  
7 board rejects one or more bids, the board must submit a new notice  
8 calling for sealed bid proposals that complies with subsection (1)(a)  
9 of this section.

10       (4) If a satisfactory bid is not received under this section, the  
11 district may complete the project by an agreed price or force account.

12       NEW SECTION. Sec. 3. A new section is added to chapter 86.09 RCW  
13 to read as follows:

14       (1) District construction and maintenance contracts require three  
15 or more formal bid proposals when the total cost of the project equals  
16 or exceeds fifty thousand dollars. In accordance with RCW 86.09.178,  
17 formal bid proposals must be made in writing and must be filed with the  
18 official records of the district. This subsection (1) does not apply  
19 to projects that have a total cost of less than five thousand dollars  
20 or to contract solicitations for which three bidders are not available.

21       (2) This section does not restrict a district from: (a) Using  
22 volunteer labor and equipment on improvements and providing  
23 reimbursement for actual expenses; or (b) entering into an interlocal  
24 agreement for district construction, maintenance, or other work with a  
25 county, city, or other governmental entity.

26       **Sec. 4.** RCW 86.09.181 and 1965 c 26 s 3 are each amended to read  
27 as follows:

28       (1) Any person(~~(, except the state of Washington and the United~~  
29 States~~,)~~) acting under the provisions of this chapter, to whom (~~or to~~  
30 which)) a contract (~~(may have))~~ of at least five thousand dollars has  
31 been awarded by the district for construction (~~(purposes)),~~  
32 maintenance, or (~~(for))~~ labor (~~(or materials entering therein when the~~  
33 total amount to be paid therefor exceeds one thousand dollars)), shall  
34 enter into a bond to the (~~(state of Washington))~~ district, with good  
35 and sufficient sureties(~~(, to be approved and filed with the state~~

1 ~~director,~~) for one hundred percent of the contract price, conditioned  
2 for the faithful performance of said contract and with (~~(such)~~) further  
3 conditions as may be required by law.

4 (2) This section does not apply to district contracts awarded to  
5 the United States, the state of Washington, or counties and cities  
6 within the state of Washington.

7 **Sec. 5.** RCW 86.09.259 and 1985 c 396 s 58 are each amended to read  
8 as follows:

9 A flood control district shall be managed by a board of directors  
10 consisting of three members. The initial directors shall be appointed,  
11 and the elected directors elected, as provided in chapter 85.38 RCW.  
12 The directors shall elect a (~~(chairman)~~) chair and vice chair from  
13 their number (~~(and shall either)~~). The directors may elect (~~(one of)~~)  
14 a secretary from their number(~~(, or appoint a voter of the district, as~~  
15 secretary)) to hold office at (~~(its)~~) the board's pleasure and who  
16 shall keep a record of its proceedings. In accordance with RCW  
17 86.09.268, the directors may also appoint and employ a secretary.

18 **Sec. 6.** RCW 86.09.268 and 1937 c 72 s 90 are each amended to read  
19 as follows:

20 The board shall (~~(have the power and it shall be its duty to adopt~~  
21 ~~a seal of the district, to)~~):

22 (1) Manage and conduct the business affairs of the district, (~~(to)~~)  
23 including holding regular meetings at least once each year;

24 (2) Employ and appoint (~~(such)~~) agents, engineers, attorneys,  
25 officers, and employees as may be necessary, and prescribe their  
26 duties(~~(, to)~~);

27 (3) Establish reasonable (~~(by laws,)~~) rules and regulations for the  
28 government and management of affairs of the district(~~(, and)~~);

29 (4) Hold open meetings in accordance with chapter 42.30 RCW; and

30 (5) Generally to perform any and all acts necessary to carry out  
31 the purpose of the district organization.

32 **Sec. 7.** RCW 86.09.271 and 1985 c 396 s 59 are each amended to read  
33 as follows:

34 The office of the directors and principal place of business of the  
35 district shall be located, if possible, at some place within the

1 district to be designated by the board. If a place convenient and  
2 suitable for conducting district business and public hearings required  
3 by this chapter cannot be found within the district, the office may be  
4 located in the county within which the major portion of district lands  
5 is situated. (~~The office and place of business cannot thereafter be  
6 changed, except with the previous written consent of the county  
7 legislative authority of the county within which the major portion of  
8 the district is situated, and without passing a resolution to that  
9 effect at a previous regular meeting of the board, entered in the  
10 minutes thereof and without posting a notice of the change in a  
11 conspicuous public place at or near the place of business which is to  
12 be changed at least ten days prior thereto and by the previous posting  
13 of a copy of the notice for the same length of time at or near the new  
14 location of the office.~~)

15 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each  
16 repealed:

17 (1) RCW 86.09.274 (Board of directors--Meetings--Change of date)  
18 and 1985 c 396 s 60 & 1937 c 72 s 92;

19 (2) RCW 86.09.277 (Board of directors--Special meetings--When  
20 notice required--Authorized business) and 1937 c 72 s 93; and

21 (3) RCW 86.09.280 (Board of directors--Meetings and records  
22 public--Printing of bylaws and rules) and 1937 c 72 s 94.

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