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HOUSE BILL 2720

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By Representatives Ballasiotes, Schoesler, Sheahan, Fuhrman, Foreman, Mastin, D. Sommers, Sterk, Crouse, Campbell, L. Thomas, Silver, Morris, Cooke, Mulliken, Blanton, McMorris, Thompson and Elliot

Read first time 01/17/96. Referred to Committee on Corrections.

1 AN ACT Relating to consortiums of counties formed for the purpose  
2 of acquiring correctional facilities; amending RCW 79.01.006,  
3 39.10.020, and 39.10.050; and adding a new section to chapter 79.01  
4 RCW.

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

6 **Sec. 1.** RCW 79.01.006 and 1991 c 204 s 1 are each amended to read  
7 as follows:

8 (1) Every five years the department of social and health services  
9 and other state agencies that operate institutions shall conduct an  
10 inventory of all real property subject to the charitable, educational,  
11 penal, and reformatory institution account and other real property  
12 acquired for institutional purposes or for the benefit of the blind,  
13 deaf, mentally ill, developmentally disabled, or otherwise disabled.  
14 The inventory shall identify which of those real properties are not  
15 needed for state-provided residential care, custody, or treatment. By  
16 December 1, 1992, and every five years thereafter the department shall  
17 report the results of the inventory to the house of representatives  
18 committee on capital facilities and financing, the senate committee on  
19 ways and means, and the legislative budget committee.

1 (2) Real property identified as not needed for state-provided or  
2 county-provided residential care, custody, or treatment shall be  
3 transferred to the corpus of the charitable, educational, penal, and  
4 reformatory institution account. This subsection shall not apply to  
5 real property subject to binding conditions that conflict with the  
6 other provisions of this subsection.

7 (3) The department of natural resources shall manage all property  
8 subject to the charitable, educational, penal, and reformatory  
9 institution account and, in consultation with the department of social  
10 and health services and other affected agencies, shall adopt a plan for  
11 the management of real property subject to the account and other real  
12 property acquired for institutional purposes or for the benefit of the  
13 blind, deaf, mentally ill, developmentally disabled, or otherwise  
14 disabled.

15 (a) The plan shall be consistent with state trust land policies and  
16 shall be compatible with the needs of institutions adjacent to real  
17 property subject to the plan.

18 (b) The plan may be modified as necessary to ensure the quality of  
19 future management and to address the acquisition of additional real  
20 property.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 79.01 RCW  
22 to read as follows:

23 (1) State agencies may lease real property to a consortium of three  
24 or more counties in order for the counties to construct or otherwise  
25 acquire correctional facilities for juveniles or adults.

26 (2) A lease governed by subsection (1) of this section shall not  
27 charge more than one dollar per year for the land value or facilities  
28 value, but the lease may include provisions for payment of any  
29 reasonable operation and maintenance expenses incurred by the state.

30 **Sec. 3.** RCW 39.10.020 and 1994 c 132 s 2 are each amended to read  
31 as follows:

32 Unless the context clearly requires otherwise, the definitions in  
33 this section apply throughout this chapter.

34 (1) "Alternative public works contracting procedure" means the  
35 design-build and the general contractor/construction manager  
36 contracting procedures authorized in RCW 39.10.050 and 39.10.060,  
37 respectively.

1 (2) "Public body" means the state department of general  
2 administration; the University of Washington; Washington State  
3 University; every city with a population greater than one hundred fifty  
4 thousand; every county with a population greater than four hundred  
5 fifty thousand; every consortium of three or more counties organized  
6 for the purpose of acquiring a shared correctional facility for  
7 juveniles or adults; and every port district with a population greater  
8 than five hundred thousand.

9 (3) "Public works project" means any work for a public body within  
10 the definition of the term public work in RCW 39.04.010.

11 **Sec. 4.** RCW 39.10.050 and 1994 c 132 s 5 are each amended to read  
12 as follows:

13 (1) Notwithstanding any other provision of law, and after complying  
14 with RCW 39.10.030, the following public bodies may utilize the design-  
15 build procedure of public works contracting for public works projects  
16 authorized under this section: The state department of general  
17 administration; the University of Washington; Washington State  
18 University; every city with a population greater than one hundred fifty  
19 thousand; ((and)) every county with a population greater than four  
20 hundred fifty thousand; and every consortium of three or more counties  
21 organized for the purpose of acquiring a shared correctional facility  
22 for juveniles or adults. For the purposes of this section, "design-  
23 build procedure" means a contract between a public body and another  
24 party in which the party agrees to both design and build the structure,  
25 facility, or other item specified in the contract.

26 (2) Public bodies authorized under this section may utilize the  
27 design-build procedure for public works projects valued over ten  
28 million dollars where:

29 (a) The construction activities are highly specialized and a  
30 design-build approach is critical in developing the construction  
31 methodology;

32 (b) The project design is repetitive in nature and is an incidental  
33 part of the installation or construction; or

34 (c) The program elements of the project design are simple and do  
35 not involve complex functional interrelationships.

36 (3) Any consortium of three or more counties organized for the  
37 purpose of acquiring a shared correctional facility for juveniles or  
38 adults may use the design-build procedure for public works projects

1 associated with acquiring this facility if the projects are valued over  
2 two million dollars.

3 (4) The state department of general administration may use the  
4 design-build procedure authorized in subsection (2)(c) of this section  
5 for one project.

6 (~~(4)~~) (5) Contracts for design-build services shall be awarded  
7 through a competitive process utilizing public solicitation of  
8 proposals for design-build services. The public body shall publish at  
9 least once in a legal newspaper of general circulation published in or  
10 as near as possible to that part of the county in which the public work  
11 will be done, a notice of its request for proposals for design-build  
12 services and the availability and location of the request for proposal  
13 documents. The request for proposal documents shall include:

14 (a) A detailed description of the project including programmatic,  
15 performance, and technical requirements and specifications, functional  
16 and operational elements, and minimum and maximum net and gross areas  
17 of any building;

18 (b) The reasons for using the design-build procedure;

19 (c) A description of the qualifications, if any, to be required of  
20 the proposer;

21 (d) A description of the process the public body will use to  
22 evaluate qualifications and proposals, including evaluation factors and  
23 the relative weight of factors. Evaluation factors shall include, but  
24 not be limited to: Proposal price; ability of professional personnel;  
25 past performance on similar projects; ability to meet time and budget  
26 requirements; ability to provide a performance and payment bond for the  
27 project; recent, current, and projected work loads of the firm; and the  
28 concept of the proposal;

29 (e) The form of the contract to be awarded;

30 (f) The maximum allowable construction cost and minority and women  
31 enterprise total project goals;

32 (g) The amount to be paid to finalists submitting best and final  
33 proposals who are not awarded a design-build contract; and

34 (h) Other information relevant to the project.

35 (~~(5)~~) (6) The public body shall establish a committee to evaluate  
36 the proposals based on the factors, weighting, and process identified  
37 in the request for proposals. Based on its evaluation, the public body  
38 shall select not fewer than three nor more than five finalists to  
39 submit best and final proposals. Best and final proposals shall be

1 evaluated and scored based on the factors, weighting, and process  
2 identified in the initial request for proposals. Final proposals may  
3 not be considered if the proposal cost is greater than the maximum  
4 allowable construction cost identified in the initial request for  
5 proposals.

6 ((+6)) (7) The public body shall initiate negotiations with the  
7 firm submitting the highest scored final proposal. If the public body  
8 is unable to execute a contract with that firm, negotiations with that  
9 firm may be suspended or terminated and the public body may proceed to  
10 negotiate with the next highest scored firm. Public bodies shall  
11 continue in accordance with this procedure until a contract agreement  
12 is reached or the selection process is terminated. The public body  
13 may, in its sole discretion, reject all proposals. The finalist  
14 awarded the contract shall provide a performance and payment bond for  
15 the contracted amount. The public body shall provide appropriate  
16 honorarium payments to finalists submitting best and final proposals  
17 who are not awarded a design-build contract. Honorarium payments shall  
18 be sufficient to generate meaningful competition among potential  
19 proposers on design-build projects.

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