
SUBSTITUTE HOUSE BILL 2785

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Government Operations (originally sponsored by Representatives Reams, Chopp, Cairnes, Thompson and Elliot)

Read first time 02/02/96.

1 AN ACT Relating to county public works projects; amending RCW
2 36.32.240; adding a new section to chapter 36.32 RCW; and repealing RCW
3 36.32.250.

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

5 **Sec. 1.** RCW 36.32.240 and 1993 c 198 s 5 are each amended to read
6 as follows:

7 In any county the county legislative authority may by resolution
8 establish a county purchasing department. In each county which
9 exercises this option, the purchasing department shall (~~contract on a~~
10 ~~competitive basis for all public works,~~) enter into leases of personal
11 property on a competitive basis, and purchase all supplies, materials,
12 and equipment, on a competitive basis, for all departments of the
13 county, as provided in this chapter and chapter 39.04 RCW, except that
14 the county purchasing department is not required to make purchases for
15 the county hospital, or make purchases that are paid from the county
16 road fund or equipment rental and revolving fund.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.32 RCW
18 to read as follows:

1 (1) As used in this section, "public works" has the same definition
2 as in RCW 39.04.010.

3 (2) Except as otherwise specified in this chapter or in chapter
4 36.77 RCW, all counties subject to these provisions shall contract on
5 a competitive basis for all public works after bids have been submitted
6 to the county upon specifications therefor. Such specifications shall
7 be in writing and shall be filed with the clerk of the county
8 legislative authority for public inspection. An advertisement shall be
9 published in the county official newspaper stating the time and place
10 where bids will be opened, the time after which bids will not be
11 received, the character of the work to be done, the materials and
12 equipment to be furnished, and that specifications therefor may be seen
13 at the office of the clerk of the county legislative authority. An
14 advertisement shall also be published in a legal newspaper of general
15 circulation in or as near as possible to that part of the county in
16 which such work is to be done. If the county official newspaper is a
17 newspaper of general circulation covering at least forty percent of the
18 residences in that part of the county in which such public works are to
19 be done, then the publication of an advertisement of the applicable
20 specifications in the county official newspaper is sufficient. Such
21 advertisements shall be published at least once at least thirteen days
22 prior to the last date upon which bids will be received. The bids
23 shall be in writing, shall be filed with the clerk, shall be opened and
24 read in public at the time and place named therefor in the
25 advertisements, and after being opened, shall be filed for public
26 inspection. No bid may be considered for public work unless it is
27 accompanied by a bid deposit in the form of a surety bond, postal money
28 order, cash, cashier's check, or certified check in an amount equal to
29 five percent of the amount of the bid proposed. The contract for the
30 public work shall be awarded to the lowest responsible bidder. Any or
31 all bids may be rejected for good cause. The county legislative
32 authority shall require from the successful bidder for such public work
33 a contractor's bond in the amount and with the conditions imposed by
34 law. If the bidder to whom the contract is awarded fails to enter into
35 the contract and furnish the contractor's bond as required within ten
36 days after notice of the award, exclusive of the day of notice, the
37 amount of the bid deposit shall be forfeited to the county and the
38 contract awarded to the next lowest and best bidder. The bid deposit
39 of all unsuccessful bidders shall be returned after the contract is

1 awarded and the required contractor's bond given by the successful
2 bidder is accepted by the county legislative authority. Immediately
3 after the award is made, the bid quotations obtained shall be recorded
4 and open to public inspection and shall be available by telephone
5 inquiry.

6 (3) As limited by subsection (4) of this section, a county subject
7 to these provisions may have public works performed by county employees
8 in any annual or biennial budget period equal to a dollar value not
9 exceeding ten percent of the public works construction budget,
10 including any amount in a supplemental public works construction
11 budget, over the budget period.

12 If a county subject to these provisions has public works performed
13 by public employees in any budget period that are in excess of this ten
14 percent limitation, the amount in excess of the permitted amount shall
15 be reduced from the otherwise permitted amount of public works that may
16 be performed by public employees for that county in its next budget
17 period. Twenty percent of the motor vehicle fuel tax distributions to
18 that county shall be withheld if two years after the year in which the
19 excess amount of work occurred, the county has failed to so reduce the
20 amount of public works that it has performed by public employees. The
21 amount withheld shall be distributed to the county when it has
22 demonstrated in its reports to the state auditor that the amount of
23 public works it has performed by public employees has been reduced as
24 required.

25 Whenever a county subject to these provisions has had public works
26 performed in any budget period up to the maximum permitted amount for
27 that budget period, all remaining public works within that budget
28 period shall be done by contract pursuant to public notice and call for
29 competitive bids as specified in subsection (2) of this section.

30 The state auditor shall report to the state treasurer any county
31 subject to these provisions that exceeds this amount and the extent to
32 which the county has or has not reduced the amount of public works it
33 has performed by public employees in subsequent years.

34 (4) In addition to the percentage limitation provided in subsection
35 (3) of this section, counties subject to these provisions containing a
36 population of two hundred ten thousand or more shall not have public
37 employees perform a public works project in excess of fifty thousand
38 dollars if more than a single craft or trade is involved with the
39 public works project, or a public works project in excess of twenty-

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

25 (5) In addition to the accounting and recordkeeping requirements
26 contained in RCW 39.04.070, every county subject to these provisions
27 annually shall prepare a report for the state auditor indicating the
28 total public works construction budget and supplemental public works
29 construction budget for that year, the total construction costs of
30 public works performed by public employees for that year, and the
31 amount of public works that is performed by public employees above or
32 below ten percent of the total construction budget. However, if a
33 county budgets on a biennial basis, this annual report shall indicate
34 the amount of public works that is performed by public employees within
35 the current biennial period that is above or below ten percent of the
36 total biennial construction budget.

37 Each county subject to these provisions shall use the form required
38 by RCW 43.09.205 to account and record costs of public works in excess
39 of five thousand dollars that are not let by contract.

1 (6) 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 (7) When any emergency requires the immediate execution of a public
6 work, upon the finding of the existence of such emergency by the
7 authority having power to direct such public work to be done and duly
8 entered of record, publication of description and estimate may be made
9 within seven days after the commencement of the work. Within two weeks
10 of the finding that such an emergency existed, the county legislative
11 authority shall adopt a resolution certifying the existence of this
12 emergency situation.

13 (8) In lieu of the procedures of subsections (2), (3), (4), and (6)
14 of this section, a county may use a small works roster process and
15 award contracts for public works projects with an estimated value of
16 one hundred thousand dollars or less as provided in RCW 39.04.155.

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

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

23 (10) 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 (11) Nothing in this section prohibits any county from allowing for
27 preferential purchase of products made from recycled materials or
28 products that may be recycled or reused.

29 (12) The provisions of this section apply to every county with a
30 population of one million or more. In addition, any other county may
31 choose to be subject to any one or more of the provisions of this
32 section.

33 NEW SECTION. **Sec. 3.** RCW 36.32.250 and 1993 c 198 s 8 & 1991 c
34 363 s 58 are each repealed.

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