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HOUSE BILL 2785

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Reams, Chopp, Cairnes, Thompson and Elliot

Read first time 01/19/96. Referred to Committee on Government Operations.

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

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

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

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

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

27 The state auditor shall report to the state treasurer any county  
28 that exceeds this amount and the extent to which the county has or has  
29 not reduced the amount of public works it has performed by public  
30 employees in subsequent years.

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

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

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

33 Each county shall use the form required by RCW 43.09.205 to account  
34 and record costs of public works in excess of five thousand dollars  
35 that are not let by contract.

36 (6) The cost of a separate public works project shall be the costs  
37 of materials, supplies, equipment, and labor on the construction of  
38 that project. The value of the public works budget shall be the value  
39 of all the separate public works projects within the budget.

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

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

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

16 (9) The allocation of public works projects to be performed by  
17 county employees shall not be subject to a collective bargaining  
18 agreement.

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

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

25 NEW SECTION. **Sec. 3.** RCW 36.32.250 and 1993 c 198 s 8 & 1991 c  
26 363 s 58 are each repealed.

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