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ENGROSSED SENATE BILL 5958

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State of Washington

66th Legislature

2019 Regular Session

By Senators Lovelett and Nguyen

1 AN ACT Relating to public works contracts and interlocal  
2 agreements; and amending RCW 39.34.030.

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

4 **Sec. 1.** RCW 39.34.030 and 2015 c 232 s 1 are each amended to  
5 read as follows:

6 (1) Any power or powers, privileges or authority exercised or  
7 capable of exercise by a public agency of this state may be exercised  
8 and enjoyed jointly with any other public agency of this state having  
9 the power or powers, privilege or authority, and jointly with any  
10 public agency of any other state or of the United States to the  
11 extent that laws of such other state or of the United States permit  
12 such joint exercise or enjoyment. Any agency of the state government  
13 when acting jointly with any public agency may exercise and enjoy all  
14 of the powers, privileges and authority conferred by this chapter  
15 upon a public agency.

16 (2) Any two or more public agencies may enter into agreements  
17 with one another for joint or cooperative action pursuant to the  
18 provisions of this chapter, except that any such joint or cooperative  
19 action by public agencies which are educational service districts  
20 and/or school districts shall comply with the provisions of RCW  
21 28A.320.080. Appropriate action by ordinance, resolution or otherwise

1 pursuant to law of the governing bodies of the participating public  
2 agencies shall be necessary before any such agreement may enter into  
3 force.

4 (3) Any such agreement shall specify the following:

5 (a) Its duration;

6 (b) The precise organization, composition and nature of any  
7 separate legal or administrative entity created thereby together with  
8 the powers delegated thereto, provided such entity may be legally  
9 created. Such entity may include a nonprofit corporation organized  
10 pursuant to chapter 24.03 or 24.06 RCW whose membership is limited  
11 solely to the participating public agencies or a partnership  
12 organized pursuant to chapter 25.04 or 25.05 RCW whose partners are  
13 limited solely to participating public agencies, or a limited  
14 liability company organized under chapter 25.15 RCW whose membership  
15 is limited solely to participating public agencies, and the funds of  
16 any such corporation, partnership, or limited liability company shall  
17 be subject to audit in the manner provided by law for the auditing of  
18 public funds;

19 (c) Its purpose or purposes;

20 (d) The manner of financing the joint or cooperative undertaking  
21 and of establishing and maintaining a budget therefor;

22 (e) The permissible method or methods to be employed in  
23 accomplishing the partial or complete termination of the agreement  
24 and for disposing of property upon such partial or complete  
25 termination; and

26 (f) Any other necessary and proper matters.

27 (4) In the event that the agreement does not establish a separate  
28 legal entity to conduct the joint or cooperative undertaking, the  
29 agreement shall contain, in addition to provisions specified in  
30 subsection (3)(a), (c), (d), (e), and (f) of this section, the  
31 following:

32 (a) Provision for an administrator or a joint board responsible  
33 for administering the joint or cooperative undertaking. In the case  
34 of a joint board, public agencies that are party to the agreement  
35 shall be represented; and

36 (b) The manner of acquiring, holding and disposing of real and  
37 personal property used in the joint or cooperative undertaking. Any  
38 joint board is authorized to establish a special fund with a state,  
39 county, city, or district treasurer servicing an involved public  
40 agency designated "Operating fund of . . . . . joint board."

1 (5) No agreement made pursuant to this chapter relieves any  
2 public agency of any obligation or responsibility imposed upon it by  
3 law except that:

4 (a) To the extent of actual and timely performance thereof by a  
5 joint board or other legal or administrative entity created by an  
6 agreement made pursuant to this chapter, the performance may be  
7 offered in satisfaction of the obligation or responsibility; and

8 (b) With respect to one or more public agencies purchasing or  
9 otherwise contracting through a bid, proposal, or contract awarded by  
10 another public agency or by a group of public agencies, any  
11 (~~statutory~~) obligation (~~to provide notice for~~) with respect to  
12 competitive bids or proposals that applies to the public agencies  
13 involved is satisfied if the public agency or group of public  
14 agencies that awarded the bid, proposal, or contract complied with  
15 its own statutory requirements and either (i) posted the bid or  
16 solicitation notice on a web site established and maintained by a  
17 public agency, purchasing cooperative, or similar service provider,  
18 for purposes of posting public notice of bid or proposal  
19 solicitations, or (ii) provided an access link on the state's web  
20 portal to the notice.

21 (6) (a) Any two or more public agencies may enter into a contract  
22 providing for the joint utilization of architectural or engineering  
23 services if:

24 (i) The agency contracting with the architectural or engineering  
25 firm complies with the requirements for contracting for such services  
26 under chapter 39.80 RCW; and

27 (ii) The services to be provided to the other agency or agencies  
28 are related to, and within the general scope of, the services the  
29 architectural or engineering firm was selected to perform.

30 (b) Any agreement providing for the joint utilization of  
31 architectural or engineering services under this subsection must be  
32 executed for a scope of work specifically detailed in the agreement  
33 and must be entered into prior to commencement of procurement of such  
34 services under chapter 39.80 RCW.

35 (7) Financing of joint projects by agreement shall be as provided  
36 by law.

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