
SENATE BILL 5218

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By Senators McAuliffe, Prentice, Jesernig, A. Smith, Winsley, Vognild, Sutherland and Quigley

Read first time 01/18/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to public works contracts; amending RCW 28B.10.350,
2 28B.10.355, 28B.50.330, 35.22.620, 35.23.352, 35.56.270, 35.82.075,
3 36.32.250, 36.77.040, 39.04.015, 39.04.150, 39.04.155, 39.04.220,
4 39.19.070, 43.19.1911, 47.28.090, 47.28.100, 47.28.170, 53.08.120,
5 53.08.130, 54.04.070, 54.04.080, 56.08.070, 57.08.050, 70.44.140,
6 72.01.120, 85.24.070, 86.09.178, 87.03.435, 87.03.436, 89.30.154, and
7 91.08.530; and adding a new section to chapter 39.30 RCW.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 39.30 RCW
10 to read as follows:

11 (1) A political entity, including the state, a city, county,
12 municipality, or political subdivision, in determining the lowest
13 responsible bidder for a public works contract, shall give
14 consideration to, in addition to price:

15 (a) The quality of the contractor's past performance on contracts
16 if the contractor has performed public works contracts of a similar
17 nature with the political entity;

18 (b) The ability of the contractor to complete the contract within
19 the prescribed schedule outlined in the contract specifications; and

1 (c) The compliance of the contractor with federal, state, and local
2 laws pertaining to the contract.

3 (2) For the purposes of this section, "lowest responsible bidder"
4 means a "lowest responsible bidder," "lowest and best bidder," "lowest
5 quotation," or other phrase having a similar meaning.

6 **Sec. 2.** RCW 28B.10.350 and 1985 c 152 s 1 are each amended to read
7 as follows:

8 (1) When the cost to The Evergreen State College, any regional
9 university, or state university of any building, construction,
10 renovation, remodeling, or demolition other than maintenance or repairs
11 will equal or exceed the sum of twenty-five thousand dollars, complete
12 plans and specifications for such work shall be prepared and such work
13 shall be put out for public bids and the contract shall be awarded to
14 the lowest responsible bidder if in accordance with the bid
15 specifications: PROVIDED, That when the estimated cost of such
16 building, construction, renovation, remodeling, or demolition equals or
17 exceeds the sum of twenty-five thousand dollars, such project shall be
18 deemed a public works and "the prevailing rate of wage," under chapter
19 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when
20 such building, construction, renovation, remodeling, or demolition
21 involves one trade or craft area and the estimated cost exceeds ten
22 thousand dollars, complete plans and specifications for such work shall
23 be prepared and such work shall be put out for public bids, and the
24 contract shall be awarded to the lowest responsible bidder if in
25 accordance with the bid specifications. Section 1 of this act applies
26 to this subsection. This subsection shall not apply when a contract is
27 awarded by the small works procedure authorized in RCW 28B.10.355.

28 (2) The Evergreen State College, any regional university, or state
29 university may require a project to be put to public bid even when it
30 is not required to do so under subsection (1) of this section.

31 (3) Where the estimated cost to The Evergreen State College, any
32 regional university, or state university of any building,
33 construction, renovation, remodeling, or demolition is less than
34 twenty-five thousand dollars or the contract is awarded by the small
35 works procedure authorized in RCW 28B.10.355, the publication
36 requirements of RCW 39.04.020 ((and 39.04.090)) shall be inapplicable.

37 (4) In the event of any emergency when the public interest or
38 property of The Evergreen State College, regional university, or state

1 university would suffer material injury or damage by delay, the
2 president of such college or university may declare the existence of
3 such an emergency and reciting the facts constituting the same may
4 waive the requirements of this section with reference to any contract
5 in order to correct the condition causing the emergency: PROVIDED,
6 That an "emergency," for the purposes of this section, means a
7 condition likely to result in immediate physical injury to persons or
8 to property of such college or university in the absence of prompt
9 remedial action or a condition which immediately impairs the
10 institution's ability to perform its educational obligations.

11 **Sec. 3.** RCW 28B.10.355 and 1985 c 152 s 2 are each amended to read
12 as follows:

13 Each board of regents of the state universities and each board of
14 trustees of the regional universities and The Evergreen State College
15 may establish a small works roster. The small works roster authorized
16 by this section may be used for any public works project for which the
17 estimated cost is less than fifty thousand dollars. Each board shall
18 adopt rules to implement this section.

19 The roster shall be composed of all responsible contractors who
20 have requested to be on the list. Each board shall establish a
21 procedure for securing telephone or written quotations from the
22 contractors on the small works roster to assure establishment of a
23 competitive price and for awarding contracts to the lowest responsible
24 bidder. This procedure shall require either that a good faith effort
25 be made to request quotations from all contractors on the small works
26 roster who have indicated the capability of performing the kind of
27 public works being contracted or that the board shall solicit
28 quotations from at least five contractors in a manner that will
29 equitably distribute the opportunity among contractors on the roster.
30 Section 1 of this act applies to this section. Immediately after an
31 award is made, the bid quotations obtained shall be recorded, open to
32 public inspection and available by telephone inquiry. Each board may
33 adopt a procedure to prequalify contractors for inclusion on the small
34 works roster. No board may be required to make available for public
35 inspection or copying under chapter 42.17 RCW financial information
36 required to be provided by the prequalification procedure.

37 The small works roster shall be revised at least once each year by
38 publishing notice of such opportunity in at least one newspaper of

1 general circulation in the state. Responsible contractors shall be
2 added to the list at any time they submit a written request.

3 **Sec. 4.** RCW 28B.50.330 and 1991 c 238 s 48 are each amended to
4 read as follows:

5 The boards of trustees of college districts are empowered in
6 accordance with the provisions of this chapter to provide for the
7 construction, reconstruction, erection, equipping, demolition, and
8 major alterations of buildings and other capital assets, and the
9 acquisition of sites, rights-of-way, easements, improvements, or
10 appurtenances for the use of the aforementioned colleges as authorized
11 by the college board in accordance with RCW 28B.50.140; to be financed
12 by bonds payable out of special funds from revenues hereafter derived
13 from income received from such facilities, gifts, bequests, or grants,
14 and such additional funds as the legislature may provide, and payable
15 out of a bond retirement fund to be established by the respective
16 district boards in accordance with rules and regulations of the state
17 board. With respect to building, improvements, or repairs, or other
18 work, where the estimated cost exceeds fifteen thousand dollars,
19 complete plans and specifications for such work shall be prepared and
20 such work shall be prepared and such work shall be put out for public
21 bids and the contract shall be awarded to the lowest responsible bidder
22 if in accordance with the bid specifications(~~(:—PROVIDED, That)~~).
23 Section 1 of this act applies to this section. Any project regardless
24 of dollar amount may be put to public bid.

25 Where the estimated cost to any college of any building,
26 improvements, or repairs, or other work, is less than five thousand
27 dollars, the publication requirements of RCW 39.04.020 and 39.04.070
28 shall be inapplicable.

29 **Sec. 5.** RCW 35.22.620 and 1989 c 431 s 59 are each amended to read
30 as follows:

31 (1) As used in this section, the term "public works" means as
32 defined in RCW 39.04.010.

33 (2) A first class city may have public works performed by contract
34 pursuant to public notice and call for competitive bids. As limited by
35 subsection (3) of this section, a first class city may have public
36 works performed by city employees in any annual or biennial budget
37 period equal to a dollar value not exceeding ten percent of the public

1 works construction budget, including any amount in a supplemental
2 public works construction budget, over the budget period. The amount
3 of public works that a first class city has a county perform for it
4 under RCW 35.77.020 shall be included within this ten percent
5 limitation.

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

18 Whenever a first class city has had public works performed in any
19 budget period up to the maximum permitted amount for that budget
20 period, all remaining public works within that budget period shall be
21 done by contract pursuant to public notice and call for competitive
22 bids.

23 The state auditor shall report to the state treasurer any first
24 class city that exceeds this amount and the extent to which the city
25 has or has not reduced the amount of public works it has performed by
26 public employees in subsequent years.

27 (3) In addition to the percentage limitation provided in subsection
28 (2) of this section, a first class city with a population in excess of
29 one hundred fifty thousand shall not have public employees perform a
30 public works project in excess of fifty thousand dollars if more than
31 a single craft or trade is involved with the public works project, or
32 a public works project in excess of twenty-five thousand dollars if
33 only a single craft or trade is involved with the public works project
34 or the public works project is street signalization or street lighting.
35 In addition to the percentage limitation provided in subsection (2) of
36 this section, a first class city with a population of one hundred fifty
37 thousand or less shall not have public employees perform a public works
38 project in excess of thirty-five thousand dollars if more than one
39 craft or trade is involved with the public works project, or a public

1 works project in excess of twenty thousand dollars if only a single
2 craft or trade is involved with the public works project or the public
3 works project is street signalization or street lighting. A public
4 works project means a complete project. The restrictions in this
5 subsection do not permit the division of the project into units of work
6 or classes of work to avoid the restriction on work that may be
7 performed by day labor on a single project.

8 (4) In addition to the accounting and record-keeping requirements
9 contained in RCW 39.04.070, every first class city annually shall
10 prepare a report for the state auditor indicating the total public
11 works construction budget and supplemental public works construction
12 budget for that year, the total construction costs of public works
13 performed by public employees for that year, and the amount of public
14 works that is performed by public employees above or below ten percent
15 of the total construction budget. However, if a city budgets on a
16 biennial basis, this annual report shall indicate the amount of public
17 works that is performed by public employees within the current biennial
18 period that is above or below ten percent of the total biennial
19 construction budget.

20 After September 1, 1987, each first class city with a population of
21 one hundred fifty thousand or less shall use the form required by RCW
22 43.09.205 to account and record costs of public works in excess of five
23 thousand dollars that are not let by contract.

24 (5) The cost of a separate public works project shall be the costs
25 of materials, supplies, equipment, and labor on the construction of
26 that project. The value of the public works budget shall be the value
27 of all the separate public works projects within the budget.

28 (6) When any emergency shall require the immediate execution of
29 such public work, upon the finding of the existence of such emergency
30 by the authority having power to direct such public work to be done and
31 duly entered of record, publication of description and estimate may be
32 made within seven days after the commencement of the work. Within two
33 weeks of the finding that such an emergency existed, the city council
34 shall adopt a resolution certifying the existence of this emergency
35 situation.

36 (7) In lieu of the procedures of subsections (2) and (6) of this
37 section, a first class city may use a small works roster and award
38 contracts under this subsection for contracts of one hundred thousand
39 dollars or less.

1 (a) The city may maintain a small works roster comprised of all
2 contractors who have requested to be on the roster and are, where
3 required by law, properly licensed or registered to perform such work
4 in this state.

5 (b) Whenever work is done by contract, the estimated cost of which
6 is one hundred thousand dollars or less, and the city uses the small
7 works roster, the city shall invite proposals from all appropriate
8 contractors on the small works roster: PROVIDED, That not less than
9 five separate appropriate contractors, if available, shall be invited
10 to submit bids on any one contract: PROVIDED FURTHER, That whenever
11 possible, the city shall invite at least one proposal from a minority
12 or woman contractor who shall otherwise qualify under this section.
13 Once a bidder on the small works roster has been offered an opportunity
14 to bid, that bidder shall not be offered another opportunity until all
15 other appropriate contractors on the small works roster have been
16 afforded an opportunity to submit a bid. Invitations shall include an
17 estimate of the scope and nature of the work to be performed, and
18 materials and equipment to be furnished.

19 (c) When awarding such a contract for work, the estimated cost of
20 which is one hundred thousand dollars or less, the city shall award the
21 contract to the contractor submitting the lowest responsible bid.
22 Section 1 of this act applies to this subsection.

23 (8) The allocation of public works projects to be performed by city
24 employees shall not be subject to a collective bargaining agreement.

25 (9) This section does not apply to performance-based contracts, as
26 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A
27 RCW.

28 (10) Nothing in this section shall prohibit any first class city
29 from allowing for preferential purchase of products made from recycled
30 materials or products that may be recycled or reused.

31 **Sec. 6.** RCW 35.23.352 and 1989 c 431 s 56 are each amended to read
32 as follows:

33 (1) Any second or third class city or any town may construct any
34 public works, as defined in RCW 39.04.010, by contract or day labor
35 without calling for bids therefor whenever the estimated cost of the
36 work or improvement, including cost of materials, supplies and
37 equipment will not exceed the sum of thirty thousand dollars if more
38 than one craft or trade is involved with the public works, or twenty

1 thousand dollars if a single craft or trade is involved with the public
2 works or the public works project is street signalization or street
3 lighting. A public works project means a complete project. The
4 restrictions in this subsection do not permit the division of the
5 project into units of work or classes of work to avoid the restriction
6 on work that may be performed by day labor on a single project.

7 Whenever the cost of the public work or improvement, including
8 materials, supplies and equipment, will exceed these figures, the same
9 shall be done by contract. All such contracts shall be let at public
10 bidding upon posting notice calling for sealed bids upon the work. The
11 notice thereof shall be posted in a public place in the city or town
12 and by publication in the official newspaper, or a newspaper of general
13 circulation most likely to bring responsive bids, once each week for
14 two consecutive weeks before the date fixed for opening the bids. The
15 notice shall generally state the nature of the work to be done that
16 plans and specifications therefor shall then be on file in the city or
17 town hall for public inspections, and require that bids be sealed and
18 filed with the council or commission within the time specified therein.
19 Each bid shall be accompanied by a bid proposal deposit in the form of
20 a cashier's check, postal money order, or surety bond to the council or
21 commission for a sum of not less than five percent of the amount of the
22 bid, and no bid shall be considered unless accompanied by such bid
23 proposal deposit. The council or commission of the city or town shall
24 let the contract to the lowest responsible bidder or shall have power
25 by resolution to reject any or all bids and to make further calls for
26 bids in the same manner as the original call.

27 When the contract is let then all bid proposal deposits shall be
28 returned to the bidders except that of the successful bidder which
29 shall be retained until a contract is entered into and a bond to
30 perform the work furnished, with surety satisfactory to the council or
31 commission, in the full amount of the contract price. If the bidder
32 fails to enter into the contract in accordance with his bid and furnish
33 a bond within ten days from the date at which he is notified that he is
34 the successful bidder, the check or postal money order and the amount
35 thereof shall be forfeited to the council or commission or the council
36 or commission shall recover the amount of the surety bond.

37 If no bid is received on the first call the council or commission
38 may readvertise and make a second call, or may enter into a contract

1 without any further call or may purchase the supplies, material or
2 equipment and perform the work or improvement by day labor.

3 (2) The allocation of public works projects to be performed by city
4 or town employees shall not be subject to a collective bargaining
5 agreement.

6 (3) In lieu of the procedures of subsection (1) of this section, a
7 second or third class city or a town may use a small works roster and
8 award contracts under this subsection for contracts of one hundred
9 thousand dollars or less.

10 (a) The city or town may maintain a small works roster comprised of
11 all contractors who have requested to be on the roster and are, where
12 required by law, properly licensed or registered to perform such work
13 in this state.

14 (b) Whenever work is done by contract, the estimated cost of which
15 is one hundred thousand dollars or less, and the city uses the small
16 works roster, the city or town shall invite proposals from all
17 appropriate contractors on the small works roster: PROVIDED, That
18 whenever possible, the city or town shall invite at least one proposal
19 from a minority or woman contractor who shall otherwise qualify under
20 this section. The invitation shall include an estimate of the scope
21 and nature of the work to be performed, and materials and equipment to
22 be furnished.

23 (c) When awarding such a contract for work, the estimated cost of
24 which is one hundred thousand dollars or less, the city or town shall
25 award the contract to the contractor submitting the lowest responsible
26 bid.

27 (4) After September 1, 1987, each second class city, third class
28 city, and town shall use the form required by RCW 43.09.205 to account
29 and record costs of public works in excess of five thousand dollars
30 that are not let by contract.

31 (5) The cost of a separate public works project shall be the costs
32 of the materials, equipment, supplies, and labor on that construction
33 project.

34 (6) Any purchase of supplies, material, equipment or services other
35 than professional services, except for public work or improvement,
36 where the cost thereof exceeds seven thousand five hundred dollars
37 shall be made upon call for bids: PROVIDED, That the limitations
38 herein shall not apply to any purchases of materials at auctions

1 conducted by the government of the United States, any agency thereof or
2 by the state of Washington or a political subdivision thereof.

3 (7) Bids shall be called annually and at a time and in the manner
4 prescribed by ordinance for the publication in a newspaper published or
5 of general circulation in the city or town of all notices or newspaper
6 publications required by law. The contract shall be awarded to the
7 lowest responsible bidder.

8 (8) For advertisement and competitive bidding to be dispensed with
9 as to purchases between seven thousand five hundred and fifteen
10 thousand dollars, the city legislative authority must authorize by
11 resolution a procedure for securing telephone and/or written quotations
12 from enough vendors to assure establishment of a competitive price and
13 for awarding the contracts for purchase of materials, equipment, or
14 services to the lowest responsible bidder. Immediately after the award
15 is made, the bid quotations obtained shall be recorded and open to
16 public inspection and shall be available by telephone inquiry.

17 (9) For determining the lowest responsible bidder under this
18 section, section 1 of this act applies.

19 (10) These requirements for purchasing may be waived by resolution
20 of the city or town council which declared that the purchase is clearly
21 and legitimately limited to a single source or supply within the near
22 vicinity, or the materials, supplies, equipment, or services are
23 subject to special market conditions, and recites why this situation
24 exists. Such actions are subject to RCW 39.30.020.

25 (~~(10)~~) (11) This section does not apply to performance-based
26 contracts, as defined in RCW 39.35A.020(3), that are negotiated under
27 chapter 39.35A RCW.

28 (~~(11)~~) (12) Nothing in this section shall prohibit any second or
29 third class city or any town from allowing for preferential purchase of
30 products made from recycled materials or products that may be recycled
31 or reused.

32 **Sec. 7.** RCW 35.56.270 and 1965 c 7 s 35.56.270 are each amended to
33 read as follows:

34 When a city undertakes any improvement authorized by this chapter
35 and the expenditures required exceed the sum of five hundred dollars,
36 it shall be done by contract and shall be let to the lowest responsible
37 bidder, after due notice, under such regulation as may be prescribed by
38 ordinance: PROVIDED, That the city council or commission may reject

1 all bids presented and readvertise, or, if in the judgment of the city
2 council or commission the work can be performed, or supplies or
3 materials furnished by the city independent of contract, cheaper than
4 under the bid submitted, it may after having so advertised and examined
5 the bids, cause the work to be performed or supplies or materials to be
6 furnished independent of contract. Section 1 of this act applies to
7 this section. This section shall be construed as a concurrent and
8 cumulative power conferred on cities and shall not be construed as in
9 any wise repealing or affecting any law now in force relating to the
10 performing, execution and construction of public works.

11 **Sec. 8.** RCW 35.82.075 and 1989 c 363 s 6 are each amended to read
12 as follows:

13 (1) In addition to any other powers authorized in RCW 35.82.070, an
14 authority may establish a small works roster consisting of all
15 qualified contractors who have requested to be included on the roster
16 and are, where required by law, properly licensed or registered to
17 perform such work in the state of Washington.

18 (2) The small works roster may make distinctions between
19 contractors based on the nature of the work the contractor is qualified
20 to perform. At least once every year, the authority shall advertise in
21 a newspaper of general circulation, in the authority's area of
22 operation, the existence of the small works roster and shall add to the
23 roster those contractors who request to be included on the roster.

24 (3) The commissioners of the authority shall establish uniform
25 procedures to prequalify contractors for inclusion on the small works
26 roster and a procedure for securing telephone or written quotations
27 from contractors on the small works roster to assure establishment of
28 a competitive price and for awarding contracts to the lowest
29 responsible bidder. Section 1 of this act applies to this subsection.

30 (4) Construction, repair, or alteration projects estimated to cost
31 less than forty thousand dollars are exempt from the requirement that
32 contracts be awarded after advertisement and competitive bid as defined
33 in RCW 39.04.010. In lieu of advertisement and competitive bid, the
34 authority shall solicit at least five quotations, confirmed in writing,
35 from contractors in a manner that will equitably distribute
36 opportunities among contractors on the small works roster for the
37 category of job type involved. Whenever possible, the authority shall
38 invite at least one proposal from a minority or woman contractor, or

1 from a contractor that employs, or commits to employ, residents of
2 housing owned or managed by the authority, who shall otherwise qualify
3 under this section. Such solicitations shall include an estimate of
4 the scope and nature of the work to be performed, and materials and
5 equipment to be furnished.

6 (5) Immediately after an award is made, the bid quotations obtained
7 shall be recorded, open to public inspection, and available by
8 telephone request.

9 (6) The breaking-down of any public work or improvement into units,
10 or accomplishing any public work or improvement by phases, for the
11 purpose of avoiding the minimum dollar amount for bidding, is contrary
12 to public policy and is prohibited.

13 (7) No authority under chapter 42.17 RCW shall be required to make
14 financial information required to be provided by the prequalification
15 procedure for inclusion on the small works roster available for public
16 inspection or copying.

17 **Sec. 9.** RCW 36.32.250 and 1991 c 363 s 58 are each amended to read
18 as follows:

19 No contract for public works may be entered into by the county
20 legislative authority or by any elected or appointed officer of the
21 county until after bids have been submitted to the county upon
22 specifications therefor. Such specifications shall be in writing and
23 shall be filed with the clerk of the county legislative authority for
24 public inspection. An advertisement shall be published in the county
25 official newspaper stating the time and place where bids will be
26 opened, the time after which bids will not be received, the character
27 of the work to be done, the materials and equipment to be furnished,
28 and that specifications therefor may be seen at the office of the clerk
29 of the county legislative authority. An advertisement shall also be
30 published in a legal newspaper of general circulation in or as near as
31 possible to that part of the county in which such work is to be done.
32 If the county official newspaper is a newspaper of general circulation
33 covering at least forty percent of the residences in that part of the
34 county in which such public works are to be done, then the publication
35 of an advertisement of the applicable specifications in the county
36 official newspaper shall be sufficient. Such advertisements shall be
37 published at least once at least ten days prior to the last date upon
38 which bids will be received. The bids shall be in writing, shall be

1 filed with the clerk, shall be opened and read in public at the time
2 and place named therefor in the advertisements, and after being opened,
3 shall be filed for public inspection. No bid may be considered for
4 public work unless it is accompanied by a bid deposit in the form of a
5 surety bond, postal money order, cash, cashier's check, or certified
6 check in an amount equal to five percent of the amount of the bid
7 proposed. The contract for the public work shall be awarded to the
8 lowest responsible bidder. Section 1 of this act applies to this
9 section.

10 Any or all bids may be rejected for good cause. The county
11 legislative authority shall require from the successful bidder for such
12 public work a contractor's bond in the amount and with the conditions
13 imposed by law. If the bidder to whom the contract is awarded fails to
14 enter into the contract and furnish the contractor's bond as required
15 within ten days after notice of the award, exclusive of the day of
16 notice, the amount of the bid deposit shall be forfeited to the county
17 and the contract awarded to the next lowest and best bidder. The bid
18 deposit of all unsuccessful bidders shall be returned after the
19 contract is awarded and the required contractor's bond given by the
20 successful bidder is accepted by the county legislative authority. In
21 the letting of any contract involving less than ten thousand dollars,
22 advertisement and competitive bidding may be dispensed with on order of
23 the county legislative authority. Immediately after the award is made,
24 the bid quotations obtained shall be recorded and open to public
25 inspection and shall be available by telephone inquiry.

26 For advertisement and competitive bidding to be dispensed with as
27 to public works projects with an estimated value of one hundred
28 thousand dollars or less, a county must use a small works roster
29 process as provided in RCW 39.04.155.

30 This section does not apply to performance-based contracts, as
31 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A
32 RCW.

33 **Sec. 10.** RCW 36.77.040 and 1963 c 4 s 36.77.040 are each amended
34 to read as follows:

35 The board shall proceed to award the contract to the lowest and
36 best bidder but may reject any or all bids if in its opinion good cause
37 exists therefor. Section 1 of this act applies to this section. The
38 board shall require from the successful bidder a contractor's bond in

1 the amount and with the conditions imposed by law. Should the bidder
2 to whom the contract is awarded fail to enter into the contract and
3 furnish the contractor's bond as required within ten days after notice
4 of the award, exclusive of the day of notice, the amount of the bid
5 deposit shall be forfeited to the county and placed in the county road
6 fund and the contract awarded to the next lowest and best bidder. The
7 bid deposit of all unsuccessful bidders shall be returned after the
8 contract is awarded and the required contractor's bond given by the
9 successful bidder is accepted by the board.

10 **Sec. 11.** RCW 39.04.015 and 1989 c 59 s 1 are each amended to read
11 as follows:

12 Notwithstanding the provisions of RCW 39.04.010, a state
13 contracting authority is authorized to negotiate an adjustment to a bid
14 price, based upon agreed changes to the contract plans and
15 specifications, with a low responsive and responsible bidder under the
16 following conditions:

17 (1) All bids for a state public works project involving buildings
18 and any associated building utilities and appendants exceed the
19 available funds, as certified by the appropriate fiscal officer;

20 (2) The (~~apparent low responsive~~) bid does not exceed the
21 available funds by: (a) Five percent on projects valued under one
22 million dollars; (b) the greater of fifty thousand dollars or two and
23 one-half percent for projects valued between one million dollars and
24 five million dollars; or (c) the greater of one hundred twenty-five
25 thousand dollars or one percent for projects valued over five million
26 dollars; (~~and~~)

27 (3) The negotiated adjustment will bring the bid price within the
28 amount of available funds; and

29 (4) Section 1 of this act applies to this section.

30 **Sec. 12.** RCW 39.04.150 and 1988 c 36 s 12 are each amended to read
31 as follows:

32 (1) As used in this section, "agency" means the department of
33 general administration, the department of fisheries, the department of
34 wildlife, and the state parks and recreation commission.

35 (2) In addition to any other power or authority that an agency may
36 have, each agency, alone or in concert, may establish a small works

1 roster consisting of all qualified contractors who have requested to be
2 included on the roster.

3 (3) The small works roster may make distinctions between
4 contractors based on the geographic areas served and the nature of the
5 work the contractor is qualified to perform. At least once every year,
6 the agency shall advertise in a newspaper of general circulation the
7 existence of the small works roster and shall add to the roster those
8 contractors who request to be included on the roster.

9 (4) Construction, repair, or alteration projects estimated to cost
10 less than fifty thousand dollars are exempt from the requirement that
11 the contracts be awarded after advertisement and competitive bid as
12 defined by RCW 39.04.010. In lieu of advertisement and competitive
13 bid, the agency shall solicit at least five quotations, confirmed in
14 writing, from contractors chosen by random number generated by computer
15 from the contractors on the small works roster for the category of job
16 type involved and shall award the work to the party with the lowest
17 quotation or reject all quotations. Section 1 of this act applies to
18 this subsection. If the agency is unable to solicit quotations from
19 five qualified contractors on the small works roster for a particular
20 project, then the project shall be advertised and competitively bid.
21 The agency shall solicit quotations randomly from contractors on the
22 small works roster in a manner which will equitably distribute the
23 opportunity for these contracts among contractors on the roster:
24 PROVIDED, That whenever possible, the agency shall invite at least one
25 proposal from a minority contractor who shall otherwise qualify to
26 perform such work. Immediately after an award is made, the bid
27 quotations obtained shall be recorded, open to public inspection, and
28 available by telephone request.

29 (5) The breaking down of any public work or improvement into units
30 or accomplishing any public work or improvement by phases for the
31 purpose of avoiding the minimum dollar amount for bidding is contrary
32 to public policy and is prohibited.

33 (6) The director of general administration shall adopt by rule a
34 procedure to prequalify contractors for inclusion on the small works
35 roster. Each agency shall follow the procedure adopted by the director
36 of general administration. No agency shall be required to make
37 available for public inspection or copying under chapter 42.17 RCW
38 financial information required to be provided by the prequalification
39 procedure.

1 (7) An agency may adopt by rule procedures to implement this
2 section which shall not be inconsistent with the procedures adopted by
3 the director of the department of general administration pursuant to
4 subsection (6) of this section.

5 **Sec. 13.** RCW 39.04.155 and 1991 c 363 s 109 are each amended to
6 read as follows:

7 (1) This section provides a uniform process to award contracts for
8 public works projects by those counties that are authorized to use a
9 small works roster in lieu of the requirements for formal sealed
10 bidding. The state statutes governing counties shall establish the
11 maximum dollar thresholds of the contracts that can be awarded under
12 this process, and may include other matters concerning the small works
13 roster process, for the county.

14 (2) Counties may create a single general small works roster, or may
15 create a small works roster for different categories of anticipated
16 work. The small works roster or rosters shall consist of all
17 responsible contractors who have requested to be on the list, and where
18 required by law are properly licensed or registered to perform such
19 work in this state. At least once a year, the county shall publish in
20 a newspaper of general circulation within the jurisdiction a notice of
21 the existence of the roster or rosters and solicit the names of
22 contractors for such roster or rosters.

23 The governing body of the county shall establish a procedure for
24 securing telephone or written quotations from the contractors on the
25 general small works roster, or a specific small works roster for the
26 appropriate category of work, to assure that a competitive price is
27 established and to award contracts to the lowest responsible bidder(~~(~~
28 ~~as defined in RCW 43.19.1911)~~). Section 1 of this act applies to this
29 section. Such invitations for quotations shall include an estimate of
30 the scope and nature of the work to be performed as well as materials
31 and equipment to be furnished. Whenever possible at least five
32 contractors shall be invited to submit bids. Once a contractor has
33 been afforded an opportunity to submit a proposal, that contractor
34 shall not be offered another opportunity until all other appropriate
35 contractors on the small works roster have been afforded an opportunity
36 to submit a proposal on a contract.

37 A contract awarded from a small works roster under this section
38 need not be advertised.

1 Immediately after an award is made, the bid quotations obtained
2 shall be recorded, open to public inspection, and available by
3 telephone inquiry.

4 **Sec. 14.** RCW 39.04.220 and 1991 c 130 s 2 are each amended to read
5 as follows:

6 (1) In addition to currently authorized methods of public works
7 contracting, and in lieu of the requirements of RCW 39.04.010 and
8 39.04.020 through 39.04.060, capital projects funded for over ten
9 million dollars appropriated and authorized by the legislature for the
10 department of corrections in the 1989-91 biennium at the McNeil Island
11 corrections center, the Clallam Bay corrections center, the
12 construction of new correctional facilities under the authority of the
13 secretary of corrections including drug camps; work camps; a new medium
14 security prison and such other correctional facilities as may be
15 authorized by the legislature during the biennium ending June 30, 1993,
16 may be accomplished under contract using the general
17 contractor/construction manager method described in this section. For
18 the purposes of this section, "general contractor/construction manager"
19 means a firm with which the department of general administration has
20 selected and negotiated a maximum allowable construction cost to be
21 guaranteed by the firm, after competitive selection through a formal
22 advertisement, and competitive bids to provide services that may
23 include life-cycle cost design considerations, value engineering,
24 scheduling, cost estimating, constructability, alternative construction
25 options for cost savings, and sequencing of work, and to act as the
26 general contractor during the construction phase. Section 1 of this
27 act applies to this subsection. The department of general
28 administration shall establish an independent oversight advisory
29 committee with representatives of interest groups with an interest in
30 this subject area, the department of corrections, and the private
31 sector, to review selection and contracting procedures. The general
32 contractor/construction manager method is limited to contracts signed
33 before July 1, 1996.

34 (2) Contracts for the services of a general contractor/construction
35 manager awarded under the authority of this section shall be awarded
36 through a competitive process requiring the public solicitation of
37 proposals for general contractor/construction manager services.
38 Minority and women enterprise total project goals shall be specified in

1 the bid instructions to the general contractor/construction manager
2 finalists. The director of general administration is authorized to
3 include an incentive clause in any contract awarded under this section
4 for savings of either time or cost or both from that originally
5 negotiated. No incentives granted shall exceed five percent of the
6 maximum allowable construction cost. The director of general
7 administration or his or her designee shall establish a committee to
8 evaluate the proposals considering such factors as ability of
9 professional personnel; past performance in negotiated and complex
10 projects; ability to meet time and budget requirements; location;
11 recent, current, and projected work loads of the firm; and the concept
12 of their proposal. After the committee has selected the most qualified
13 finalists, these finalists shall submit sealed bids for the percent
14 fee, which is the percentage amount to be earned by the general
15 contractor/construction manager as overhead and profit, on the
16 estimated maximum allowable construction cost and the fixed amount for
17 the detailed specified general conditions work. The maximum allowable
18 construction cost may be negotiated between the department of general
19 administration and the selected firm after the scope of the project is
20 adequately determined to establish a guaranteed contract cost for which
21 the general contractor/construction manager will provide a performance
22 and payment bond. The guaranteed contract cost includes the fixed
23 amount for the detailed specified general conditions work, the
24 negotiated maximum allowable construction cost, the percent fee on the
25 negotiated maximum allowable construction cost, and sales tax. If the
26 department of general administration is unable to negotiate a
27 satisfactory maximum allowable construction cost with the firm selected
28 that the department of general administration determines to be fair,
29 reasonable, and within the available funds, negotiations with that firm
30 shall be formally terminated and the department of general
31 administration shall negotiate with the next low bidder and continue
32 until an agreement is reached or the process is terminated. If the
33 maximum allowable construction cost varies more than fifteen percent
34 from the bid estimated maximum allowable construction cost due to
35 requested and approved changes in the scope by the state, the percent
36 fee shall be renegotiated. All subcontract work shall be competitively
37 bid with public bid openings. Specific goals for women and minority
38 enterprises shall be specified in each subcontract bid package that
39 responsive bidders will have to meet or exceed. All subcontractors who

1 bid work over one hundred thousand dollars shall post a bid bond and
2 the awarded subcontractor shall provide a performance and payment bond
3 for their contract amount if required by the general
4 contractor/construction manager. The bidding of subcontract work by
5 the general contractor/construction manager or its subsidiaries is
6 prohibited but it may negotiate with the low-responsive bidder in
7 accordance with RCW 39.04.015 or rebid if authorized by the director of
8 general administration in the event no bids are received, the bids
9 received are over the budget amount, or the subcontractor fails to
10 perform.

11 (3) If the project is completed for less than the agreed upon
12 maximum allowable construction cost, any savings not otherwise
13 negotiated as part of an incentive clause shall accrue to the state.
14 If the project is completed for more than the agreed upon maximum
15 allowable construction cost, excepting increases due to any contract
16 change orders approved by the state, the additional cost shall be the
17 responsibility of the general contractor/construction manager.

18 (4) The powers and authority conferred by this section shall be
19 construed as in addition and supplemental to powers or authority
20 conferred by any other law, and nothing contained herein shall be
21 construed as limiting any other powers or authority of the department
22 of general administration.

23 **Sec. 15.** RCW 39.19.070 and 1987 c 328 s 4 are each amended to read
24 as follows:

25 It is the intent of this chapter that the goals established under
26 this chapter for participation by minority and women-owned and
27 controlled businesses be achievable. If necessary to accomplish this
28 intent, contracts shall be awarded to the next lowest responsible
29 bidder, or all bids may be rejected and new bids obtained, if the
30 lowest responsible bidder does not meet the goals established for a
31 particular contract under this chapter. Section 1 of this act applies
32 to this section. The dollar value of the total contract used for the
33 calculation of the specific contract goal may be increased or decreased
34 to reflect executed change orders. An apparent low-bidder must be in
35 compliance with the contract provisions required under this chapter as
36 a condition precedent to the granting of a notice of award by any state
37 agency or educational institution.

1 **Sec. 16.** RCW 43.19.1911 and 1989 c 431 s 60 are each amended to
2 read as follows:

3 When purchases are made through competitive bidding, the contract
4 shall be let to the lowest responsible bidder, subject to any
5 preferences provided by law to Washington products and vendors and to
6 RCW 43.19.704, taking into consideration the quality of the articles
7 proposed to be supplied, their conformity with specifications, the
8 purposes for which required, and the times of delivery: PROVIDED, That
9 whenever there is reason to believe that the lowest acceptable bid is
10 not the best price obtainable, all bids may be rejected and the
11 division of purchasing may call for new bids or enter into direct
12 negotiations to achieve the best possible price. Each bid with the
13 name of the bidder shall be entered of record and each record, with the
14 successful bid indicated, shall, after letting of the contract, be open
15 to public inspection. In determining "lowest responsible bidder", in
16 addition to price, the following elements shall be given consideration:

17 (1) The ability, capacity, and skill of the bidder to perform the
18 contract or provide the service required;

19 (2) The character, integrity, reputation, judgment, experience, and
20 efficiency of the bidder;

21 (3) Whether the bidder can perform the contract within the time
22 specified;

23 (4) The quality of performance of previous contracts or services;

24 (5) The previous and existing compliance by the bidder with laws
25 relating to the contract or services;

26 (6) Section 1 of this act; and

27 (7) Such other information as may be secured having a bearing on
28 the decision to award the contract: PROVIDED, That in considering bids
29 for purchase, manufacture, or lease, and in determining the "lowest
30 responsible bidder," whenever there is reason to believe that applying
31 the "life cycle costing" technique to bid evaluation would result in
32 lowest total cost to the state, first consideration shall be given by
33 state purchasing activities to the bid with the lowest life cycle cost
34 which complies with specifications. "Life cycle cost" means the total
35 cost of an item to the state over its estimated useful life, including
36 costs of selection, acquisition, operation, maintenance, and where
37 applicable, disposal, as far as these costs can reasonably be
38 determined, minus the salvage value at the end of its estimated useful
39 life. The "estimated useful life" of an item means the estimated time

1 from the date of acquisition to the date of replacement or disposal,
2 determined in any reasonable manner. Nothing in this section shall
3 prohibit any state agency, department, board, commission, committee, or
4 other state-level entity from allowing for preferential purchase of
5 products made from recycled materials or products that may be recycled
6 or reused.

7 **Sec. 17.** RCW 47.28.090 and 1985 c 242 s 3 are each amended to read
8 as follows:

9 At the time and place named in the call for bids the department of
10 transportation shall publicly open and read the final figure in each of
11 the bid proposals that have been properly filed and read only the unit
12 prices of the three lowest bids, and shall award the contract to the
13 lowest responsible bidder unless the department has, for good cause,
14 continued the date of opening bids to a day certain, or rejected that
15 bid. Section 1 of this act applies to this section. Any bid may be
16 rejected if the bidder has previously defaulted in the performance of
17 and failed to complete a written public contract, or has been convicted
18 of a crime arising from a previous public contract. If the lowest
19 responsible bidder fails to meet the provisions or specifications
20 requiring compliance with chapter 39.19 RCW and the rules adopted to
21 implement that chapter, the department may award the contract to the
22 next lowest responsible bidder which does meet the provisions or
23 specifications or may reject all bids and readvertise. All bids shall
24 be under sealed cover and accompanied by deposit in cash, certified
25 check, cashier's check, or surety bond in an amount equal to five
26 percent of the amount of the bid, and a bid shall not be considered
27 unless the deposit is enclosed with it.

28 **Sec. 18.** RCW 47.28.100 and 1984 c 7 s 171 are each amended to read
29 as follows:

30 If the successful bidder fails to enter into the contract and
31 furnish satisfactory bond as provided by law within twenty days from
32 the award, exclusive of the day of the award, his deposit shall be
33 forfeited to the state and deposited by the state treasurer to the
34 credit of the motor vehicle fund, and the department may award the
35 contract to the second lowest responsible bidder. If the second lowest
36 responsible bidder fails to enter into the contract and furnish bond
37 within twenty days after award to him, forfeiture of his deposit shall

1 also be made, and the contract may be awarded to the third lowest
2 responsible bidder, and in like manner until the contract and bond are
3 executed by a responsible bidder to whom award is made, or further bid
4 proposals are rejected, or the number of bid proposals are exhausted.
5 If the contract is not executed or no contractor's bond provided within
6 the time required, and there appear circumstances that are deemed to
7 warrant an extension of time, the department may extend the time for
8 execution of the contract or furnishing bond for not to exceed twenty
9 additional days. After awarding the contract the deposits of
10 unsuccessful bidders shall be returned, but the department may retain
11 the deposit of the next lowest responsible bidder or bidders as it
12 desires until such time as the contract is entered into and
13 satisfactory bond is provided by the bidder to whom the award is
14 ultimately made.

15 If in the opinion of the department the acceptance of the bid of
16 the lowest responsible bidder or bidders, or on prior failure of the
17 lowest responsible bidder or bidders the acceptance of the bid of the
18 remaining lowest responsible bidder or bidders, will not be for the
19 best interest of the state, it may reject all bids or all remaining
20 bids and republish a call for bids in the same manner as for an
21 original publication thereof.

22 Section 1 of this act applies to this section.

23 **Sec. 19.** RCW 47.28.170 and 1990 c 265 s 1 are each amended to read
24 as follows:

25 (1) Whenever the department finds that as a consequence of
26 accident, natural disaster, or other emergency, an existing state
27 highway is in jeopardy or is rendered impassible in one or both
28 directions and the department further finds that prompt reconstruction,
29 repair, or other work is needed to preserve or restore the highway for
30 public travel, the department may obtain at least three written bids
31 for the work without publishing a call for bids, and the secretary of
32 transportation may award a contract forthwith to the lowest responsible
33 bidder. Section 1 of this act applies to this subsection.

34 The department shall notify any association or organization of
35 contractors filing a request to regularly receive notification.
36 Notification to an association or organization of contractors shall
37 include: (a) The location of the work to be done; (b) the general
38 anticipated nature of the work to be done; and (c) the date determined

1 by the department as reasonable in view of the nature of the work and
2 emergent nature of the problem after which the department will not
3 receive bids.

4 (2) Whenever the department finds it necessary to protect a highway
5 facility from imminent damage or to perform emergency work to reopen a
6 highway facility, the department may contract for such work on a
7 negotiated basis not to exceed force account rates for a period not to
8 exceed thirty working days.

9 (3) The secretary shall review any contract exceeding two hundred
10 thousand dollars awarded under subsection (1) or (2) of this section
11 with the transportation commission at its next regularly scheduled
12 meeting.

13 (4) Any person, firm, or corporation awarded a contract for work
14 must be prequalified pursuant to RCW 47.28.070 and may be required to
15 furnish a bid deposit or performance bond.

16 **Sec. 20.** RCW 53.08.120 and 1988 c 235 s 1 are each amended to read
17 as follows:

18 All material required by a port district may be procured in the
19 open market or by contract and all work ordered may be done by contract
20 or day labor. All such contracts for work, the estimated cost of which
21 exceeds one hundred thousand dollars, shall be let at public bidding
22 upon notice published in a newspaper in the district at least ten days
23 before the letting, calling for sealed bids upon the work, plans and
24 specifications for which shall then be on file in the office of the
25 commission for public inspection. The same notice may call for bids on
26 such work or material based upon plans and specifications submitted by
27 the bidder.

28 Each port district shall maintain a small works roster which shall
29 be comprised of all contractors who have requested to be on the roster
30 and are, where required by law, properly licensed or registered to
31 perform such work in the state of Washington.

32 Whenever work is done by contract, the estimated cost of which is
33 one hundred thousand dollars or less, the managing official of the port
34 district may invite proposals from all appropriate contractors on the
35 small works roster: PROVIDED, That not less than five separate
36 appropriate contractors shall be invited to submit proposals on any
37 individual contract: PROVIDED FURTHER, That whenever possible, the
38 managing official shall invite at least one proposal from a minority

1 contractor who shall otherwise qualify under this section. Such
2 invitation shall include an estimate of the scope and nature of the
3 work to be performed, and materials and equipment to be furnished.

4 When awarding such a contract for work, when utilizing proposals
5 from the small works roster, the managing official shall give weight to
6 the contractor submitting the lowest and best proposal, and whenever it
7 would not violate the public interest, such contracts shall be
8 distributed equally among contractors, including minority contractors,
9 on the small works roster. Section 1 of this act applies to this
10 section.

11 **Sec. 21.** RCW 53.08.130 and 1971 ex.s. c 258 s 2 are each amended
12 to read as follows:

13 The notice shall state generally the nature of the work to be done
14 and require that bids be sealed and filed with the commission at a time
15 specified therein. Each bid shall be accompanied by a bid proposal
16 deposit in the form of a cashier's check, money order, or surety bid
17 bond to the commission for a sum not less than five percent of the
18 amount of the bid, and no bid shall be considered unless accompanied by
19 such bid proposal deposit. At the time and place named the bids shall
20 be publicly opened and read and the commission shall proceed to canvass
21 the bids and, except as otherwise in this section provided, shall let
22 the contract to the lowest responsible bidder upon plans and
23 specifications on file, or to the best bidder submitting his own plans
24 and specifications. Section 1 of this act applies to this section.

25 If, in the opinion of the commission, all bids are unsatisfactory, they
26 may reject all of them and readvertise, and in such case all such bid
27 proposal deposits shall be returned to the bidders; but if the contract
28 is let, then all bid proposal deposits shall be returned to the
29 bidders, except that of the successful bidder which shall be retained
30 until a contract is entered into for the purchase of such materials or
31 doing such work, and a bond given to the port district for the
32 performance of the contract and otherwise conditioned as required by
33 law, with sureties satisfactory to the commission, in an amount to be
34 fixed by the commission, but not in any event less than twenty-five
35 percent of the contract price. If said bidder fails to enter into the
36 contract in accordance with his bid and furnish such bond within ten
37 days from the date at which he is notified that he is the successful
38 bidder, the check or money order and the amount thereof shall be

1 forfeited to the port district or the port district shall recover the
2 amount of the surety bid bond.

3 **Sec. 22.** RCW 54.04.070 and 1990 c 251 s 1 are each amended to read
4 as follows:

5 Any item, or items of the same kind of materials, equipment, or
6 supplies purchased, the estimated cost of which is in excess of five
7 thousand dollars, exclusive of sales tax shall be by contract:
8 PROVIDED, That a district may make purchases of the same kind of items
9 of materials, equipment and supplies not exceeding five thousand
10 dollars in any calendar month without a contract, purchasing any excess
11 thereof over five thousand dollars by contract. Any work ordered by a
12 district commission, the estimated cost of which is in excess of ten
13 thousand dollars exclusive of sales tax, shall be by contract, except
14 that a district commission may have its own regularly employed
15 personnel perform work which is an accepted industry practice under
16 prudent utility management without a contract. Prudent utility
17 management means performing work with regularly employed personnel
18 utilizing material of a worth not exceeding fifty thousand dollars in
19 value without a contract: PROVIDED, That such limit on the value of
20 material being utilized in work being performed by regularly employed
21 personnel shall not include the value of individual items of equipment
22 purchased or acquired and used as one unit of a project. Before
23 awarding such a contract, the commission shall publish a notice once or
24 more in a newspaper of general circulation in the district at least
25 twenty days before the letting of the contract, inviting sealed
26 proposals for the work or materials; plans and specifications of which
27 shall at the time of the publication be on file at the office of the
28 district subject to public inspection: PROVIDED, That any published
29 notice ordering work to be performed for the district shall be mailed
30 at the time of publication to any established trade association which
31 files a written request with the district to receive such notices. The
32 commission may at the same time and as part of the same notice, invite
33 tenders for the work or materials upon plans and specifications to be
34 submitted by the bidders.

35 Notwithstanding any other provisions herein, all contract projects,
36 the estimated cost of which is less than one hundred thousand dollars,
37 may be awarded to a contractor on the small works roster. The small
38 works roster shall be comprised of all responsible contractors who have

1 requested to be on the list. The commission shall authorize by
2 resolution a procedure for securing telephone and/or written quotations
3 from the contractors on the small works roster to assure establishment
4 of a competitive price and for awarding contracts to the lowest
5 responsible bidder. Section 1 of this act applies to this section.
6 Such procedure shall require that a good-faith effort be made to
7 request quotations from all contractors on the small works roster.
8 Immediately after an award is made, the bid quotations obtained shall
9 be recorded, open to public inspection, and available by telephone
10 inquiry. The small works roster shall be revised once a year. All
11 contract projects equal to or in excess of one hundred thousand dollars
12 shall be let by competitive bidding.

13 Whenever equipment or materials required by a district are held by
14 a governmental agency and are available for sale but such agency is
15 unwilling to submit a proposal, the commission may ascertain the price
16 of such items and file a statement of such price supported by the sworn
17 affidavit of one member of the commission and may consider such price
18 as a bid without a deposit or bond. In the event of an emergency when
19 the public interest or property of the district would suffer material
20 injury or damage by delay, upon resolution of the commission, or
21 proclamation of an official designated by the board to act for the
22 board during such emergencies, declaring the existence of such
23 emergency and reciting the facts constituting the same, the board, or
24 the official acting for the board, may waive the requirements of this
25 chapter with reference to any purchase or contract, after having taken
26 precautions to secure the lowest price practicable under the
27 circumstances.

28 After determination by the commission during a public meeting that
29 a particular purchase is available clearly and legitimately only from
30 a single source of supply, the bidding requirements of this section may
31 be waived by the commission.

32 **Sec. 23.** RCW 54.04.080 and 1972 ex.s. c 41 s 1 are each amended to
33 read as follows:

34 Any notice inviting sealed bids shall state generally the work to
35 be done, or the material to be purchased and shall call for proposals
36 for furnishing it, to be sealed and filed with the commission on or
37 before the time named therein. Each bid shall be accompanied by a
38 certified or cashier's check, payable to the order of the commission,

1 for a sum not less than five percent of the amount of the bid, or
2 accompanied by a bid bond in an amount not less than five percent of
3 the bid with a corporate surety licensed to do business in the state,
4 conditioned that the bidder will pay the district as liquidated damages
5 the amount specified in the bond unless he enters into a contract in
6 accordance with his bid and furnishes the performance bond herein
7 mentioned within ten days from the date on which he is notified that he
8 is the successful bidder. At the time and place named, the bids shall
9 be publicly opened and read, and the commission shall canvass the bids,
10 and may let the contract to the lowest responsible bidder upon the
11 plans and specifications on file, or to the best bidder submitting his
12 own plans or specifications; or if the contract to be let is to
13 construct or improve electrical facilities, the contract may be let to
14 the lowest bidder prequalified according to the provisions of RCW
15 54.04.085 upon the plans and specifications on file, or to the best
16 bidder submitting his own plans and specifications: PROVIDED, That no
17 contract shall be let for more than fifteen percent in excess of the
18 estimated cost of the materials or work. Section 1 of this act applies
19 to this section. The commission may reject all bids and readvertise,
20 and in such case all checks shall be returned to the bidders. The
21 commission may procure materials in the open market, have its own
22 personnel perform the work or negotiate a contract for such work to be
23 performed by others, in lieu of readvertising, if it receives no bid.
24 If the contract is let, all checks shall be returned to the bidders,
25 except that of the successful bidder, which shall be retained until a
26 contract is entered into and a bond to perform the work furnished, with
27 sureties satisfactory to the commission, in an amount to be fixed by
28 the commission, not less than twenty-five percent of the contract
29 price, in accordance with the bid. If the bidder fails to enter into
30 the contract and furnish the bond within ten days from the date at
31 which he is notified that he is the successful bidder, his check and
32 the amount thereof shall be forfeited to the district.

33 The commission shall, by resolution, define the term "same kind of
34 materials, equipment, and supplies" with respect to purchase of items
35 under the provisions of RCW 54.04.070.

36 The term "construction or improvement of any electrical facility"
37 as used in this section and in RCW 54.04.085, shall mean the
38 construction, the moving, maintenance, modification, or enlargement of
39 facilities primarily used or to be used for the transmission or

1 distribution of electricity at voltages above seven hundred fifty
2 volts, including structures directly supporting transmission or
3 distribution conductors but not including site preparation, housing, or
4 protective fencing associated with but not included in a contract for
5 such construction, moving, modification, maintenance, or enlargement of
6 such facilities.

7 The commission shall be the final authority with regard to whether
8 a bid is responsive to the call for bids and as to whether a bidder is
9 a responsible bidder under the conditions of his bid. No award of
10 contract shall be invalidated solely because of the failure of any
11 prospective bidder to receive an invitation to bid.

12 **Sec. 24.** RCW 56.08.070 and 1989 c 105 s 1 are each amended to read
13 as follows:

14 (1) All materials purchased and work ordered, the estimated cost of
15 which is in excess of five thousand dollars shall be let by contract.
16 All contract projects, the estimated cost of which is less than fifty
17 thousand dollars, may be awarded to a contractor on the small works
18 roster. The small works roster shall be comprised of all responsible
19 contractors who have requested to be on the list. The board of sewer
20 commissioners may set up uniform procedures to prequalify contractors
21 for inclusion on the small works roster. The board of sewer
22 commissioners shall authorize by resolution a procedure for securing
23 telephone and/or written quotations from the contractors on the small
24 works roster to assure establishment of a competitive price and for
25 awarding contracts to the lowest responsible bidder. Such procedure
26 shall require that a good faith effort be made to request quotations
27 from all contractors on the small works roster. Immediately after an
28 award is made, the bid quotations obtained shall be recorded, open to
29 public inspection, and available by telephone inquiry. The small works
30 roster shall be revised once a year. All contract projects equal to or
31 in excess of fifty thousand dollars shall be let by competitive
32 bidding. Before awarding any competitive contract the board of sewer
33 commissioners shall cause a notice to be published in a newspaper in
34 general circulation where the district is located at least once, ten
35 days before the letting of such contract, inviting sealed proposals for
36 such work, plans and specifications which must at the time of
37 publication of such notice be on file in the office of the board of
38 sewer commissioners subject to public inspection. Such notice shall

1 state generally the work to be done and shall call for proposals for
2 doing the same to be sealed and filed with the board of sewer
3 commissioners on or before the day and hour named therein.

4 (2) Each bid shall be accompanied by a bid proposal deposit in the
5 form of a certified check, cashier's check, postal money order, or
6 surety bond payable to the order of the county treasurer for a sum not
7 less than five percent of the amount of the bid and no bid shall be
8 considered unless accompanied by such bid proposal deposit. At the
9 time and place named such bids shall be publicly opened and read and
10 the board of sewer commissioners shall proceed to canvass the bids and
11 may let such contract to the lowest responsible bidder upon plans and
12 specifications: PROVIDED, That no contract shall be let in excess of
13 the cost of said materials or work, or if in the opinion of the board
14 of sewer commissioners all bids are unsatisfactory they may reject all
15 of them and readvertise and in such case all checks, cash or bid bonds
16 shall be returned to the bidders. If such contract be let, then all
17 checks, cash or bid bonds shall be returned to the bidders, except that
18 of the successful bidder, which shall be retained until a contract
19 shall be entered into for the purchase of such materials or doing such
20 work, and a bond to perform such work furnished with sureties
21 satisfactory to the board of sewer commissioners in the full amount of
22 the contract price between the bidder and the commission in accordance
23 with bid. If said bidder fails to enter into said contract in
24 accordance with said bid and furnish such bond within ten days from the
25 date at which he is notified that he is the successful bidder, the said
26 check, cash or bid bonds and the amount thereof shall be forfeited to
27 the sewer district.

28 (3) In the event of an emergency when the public interest or
29 property of the sewer district would suffer material injury or damage
30 by delay, upon resolution of the board of sewer commissioners, or
31 proclamation of an official designated by the board to act for the
32 board during such emergencies, declaring the existence of such
33 emergency and reciting the facts constituting the same, the board, or
34 the official acting for the board, may waive the requirements of this
35 chapter with reference to any purchase or contract. In addition, these
36 requirements may be waived for purchases which are clearly and
37 legitimately limited to a single source of supply and purchases
38 involving special facilities, services, or market conditions, in which

1 instances the purchase price may be best established by direct
2 negotiation.

3 (4) Section 1 of this act applies to this section.

4 **Sec. 25.** RCW 57.08.050 and 1989 c 105 s 2 are each amended to read
5 as follows:

6 (1) The board of water commissioners shall have authority to create
7 and fill such positions and fix salaries and bonds thereof as it may by
8 resolution provide.

9 (2) All materials purchased and work ordered, the estimated cost of
10 which is in excess of five thousand dollars shall be let by contract.
11 All contract projects, the estimated cost of which is less than fifty
12 thousand dollars, may be awarded to a contractor on the small works
13 roster. The small works roster shall be comprised of all responsible
14 contractors who have requested to be on the list. The board of water
15 commissioners may set up uniform procedures to prequalify contractors
16 for inclusion on the small works roster. The board of water
17 commissioners shall authorize by resolution a procedure for securing
18 telephone and/or written quotations from the contractors on the small
19 works roster to assure establishment of a competitive price and for
20 awarding contracts to the lowest responsible bidder. Such procedure
21 shall require that a good faith effort be made to request quotations
22 from all contractors on the small works roster. Immediately after an
23 award is made, the bid quotations obtained shall be recorded, open to
24 public inspection, and available by telephone inquiry. The small works
25 roster shall be revised once a year. All contract projects equal to or
26 in excess of fifty thousand dollars shall be let by competitive
27 bidding. Before awarding any such contract the board of water
28 commissioners shall cause a notice to be published in a newspaper in
29 general circulation where the district is located at least once ten
30 days before the letting of such contract, inviting sealed proposals for
31 such work, plans and specifications which must at the time of
32 publication of such notice be on file in the office of the board of
33 water commissioners subject to public inspection. Such notice shall
34 state generally the work to be done and shall call for proposals for
35 doing the same to be sealed and filed with the board of water
36 commissioners on or before the day and hour named therein.

37 (3) Each bid shall be accompanied by a certified or cashier's check
38 or postal money order payable to the order of the county treasurer for

1 a sum not less than five percent of the amount of the bid, or
2 accompanied by a bid bond in an amount not less than five percent of
3 the bid with a corporate surety licensed to do business in the state,
4 conditioned that the bidder will pay the district as liquidated damages
5 the amount specified in the bond, unless he enters into a contract in
6 accordance with his bid, and no bid shall be considered unless
7 accompanied by such check, cash or bid bond. At the time and place
8 named such bids shall be publicly opened and read and the board of
9 water commissioners shall proceed to canvass the bids and may let such
10 contract to the lowest responsible bidder upon plans and specifications
11 on file or to the best bidder submitting his own plans and
12 specifications: PROVIDED, That no contract shall be let in excess of
13 the cost of said materials or work, or if in the opinion of the board
14 of water commissioners all bids are unsatisfactory they may reject all
15 of them and readvertise and in such case all checks, cash or bid bonds
16 shall be returned to the bidders. If such contract be let, then all
17 checks, cash or bid bonds shall be returned to the bidders, except that
18 of the successful bidder, which shall be retained until a contract
19 shall be entered into for the purchase of such materials or doing such
20 work, and a bond to perform such work furnished with sureties
21 satisfactory to the board of water commissioners in the full amount of
22 the contract price between the bidder and the commission in accordance
23 with the bid. If said bidder fails to enter into said contract in
24 accordance with said bid and furnish such bond within ten days from the
25 date at which he is notified that he is the successful bidder, the said
26 check, cash or bid bonds and the amount thereof shall be forfeited to
27 the water district: PROVIDED, That if the bidder fails to enter into
28 a contract in accordance with his bid, and the board of water
29 commissioners deems it necessary to take legal action to collect on any
30 bid bond required herein, then the water district shall be entitled to
31 collect from said bidder any legal expenses, including reasonable
32 attorneys' fees occasioned thereby.

33 (4) In the event of an emergency when the public interest or
34 property of the water district would suffer material injury or damage
35 by delay, upon resolution of the board of water commissioners, or
36 proclamation of an official designated by the board to act for the
37 board during such emergencies, declaring the existence of such
38 emergency and reciting the facts constituting the same, the board, or
39 official acting for the board, may waive the requirements of this

1 chapter with reference to any purchase or contract. In addition, these
2 requirements may be waived for purchases which are clearly and
3 legitimately limited to a single source of supply and purchases
4 involving special facilities, services, or market conditions, in which
5 instances the purchase price may be best established by direct
6 negotiation.

7 (5) Section 1 of this act applies to this section.

8 **Sec. 26.** RCW 70.44.140 and 1965 c 83 s 1 are each amended to read
9 as follows:

10 All materials purchased and work ordered, the estimated cost of
11 which is in excess of five thousand dollars, shall be by contract.
12 Before awarding any such contract, the commission shall cause to be
13 published a notice at least thirty days before the letting of said
14 contract, inviting sealed proposals for such work, plans and
15 specifications which must at the time of the publication of such notice
16 be on file at the office of the public hospital district, subject to
17 public inspection: PROVIDED, HOWEVER, That the commission may at the
18 same time, and as part of the same notice, invite tenders for said work
19 or materials upon plans and specifications to be submitted by bidders.
20 Such notice shall state generally the work to be done, and shall call
21 for proposals for doing the same, to be sealed and filed with the
22 commission on or before the day and hour named therein. Each bid shall
23 be accompanied by bid proposal security in the form of a certified
24 check, cashier's check, postal money order, or surety bond made payable
25 to the order of the commission, for a sum not less than five percent of
26 the amount of the bid, and no bid shall be considered unless
27 accompanied by such bid proposal security. At the time and place
28 named, such bids shall be publicly opened and read, and the commission
29 shall proceed to canvass the bids, and may let such contract to the
30 lowest responsible bidder upon plans and specifications on file, or to
31 the best bidder submitting his own plans and specifications: PROVIDED,
32 HOWEVER, That no contract shall be let in excess of the estimated cost
33 of said materials or work, or if, in the opinion of the commission, all
34 bids are unsatisfactory, they may reject all of them and readvertise,
35 and in such case all bid proposal security shall be returned to the
36 bidders; but if such contract be let, then and in such case all bid
37 proposal security shall be returned to the bidders, except that of the
38 successful bidder, which shall be retained until a contract shall be

1 entered into for the purchase of such materials for doing such work,
2 and a bond to perform such work furnished, with sureties satisfactory
3 to the commission, in an amount to be fixed by the commission, not less
4 than twenty-five percent of contract price in any case, between the
5 bidder and commission, in accordance with the bid. If such bidder
6 fails to enter into said contract in accordance with said bid and
7 furnish such bond within ten days from the date at which he is notified
8 that he is the successful bidder, the said bid proposal security and
9 the amount thereof shall be forfeited to the public hospital district.

10 Section 1 of this act applies to this section.

11 **Sec. 27.** RCW 72.01.120 and 1979 c 141 s 148 are each amended to
12 read as follows:

13 When improvements are to be made under contract, notice of the call
14 for the same shall be published in at least two newspapers of general
15 circulation in the state for two weeks prior to the award being made.
16 The contract shall be awarded to the lowest responsible bidder.
17 Section 1 of this act applies to this section. The secretary is
18 authorized to require such security as he may deem proper to accompany
19 the bids submitted, and shall also fix the amount of the bond or other
20 security that shall be furnished by the person or firm to whom the
21 contract is awarded. The secretary shall have the power to reject any
22 or all bids submitted, if for any reason it is deemed for the best
23 interest of the state to do so, and to readvertise in accordance with
24 the provisions hereof. The secretary shall also have the power to
25 reject the bid of any person or firm who has had a prior contract, and
26 who did not, in the opinion of the secretary, faithfully comply with
27 the same.

28 **Sec. 28.** RCW 85.24.070 and 1985 c 396 s 53 are each amended to
29 read as follows:

30 A three-member board of commissioners shall be the governing body
31 of an intercounty diking and drainage district. The initial
32 commissioners shall be appointed, and the elected commissioners
33 elected, as provided in chapter 85.38 RCW.

34 The members of such board, before entering upon their duties, shall
35 take and subscribe on oath substantially as follows:

1 State of Washington,
2
3 County of

ss.

4 I, the undersigned, a member of the board of commissioners of the
5 diking and drainage district No., in and
6 counties, do solemnly swear (or affirm) that I will
7 faithfully discharge my duties as a member of the commission.

8 Upon the taking of such oath and the entering into a bond, as provided
9 in RCW 85.38.080, the county legislative authority shall enter an order
10 upon its records that the three persons named have qualified as the
11 board of commissioners for diking and drainage district No., in
12 and counties, and that those persons and their
13 successors do and shall constitute a board of commissioners for the
14 diking and drainage district. The order when made shall be conclusive
15 of the regularity of the election and qualification of the board of
16 diking and drainage commissioners for the particular district, and the
17 persons named therein shall constitute the board of diking and drainage
18 commissioners.

19 The board of diking and drainage commissioners shall thereupon
20 immediately organize and elect one of their number as chairman and may
21 either appoint a voter of the district or another diking and drainage
22 commissioner to act as secretary. The board shall then proceed to make
23 and cause to be made specifications and details of a system which may
24 be adopted by the board for the improvements to be made, together with
25 an estimate of the total cost thereof; and shall, upon the adoption of
26 the plan of improvement of the district, proceed to acquire the
27 necessary property and property rights for the construction,
28 establishment and maintenance of the system either by purchase or by
29 power of eminent domain as hereinafter provided. Upon such acquisition
30 being had, the board shall then proceed with the construction of the
31 diking and drainage system and in doing so shall have the power to do
32 the work directly or in its discretion to have all or any part of the
33 work done by contract. In case the board shall decide upon doing the
34 same by contract, it shall advertise for bids for the construction
35 work, or such part thereof as they may determine to have done by
36 contract, and shall have the authority to let a contract to the lowest
37 responsible bidder after advertising for bids. Section 1 of this act
38 applies to this section.

1 Any contractor doing work hereunder shall be required to furnish a
2 bond as provided by the laws of the state of Washington relating to
3 contractors of public work.

4 The board shall have the right, power and authority to issue
5 vouchers or warrants in payment or evidence of payment of any and all
6 expenses incurred under this chapter, and shall have the power to issue
7 the same to any contractor as the work progresses, the same to be based
8 upon the partial estimates furnished from time to time by engineers of
9 the district. All warrants issued hereunder shall draw interest at a
10 rate determined by the board.

11 Upon the completion of the construction of the system, and
12 ascertainment of the total cost thereof including all compensation and
13 damages and costs and expenses incident to the acquiring of the
14 necessary property and property right, the board shall then proceed to
15 levy an assessment upon the taxable real property within the district
16 which the board may find to be specially benefited by the proposed
17 improvements; and shall make and levy such assessment upon each piece,
18 lot, parcel and separate tract of real estate in proportion to the
19 particular and special benefits thereto. Upon determining the amount
20 of the assessment against each particular tract of real estate as
21 aforesaid, the commissioners shall make or cause to be made an
22 assessment roll, in which shall appear the names of the owners of the
23 property assessed, so far as known, and a general description of each
24 lot, block, parcel or tract of land within the district, and the amount
25 assessed against the same, as separate, special or particular benefits.
26 The board shall thereupon make an order setting and fixing a day for
27 hearing any objections to the assessment roll by any one affected
28 thereby, which day shall be at least twenty days after the mailing of
29 notices thereof, postage prepaid, as herein provided. The board shall
30 send or cause to be sent by mail to each owner of the premises
31 assessed, whose name and place of residence is known, a notice,
32 substantially in the following form:

33 To: Your property (here describe the property) is
34 assessed \$ A hearing on the assessment roll will be had
35 before the undersigned at the office of the board at on the
36 day of at which time you are notified to be and
37 appear and to make any and all objections which you may have as to the
38 amount of the assessment against your property, or as to whether it
39 should be assessed at all; and to make any and all objections which you

1 may have to the assessment against your lands, or any part or portion
2 thereof.

3 The failure to send or cause to be sent such notice shall not be
4 fatal to the proceedings herein described. The secretary of the board
5 on the mailing of the notices shall certify generally that he has
6 mailed such notices to the known address of all owners, and such
7 certificate shall be prima facie evidence of the mailing of all such
8 notices at the date mentioned in the certificate.

9 The board shall cause at least ten days' notice of the hearing to
10 be given by posting notice in at least ten public places within the
11 boundaries of the district, and by publishing the same at least five
12 successive times in a daily newspaper published in each of the counties
13 affected; and for at least two successive weeks in one or more weekly
14 newspapers within the boundaries of the district, in each county if
15 there are such newspapers published therein, and if there is no such
16 newspaper published, then in one or more weekly newspapers, having a
17 circulation in the district, for two successive weeks. The notice
18 shall be signed by the chairman or secretary of the board of
19 commissioners, and shall state the date and place of hearing of
20 objections to the assessment roll and levy, and of all other
21 objections; and that all interested parties will be heard as to any
22 objection to the assessment roll and the levies as therein made.

23 **Sec. 29.** RCW 86.09.178 and 1965 c 26 s 2 are each amended to read
24 as follows:

25 Contracts for construction, or for labor or materials entering into
26 the construction of any improvement authorized by the district shall be
27 awarded at public bidding except as herein otherwise provided. A
28 notice calling for sealed proposals shall be published in such
29 newspaper or newspapers of general circulation as the board shall
30 designate for a period of not less than two weeks (three weekly issues)
31 prior to the day of the opening of the bids. Such proposals shall be
32 accompanied by a certified check for such amount as the board shall
33 decide upon, to guarantee a compliance with the bid and shall be opened
34 in public at the time and place designated in the notice. The contract
35 shall be awarded to the lowest and best responsible bidder: PROVIDED,
36 That the board shall have authority to reject any or all bids, in which
37 event they shall readvertise for bids and, when no satisfactory bid is
38 then received and with the written approval of the director, may

1 proceed to construct the works by force account. Section 1 of this act
2 applies to this section.

3 **Sec. 30.** RCW 87.03.435 and 1990 c 39 s 1 are each amended to read
4 as follows:

5 (1) Any person to whom a contract may have been awarded for the
6 construction of a canal or any of the works of the district, or any
7 portion thereof, or for the furnishing of labor or material, shall
8 enter into a bond with good and sufficient sureties, to be approved by
9 the board of directors, payable to the district for its use, for at
10 least twenty-five percent of the amount of the contract price,
11 conditioned for the faithful performance of said contract, and with
12 such further conditions as may be required by law in the case of
13 contracts for public work, and as may be required by resolution of the
14 board. All works shall be done under the direction and to the
15 satisfaction of the engineer of the district, and be approved by the
16 board. Except as provided in subsections (2) and (3) of this section
17 and RCW 87.03.436, whenever in the construction of the district canal
18 or canals, or other works, or the furnishing of materials therefor, the
19 board of directors shall determine to let a contract or contracts for
20 the doing of the work or the furnishing of the materials, a notice
21 calling for sealed proposals shall be published. The notice shall be
22 published in a newspaper in the county in which the office of the board
23 is situated, and in any other newspaper which may be designated by the
24 board, and for such length of time, not less than once each week for
25 two weeks, as may be fixed by the board. At the time and place
26 appointed in the notice for the opening of bids, the sealed proposals
27 shall be opened in public, and as soon as convenient thereafter, the
28 board shall let the work or the contract for the purchase of materials,
29 either in portions or as a whole, to the lowest responsible bidder, or
30 the board may reject any or all bids and readvertise, or may proceed to
31 construct the work under its own superintendence. Section 1 of this
32 act applies to this subsection.

33 (2) The provisions of this section in regard to public bidding
34 shall not apply in cases where the board is authorized to exchange
35 bonds of the district in payment for labor and material.

36 (3) The provisions of this section do not apply:

37 (a) In the case of any contract between the district and the United
38 States;

1 (b) In the case of an emergency when the public interest or
2 property of the district would suffer material injury or damage by
3 delay, upon resolution of the board of directors or proclamation of an
4 official designated by the board to act for the board during such
5 emergencies. The resolution or proclamation shall declare the
6 existence of the emergency and recite the facts constituting the
7 emergency; or

8 (c) To purchases which are clearly and legitimately limited to a
9 single source of supply or to purchases involving special facilities,
10 services, or market conditions, in which instances the purchase price
11 may be best established by direct negotiation.

12 **Sec. 31.** RCW 87.03.436 and 1990 c 39 s 2 are each amended to read
13 as follows:

14 All contract projects, the estimated cost of which is less than one
15 hundred thousand dollars, may be awarded to a contractor on the small
16 works roster. The small works roster shall be comprised of all
17 responsible contractors who have requested to be on the list. The
18 board of directors shall authorize by resolution a procedure for
19 securing telephone and/or written quotations from the contractors on
20 the small works roster to assure establishment of a competitive price
21 and for awarding contracts to the lowest responsible bidder. Such
22 procedure shall require that a good-faith effort be made to request
23 quotations from all responsible contractors on the small works roster.
24 Section 1 of this act applies to this section. Immediately after an
25 award is made, the bid quotations obtained shall be recorded, open to
26 public inspection, and available by telephone inquiry. The small works
27 roster shall be revised once a year.

28 **Sec. 32.** RCW 89.30.154 and 1927 c 254 s 52 are each amended to
29 read as follows:

30 Contracts for labor or materials entering into the construction of
31 any improvement authorized by the district shall be awarded at public
32 bidding except as herein otherwise provided. A notice calling for
33 sealed proposals shall be published in such newspaper or newspapers of
34 such general circulation as the board shall designate for a period of
35 not less than two weeks (three issues) prior to the date of the opening
36 of the bids. Such proposals shall be accompanied by a certified check
37 for such amount as the board shall decide upon to guarantee compliance

1 with the bid, and shall be opened in public at the time and place
2 designated in the notice. The contract shall be awarded to the lowest
3 and best responsible bidder; PROVIDED, That the board shall have
4 authority to reject any and all bids. Section 1 of this act applies to
5 this section.

6 **Sec. 33.** RCW 91.08.530 and 1911 c 23 s 52 are each amended to read
7 as follows:

8 After the confirmation of the assessment roll of any improvement
9 district provided for herein, the board shall proceed at once with the
10 construction of the improvement, and in carrying on said construction
11 it shall have full charge and management thereof and the power to
12 employ such assistants as it may deem necessary, and purchase all
13 material required in such construction; and it shall have power to let
14 the whole or any part of the work of said improvement to the lowest and
15 best bidder therefor, after public advertisement and call for bids; and
16 in case of such letting of a contract it shall have the power also to
17 enter into all necessary agreements with the contractor in the
18 premises: PROVIDED, That in the case of the letting of a contract the
19 board shall require the contractor to give a bond in the amount of the
20 contract price, with sureties to be approved by the board and running
21 to the board as obligee therein, conditioned for the faithful and
22 accurate performance of his contract by said contractor, and that he
23 will pay, or cause to be paid, all just claims of all persons
24 performing labor upon or rendering services in doing said work, or
25 furnishing materials, merchandise or provisions used by said contractor
26 in the construction of said improvement. Said bond shall be filed and
27 recorded in the office of the auditor of the county and every
28 subcontractor on any such work shall file and record a like bond in the
29 full amount of his subcontract. Unless otherwise paid their claims for
30 labor or services, materials, merchandise or provisions, the claimants
31 may have recourse by suit upon such bond in their own names: PROVIDED,
32 That no such claim or suit shall be maintained unless the persons
33 making said claim shall within thirty days after the completion of said
34 improvement, file their claims, duly verified, to the effect that the
35 amounts thereof are just and due and are unpaid, with the clerk of the
36 board. Each bidder for a contract to be let under this section shall
37 deliver with his bid a check for five percent of the amount of the bid,
38 drawn upon a bank in this state and certified by the bank, as surety to

- 1 the board that the bidder will enter into the contract with the board.
- 2 The checks of unsuccessful bidders will be returned to them when an
- 3 award of the contract has been made by the board.
- 4 Section 1 of this act applies to this section.

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