

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5228**

61st Legislature  
2009 Regular Session

Passed by the Senate March 6, 2009  
YEAS 47 NAYS 0

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**President of the Senate**

Passed by the House March 30, 2009  
YEAS 97 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5228** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE SENATE BILL 5228

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Passed Legislature - 2009 Regular Session

State of Washington                      61st Legislature                      2009 Regular Session

By Senate Transportation (originally sponsored by Senators Haugen and Morton)

READ FIRST TIME 02/19/09.

1            AN ACT Relating to calculating construction projects by county  
2 forces; and amending RCW 36.77.065 and 36.77.070.

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

4            **Sec. 1.** RCW 36.77.065 and 2005 c 162 s 1 are each amended to read  
5 as follows:

6            The board may cause any county road to be constructed or improved  
7 by ~~((day labor))~~ use of county forces as provided in this section.

8            (1) As used in this section~~((7))~~:

9            (a) "County forces" means regular employees of a county; and

10            (b) "~~((county))~~ Road construction ~~((budget))~~ project costs" means  
11 the aggregate total of those costs as defined by the budgeting,  
12 accounting, and reporting system for counties and cities and other  
13 local governments authorized under RCW 43.09.200 and 43.09.230 as  
14 prescribed in the state auditor's budget, accounting, and reporting  
15 manual's (BARS) road and street construction accounts: PROVIDED, That  
16 such costs shall not include those costs assigned to the right-of-way  
17 account, ancillary operations account, ~~((and that portion of the~~  
18 ~~engineering account that is))~~ preliminary engineering account, and

1 construction engineering account in the budget, accounting, and  
2 reporting manual.

3 (2) For counties with a population that equals or exceeds ((fifty))  
4 four hundred thousand people, the total amount of ((day labor)) road  
5 construction ((programs)) project costs one county may perform annually  
6 with county forces shall ((total)) be no more than the total of the  
7 following amounts ((determined in the following manner)):

8 (a) ((Any county with a total annual county road construction  
9 budget of four million dollars or more may accumulate a day labor road  
10 construction budget equal to no more than eight hundred thousand  
11 dollars or fifteen percent of the county's total annual county road  
12 construction budget, whichever is greater.

13 (b) Any county with a total annual county road construction budget  
14 of one million five hundred thousand dollars or more and less than four  
15 million dollars may accumulate a day labor road construction budget  
16 equal to not more than five hundred twenty five thousand dollars or  
17 twenty percent of the county's total annual county road construction  
18 budget, whichever is greater.

19 (c) Any county with a total annual county road construction budget  
20 of five hundred thousand dollars or more and less than one million five  
21 hundred thousand dollars may accumulate a day labor road construction  
22 budget equal to two hundred fifty thousand dollars or thirty five  
23 percent of the county's total annual county road construction budget,  
24 whichever is greater.

25 (d) Any county with a total annual county road construction budget  
26 less than five hundred thousand dollars may accumulate a day labor road  
27 construction budget equal to two hundred fifty thousand dollars:  
28 PROVIDED, That any county with a total annual road construction budget  
29 of less than five hundred thousand dollars may, by resolution of the  
30 board at the time the county road construction budget is adopted, elect  
31 to construct or improve county roads by day labor in an amount not to  
32 exceed thirty five thousand dollars on any one project, including  
33 labor, equipment, and materials; such election to be in lieu of the two  
34 hundred fifty thousand dollar limit provided for in this section,  
35 except that any project means a complete project and the division of  
36 any project into units of work or classes of work so as to permit  
37 construction by day labor is not authorized)) Three million two hundred  
38 fifty thousand dollars; and

1        (b) The previous year's county motor vehicle fuel tax distribution  
2 factor, as provided for in RCW 46.68.124(5), multiplied by the amount  
3 listed in (a) of this subsection.

4        (3) For counties with a population ~~((of))~~ that equals or exceeds  
5 one hundred fifty thousand, but is less than ((fifty)) four hundred  
6 thousand people, the total amount of ((day-labor)) road construction  
7 ((programs)) project costs one county may perform annually ((may  
8 total)) with county forces shall be no more than the total of the  
9 following amounts ((determined in the following manner)):

10        ~~(a) ((A county with a total annual county road construction budget~~  
11 ~~of four million dollars or more may accumulate a day labor road~~  
12 ~~construction budget equal to not more than eight hundred eighty~~  
13 ~~thousand dollars or twenty five percent of the county's total annual~~  
14 ~~county road construction budget, whichever is greater;~~

15        ~~(b) A county with a total annual county road construction budget of~~  
16 ~~one million five hundred thousand dollars or more and less than four~~  
17 ~~million dollars may accumulate a day labor road construction budget~~  
18 ~~equal to not more than five hundred seventy seven thousand dollars or~~  
19 ~~thirty percent of the county's total annual county road construction~~  
20 ~~budget, whichever is greater;~~

21        ~~(c) A county with a total annual county road construction budget of~~  
22 ~~five hundred thousand dollars or more and less than one million five~~  
23 ~~hundred thousand dollars may accumulate a day labor road construction~~  
24 ~~budget equal to two hundred seventy five thousand dollars or forty five~~  
25 ~~percent of the county's total annual county road construction budget,~~  
26 ~~whichever is greater;~~

27        ~~(d) A county with a total annual county road construction budget~~  
28 ~~less than five hundred thousand dollars may accumulate a day labor road~~  
29 ~~construction budget equal to two hundred seventy five thousand dollars.~~  
30 ~~However, such a county may, by resolution of the board at the time the~~  
31 ~~county road construction budget is adopted, elect instead to construct~~  
32 ~~or improve county roads by day labor in an amount not to exceed thirty-~~  
33 ~~eight thousand five hundred dollars on any one project, including~~  
34 ~~labor, equipment, and materials. That election is in lieu of the two~~  
35 ~~hundred seventy five thousand dollar limit provided for in this~~  
36 ~~section. As used in this section, "any project" means a complete~~  
37 ~~project, and a county may not divide a project into units of work or~~  
38 ~~classes of work so as to permit construction by day labor.~~

1       ~~(4) Any county that adopts a county road construction budget~~  
2 ~~unreasonably exceeding that county's actual road construction~~  
3 ~~expenditures for the same budget year which has the effect of~~  
4 ~~permitting the county to exceed the day labor amounts established in~~  
5 ~~this section is in violation of the county road administration board's~~  
6 ~~standards of good practice under RCW 36.78.020 and is in violation of~~  
7 ~~this section.)~~ One million seven hundred fifty thousand dollars; and

8       (b) The previous year's county motor vehicle fuel tax distribution  
9 factor, as provided for in RCW 46.68.124(5), multiplied by the amount  
10 listed in (a) of this subsection.

11       (4) For counties with a population that equals or exceeds thirty  
12 thousand, but is less than one hundred fifty thousand people, the total  
13 amount of road construction project costs one county may perform  
14 annually with county forces shall be no more than the total of the  
15 following amounts:

16       (a) One million one hundred fifty thousand dollars; this amount  
17 shall increase to one million two hundred fifty thousand dollars  
18 effective January 1, 2012; and

19       (b) The previous year's county motor vehicle fuel tax distribution  
20 factor, as provided for in RCW 46.68.124(5), multiplied by the amount  
21 listed in (a) of this subsection.

22       (5) For counties with a population that is less than thirty  
23 thousand people, the total amount of road construction project costs  
24 one county may perform annually with county forces shall be no more  
25 than the total of the following amounts:

26       (a) Seven hundred thousand dollars; this amount shall increase to  
27 eight hundred thousand dollars effective January 1, 2012; and

28       (b) The previous year's county motor vehicle fuel tax distribution  
29 factor, as provided for in RCW 46.68.124(5), multiplied by the amount  
30 listed in (a) of this subsection.

31       (6) Any county(~~7~~) whose expenditure for (~~day labor~~) county  
32 forces for road construction projects (~~unreasonably~~) exceeds the  
33 limits specified in this section, is in violation of the county road  
34 administration board's standards of good practice under RCW 36.78.020  
35 and is in violation of this section.

36       ~~((+5))~~ (7) Notwithstanding any other provision in this section,  
37 whenever the construction work or improvement is the installation of  
38 electrical traffic control devices, highway illumination equipment,

1 electrical equipment, wires, or equipment to convey electrical current,  
2 in an amount exceeding ten thousand dollars for any one project  
3 including labor, equipment, and materials, such work shall be performed  
4 by contract as in this chapter provided. This section means a complete  
5 project and does not permit the construction of any project by (~~day~~  
6 ~~labor~~) county forces by division of the project into units of work or  
7 classes of work.

8 **Sec. 2.** RCW 36.77.070 and 1983 c 3 s 81 are each amended to read  
9 as follows:

10 If the board determines that any construction should be performed  
11 by (~~day labor~~) county forces, and the estimated cost of the work  
12 exceeds (~~twenty-five hundred~~) ten thousand dollars, it shall cause to  
13 be published in one issue of a newspaper of general circulation in the  
14 county, a brief description of the work to be done and the county road  
15 engineer's estimate of the cost thereof. At the completion of such  
16 construction, the board shall cause to be published in one issue of  
17 such a newspaper a similar brief description of the work together with  
18 an accurate statement of the true and complete cost of performing such  
19 construction by (~~day labor~~) county forces.

20 Failure to make the required publication shall subject each county  
21 commissioner to a fine of one hundred dollars for which he shall be  
22 liable individually and upon his official bond and the prosecuting  
23 attorney shall prosecute for violation of the provisions of this  
24 section and RCW 36.77.065.

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