

ESSB 5418 - H COMM AMD
By Committee on Local Government

ADOPTED AND ENGROSSED 4/16/19

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 35.23.352 and 2018 c 74 s 2 are each amended to
4 read as follows:

5 (1) Any second-class city or any town may construct any public
6 works, as defined in RCW 39.04.010, by contract or day labor without
7 calling for bids therefor whenever the estimated cost of the work or
8 improvement, including cost of materials, supplies and equipment will
9 not exceed the sum of (~~sixty-five thousand~~) one hundred sixteen
10 thousand one hundred fifty-five dollars if more than one craft or
11 trade is involved with the public works, or (~~forty thousand~~)
12 seventy-five thousand five hundred dollars if a single craft or trade
13 is involved with the public works or the public works project is
14 street signalization or street lighting. A public works project means
15 a complete project. The restrictions in this subsection do not permit
16 the division of the project into units of work or classes of work to
17 avoid the restriction on work that may be performed by day labor on a
18 single project.

19 Whenever the cost of the public work or improvement, including
20 materials, supplies and equipment, will exceed these figures, the
21 same shall be done by contract. All such contracts shall be let at
22 public bidding upon publication of notice calling for sealed bids
23 upon the work. The notice shall be published in the official
24 newspaper, or a newspaper of general circulation most likely to bring
25 responsive bids, at least thirteen days prior to the last date upon
26 which bids will be received. The notice shall generally state the
27 nature of the work to be done that plans and specifications therefor
28 shall then be on file in the city or town hall for public
29 inspections, and require that bids be sealed and filed with the
30 council or commission within the time specified therein. Each bid
31 shall be accompanied by a bid proposal deposit in the form of a
32 cashier's check, postal money order, or surety bond to the council or

1 commission for a sum of not less than five percent of the amount of
2 the bid, and no bid shall be considered unless accompanied by such
3 bid proposal deposit. The council or commission of the city or town
4 shall let the contract to the lowest responsible bidder or shall have
5 power by resolution to reject any or all bids and to make further
6 calls for bids in the same manner as the original call.

7 When the contract is let then all bid proposal deposits shall be
8 returned to the bidders except that of the successful bidder which
9 shall be retained until a contract is entered into and a bond to
10 perform the work furnished, with surety satisfactory to the council
11 or commission, in accordance with RCW 39.08.030. If the bidder fails
12 to enter into the contract in accordance with his or her bid and
13 furnish a bond within ten days from the date at which he or she is
14 notified that he or she is the successful bidder, the check or postal
15 money order and the amount thereof shall be forfeited to the council
16 or commission or the council or commission shall recover the amount
17 of the surety bond. A low bidder who claims error and fails to enter
18 into a contract is prohibited from bidding on the same project if a
19 second or subsequent call for bids is made for the project.

20 If no bid is received on the first call the council or commission
21 may readvertise and make a second call, or may enter into a contract
22 without any further call or may purchase the supplies, material or
23 equipment and perform the work or improvement by day labor.

24 (2) For the purposes of this section, "lowest responsible bidder"
25 means a bid that meets the criteria under RCW 39.04.350 and has the
26 lowest bid; provided, that if the city issues a written finding that
27 the lowest bidder has delivered a project to the city within the last
28 three years which was late, over budget, or did not meet
29 specifications, and the city does not find in writing that such
30 bidder has shown how they would improve performance to be likely to
31 meet project specifications then the city may choose the second
32 lowest bidder whose bid is within five percent of the lowest bid and
33 meets the same criteria as the lowest bidder.

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

37 ~~((3))~~ (4) In lieu of the procedures of subsection (1) of this
38 section, a second-class city or a town may let contracts using the
39 small works roster process provided in RCW 39.04.155.

1 Whenever possible, the city or town shall invite at least one
2 proposal from a certified minority or woman contractor who shall
3 otherwise qualify under this section.

4 ~~((4))~~ (5) The form required by RCW 43.09.205 shall be to
5 account and record costs of public works in excess of five thousand
6 dollars that are not let by contract.

7 ~~((5))~~ (6) The cost of a separate public works project shall be
8 the costs of the materials, equipment, supplies, and labor on that
9 construction project.

10 ~~((6))~~ (7) Any purchase of supplies, material, or equipment,
11 except for public work or improvement, where the cost thereof exceeds
12 seven thousand five hundred dollars shall be made upon call for bids.

13 ~~((7))~~ (8) Bids shall be called annually and at a time and in
14 the manner prescribed by ordinance for the publication in a newspaper
15 of general circulation in the city or town of all notices or
16 newspaper publications required by law. The contract shall be awarded
17 to the lowest responsible bidder.

18 ~~((8))~~ (9) For advertisement and formal sealed bidding to be
19 dispensed with as to purchases with an estimated value of fifteen
20 thousand dollars or less, the council or commission must authorize by
21 resolution, use of the uniform procedure provided in RCW 39.04.190.

22 ~~((9))~~ (10) The city or town legislative authority may waive the
23 competitive bidding requirements of this section pursuant to RCW
24 39.04.280 if an exemption contained within that section applies to
25 the purchase or public work.

26 ~~((10))~~ (11) This section does not apply to performance-based
27 contracts, as defined in RCW 39.35A.020(4), that are negotiated under
28 chapter 39.35A RCW.

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

33 ~~((12))~~ (13)(a) Any second-class city or any town may procure
34 public works with a unit priced contract under this section for the
35 purpose of completing anticipated types of work based on hourly rates
36 or unit pricing for one or more categories of work or trades.

37 (b) For the purposes of this section, "unit priced contract"
38 means a competitively bid contract in which public works are
39 anticipated on a recurring basis to meet the business or operational
40 needs of the city or town, under which the contractor agrees to a

1 fixed period indefinite quantity delivery of work, at a defined unit
2 price for each category of work.

3 (c) Unit priced contracts must be executed for an initial
4 contract term not to exceed three years, with the city or town having
5 the option of extending or renewing the unit priced contract for one
6 additional year.

7 (d) Invitations for unit price bids shall include, for purposes
8 of the bid evaluation, estimated quantities of the anticipated types
9 of work or trades, and specify how the city or town will issue or
10 release work assignments, work orders, or task authorizations
11 pursuant to a unit priced contract for projects, tasks, or other work
12 based on the hourly rates or unit prices bid by the contractor.
13 Contracts must be awarded to the lowest responsible bidder as per RCW
14 39.04.010. Whenever possible, the city or town must invite at least
15 one proposal from a certified minority or woman contractor who
16 otherwise qualifies under this section.

17 (e) Unit price contractors shall pay prevailing wages for all
18 work that would otherwise be subject to the requirements of chapter
19 39.12 RCW. Prevailing wages for all work performed pursuant to each
20 work order must be the prevailing wage rates in effect at the
21 beginning date for each contract year. Unit priced contracts must
22 have prevailing wage rates updated annually. Intents and affidavits
23 for prevailing wages paid must be submitted annually for all work
24 completed within the previous twelve-month period of the unit priced
25 contract.

26 (14) Any second-class city or town that awards a project to a
27 bidder under the criteria described in subsection (2) of this section
28 must make an annual report to the department of commerce that
29 includes the total number of bids awarded to certified minority or
30 women contractors and describing how notice was provided to potential
31 certified minority or women contractors.

32 **Sec. 2.** RCW 39.19.020 and 1996 c 69 s 4 are each amended to read
33 as follows:

34 (~~Unless the context clearly requires otherwise,~~) The
35 definitions in this section apply throughout this chapter unless the
36 context clearly requires otherwise.

37 (1) "Advisory committee" means the advisory committee on minority
38 and women's business enterprises.

1 (2) "Broker" means a person that provides a bona fide service,
2 such as professional, technical, consultant, brokerage, or managerial
3 services and assistance in the procurement of essential personnel,
4 facilities, equipment, materials, or supplies required for
5 performance of a contract.

6 (3) "Contractor" means an individual or entity granted state
7 certification and awarded either a direct contract with an agency or
8 an indirect contract as a subcontractor to perform a service or
9 provide goods.

10 (4) "Director" means the director of the office of minority and
11 women's business enterprises.

12 ((4)) (5) "Educational institutions" means the state
13 universities, the regional universities, The Evergreen State College,
14 and the community colleges.

15 ((5)) (6) "Goals" means annual overall agency goals, expressed
16 as a percentage of dollar volume, for participation by minority and
17 women-owned and controlled businesses and shall not be construed as a
18 minimum goal for any particular contract or for any particular
19 geographical area. It is the intent of this chapter that such overall
20 agency goals shall be achievable and shall be met on a contract-by-
21 contract or class-of-contract basis.

22 ((6)) (7) "Goods and/or services" includes professional
23 services and all other goods and services.

24 ((7)) (8) "Office" means the office of minority and women's
25 business enterprises.

26 ((8)) (9) "Person" includes one or more individuals,
27 partnerships, associations, organizations, corporations,
28 cooperatives, legal representatives, trustees and receivers, or any
29 group of persons.

30 ((9)) (10) "Procurement" means the purchase, lease, or rental
31 of any goods or services.

32 ((10)) (11) "Public works" means all work, construction,
33 highway and ferry construction, alteration, repair, or improvement
34 other than ordinary maintenance, which a state agency or educational
35 institution is authorized or required by law to undertake.

36 ((11)) (12) "State agency" includes the state of Washington and
37 all agencies, departments, offices, divisions, boards, commissions,
38 and correctional and other types of institutions.

1 **Sec. 3.** RCW 39.19.060 and 1996 c 288 s 28 are each amended to
2 read as follows:

3 (1) Each state agency and educational institution shall comply
4 with the annual goals established for that agency or institution
5 under this chapter for public works and procuring goods or services.
6 This chapter applies to all public works and procurement by state
7 agencies and educational institutions, including all contracts and
8 other procurement under chapters 28B.10, 39.04, (~~39.29~~) 39.26,
9 43.19, and 47.28 RCW.

10 (2) Each state agency shall adopt a plan, developed in
11 consultation with the director and the advisory committee, to
12 (~~insure~~) ensure that minority and women-owned businesses are
13 afforded the maximum practicable opportunity to directly and
14 meaningfully participate in the execution of public contracts for
15 public works and goods and services. The plan shall include specific
16 measures the agency will undertake to increase the participation of
17 certified minority and women-owned businesses.

18 (3) The office shall annually notify the governor, the state
19 auditor, and the joint legislative audit and review committee of all
20 agencies and educational institutions not in compliance with this
21 chapter.

22 **Sec. 4.** RCW 39.19.250 and 2009 c 348 s 2 are each amended to
23 read as follows:

24 (1) For the purpose of annual reporting on progress required by
25 section 1 of this act, each state agency and educational institution
26 shall submit data to the office and the office of minority and
27 women's business enterprises on the participation by qualified
28 minority and women-owned and controlled businesses in the agency's or
29 institution's contracts and other related information requested by
30 the director. The director of the office of minority and women's
31 business enterprises shall determine the content and format of the
32 data and the reporting schedule, which must be at least annually.

33 (2) The office must develop and maintain a list of contact people
34 at each state agency and educational institution (~~that is~~) who are
35 able to present to hearings of the appropriate committees of the
36 legislature its progress in carrying out the purposes of chapter
37 39.19 RCW.

1 (3) The office must submit a report aggregating the data received
2 from each state agency and educational institution to the legislature
3 and the governor.

4 **Sec. 5.** RCW 39.04.155 and 2015 c 225 s 33 are each amended to
5 read as follows:

6 (1) This section provides uniform small works roster provisions
7 to award contracts for construction, building, renovation,
8 remodeling, alteration, repair, or improvement of real property that
9 may be used by state agencies and by any local government that is
10 expressly authorized to use these provisions. These provisions may be
11 used in lieu of other procedures to award contracts for such work
12 with an estimated cost of three hundred fifty thousand dollars or
13 less. The small works roster process includes the limited public
14 works process authorized under subsection (3) of this section and any
15 local government authorized to award contracts using the small works
16 roster process under this section may award contracts using the
17 limited public works process under subsection (3) of this section.

18 (2)(a) A state agency or authorized local government may create a
19 single general small works roster, or may create a small works roster
20 for different specialties or categories of anticipated work. Where
21 applicable, small works rosters may make distinctions between
22 contractors based upon different geographic areas served by the
23 contractor. The small works roster or rosters shall consist of all
24 responsible contractors who have requested to be on the list, and
25 where required by law are properly licensed or registered to perform
26 such work in this state. A state agency or local government
27 establishing a small works roster or rosters may require eligible
28 contractors desiring to be placed on a roster or rosters to keep
29 current records of any applicable licenses, certifications,
30 registrations, bonding, insurance, or other appropriate matters on
31 file with the state agency or local government as a condition of
32 being placed on a roster or rosters. At least once a year, the state
33 agency or local government shall publish in a newspaper of general
34 circulation within the jurisdiction a notice of the existence of the
35 roster or rosters and solicit the names of contractors for such
36 roster or rosters. In addition, responsible contractors shall be
37 added to an appropriate roster or rosters at any time they submit a
38 written request and necessary records. Master contracts may be

1 required to be signed that become effective when a specific award is
2 made using a small works roster.

3 (b) A state agency establishing a small works roster or rosters
4 shall adopt rules implementing this subsection. A local government
5 establishing a small works roster or rosters shall adopt an ordinance
6 or resolution implementing this subsection. Procedures included in
7 rules adopted by the department of enterprise services in
8 implementing this subsection must be included in any rules providing
9 for a small works roster or rosters that is adopted by another state
10 agency, if the authority for that state agency to engage in these
11 activities has been delegated to it by the department of enterprise
12 services under chapter 43.19 RCW. An interlocal contract or agreement
13 between two or more state agencies or local governments establishing
14 a small works roster or rosters to be used by the parties to the
15 agreement or contract must clearly identify the lead entity that is
16 responsible for implementing the provisions of this subsection.

17 (c) Procedures shall be established for securing telephone,
18 written, or electronic quotations from contractors on the appropriate
19 small works roster to assure that a competitive price is established
20 and to award contracts to the lowest responsible bidder, as defined
21 in RCW 39.04.010. Invitations for quotations shall include an
22 estimate of the scope and nature of the work to be performed as well
23 as materials and equipment to be furnished. However, detailed plans
24 and specifications need not be included in the invitation. This
25 subsection does not eliminate other requirements for architectural or
26 engineering approvals as to quality and compliance with building
27 codes. Quotations may be invited from all appropriate contractors on
28 the appropriate small works roster. As an alternative, quotations may
29 be invited from at least five contractors on the appropriate small
30 works roster who have indicated the capability of performing the kind
31 of work being contracted, in a manner that will equitably distribute
32 the opportunity among the contractors on the appropriate roster.
33 However, if the estimated cost of the work is from (~~one~~) two
34 hundred fifty thousand dollars to three hundred fifty thousand
35 dollars, a state agency or local government that chooses to solicit
36 bids from less than all the appropriate contractors on the
37 appropriate small works roster must also notify the remaining
38 contractors on the appropriate small works roster that quotations on
39 the work are being sought. The government has the sole option of
40 determining whether this notice to the remaining contractors is made

1 by: (i) Publishing notice in a legal newspaper in general circulation
2 in the area where the work is to be done; (ii) mailing a notice to
3 these contractors; or (iii) sending a notice to these contractors by
4 facsimile or other electronic means. For purposes of this subsection
5 (2)(c), "equitably distribute" means that a state agency or local
6 government soliciting bids may not favor certain contractors on the
7 appropriate small works roster over other contractors on the
8 appropriate small works roster who perform similar services.

9 (d) A contract awarded from a small works roster under this
10 section need not be advertised.

11 (e) Immediately after an award is made, the bid quotations
12 obtained shall be recorded, open to public inspection, and available
13 by ~~((telephone inquiry))~~ at least one of the following: Telephone or
14 electronic request.

15 (f) For projects awarded under the small works roster process
16 established under this subsection, a state agency or authorized local
17 government may waive the retainage requirements of RCW
18 60.28.011(1)(a), thereby assuming the liability for contractor's
19 nonpayment of: (i) Laborers, mechanics, subcontractors,
20 materialpersons, and suppliers; and (ii) taxes, increases, and
21 penalties under Titles 50, 51, and 82 RCW that may be due from the
22 contractor for the project. However, the state agency or local
23 government has the right of recovery against the contractor for any
24 payments made on the contractor's behalf. Recovery of unpaid wages
25 and benefits are the first priority for actions filed against the
26 contract.

27 (3)(a) In lieu of awarding contracts under subsection (2) of this
28 section, a state agency or authorized local government may award a
29 contract for work, construction, alteration, repair, or improvement
30 projects estimated to cost less than ~~((thirty-five))~~ fifty thousand
31 dollars using the limited public works process provided under this
32 subsection. Public works projects awarded under this subsection are
33 exempt from the other requirements of the small works roster process
34 provided under subsection (2) of this section and are exempt from the
35 requirement that contracts be awarded after advertisement as provided
36 under RCW 39.04.010.

37 (b) For limited public works projects, a state agency or
38 authorized local government shall solicit electronic or written
39 quotations from a minimum of three contractors from the appropriate
40 small works roster and shall award the contract to the lowest

1 responsible bidder as defined under RCW 39.04.010. After an award is
2 made, the quotations shall be open to public inspection and available
3 by electronic request. A state agency or authorized local government
4 (~~shall attempt to~~) must equitably distribute opportunities for
5 limited public works projects (~~equitably~~) among contractors willing
6 to perform in the geographic area of the work. A state agency or
7 authorized local government shall maintain a list of the contractors
8 contacted and the contracts awarded during the previous twenty-four
9 months under the limited public works process, including the name of
10 the contractor, the contractor's registration number, the amount of
11 the contract, a brief description of the type of work performed, and
12 the date the contract was awarded. For limited public works projects,
13 a state agency or authorized local government may waive the payment
14 and performance bond requirements of chapter 39.08 RCW and may waive
15 the retainage requirements of (~~chapter 60.28~~) RCW 60.28.011(1)(a),
16 thereby assuming the liability for the contractor's nonpayment of
17 laborers, mechanics, subcontractors, materialpersons, suppliers, and
18 taxes (~~imposed under Title~~), increases, and penalties imposed under
19 Titles 50, 51, and 82 RCW that may be due from the contractor for the
20 limited public works project, however the state agency or authorized
21 local government shall have the right of recovery against the
22 contractor for any payments made on the contractor's behalf.

23 (4) The breaking of any project into units or accomplishing any
24 projects by phases is prohibited if it is done for the purpose of
25 avoiding the maximum dollar amount of a contract that may be let
26 using the small works roster process or limited public works process.

27 (5) (~~(a) A state agency or authorized local government may use~~
28 ~~the limited public works process of subsection (3) of this section to~~
29 ~~solicit and award small works roster contracts to small businesses~~
30 ~~that are registered contractors with gross revenues under one million~~
31 ~~dollars annually as reported on their federal tax return.~~

32 ~~(b) A state agency or authorized local government may adopt~~
33 ~~additional procedures to encourage small businesses that are~~
34 ~~registered contractors with gross revenues under two hundred fifty~~
35 ~~thousand dollars annually as reported on their federal tax returns to~~
36 ~~submit quotations or bids on small works roster contracts.~~

37 ~~(6) As used in this section,~~) A state agency or authorized local
38 government may use the limited public works process in this section
39 to solicit and award small works roster contracts to minibusinesses

1 and microbusinesses as defined under RCW 39.26.010 that are
2 registered contractors.

3 (6) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "Equitably distribute opportunities" means that a state
6 agency or authorized local government may not favor certain
7 contractors on the appropriate small works roster over other
8 contractors on the same roster who perform similar services.

9 (b) "State agency" means the department of enterprise services,
10 the state parks and recreation commission, the department of natural
11 resources, the department of fish and wildlife, the department of
12 transportation, any institution of higher education as defined under
13 RCW 28B.10.016, and any other state agency delegated authority by the
14 department of enterprise services to engage in construction,
15 building, renovation, remodeling, alteration, improvement, or repair
16 activities.

17 **Sec. 6.** RCW 39.12.040 and 2013 c 113 s 5 are each amended to
18 read as follows:

19 (1)(a) Except as provided in subsection (2) of this section,
20 before payment is made by or on behalf of the state, or any county,
21 municipality, or political subdivision created by its laws, of any
22 sum or sums due on account of a public works contract, it is the duty
23 of the officer or person charged with the custody and disbursement of
24 public funds to require the contractor and each and every
25 subcontractor from the contractor or a subcontractor to submit to
26 such officer a "Statement of Intent to Pay Prevailing Wages". For a
27 contract in excess of ten thousand dollars, the statement of intent
28 to pay prevailing wages must include:

29 (i) The contractor's registration certificate number; and

30 (ii) The prevailing rate of wage for each classification of
31 workers entitled to prevailing wages under RCW 39.12.020 and the
32 estimated number of workers in each classification.

33 (b) Each statement of intent to pay prevailing wages must be
34 approved by the industrial statistician of the department of labor
35 and industries before it is submitted to the disbursing officer.
36 Unless otherwise authorized by the department of labor and
37 industries, each voucher claim submitted by a contractor for payment
38 on a project estimate must state that the prevailing wages have been
39 paid in accordance with the prefiled statement or statements of

1 intent to pay prevailing wages on file with the public agency.
2 Following the final acceptance of a public works project, it is the
3 duty of the officer charged with the disbursement of public funds, to
4 require the contractor and each and every subcontractor from the
5 contractor or a subcontractor to submit to such officer an affidavit
6 of wages paid before the funds retained according to the provisions
7 of RCW 60.28.011 are released to the contractor. On a public works
8 project where no retainage is withheld (~~pursuant to RCW~~
9 ~~60.28.011(1)(b)~~), the affidavit of wages paid must be submitted to
10 the state, county, municipality, or other public body charged with
11 the duty of disbursing or authorizing disbursement of public funds
12 prior to final acceptance of the public works project. If a
13 subcontractor performing work on a public works project fails to
14 submit an affidavit of wages paid form, the contractor or
15 subcontractor with whom the subcontractor had a contractual
16 relationship for the project may file the forms on behalf of the
17 nonresponsive subcontractor. Affidavit forms may only be filed on
18 behalf of a nonresponsive subcontractor who has ceased operations or
19 failed to file as required by this section. The contractor filing the
20 affidavit must accept responsibility for payment of prevailing wages
21 unpaid by the subcontractor on the project pursuant to RCW 39.12.020
22 and 39.12.065. Intentionally filing a false affidavit on behalf of a
23 subcontractor subjects the filer to the same penalties as are
24 provided in RCW 39.12.050. Each affidavit of wages paid must be
25 certified by the industrial statistician of the department of labor
26 and industries before it is submitted to the disbursing officer.

27 (2) As an alternate to the procedures provided for in subsection
28 (1) of this section, for public works projects of two thousand five
29 hundred dollars or less and for projects where the limited public
30 works process under RCW 39.04.155(3) is followed:

31 (a) An awarding agency may authorize the contractor or
32 subcontractor to submit the statement of intent to pay prevailing
33 wages directly to the officer or person charged with the custody or
34 disbursement of public funds in the awarding agency without approval
35 by the industrial statistician of the department of labor and
36 industries. The awarding agency must retain such statement of intent
37 to pay prevailing wages for a period of not less than three years.

38 (b) Upon final acceptance of the public works project, the
39 awarding agency must require the contractor or subcontractor to
40 submit an affidavit of wages paid. Upon receipt of the affidavit of

1 wages paid, the awarding agency may pay the contractor or
2 subcontractor in full, including funds that would otherwise be
3 retained according to the provisions of RCW 60.28.011. Within thirty
4 days of receipt of the affidavit of wages paid, the awarding agency
5 must submit the affidavit of wages paid to the industrial
6 statistician of the department of labor and industries for approval.

7 (c) A statement of intent to pay prevailing wages and an
8 affidavit of wages paid must be on forms approved by the department
9 of labor and industries.

10 (d) In the event of a wage claim and a finding for the claimant
11 by the department of labor and industries where the awarding agency
12 has used the alternative process provided for in this subsection (2),
13 the awarding agency must pay the wages due directly to the claimant.
14 If the contractor or subcontractor did not pay the wages stated in
15 the affidavit of wages paid, the awarding agency may take action at
16 law to seek reimbursement from the contractor or subcontractor of
17 wages paid to the claimant, and may prohibit the contractor or
18 subcontractor from bidding on any public works contract of the
19 awarding agency for up to one year.

20 (e) Nothing in this section may be interpreted to allow an
21 awarding agency to subdivide any public works project of more than
22 two thousand five hundred dollars for the purpose of circumventing
23 the procedures required by subsection (1) of this section.

24 **Sec. 7.** RCW 54.04.070 and 2017 c 85 s 1 are each amended to read
25 as follows:

26 (1) Any item, or items of the same kind of materials, equipment,
27 or supplies purchased, the estimated cost of which is in excess of
28 ((fifteen)) thirty thousand dollars, exclusive of sales tax, shall be
29 by contract. However, a district may make purchases of the same kind
30 of items of materials, equipment, and supplies not exceeding
31 ((seven)) twelve thousand ((five-hundred)) dollars in any calendar
32 month without a contract, purchasing any excess thereof over
33 ((seven)) twelve thousand ((five-hundred)) dollars by contract.

34 (2) Any work ordered by a district commission, the estimated cost
35 of which is in excess of ((twenty-five)) fifty thousand dollars,
36 exclusive of sales tax, shall be by contract. However, a district
37 commission may have its own regularly employed personnel perform work
38 which is an accepted industry practice under prudent utility
39 management without a contract. For purposes of this section, "prudent

1 utility management" means performing work with regularly employed
2 personnel utilizing material of a worth not exceeding (~~one~~) three
3 hundred (~~fifty~~) thousand dollars in value without a contract. This
4 limit on the value of material being utilized in work being performed
5 by regularly employed personnel shall not include the value of
6 individual items of equipment (~~(purchased or acquired and used as one~~
7 ~~unit of a project)~~). For the purposes of this section, the term
8 "equipment" includes but is not limited to conductor, cabling, wire,
9 pipe, or lines used for electrical, water, fiber optic, or
10 telecommunications.

11 (3) Before awarding a contract required under subsection (1) or
12 (2) of this section, the commission shall publish a notice once or
13 more in a newspaper of general circulation in the district at least
14 thirteen days before the last date upon which bids will be received,
15 inviting sealed proposals for the work or materials. Plans and
16 specifications for the work or materials shall at the time of
17 publication be on file at the office of the district and subject to
18 public inspection. Any published notice ordering work to be performed
19 for the district shall be mailed at the time of publication to any
20 established trade association which files a written request with the
21 district to receive such notices. The commission may, at the same
22 time and as part of the same notice, invite tenders for the work or
23 materials upon plans and specifications to be submitted by the
24 bidders.

25 (4) As an alternative to the competitive bidding requirements of
26 this section and RCW 54.04.080, a district may let contracts using
27 the small works roster process under RCW 39.04.155.

28 (5) Whenever equipment or materials required by a district are
29 held by a governmental agency and are available for sale but such
30 agency is unwilling to submit a proposal, the commission may
31 ascertain the price of such items and file a statement of such price
32 supported by the sworn affidavit of one member of the commission, and
33 may consider such price as a bid without a deposit or bond.

34 (6) Pursuant to RCW 39.04.280, the commission may waive the
35 competitive bidding requirements of this section and RCW 54.04.080 if
36 an exemption contained within RCW 39.04.280 applies to the purchase
37 or public work.

38 (7) (a) A district may procure public works with a unit priced
39 contract under this section, RCW 54.04.080, or 54.04.085 for the

1 purpose of completing anticipated types of work based on hourly rates
2 or unit pricing for one or more categories of work or trades.

3 (b) For the purposes of this section, unit priced contract means
4 a competitively bid contract in which public works are anticipated on
5 a recurring basis to meet the business or operational needs of a
6 district, under which the contractor agrees to a fixed period
7 indefinite quantity delivery of work, at a defined unit price, for
8 each category of work.

9 (c) Unit priced contracts must be executed for an initial
10 contract term not to exceed three years, with the district having the
11 option of extending or renewing the unit priced contract for one
12 additional year.

13 (d) Invitations for unit price bids shall include, for purposes
14 of the bid evaluation, estimated quantities of the anticipated types
15 of work or trades, and specify how the district will issue or release
16 work assignments, work orders, or task authorizations pursuant to a
17 unit priced contract for projects, tasks, or other work based on the
18 hourly rates or unit prices bid by the contractor. Where electrical
19 facility construction or improvement work is anticipated, contractors
20 on a unit priced contract shall comply with the requirements under
21 RCW 54.04.085 (1) through (5). Contracts must be awarded to the
22 lowest responsible bidder as per RCW 39.04.010.

23 (e) Unit price contractors shall pay prevailing wages for all
24 work that would otherwise be subject to the requirements of chapter
25 39.12 RCW. (~~Prevailing wages for all work performed pursuant to each~~
26 ~~work order must be the rates in effect at the time the individual~~
27 ~~work order is issued)) Prevailing wages for all work performed
28 pursuant to each work order must be the prevailing wage rates in
29 effect at the beginning date for each contract year. Unit priced
30 contracts must have prevailing wage rates updated annually. Intents
31 and affidavits for prevailing wages paid must be submitted annually
32 for all work completed within the previous twelve-month period of the
33 unit priced contract.~~

34 **Sec. 8.** RCW 36.32.235 and 2016 c 95 s 8 and 2016 c 19 s 8 are
35 each reenacted and amended to read as follows:

36 (1) In each county (~~with a population of four hundred thousand~~
37 ~~or more)) which by resolution establishes a county purchasing
38 department, the purchasing department shall enter into leases of
39 personal property on a competitive basis and purchase all supplies,~~

1 materials, and equipment on a competitive basis, for all departments
2 of the county, as provided in this chapter and chapter 39.04 RCW,
3 except that the county purchasing department is not required to make
4 purchases that are paid from the county road fund or equipment rental
5 and revolving fund.

6 (2) As used in this section:

7 (a) "Public works" has the same definition as in RCW 39.04.010.

8 (b) "Riverine project" means a project of construction,
9 alteration, repair, replacement, or improvement other than ordinary
10 maintenance, executed at the cost of the state or of any
11 municipality, or which is by law a lien or charge on any property,
12 carried out on a river or stream and its tributaries and associated
13 floodplains, beds, banks, and waters for the purpose of improving
14 aquatic habitat, improving water quality, restoring floodplain
15 function, or providing flood protection.

16 (c) "Stormwater project" means a project of construction,
17 alteration, repair, replacement, or improvement other than ordinary
18 maintenance, executed at the cost of the state or of any
19 municipality, or which is by law a lien or charge on any property,
20 carried out on a municipal separate storm sewer system, and any
21 connections to the system, that is regulated under a state-issued
22 national pollutant discharge elimination system general municipal
23 stormwater permit for the purpose of improving control of stormwater
24 runoff quantity and quality from developed land, safely conveying
25 stormwater runoff, or reducing erosion or other water quality impacts
26 caused by municipal separate storm sewer system discharges.

27 (3) Except as otherwise specified in this chapter or in chapter
28 36.77 RCW, all counties subject to these provisions shall contract on
29 a competitive basis for all public works after bids have been
30 submitted to the county upon specifications therefor. Such
31 specifications shall be in writing and shall be filed with the clerk
32 of the county legislative authority for public inspection.

33 (4) An advertisement shall be published in the county official
34 newspaper stating the time and place where bids will be opened, the
35 time after which bids will not be received, the character of the work
36 to be done, the materials and equipment to be furnished, and that
37 specifications therefor may be seen at the office of the clerk of the
38 county legislative authority. An advertisement shall also be
39 published in a legal newspaper of general circulation in or as near
40 as possible to that part of the county in which such work is to be

1 done. If the county official newspaper is a newspaper of general
2 circulation covering at least forty percent of the residences in that
3 part of the county in which such public works are to be done, then
4 the publication of an advertisement of the applicable specifications
5 in the county official newspaper is sufficient. Such advertisements
6 shall be published at least once at least thirteen days prior to the
7 last date upon which bids will be received.

8 (5) The bids shall be in writing, may be in either hard copy or
9 electronic form as specified by the county, shall be filed with the
10 clerk, shall be opened and read in public at the time and place named
11 therefor in the advertisements, and, after being opened, shall be
12 filed for public inspection. No bid may be considered for public work
13 unless it is accompanied by a bid deposit in the form of a surety
14 bond, postal money order, cash, cashier's check, or certified check
15 in an amount equal to five percent of the amount of the bid proposed.

16 (6) The contract for the public work shall be awarded to the
17 lowest responsible bidder. Any or all bids may be rejected for good
18 cause. The county legislative authority shall require from the
19 successful bidder for such public work a contractor's bond in the
20 amount and with the conditions imposed by law.

21 (7) If the bidder to whom the contract is awarded fails to enter
22 into the contract and furnish the contractor's bond as required
23 within ten days after notice of the award, exclusive of the day of
24 notice, the amount of the bid deposit shall be forfeited to the
25 county and the contract awarded to the next lowest and best bidder.
26 The bid deposit of all unsuccessful bidders shall be returned after
27 the contract is awarded and the required contractor's bond given by
28 the successful bidder is accepted by the county legislative
29 authority. Immediately after the award is made, the bid quotations
30 obtained shall be recorded and open to public inspection and shall be
31 available by telephone inquiry.

32 (8) As limited by subsection (~~(10)~~) (11) of this section, a
33 county subject to these provisions may have public works performed by
34 county employees in any annual or biennial budget period equal to a
35 dollar value not exceeding ten percent of the public works
36 construction budget, including any amount in a supplemental public
37 works construction budget, over the budget period.

38 Whenever a county subject to these provisions has had public
39 works performed in any budget period up to the maximum permitted
40 amount for that budget period, all remaining public works except

1 emergency work under subsection (~~(12)~~) (13) of this section within
2 that budget period shall be done by contract pursuant to public
3 notice and call for competitive bids as specified in subsection (3)
4 of this section. The state auditor shall report to the state
5 treasurer any county subject to these provisions that exceeds this
6 amount and the extent to which the county has or has not reduced the
7 amount of public works it has performed by public employees in
8 subsequent years.

9 (9) A county may procure public works with a unit priced contract
10 under this section for the purpose of completing anticipated types of
11 work based on hourly rates or unit pricing for one or more categories
12 of work or trades.

13 (a) For the purposes of this section, "unit priced contract"
14 means a competitively bid contract in which public works are
15 anticipated on a recurring basis to meet the business or operational
16 needs of the county, under which the contractor agrees to a fixed
17 period indefinite quantity delivery of work, at a defined unit price
18 for each category of work.

19 (b) Unit priced contracts must be executed for an initial
20 contract term not to exceed one year, with the county having the
21 option of extending or renewing the unit priced contract for one
22 additional year.

23 (c) Invitations for unit price bids shall include, for purposes
24 of the bid evaluation, estimated quantities of the anticipated types
25 of work or trades, and specify how the county will issue or release
26 work assignments, work orders, or task authorizations pursuant to a
27 unit priced contract for projects, tasks, or other work based on the
28 hourly rates or unit prices bid by the contractor. The contract must
29 be awarded to the lowest responsible bidder as defined under RCW
30 39.04.010. Whenever possible, the county must invite at least one bid
31 from a certified minority or woman contractor who otherwise qualifies
32 under this section.

33 (d) Unit price contractors shall pay prevailing wages for all
34 work that would otherwise be subject to the requirements of chapter
35 39.12 RCW. Prevailing wages for all work performed pursuant to each
36 work order must be the prevailing wage rates in effect at the
37 beginning date for each contract year. Unit priced contracts must
38 have prevailing wage rates updated annually. Intents and affidavits
39 for prevailing wages paid must be submitted annually for all work

1 completed within the previous twelve-month period of the unit priced
2 contract.

3 (10) If a county subject to these provisions has public works
4 performed by public employees in any budget period that are in excess
5 of this ten percent limitation, the amount in excess of the permitted
6 amount shall be reduced from the otherwise permitted amount of public
7 works that may be performed by public employees for that county in
8 its next budget period. Ten percent of the motor vehicle fuel tax
9 distributions to that county shall be withheld if two years after the
10 year in which the excess amount of work occurred, the county has
11 failed to so reduce the amount of public works that it has performed
12 by public employees. The amount withheld shall be distributed to the
13 county when it has demonstrated in its reports to the state auditor
14 that the amount of public works it has performed by public employees
15 has been reduced as required.

16 ~~((10))~~ (11) In addition to the percentage limitation provided
17 in subsection (8) of this section, counties subject to these
18 provisions containing a population of four hundred thousand or more
19 shall not have public employees perform: A public works project in
20 excess of ninety thousand dollars if more than a single craft or
21 trade is involved with the public works project, a riverine project
22 or stormwater project in excess of two hundred fifty thousand dollars
23 if more than a single craft or trade is involved with the riverine
24 project or stormwater project, a public works project in excess of
25 forty-five thousand dollars if only a single craft or trade is
26 involved with the public works project, or a riverine project or
27 stormwater project in excess of one hundred twenty-five thousand
28 dollars if only a single craft or trade is involved with the riverine
29 project or stormwater project. A public works project, a riverine
30 project, and a stormwater project means a complete project. The
31 restrictions in this subsection do not permit the division of the
32 project into units of work or classes of work to avoid the
33 restriction on work that may be performed by public employees on a
34 single project.

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

39 ~~((11))~~ (12) In addition to the accounting and recordkeeping
40 requirements contained in chapter 39.04 RCW, any county which uses

1 public employees to perform public works projects under RCW
2 36.32.240(1) shall prepare a year-end report to be submitted to the
3 state auditor indicating the total dollar amount of the county's
4 public works construction budget and the total dollar amount for
5 public works projects performed by public employees for that year.

6 The year-end report submitted pursuant to this subsection to the
7 state auditor shall be in accordance with the standard form required
8 by RCW 43.09.205.

9 ~~((12))~~ (13) Notwithstanding any other provision in this
10 section, counties may use public employees without any limitation for
11 emergency work performed under an emergency declared pursuant to RCW
12 36.32.270, and any such emergency work shall not be subject to the
13 limitations of this section. Publication of the description and
14 estimate of costs relating to correcting the emergency may be made
15 within seven days after the commencement of the work. Within two
16 weeks of the finding that such an emergency existed, the county
17 legislative authority shall adopt a resolution certifying the damage
18 to public facilities and costs incurred or anticipated relating to
19 correcting the emergency. Additionally this section shall not apply
20 to architectural and engineering or other technical or professional
21 services performed by public employees in connection with a public
22 works project.

23 ~~((13))~~ (14) In lieu of the procedures of subsections (3)
24 through ~~((11))~~ (12) of this section, a county may let contracts
25 using the small works roster process provided in RCW 39.04.155.

26 Whenever possible, the county shall invite at least one proposal
27 from a certified minority or woman contractor who shall otherwise
28 qualify under this section.

29 ~~((14))~~ (15) The allocation of public works projects to be
30 performed by county employees shall not be subject to a collective
31 bargaining agreement.

32 ~~((15))~~ (16) This section does not apply to performance-based
33 contracts, as defined in RCW 39.35A.020(4), that are negotiated under
34 chapter 39.35A RCW.

35 ~~((16))~~ (17) Nothing in this section prohibits any county from
36 allowing for preferential purchase of products made from recycled
37 materials or products that may be recycled or reused.

38 ~~((17))~~ (18) This section does not apply to contracts between
39 the public stadium authority and a team affiliate under RCW
40 36.102.060(4), or development agreements between the public stadium

1 authority and a team affiliate under RCW 36.102.060(7) or leases
2 entered into under RCW 36.102.060(8).

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 39.04
4 RCW to read as follows:

5 (1) The following public bodies of the state of Washington are
6 authorized to procure public works contracts under this chapter for
7 the purpose of completing anticipated types of work based on hourly
8 rates or unit pricing for one or more categories of work or trades:

9 (a) Every county public transportation authority as defined under
10 RCW 36.57.010;

11 (b) Every public transportation benefit area as defined under RCW
12 36.57A.010; and

13 (c) Every regional transit authority as defined under RCW
14 81.112.020.

15 (2) A public body may procure public works with a unit priced
16 contract under this section for the purpose of completing anticipated
17 types of work based on hourly rates or unit pricing for one or more
18 categories of work or trades.

19 (3) Unit priced contracts must be executed for an initial
20 contract term not to exceed one year, with the public body having the
21 option of extending or renewing the unit priced contract for one
22 additional year.

23 (4) Invitations for unit price bids must include, for purposes of
24 the bid evaluation, estimated quantities of the anticipated types of
25 work or trades, and specify how the public body will issue or release
26 work assignments, work orders, or task authorizations pursuant to a
27 unit priced contract for projects, tasks, or other work based on the
28 hourly rates or unit prices bid by the contractor. Contracts must be
29 awarded to the lowest responsible bidder as provided in RCW
30 39.04.010. Whenever possible, the public body must invite at least
31 one proposal from a certified minority or woman contractor who
32 otherwise qualifies under this section.

33 (5) Unit priced contractors shall pay prevailing wages for all
34 work that would otherwise be subject to the requirements of chapter
35 39.12 RCW. Prevailing wages for all work performed pursuant to each
36 work order must be the prevailing wage rates in effect at the
37 beginning date for each contract year. Unit priced contracts must
38 have prevailing wage rates updated annually. Intents and affidavits
39 for prevailing wages paid must be submitted annually for all work

1 completed within the previous twelve-month period of the unit priced
2 contract.

3 (6) All public works procured with a unit priced contract under
4 this section must comply with all other applicable bid requirements.

5 (7) For the purposes of this section, "unit priced contract"
6 means a competitively bid contract in which public works are
7 anticipated on a recurring basis to meet the business or operational
8 needs of the public body, under which the contractor agrees to a
9 fixed period indefinite quantity delivery of work, at a defined unit
10 price for each category of work.

11 **Sec. 10.** RCW 57.08.050 and 2015 c 136 s 1 are each amended to
12 read as follows:

13 (1) All work ordered, the estimated cost of which is in excess of
14 fifty thousand dollars, shall be let by contract and competitive
15 bidding. Before awarding any such contract the board of commissioners
16 shall publish a notice in a newspaper of general circulation where
17 the district is located at least once thirteen days before the last
18 date upon which bids will be received, inviting sealed proposals for
19 such work, plans and specifications which must at the time of
20 publication of such notice be on file in the office of the board of
21 commissioners subject to the public inspection. The notice shall
22 state generally the work to be done and shall call for proposals for
23 doing the same to be sealed and filed with the board of commissioners
24 on or before the day and hour named therein.

25 Each bid shall be accompanied by a certified or cashier's check
26 or postal money order payable to the order of the county treasurer
27 for a sum not less than five percent of the amount of the bid, or
28 accompanied by a bid bond in an amount not less than five percent of
29 the bid with a corporate surety licensed to do business in the state,
30 conditioned that the bidder will pay the district as liquidated
31 damages the amount specified in the bond, unless the bidder enters
32 into a contract in accordance with the bidder's bid, and no bid shall
33 be considered unless accompanied by such check, cash or bid bond. At
34 the time and place named such bids shall be publicly opened and read
35 and the board of commissioners shall proceed to canvass the bids and
36 may let such contract to the lowest responsible bidder upon plans and
37 specifications on file or to the best bidder submitting the bidder's
38 own plans and specifications. The board of commissioners may reject
39 all bids for good cause and readvertise and in such case all checks,

1 cash or bid bonds shall be returned to the bidders. If the contract
2 is let, then all checks, cash, or bid bonds shall be returned to the
3 bidders, except that of the successful bidder, which shall be
4 retained until a contract shall be entered into for doing the work,
5 and a bond to perform such work furnished with sureties satisfactory
6 to the board of commissioners in the full amount of the contract
7 price between the bidder and the commission in accordance with the
8 bid. If the bidder fails to enter into the contract in accordance
9 with the bid and furnish the bond within ten days from the date at
10 which the bidder is notified that the bidder is the successful
11 bidder, the check, cash, or bid bonds and the amount thereof shall be
12 forfeited to the district. If the bidder fails to enter into a
13 contract in accordance with the bidder's bid, and the board of
14 commissioners deems it necessary to take legal action to collect on
15 any bid bond required by this section, then the district shall be
16 entitled to collect from the bidder any legal expenses, including
17 reasonable attorneys' fees occasioned thereby. A low bidder who
18 claims error and fails to enter into a contract is prohibited from
19 bidding on the same project if a second or subsequent call for bids
20 is made for the project.

21 (2) As an alternative to requirements under subsection (1) of
22 this section, a water-sewer district may let contracts using the
23 small works roster process under RCW 39.04.155.

24 (3) Any purchase of materials, supplies, or equipment, with an
25 estimated cost in excess of forty thousand dollars, shall be by
26 contract. Any purchase of materials, supplies, or equipment, with an
27 estimated cost of less than fifty thousand dollars shall be made
28 using the process provided in RCW 39.04.190. Any purchase of
29 materials, supplies, or equipment with an estimated cost of fifty
30 thousand dollars or more shall be made by competitive bidding
31 following the procedure for letting contracts for projects under
32 subsection (1) of this section.

33 (4) As an alternative to requirements under subsection (3) of
34 this section, a water-sewer district may let contracts for purchase
35 of materials, supplies, or equipment with the suppliers designated on
36 current state agency, county, city, or town purchasing rosters for
37 the materials, supplies, or equipment, when the roster has been
38 established in accordance with the competitive bidding law for
39 purchases applicable to the state agency, county, city, or town. The

1 price and terms for purchases shall be as described on the applicable
2 roster.

3 (5) The board may waive the competitive bidding requirements of
4 this section pursuant to RCW 39.04.280 if an exemption contained
5 within that section applies to the purchase or public work.

6 (6) (a) A district may procure public works with a unit priced
7 contract under this section for the purpose of completing anticipated
8 types of work based on hourly rates or unit pricing for one or more
9 categories of work or trades.

10 (b) For the purposes of this section, "unit priced contract"
11 means a competitively bid contract in which public works are
12 anticipated on a recurring basis to meet the business or operational
13 needs of the district, under which the contractor agrees to a fixed
14 period indefinite quantity delivery of work, at a defined unit price
15 for each category of work.

16 (c) Unit priced contracts must be executed for an initial
17 contract term not to exceed one year, with the district having the
18 option of extending or renewing the unit priced contract for one
19 additional year.

20 (d) Invitations for unit price bids must include, for purposes of
21 the bid evaluation, estimated quantities of the anticipated types of
22 work or trades, and specify how the district will issue or release
23 work assignments, work orders, or task authorizations pursuant to a
24 unit priced contract for projects, tasks, or other work based on the
25 hourly rates or unit prices bid by the contractor. Contracts must be
26 awarded to the lowest responsible bidder as per RCW 39.04.010.
27 Whenever possible, the district must invite at least one proposal
28 from a certified minority or woman contractor who otherwise qualifies
29 under this section.

30 (e) Unit price contractors shall pay prevailing wages for all
31 work that would otherwise be subject to the requirements of chapter
32 39.12 RCW. Prevailing wages for all work performed pursuant to each
33 work order must be the prevailing wage rates in effect at the
34 beginning date for each contract year. Unit priced contracts must
35 have prevailing wage rates updated annually. Intents and affidavits
36 for prevailing wages paid must be submitted annually for all work
37 completed within the previous twelve-month period of the unit priced
38 contract.

1 **Sec. 11.** RCW 35.22.620 and 2018 c 74 s 1 are each amended to
2 read as follows:

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

5 (2) A first-class city may have public works performed by
6 contract pursuant to public notice and call for competitive bids. As
7 limited by subsection (3) of this section, a first-class city may
8 have public works performed by city employees in any annual or
9 biennial budget period equal to a dollar value not exceeding ten
10 percent of the public works construction budget, including any amount
11 in a supplemental public works construction budget, over the budget
12 period. The amount of public works that a first-class city has a
13 county perform for it under RCW 35.77.020 shall be included within
14 this ten percent limitation.

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

28 Whenever a first-class city has had public works performed in any
29 budget period up to the maximum permitted amount for that budget
30 period, all remaining public works within that budget period shall be
31 done by contract pursuant to public notice and call for competitive
32 bids.

33 The state auditor shall report to the state treasurer any
34 first-class city that exceeds this amount and the extent to which the
35 city has or has not reduced the amount of public works it has
36 performed by public employees in subsequent years.

37 (3) In addition to the percentage limitation provided in
38 subsection (2) of this section, a first-class city shall not have
39 public employees perform a public works project in excess of
40 (~~ninety~~) one hundred fifty thousand dollars if more than a single

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

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

22 Each first-class city with a population of one hundred fifty
23 thousand or less shall use the form required by RCW 43.09.205 to
24 account and record costs of public works in excess of five thousand
25 dollars that are not let by contract.

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

31 (6) The competitive bidding requirements of this section may be
32 waived by the city legislative authority pursuant to RCW 39.04.280 if
33 an exemption contained within that section applies to the work or
34 contract.

35 (7) In lieu of the procedures of subsections (2) and (6) of this
36 section, a first-class city may let contracts using the small works
37 roster process in RCW 39.04.155.

38 Whenever possible, the city shall invite at least one proposal
39 from a certified minority or woman contractor who shall otherwise
40 qualify under this section.

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

4 (9) This section does not apply to performance-based contracts,
5 as defined in RCW 39.35A.020(4), that are negotiated under chapter
6 39.35A RCW.

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

10 (11)(a) Any first-class city may procure public works with a unit
11 priced contract under this section for the purpose of completing
12 anticipated types of work based on hourly rates or unit pricing for
13 one or more categories of work or trades.

14 (b) For the purposes of this section, "unit priced contract"
15 means a competitively bid contract in which public works are
16 anticipated on a recurring basis to meet the business or operational
17 needs of the city, under which the contractor agrees to a fixed
18 period indefinite quantity delivery of work, at a defined unit price
19 for each category of work.

20 (c) Unit priced contracts must be executed for an initial
21 contract term not to exceed three years, with the city having the
22 option of extending or renewing the unit priced contract for one
23 additional year.

24 (d) Invitations for unit price bids shall include, for purposes
25 of the bid evaluation, estimated quantities of the anticipated types
26 of work or trades, and specify how the city will issue or release
27 work assignments, work orders, or task authorizations pursuant to a
28 unit priced contract for projects, tasks, or other work based on the
29 hourly rates or unit prices bid by the contractor. Contracts must be
30 awarded to the lowest responsible bidder as per RCW 39.04.010.
31 Whenever possible, the city must invite at least one proposal from a
32 certified minority or woman contractor who otherwise qualifies under
33 this section.

34 (e) Unit price contractors shall pay prevailing wages for all
35 work that would otherwise be subject to the requirements of chapter
36 39.12 RCW. Prevailing wages for all work performed pursuant to each
37 work order must be the prevailing wage rates in effect at the
38 beginning date for each contract year. Unit priced contracts must
39 have prevailing wage rates updated annually. Intents and affidavits
40 for prevailing wages paid must be submitted annually for all work

1 completed within the previous twelve-month period of the unit priced
2 contract.

3 **Sec. 12.** RCW 52.14.110 and 2009 c 229 s 9 are each amended to
4 read as follows:

5 Insofar as practicable, purchases and any public works by the
6 district shall be based on competitive bids. A formal sealed bid
7 procedure shall be used as standard procedure for purchases and
8 contracts for purchases executed by the board of commissioners.
9 Formal sealed bidding shall not be required for:

10 (1) The purchase of any materials, supplies, or equipment if the
11 cost will not exceed the sum of (~~ten~~) forty thousand dollars.
12 However, whenever the estimated cost does not exceed (~~fifty~~)
13 seventy-five thousand dollars, the commissioners may by resolution
14 use the process provided in RCW 39.04.190 to award contracts;

15 (2) Contracting for work to be done involving the construction or
16 improvement of a fire station or other buildings where the estimated
17 cost will not exceed the sum of (~~twenty~~) thirty thousand dollars,
18 which includes the costs of labor, material, and equipment;

19 (3) Contracts using the small works roster process under RCW
20 39.04.155; and

21 (4) Any contract for purchases or public work pursuant to RCW
22 39.04.280 if an exemption contained within that section applies to
23 the purchase or public work.

24 **Sec. 13.** RCW 39.04.105 and 2003 c 300 s 1 are each amended to
25 read as follows:

26 (1) Within two business days of the bid opening on a public works
27 project that is the subject of competitive bids, the municipality
28 must provide, if requested by a bidder, copies of the bids the
29 municipality received for the project. The municipality shall then
30 allow at least two full business days after providing bidders with
31 copies of all bids before executing a contract for the project.
32 Intermediate Saturdays, Sundays, and legal holidays are not counted.

33 (2) When a municipality receives a written protest from a bidder
34 for a public works project (~~which~~) that is the subject of
35 competitive bids, the municipality (~~shall~~) must not execute a
36 contract for the project with anyone other than the protesting bidder
37 without first providing at least two full business days' written
38 notice of the municipality's intent to execute a contract for the

1 project; provided that the protesting bidder submits notice in
2 writing of its protest no later than:

3 (a) Two full business days following bid opening, if no bidder
4 requested copies of the bids received for the project under
5 subsection (1) of this section; or

6 (b) Two full business days following when the municipality
7 provided copies of the bids to those bidders requesting bids under
8 subsection (1) of this section. Intermediate Saturdays, Sundays, and
9 legal holidays are not counted.

10 **Sec. 14.** RCW 54.04.082 and 2008 c 216 s 3 are each amended to
11 read as follows:

12 For the awarding of a contract to purchase any item, or items of
13 the same kind of materials, equipment, or supplies in an amount
14 exceeding (~~fifteen~~) thirty thousand dollars per calendar month, but
15 less than (~~sixty~~) one hundred twenty thousand dollars per calendar
16 month, exclusive of sales tax, the commission may, in lieu of the
17 procedure described in RCW 54.04.070 and 54.04.080 requiring public
18 notice to invite sealed proposals for such materials, equipment, or
19 supplies, pursuant to commission resolution use the process provided
20 in RCW 39.04.190. Waiver of the deposit or bid bond required under
21 RCW 54.04.080 may be authorized by the commission in securing such
22 bid quotations.

23 **Sec. 15.** RCW 87.03.435 and 1997 c 354 s 3 are each amended to
24 read as follows:

25 (1) Except as provided in subsections (2) and (3) of this section
26 and RCW 87.03.436, whenever in the construction of the district canal
27 or canals, or other works, or the furnishing of materials therefor,
28 the board of directors shall determine to let a contract or contracts
29 for the doing of the work or the furnishing of the materials, a
30 notice calling for sealed proposals shall be published. The notice
31 shall be published in a newspaper in the county in which the office
32 of the board is situated, (~~and~~) in any other newspaper which may be
33 designated by the board, and on the irrigation district's web site or
34 on the county's web site where the district is located if the
35 district does not have a web site, and for such length of time, not
36 less than once each week for two weeks, as may be fixed by the board.
37 At the time and place appointed in the notice for the opening of
38 bids, the sealed proposals shall be opened in public, and as soon as

1 convenient thereafter, the board shall let the work or the contract
2 for the purchase of materials, either in portions or as a whole, to
3 the lowest responsible bidder, or the board may reject any or all
4 bids and readvertise, or may contract using the small works roster
5 process in RCW 39.04.155 or may proceed to construct the work under
6 its own superintendence. All work shall be done under the direction
7 and to the satisfaction of the engineer of the district, and be
8 approved by the board. The board of directors may require bidders
9 submitting bids for the construction or maintenance for any of the
10 works of the district, or for the furnishing of labor or material, to
11 accompany their bids by a deposit in cash, certified check, cashier's
12 check, or surety bond in an amount equal to five percent of the
13 amount of the bid and a bid shall not be considered unless the
14 deposit is enclosed with it. If the contract is let, then all the bid
15 deposits shall be returned to the unsuccessful bidders. The bid
16 deposit of the successful bidder shall be retained until a contract
17 is entered into for the purchase of the materials or doing of such
18 work, and a bond given to the district in accordance with chapter
19 39.08 RCW for the performance of the contract. The performance bond
20 shall be conditioned as may be required by law and as may be required
21 by resolution of the board, with good and sufficient sureties
22 satisfactory to the board, payable to the district for its use, for
23 at least twenty-five percent of the contract price. If the successful
24 bidder fails to enter into a contract and furnish the necessary bond
25 within twenty days from the award, exclusive of the day of the award,
26 the bid deposit shall be forfeited to the district and the contract
27 may then be awarded to the second lowest bidder.

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

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

32 (a) In the case of any contract between the district and the
33 United States;

34 (b) In the case of an emergency when the public interest or
35 property of the district would suffer material injury or damage by
36 delay, upon resolution of the board of directors or proclamation of
37 an official designated by the board to act for the board during such
38 emergencies. The resolution or proclamation shall declare the
39 existence of the emergency and recite the facts constituting the
40 emergency; or

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

5 NEW SECTION. **Sec. 16.** (1) The legislature finds that there are
6 hundreds of local governments and special purpose districts and due
7 to their existing authority and structure, partial legislative
8 measures are introduced each year to amend the procurement thresholds
9 for each individual entity. Therefore the legislature intends to
10 require a comprehensive review of all local government bid limits for
11 public works projects and purchases, including the small works roster
12 and limited public works processes, rather than amend procurement
13 rules and contract thresholds on a case-by-case basis.

14 (2) Subject to funds appropriated for this purpose, the capital
15 projects advisory review board must review the public works
16 contracting processes for local governments, including the small
17 works roster and limited public works processes provided in RCW
18 39.04.155, and report to the governor and appropriate committees of
19 the legislature by November 1, 2020. The report must include the
20 following:

21 (a) Identification of the most common contracting procedures used
22 by local governments;

23 (b) Identification of the dollar amounts set for local government
24 public works contracting processes;

25 (c) Analysis of whether the dollar amounts identified in (b) of
26 this subsection comport with estimated project costs within the
27 relevant industries;

28 (d) An analysis of the potential application of an inflation-
29 based increaser, taking regional factors into consideration, to the
30 dollar amounts identified in (b) of this subsection, for example:

31 (i) Applying the implicit price deflator for state and local
32 government purchases of goods and services for the United States as
33 published by the bureau of economic analysis of the federal
34 department of commerce; and

35 (ii) Adjusting the bid limit dollar thresholds for inflation, on
36 a regional basis, by the building cost index during that time period;

37 (e) Recommendations to increase uniformity and efficiency for
38 local government public works contracting and procurement processes;

1 (f) Rates of participation of all contractor types, including
2 qualified minority and women-owned and controlled businesses, in the
3 small works roster and limited public works contracting processes;
4 and

5 (g) Barriers to improving the participation rate in the small
6 works roster and limited public works contracting processes.

7 (3) For purposes of this section:

8 (a) "Local governments" refers to all counties, cities, towns,
9 other political subdivisions, and special purpose districts.

10 (b) "Building cost index" means the building cost index for
11 Seattle, Washington, compiled by engineering news record, a
12 nationally recognized professional construction trade periodical. The
13 building cost index uses average skilled construction labor rates,
14 structural steel, concrete, and lumber as the basis of measurement."

15 Correct the title.

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