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**HOUSE BILL 2391**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Leavitt, Lekanoff, Ramel, Bronoske, Eslick, and Timmons

AN ACT Relating to county ferries; amending RCW 36.54.010 and 39.04.010; and providing an effective date.

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

**Sec.**  RCW 36.54.010 and 1963 c 4 s 36.54.010 are each amended to read as follows:

(1) Any county may construct, condemn, or purchase, operate and maintain ferries or wharves at any unfordable stream, lake, estuary or bay within or bordering on said county, or between portions of the county, or between such county and other counties, together with all the necessary boats, grounds, roads, approaches, and landings appertaining thereto under the direction and control of the board of county commissioners free or for toll and as the board shall by resolution determine.

(2) County ferry maintenance shall be considered ordinary maintenance for contracting compliance purposes. Maintenance, including maintenance required by United States coast guard regulations to renew the annual certificate of inspection of a county, either by itself or together with other counties that operate county ferries, may use an indefinite-quantity contract.

(3) For the purposes of this section, "an indefinite-quantity contract" means a contract pertaining to county ferry repair and maintenance that provides for an indefinite quantity, within stated limits, of  supplies  or services during a fixed period for the maintenance or repair of a county ferry vessel. The county places orders for individual requirements. Quantity limits  may  be stated as number of units or as dollar values.

(a)  The contract  must  require the county to order and the contractor to furnish at least a stated minimum quantity of  supplies  or services. In addition, if ordered, the contractor  must  furnish any additional quantities, not to exceed the stated maximum. The  contracting officer  should  establish a reasonable maximum quantity based on  market research, trends on recent contracts for similar  supplies  or services, survey of potential users, or any other rational basis.

(b)  To ensure that the contract is binding, the minimum quantity  must  be more than a nominal quantity, but it  should  not exceed the amount that the county is fairly certain to order.

(c)  The contract  may  also specify maximum or minimum quantities that the county  may  order under each task or  delivery order  and the maximum that it  may  order during a specific period of time. Contract retainage pursuant to RCW 60.28.011 will be based on the minimum guaranteed quantities.

**Sec.**  RCW 39.04.010 and 2023 c 395 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorized local government" means a political subdivision of the state, school district, or special purpose district with public works authority.

(2) "Award" means the formal decision by the state or municipality notifying a responsible bidder with the lowest responsive bid of the state's or municipality's acceptance of the bid and intent to enter into a contract with the bidder.

(3) "Contract" means a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid, or a contract awarded under the small works roster process in RCW 39.04.151 through 39.04.154.

(4) "Municipality" means every city, county, town, port district, district, or other public agency authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts, or other districts authorized by law for the reclamation or development of waste or undeveloped lands.

(5) "Public work" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with chapter 39.12 RCW. "Public work" does not include work, construction, alteration, repair, or improvement performed under contracts entered into under RCW 36.102.060(4) or under development agreements entered into under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8) or maintenance contracts entered into under RCW 36.54.010.

(6) "Responsible bidder" means a contractor who meets the criteria in RCW 39.04.350.

(7) "Small business" means a business meeting certification criteria for size, ownership, control, and personal net worth adopted by the office of minority and women's business enterprises in accordance with RCW 39.19.030.

(8) "State" means the state of Washington and all departments, supervisors, commissioners, and agencies of the state.

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

NEW SECTION. **Sec.**  This act takes effect July 1, 2024.

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