

SHB 1621 - S COMM AMD

By Committee on Local Government, Land Use & Tribal Affairs

ADOPTED 04/11/2023

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

3 **"Sec. 1.** RCW 54.04.070 and 2019 c 434 s 7 are each amended to
4 read as follows:

5 (1) Any item, or items of the same kind of materials, equipment,
6 or supplies purchased, the estimated cost of which is in excess of
7 (~~thirty thousand dollars~~) \$30,000, exclusive of sales tax, shall be
8 by contract. However, a district may make purchases of the same kind
9 of items of materials, equipment, and supplies not exceeding (~~twelve~~
10 ~~thousand dollars~~) \$12,000 in any calendar month without a contract,
11 purchasing any excess thereof over (~~twelve thousand dollars~~)
12 \$12,000 by contract.

13 (2) Any work ordered by a district commission, the estimated cost
14 of which is in excess of (~~fifty thousand dollars, exclusive of sales~~
15 ~~tax~~) \$150,000 exclusive of sales tax if more than a single craft or
16 trade is involved with the public works project, or a public works
17 project in excess of \$75,500 exclusive of sales tax if only a single
18 craft or trade is involved with the public works project, shall be by
19 contract. However, a district commission may have its own regularly
20 employed personnel perform work which is an accepted industry
21 practice under prudent utility management without a contract. For
22 purposes of this section, "prudent utility management" means
23 performing work with regularly employed personnel utilizing material
24 of a worth not exceeding (~~three hundred thousand dollars~~) \$300,000
25 in value without a contract. This limit on the value of material
26 being utilized in work being performed by regularly employed
27 personnel shall not include the value of individual items of
28 equipment. For the purposes of this section, the term "equipment"
29 includes but is not limited to conductor, cabling, wire, pipe, or
30 lines used for electrical, water, fiber optic, or telecommunications.

31 (3) Before awarding a contract required under subsection (1) or
32 (2) of this section, the commission shall publish a notice once or

1 more in a newspaper of general circulation in the district at least
2 (~~thirteen~~) 13 days before the last date upon which bids will be
3 received, inviting sealed proposals for the work or materials. Plans
4 and specifications for the work or materials shall at the time of
5 publication be on file at the office of the district and subject to
6 public inspection. Any published notice ordering work to be performed
7 for the district shall be mailed at the time of publication to any
8 established trade association which files a written request with the
9 district to receive such notices. The commission may, at the same
10 time and as part of the same notice, invite tenders for the work or
11 materials upon plans and specifications to be submitted by the
12 bidders.

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

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

22 (6) Pursuant to RCW 39.04.280, the commission may waive the
23 competitive bidding requirements of this section and RCW 54.04.080 if
24 an exemption contained within RCW 39.04.280 applies to the purchase
25 or public work.

26 (7) (a) A district may procure public works with a unit priced
27 contract under this section, RCW 54.04.080, or 54.04.085 for the
28 purpose of completing anticipated types of work based on hourly rates
29 or unit pricing for one or more categories of work or trades.

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

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

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

11 (e) Unit price contractors shall pay prevailing wages for all
12 work that would otherwise be subject to the requirements of chapter
13 39.12 RCW. Prevailing wages for all work performed pursuant to each
14 work order must be the prevailing wage rates in effect at the
15 beginning date for each contract year. Unit priced contracts must
16 have prevailing wage rates updated annually. Intents and affidavits
17 for prevailing wages paid must be submitted annually for all work
18 completed within the previous (~~twelve-month~~) 12-month period of the
19 unit priced contract.

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

30 **Sec. 2.** RCW 35.23.352 and 2019 c 434 s 1 are each amended to
31 read as follows:

32 (1) Any second-class city or any town may construct any public
33 works, as defined in RCW 39.04.010, by contract or day labor without
34 calling for bids therefor whenever the estimated cost of the work or
35 improvement, including cost of materials, supplies and equipment will
36 not exceed the sum of (~~one hundred sixteen thousand one hundred~~
37 ~~fifty-five dollars~~) \$150,000 if more than one craft or trade is
38 involved with the public works, or (~~seventy-five thousand five~~
39 ~~hundred dollars~~) \$75,500 if a single craft or trade is involved with

1 the public works or the public works project is street signalization
2 or street lighting. A public works project means a complete project.
3 The restrictions in this subsection do not permit the division of the
4 project into units of work or classes of work to avoid the
5 restriction on work that may be performed by day labor on a single
6 project. However, a second-class city or any town may have its own
7 regularly employed personnel perform work which is an accepted
8 industry practice under prudent utility management without a
9 contract. For purposes of this section, "prudent utility management"
10 means performing work with regularly employed personnel utilizing
11 material of a worth not exceeding \$300,000 in value without a
12 contract. This limit on value of material being utilized in work
13 being performed by regularly employed personnel shall not include the
14 value of individual items of equipment. For purposes of this section,
15 "equipment" includes, but is not limited to, conductor, cabling,
16 wire, pipe, or lines used for electrical, water, fiber optic, or
17 telecommunications.

18 Whenever the cost of the public work or improvement, including
19 materials, supplies and equipment, will exceed these figures, the
20 same shall be done by contract. All such contracts shall be let at
21 public bidding upon publication of notice calling for sealed bids
22 upon the work. The notice shall be published in the official
23 newspaper, or a newspaper of general circulation most likely to bring
24 responsive bids, at least (~~thirteen~~) 13 days prior to the last date
25 upon which bids will be received. The notice shall generally state
26 the nature of the work to be done that plans and specifications
27 therefor shall then be on file in the city or town hall for public
28 inspections, and require that bids be sealed and filed with the
29 council or commission within the time specified therein. Each bid
30 shall be accompanied by a bid proposal deposit in the form of a
31 cashier's check, postal money order, or surety bond to the council or
32 commission for a sum of not less than five percent of the amount of
33 the bid, and no bid shall be considered unless accompanied by such
34 bid proposal deposit. The council or commission of the city or town
35 shall let the contract to the lowest responsible bidder or shall have
36 power by resolution to reject any or all bids and to make further
37 calls for bids in the same manner as the original call.

38 When the contract is let then all bid proposal deposits shall be
39 returned to the bidders except that of the successful bidder which
40 shall be retained until a contract is entered into and a bond to

1 perform the work furnished, with surety satisfactory to the council
2 or commission, in accordance with RCW 39.08.030. If the bidder fails
3 to enter into the contract in accordance with his or her bid and
4 furnish a bond within (~~ten~~) 10 days from the date at which he or
5 she is notified that he or she is the successful bidder, the check or
6 postal money order and the amount thereof shall be forfeited to the
7 council or commission or the council or commission shall recover the
8 amount of the surety bond. A low bidder who claims error and fails to
9 enter into a contract is prohibited from bidding on the same project
10 if a second or subsequent call for bids is made for the project.

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

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

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

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

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

34 (5) The form required by RCW 43.09.205 shall be to account and
35 record costs of public works in excess of (~~five thousand dollars~~)
36 \$5,000 that are not let by contract.

37 (6) The cost of a separate public works project shall be the
38 costs of the materials, equipment, supplies, and labor on that
39 construction project.

1 (7) Any purchase of supplies, material, or equipment, except for
2 public work or improvement, (~~where the cost thereof exceeds seven~~
3 ~~thousand five hundred dollars shall be made upon call for bids~~) with
4 an estimated cost in excess of \$40,000, shall be by contract. Any
5 purchase of materials, supplies, or equipment with an estimated cost
6 of less than \$50,000 shall be made using the process provided in RCW
7 39.04.190.

8 (8) Bids shall be called annually and at a time and in the manner
9 prescribed by ordinance for the publication in a newspaper of general
10 circulation in the city or town of all notices or newspaper
11 publications required by law. The contract shall be awarded to the
12 lowest responsible bidder.

13 (9) For advertisement and formal sealed bidding to be dispensed
14 with as to purchases with an estimated value of (~~fifteen thousand~~
15 ~~dollars~~) \$15,000 or less, the council or commission must authorize
16 by resolution, use of the uniform procedure provided in RCW
17 39.04.190.

18 (10) The city or town legislative authority may waive the
19 competitive bidding requirements of this section pursuant to RCW
20 39.04.280 if an exemption contained within that section applies to
21 the purchase or public work.

22 (11) This section does not apply to performance-based contracts,
23 as defined in RCW 39.35A.020(~~(+4)~~) (6), that are negotiated under
24 chapter 39.35A RCW.

25 (12) Nothing in this section shall prohibit any second-class city
26 or any town from allowing for preferential purchase of products made
27 from recycled materials or products that may be recycled or reused.

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

32 (b) For the purposes of this section, "unit priced contract"
33 means a competitively bid contract in which public works are
34 anticipated on a recurring basis to meet the business or operational
35 needs of the city or town, under which the contractor agrees to a
36 fixed period indefinite quantity delivery of work, at a defined unit
37 price for each category of work.

38 (c) Unit priced contracts must be executed for an initial
39 contract term not to exceed three years, with the city or town having

1 the option of extending or renewing the unit priced contract for one
2 additional year.

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

13 (e) Unit price contractors shall pay prevailing wages for all
14 work that would otherwise be subject to the requirements of chapter
15 39.12 RCW. Prevailing wages for all work performed pursuant to each
16 work order must be the prevailing wage rates in effect at the
17 beginning date for each contract year. Unit priced contracts must
18 have prevailing wage rates updated annually. Intents and affidavits
19 for prevailing wages paid must be submitted annually for all work
20 completed within the previous (~~twelve-month~~) 12-month period of the
21 unit priced contract.

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

28 **Sec. 3.** RCW 35.22.620 and 2019 c 434 s 11 are each amended to
29 read as follows:

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

32 (2) A first-class city may have public works performed by
33 contract pursuant to public notice and call for competitive bids. As
34 limited by subsection (3) of this section, a first-class city may
35 have public works performed by city employees in any annual or
36 biennial budget period equal to a dollar value not exceeding (~~ten~~)
37 10 percent of the public works construction budget, including any
38 amount in a supplemental public works construction budget, over the
39 budget period. The amount of public works that a first-class city has

1 a county perform for it under RCW 35.77.020 shall be included within
2 this (~~ten~~) 10 percent limitation.

3 If a first-class city has public works performed by public
4 employees in any budget period that are in excess of this (~~ten~~) 10
5 percent limitation, the amount in excess of the permitted amount
6 shall be reduced from the otherwise permitted amount of public works
7 that may be performed by public employees for that city in its next
8 budget period. Twenty percent of the motor vehicle fuel tax
9 distributions to that city shall be withheld if two years after the
10 year in which the excess amount of work occurred, the city has failed
11 to so reduce the amount of public works that it has performed by
12 public employees. The amount so withheld shall be distributed to the
13 city 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 so reduced.

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

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

25 (3) In addition to the percentage limitation provided in
26 subsection (2) of this section, a first-class city shall not have
27 public employees perform a public works project in excess of (~~one~~
28 ~~hundred fifty thousand dollars~~) \$150,000 if more than a single craft
29 or trade is involved with the public works project, or a public works
30 project in excess of (~~seventy-five thousand five hundred dollars~~)
31 \$75,500 if only a single craft or trade is involved with the public
32 works project or the public works project is street signalization or
33 street lighting. A public works project means a complete project. The
34 restrictions in this subsection do not permit the division of the
35 project into units of work or classes of work to avoid the
36 restriction on work that may be performed by day labor on a single
37 project. However, a first-class city may have its own regularly
38 employed personnel perform work which is an accepted industry
39 practice under prudent utility management without a contract. For
40 purposes of this section, "prudent utility management" means

1 performing work with regularly employed personnel utilizing material
2 of a worth not exceeding \$300,000 in value without a contract. This
3 limit on the value of material being utilized in work being performed
4 by regularly employed personnel shall not include the value of
5 individual items of equipment. For purposes of this section, the term
6 "equipment" includes, but is not limited to, conductor, cabling,
7 wire, pipe, or lines used for electrical, water, fiber optic, or
8 telecommunications.

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

21 Each first-class city with a population of (~~one hundred fifty~~
22 ~~thousand~~) 150,000 or less shall use the form required by RCW
23 43.09.205 to account and record costs of public works in excess of
24 (~~five thousand dollars~~) \$5,000 that are not let by contract.

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

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

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

37 Whenever possible, the city shall invite at least one proposal
38 from a certified minority or woman contractor who shall otherwise
39 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))~~) (6), that are negotiated under
6 chapter 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~~) 12-month period of the
2 unit priced contract.

3 (12) For the purposes of this section, "lowest responsible
4 bidder" means a bid that meets the criteria under RCW 39.04.350 and
5 has the lowest bid; provided, that if the city issues a written
6 finding that the lowest bidder has delivered a project to the city
7 within the last three years which was late, over budget, or did not
8 meet specifications, and the city does not find in writing that such
9 bidder has shown how they would improve performance to be likely to
10 meet project specifications then the city may choose the second
11 lowest bidder whose bid is within five percent of the lowest bid and
12 meets the same criteria as the lowest bidder.

13 **Sec. 4.** RCW 57.08.050 and 2019 c 434 s 10 are each amended to
14 read as follows:

15 (1) All work ordered, the estimated cost of which is in excess of
16 (~~fifty thousand dollars~~) \$150,000 if more than a single craft or
17 trade is involved with the public works project, or a public works
18 project in excess of \$75,500 if only a single craft or trade is
19 involved with the public works project, shall be let by contract and
20 competitive bidding. Before awarding any such contract the board of
21 commissioners shall publish a notice in a newspaper of general
22 circulation where the district is located at least once (~~thirteen~~)
23 13 days before the last date upon which bids will be received,
24 inviting sealed proposals for such work, plans and specifications
25 which must at the time of publication of such notice be on file in
26 the office of the board of commissioners subject to the public
27 inspection. The notice shall state generally the work to be done and
28 shall call for proposals for doing the same to be sealed and filed
29 with the board of commissioners on or before the day and hour named
30 therein.

31 Each bid shall be accompanied by a certified or cashier's check
32 or postal money order payable to the order of the county treasurer
33 for a sum not less than five percent of the amount of the bid, or
34 accompanied by a bid bond in an amount not less than five percent of
35 the bid with a corporate surety licensed to do business in the state,
36 conditioned that the bidder will pay the district as liquidated
37 damages the amount specified in the bond, unless the bidder enters
38 into a contract in accordance with the bidder's bid, and no bid shall
39 be considered unless accompanied by such check, cash or bid bond. At

1 the time and place named such bids shall be publicly opened and read
2 and the board of commissioners shall proceed to canvass the bids and
3 may let such contract to the lowest responsible bidder upon plans and
4 specifications on file or to the best bidder submitting the bidder's
5 own plans and specifications. The board of commissioners may reject
6 all bids for good cause and readvertise and in such case all checks,
7 cash or bid bonds shall be returned to the bidders. If the contract
8 is let, then all checks, cash, or bid bonds shall be returned to the
9 bidders, except that of the successful bidder, which shall be
10 retained until a contract shall be entered into for doing the work,
11 and a bond to perform such work furnished with sureties satisfactory
12 to the board of commissioners in the full amount of the contract
13 price between the bidder and the commission in accordance with the
14 bid. If the bidder fails to enter into the contract in accordance
15 with the bid and furnish the bond within (~~ten~~) 10 days from the
16 date at which the bidder is notified that the bidder is the
17 successful bidder, the check, cash, or bid bonds and the amount
18 thereof shall be forfeited to the district. If the bidder fails to
19 enter into a contract in accordance with the bidder's bid, and the
20 board of commissioners deems it necessary to take legal action to
21 collect on any bid bond required by this section, then the district
22 shall be entitled to collect from the bidder any legal expenses,
23 including reasonable attorneys' fees occasioned thereby. A low bidder
24 who claims error and fails to enter into a contract is prohibited
25 from bidding on the same project if a second or subsequent call for
26 bids is made for the project.

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

30 (3) Any purchase of materials, supplies, or equipment, with an
31 estimated cost in excess of (~~forty thousand dollars~~) \$40,000, shall
32 be by contract. Any purchase of materials, supplies, or equipment,
33 with an estimated cost of less than (~~fifty thousand dollars~~)
34 \$50,000 shall be made using the process provided in RCW 39.04.190.
35 Any purchase of materials, supplies, or equipment with an estimated
36 cost of (~~fifty thousand dollars~~) \$50,000 or more shall be made by
37 competitive bidding following the procedure for letting contracts for
38 projects under subsection (1) of this section.

39 (4) As an alternative to requirements under subsection (3) of
40 this section, a water-sewer district may let contracts for purchase

1 of materials, supplies, or equipment with the suppliers designated on
2 current state agency, county, city, or town purchasing rosters for
3 the materials, supplies, or equipment, when the roster has been
4 established in accordance with the competitive bidding law for
5 purchases applicable to the state agency, county, city, or town. The
6 price and terms for purchases shall be as described on the applicable
7 roster.

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

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

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

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

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

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

1 for prevailing wages paid must be submitted annually for all work
2 completed within the previous (~~twelve-month~~) 12-month period of the
3 unit priced contract.

4 (7) A water-sewer district may have its own regularly employed
5 personnel perform work which is an accepted industry practice under
6 prudent utility management without a contract. For purposes of this
7 section, "prudent utility management" means performing work with
8 regularly employed personnel utilizing material of a worth not
9 exceeding \$300,000 in value without a contract. This limit on the
10 value of material being utilized in work being performed by regularly
11 employed personnel shall not include the value of individual items of
12 equipment. For the purposes of this section, the term "equipment"
13 includes but is not limited to conductor, cabling, wire, pipe, or
14 lines used for electrical, water, fiber optic, or telecommunications.

15 (8) For the purposes of this section, "lowest responsible bidder"
16 means a bid that meets the criteria under RCW 39.04.350 and has the
17 lowest bid; provided, that if the district issues a written finding
18 that the lowest bidder has delivered a project to the district within
19 the last three years which was late, over budget, or did not meet
20 specifications, and the district does not find in writing that such
21 bidder has shown how they would improve performance to be likely to
22 meet project specifications then the district may choose the second
23 lowest bidder whose bid is within five percent of the lowest bid and
24 meets the same criteria as the lowest bidder.

25 **Sec. 5.** RCW 52.14.110 and 2019 c 434 s 12 are each amended to
26 read as follows:

27 (1) Insofar as practicable, purchases and any public works by the
28 district shall be based on competitive bids. A formal sealed bid
29 procedure shall be used as standard procedure for purchases and
30 contracts for purchases executed by the board of commissioners.
31 Formal sealed bidding shall not be required for:

32 (~~(1)~~) (a) The purchase of any materials, supplies, or equipment
33 if the cost will not exceed the sum of (~~forty thousand dollars~~)
34 \$75,500. However, whenever the estimated cost does not exceed
35 (~~seventy-five thousand dollars~~) \$150,000, the commissioners may by
36 resolution use the process provided in RCW 39.04.190 to award
37 contracts;

38 (~~(2)~~) (b) Contracting for work to be done involving the
39 construction or improvement of a fire station or other buildings

1 where the estimated cost will not exceed the sum of (~~thirty thousand~~
2 ~~dollars, which includes the costs of labor, material, and equipment~~)
3 \$150,000 if more than a single craft or trade is involved with the
4 public works project, or a public works project in excess of \$75,500
5 if only a single craft or trade is involved with the public works
6 project;

7 (~~(3)~~) (c) Contracts using the small works roster process under
8 RCW 39.04.155; and

9 (~~(4)~~) (d) Any contract for purchases or public work pursuant to
10 RCW 39.04.280 if an exemption contained within that section applies
11 to the purchase or public work.

12 (2) A fire protection district may have its own regularly
13 employed personnel perform work which is an accepted industry
14 practice under prudent utility management without a contract. For
15 purposes of this section, "prudent utility management" means
16 performing work with regularly employed personnel utilizing material
17 of a worth not exceeding \$300,000 in value without a contract. This
18 limit on the value of material being utilized in work being performed
19 by regularly employed personnel shall not include the value of
20 individual items of equipment. For the purposes of this section, the
21 term "equipment" includes but is not limited to conductor, cabling,
22 wire, pipe, or lines used for electrical, water, fiber optic, or
23 telecommunications.

24 (3) 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 district issues a written finding
27 that the lowest bidder has delivered a project to the district within
28 the last three years which was late, over budget, or did not meet
29 specifications, and the district 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 district 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 NEW SECTION. Sec. 6. The capital projects advisory review board
35 shall review this act and make recommendations to the appropriate
36 committees of the legislature by December 31, 2023.

37 NEW SECTION. Sec. 7. Sections 1 through 5 of this act take
38 effect June 30, 2024."

SHB 1621 - S COMM AMD

By Committee on Local Government, Land Use & Tribal Affairs

ADOPTED 04/11/2023

1 On page 1, line 3 of the title, after "districts;" strike the
2 remainder of the title and insert "amending RCW 54.04.070, 35.23.352,
3 35.22.620, 57.08.050, and 52.14.110; creating a new section; and
4 providing an effective date."

EFFECT: Delays the implementation of sections 1 through 5 of this act until after the capital projects advisory review board is able to review the processes and make recommendations to the appropriate legislative committees.

--- END ---