

2 SHB 2321 - S COMM AMD

3 By Committee on Government Operations

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW
8 to read as follows:

9 (1) Competitive bidding procedures may be waived by resolution of
10 the governing body of the municipality for:

11 (a) Purchases that are clearly and legitimately limited to a single
12 source of supply;

13 (b) Purchases involving unique facilities, services, or market
14 conditions;

15 (c) Purchases in the event of an emergency;

16 (d) Purchases of insurance or bonds; and

17 (e) Public works in the event of an emergency.

18 (2)(a) A resolution adopted by a governing body to waive
19 competitive bidding procedures pursuant to subsection (1) of this
20 section must recite the factual basis for an exception and any economic
21 or health-related justifications for the waiver. The resolution must
22 be adopted by the municipality prior to the final award of the contract
23 except in the event of an emergency.

24 (b) If an emergency exists, the person or persons designated by the
25 governing body of the municipality to act in the event of the emergency
26 may award all necessary contracts on behalf of the municipality to
27 address the emergency situation. If a contract is awarded without
28 competitive bidding due to an emergency, the governing body of the
29 municipality must adopt the resolution required pursuant to (a) of this
30 subsection at either a regular or special meeting no later than two
31 weeks following the award of the contract.

32 (3) For purposes of this section, "emergency" means unforeseen
33 circumstances beyond the control of the municipality that either: (a)
34 Present a real, immediate threat to the proper performance of essential
35 functions of the municipality; or (b) will likely result in material

1 loss or damage to property, bodily injury, or loss of life if immediate
2 action is not taken.

3 (4) This section supplements and does not limit the authority of
4 any particular type or class of municipality to provide exemptions from
5 competitive bidding procedures as authorized by statute.

6 **Sec. 2.** RCW 28A.335.190 and 1990 c 33 s 362 are each amended to
7 read as follows:

8 (1) When, in the opinion of the board of directors of any school
9 district, the cost of any furniture, supplies, equipment, building,
10 improvements, or repairs, or other work or purchases, except books,
11 will equal or exceed the sum of twenty thousand dollars, complete plans
12 and specifications for such work or purchases shall be prepared and
13 notice (~~(by publication given)~~) published in at least one newspaper of
14 general circulation within the district(~~(, once each week for two~~
15 ~~consecutive weeks,)~~) of the intention to receive bids therefor (~~(and)~~).
16 The notice must include a statement that specifications and other
17 information may be examined at the office of the board or any other
18 officially designated location(~~(: PROVIDED, That)~~). The notice shall
19 be published at least once at least thirteen days prior to the last
20 date upon which bids will be received. The board, however, without
21 giving such notice may make improvements or repairs to the property of
22 the district through the shop and repair department of such district
23 when the total of such improvements or repair does not exceed the sum
24 of seventy-five hundred dollars. The cost of any public work,
25 improvement or repair for the purposes of this section shall be the
26 aggregate of all amounts to be paid for labor, material, and equipment
27 on one continuous or interrelated project where work is to be performed
28 simultaneously or in close sequence. The bids shall be in writing and
29 shall be opened and read in public on the date and in the place named
30 in the notice and after being opened shall be filed for public
31 inspection.

32 (2) Every purchase of furniture, equipment or supplies, except
33 books, the cost of which is estimated to be in excess of seventy-five
34 hundred dollars, shall be on a competitive basis. (~~(The board of~~
35 ~~directors shall establish a procedure for securing telephone and/or~~
36 ~~written quotations for such purchases.)~~) Whenever the estimated cost
37 is from seventy-five hundred dollars up to twenty thousand dollars, the
38 (~~(procedure shall require quotations from at least three different~~

1 ~~sources to be obtained in writing or by telephone, and recorded for~~
2 ~~public perusal)) board may by resolution use the uniform process~~
3 ~~provided in RCW 39.04.190 to award contracts.~~ Whenever the estimated
4 cost is in excess of twenty thousand dollars, the public bidding
5 process provided in subsection (1) of this section shall be followed.

6 (3) Every building, improvement, repair or other public works
7 project, the cost of which is estimated to be in excess of seventy-five
8 hundred dollars, shall be ~~((on))~~ awarded by a competitive bid process.
9 ~~((All such projects))~~ The board may use the small works roster process
10 provided in RCW 39.04.155 to award contracts for public works with an
11 ~~estimated ((to be))~~ value of less than twenty thousand dollars ~~((may be~~
12 ~~awarded to a contractor on the small works roster. The small works~~
13 ~~roster shall be comprised of all responsible contractors who have~~
14 ~~requested to be on the list. The board of directors shall establish a~~
15 ~~procedure for securing telephone and/or written quotations from the~~
16 ~~contractors on the small works roster to assure establishment of a~~
17 ~~competitive price and for awarding contracts to the lowest responsible~~
18 ~~bidder. Such procedure shall require that a good faith effort be made~~
19 ~~to request quotations from all contractors on the small works roster~~
20 ~~who have indicated the capability of performing the kind of public~~
21 ~~works being contracted. Immediately after an award is made, the bid~~
22 ~~quotations obtained shall be recorded, open to public inspection, and~~
23 ~~available by telephone inquiry. The small works roster shall be~~
24 ~~revised at least once each year by publishing notice of such~~
25 ~~opportunity in at least one newspaper of general circulation in the~~
26 ~~district. Responsible contractors shall be added to the list at any~~
27 ~~time they submit a written request)).~~ Whenever the estimated cost of
28 a public works project is twenty thousand dollars or more, the public
29 bidding process provided in subsection (1) of this section shall be
30 followed.

31 (4) The contract for the work or purchase shall be awarded to the
32 lowest responsible bidder as defined in RCW 43.19.1911 but the board
33 may by resolution reject any and all bids and make further calls for
34 bids in the same manner as the original call. On any work or purchase
35 the board shall provide bidding information to any qualified bidder or
36 the bidder's agent, requesting it in person.

37 (5) ~~((In the event of any emergency when the public interest or~~
38 ~~property of the district would suffer material injury or damage by~~
39 ~~delay, upon resolution of the board declaring the existence of such an~~

1 ~~emergency and reciting the facts constituting the same, the board may~~
2 ~~waive the requirements of this section with reference to any purchase~~
3 ~~or contract: PROVIDED, That an "emergency", for the purposes of this~~
4 ~~section, means a condition likely to result in immediate physical~~
5 ~~injury to persons or to property of the school district in the absence~~
6 ~~of prompt remedial action.)) The board may waive the requirements of~~
7 ~~this section pursuant to section 1 of this act if an exemption~~
8 ~~contained within that section applies to the work or contract.~~

9 **Sec. 3.** RCW 35.22.620 and 1993 c 198 s 9 are each amended to read
10 as follows:

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

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

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

35 Whenever a first class city has had public works performed in any
36 budget period up to the maximum permitted amount for that budget
37 period, all remaining public works within that budget period shall be

1 done by contract pursuant to public notice and call for competitive
2 bids.

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

7 (3) In addition to the percentage limitation provided in subsection
8 (2) of this section, a first class city with a population in excess of
9 one hundred fifty thousand shall not have public employees perform a
10 public works project in excess of fifty thousand dollars if more than
11 a single craft or trade is involved with the public works project, or
12 a public works project in excess of twenty-five thousand dollars if
13 only a single craft or trade is involved with the public works project
14 or the public works project is street signalization or street lighting.
15 In addition to the percentage limitation provided in subsection (2) of
16 this section, a first class city with a population of one hundred fifty
17 thousand or less shall not have public employees perform a public works
18 project in excess of thirty-five thousand dollars if more than one
19 craft or trade is involved with the public works project, or a public
20 works project in excess of twenty thousand dollars if only a single
21 craft or trade is involved with the public works project or the public
22 works project is street signalization or street lighting. A public
23 works project means a complete project. The restrictions in this
24 subsection do not permit the division of the project into units of work
25 or classes of work to avoid the restriction on work that may be
26 performed by day labor on a single project.

27 (4) In addition to the accounting and record-keeping requirements
28 contained in RCW 39.04.070, every first class city annually shall
29 prepare a report for the state auditor indicating the total public
30 works construction budget and supplemental public works construction
31 budget for that year, the total construction costs of public works
32 performed by public employees for that year, and the amount of public
33 works that is performed by public employees above or below ten percent
34 of the total construction budget. However, if a city budgets on a
35 biennial basis, this annual report shall indicate the amount of public
36 works that is performed by public employees within the current biennial
37 period that is above or below ten percent of the total biennial
38 construction budget.

1 After September 1, 1987, each first class city with a population of
2 one hundred fifty thousand or less shall use the form required by RCW
3 43.09.205 to account and record costs of public works in excess of five
4 thousand dollars that are not let by contract.

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

9 ~~(6) ((When any emergency shall require the immediate execution of
10 such public work, upon the finding of the existence of such emergency
11 by the authority having power to direct such public work to be done and
12 duly entered of record, publication of description and estimate may be
13 made within seven days after the commencement of the work. Within two
14 weeks of the finding that such an emergency existed, the city council
15 shall adopt a resolution certifying the existence of this emergency
16 situation.))~~ The board may waive the requirements of this section
17 pursuant to section 1 of this act if an exemption contained within that
18 section applies to the work or contract.

19 (7) In lieu of the procedures of subsection~~((s))~~ (2) ~~((and (6)))~~ of
20 this section, a first class city may use ((a)) the small works roster
21 process ~~((and))~~ provided in RCW 39.04.155 to award contracts for public
22 works projects with an estimated value of one hundred thousand dollars
23 or less ~~((as provided in RCW 39.04.155))~~.

24 Whenever possible, the city shall invite at least one proposal from
25 a minority or woman contractor who shall otherwise qualify under this
26 section.

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

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

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

35 **Sec. 4.** RCW 35.23.352 and 1993 c 198 s 10 are each amended to read
36 as follows:

37 (1) Any second or third class city or any town may construct any
38 public works, as defined in RCW 39.04.010, by contract or day labor

1 without calling for bids therefor whenever the estimated cost of the
2 work or improvement, including cost of materials, supplies and
3 equipment will not exceed the sum of thirty thousand dollars if more
4 than one craft or trade is involved with the public works, or twenty
5 thousand dollars if a single craft or trade is involved with the public
6 works or the public works project is street signalization or street
7 lighting. A public works project means a complete project. The
8 restrictions in this subsection do not permit the division of the
9 project into units of work or classes of work to avoid the restriction
10 on work that may be performed by day labor on a single project.

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

30 When the contract is let then all bid proposal deposits shall be
31 returned to the bidders except that of the successful bidder which
32 shall be retained until a contract is entered into and a bond to
33 perform the work furnished, with surety satisfactory to the council or
34 commission, in accordance with RCW 39.08.030. If the bidder fails to
35 enter into the contract in accordance with his or her bid and furnish
36 a bond within ten days from the date at which he or she is notified
37 that he or she is the successful bidder, the check or postal money
38 order and the amount thereof shall be forfeited to the council or

1 commission or the council or commission shall recover the amount of the
2 surety bond.

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

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

10 (3) In lieu of the procedures of subsection (1) of this section, a
11 second or third class city or a town may use ((a)) the small works
12 roster process ((and)) provided in RCW 39.04.155 to award public works
13 contracts with an estimated value of one hundred thousand dollars or
14 less ((as provided in RCW 39.04.155)).

15 Whenever possible, the city or town shall invite at least one
16 proposal from a minority or woman contractor who shall otherwise
17 qualify under this section.

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

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

25 (6) Any purchase of supplies, material, or equipment ((~~or services~~
26 ~~other than professional services~~)), except for public work or
27 improvement, where the cost thereof exceeds seven thousand five hundred
28 dollars shall be made upon call for bids.

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

34 (8) For advertisement and formal sealed bidding to be dispensed
35 with as to purchases between seven thousand five hundred and fifteen
36 thousand dollars, the city legislative authority must authorize by
37 resolution, use of the uniform procedure provided in RCW 39.04.190.

38 (9) ((~~These requirements for purchasing may be waived by resolution~~
39 ~~of the city or town council which declared that the purchase is clearly~~

1 and legitimately limited to a single source or supply within the near
2 vicinity, or the materials, supplies, equipment, or services are
3 subject to special market conditions, and recites why this situation
4 exists. ~~Such actions are subject to RCW 39.30.020.)~~) The city or town
5 council may waive the requirements of this section pursuant to section
6 1 of this act if an exemption contained within that section applies to
7 the work or contract.

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

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

15 **Sec. 5.** RCW 36.32.270 and 1963 c 4 s 36.32.270 are each amended to
16 read as follows:

17 (~~In the event of an emergency when the public interest or property~~
18 ~~of the county would suffer material injury or damage by delay, upon~~
19 ~~resolution of the board of county commissioners declaring the existence~~
20 ~~of such emergency and reciting the facts constituting the same, the~~
21 ~~board~~) The county legislative authority may waive the requirements of
22 this chapter with reference to any purchase or contract pursuant to
23 section 1 of this act if an exemption contained within that section
24 applies to the work or contract.

25 **Sec. 6.** RCW 52.14.110 and 1993 c 198 s 11 are each amended to read
26 as follows:

27 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. Formal
31 sealed bidding shall not be required for:

32 (1) (~~Emergency purchases if the sealed bidding procedure would~~
33 ~~prevent or hinder the emergency from being addressed appropriately.~~
34 ~~The term emergency means an occurrence that creates an immediate threat~~
35 ~~to life or property;~~

36 (2)) The purchase of any materials, supplies, or equipment if the
37 cost will not exceed the sum of four thousand five hundred dollars.

1 However, whenever the estimated cost is from four thousand five hundred
2 dollars up to ten thousand dollars, the commissioners may by resolution
3 use the process provided in RCW 39.04.190 to award contracts;

4 ~~((+3))~~ (2) Contracting for work to be done involving the
5 construction or improvement of a fire station or other buildings where
6 the estimated cost will not exceed the sum of two thousand five hundred
7 dollars, which includes the costs of labor, material, and equipment.
8 However, whenever the estimated cost is from two thousand five hundred
9 dollars up to ten thousand dollars, the commissioner may by resolution
10 use the small works roster process provided in RCW 39.04.155; and

11 ~~((4) Purchases which are clearly and legitimately limited to a~~
12 ~~single source of supply, or services, in which instances the purchase~~
13 ~~price may be best established by direct negotiation: PROVIDED, That~~
14 ~~this subsection shall not apply to purchases or contracts relating to~~
15 ~~public works as defined in chapter 39.04 RCW; and~~

16 ~~(5) Purchases of insurance and bonds))~~ (3) Any purchase or contract
17 for work if an exemption contained within section 1 of this act applies
18 to the work or contract.

19 **Sec. 7.** RCW 53.08.120 and 1993 c 198 s 13 are each amended to read
20 as follows:

21 All material required by a port district may be procured in the
22 open market or by contract and all work ordered may be done by contract
23 or day labor. All such contracts for work, the estimated cost of which
24 exceeds one hundred thousand dollars, shall be let at public bidding
25 upon notice published in a newspaper of general circulation in the
26 district at least thirteen days before the last date upon which bids
27 will be received, calling for sealed bids upon the work, plans and
28 specifications for which shall then be on file in the office of the
29 commission for public inspection. The same notice may call for bids on
30 such work or material based upon plans and specifications submitted by
31 the bidder. The requirements of this section may be waived pursuant to
32 section 1 of this act if an exemption contained within that section
33 applies to the work or contract.

34 Each port district shall maintain a small works roster, as provided
35 in RCW 39.04.155, and may use the small works roster process to award
36 contracts in lieu of calling for sealed bids whenever work is done by
37 contract, the estimated cost of which is one hundred thousand dollars
38 or less. Whenever possible, the managing official shall invite at

1 least one proposal from a minority contractor who shall otherwise
2 qualify under this section.

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

9 **Sec. 8.** RCW 54.04.070 and 1993 c 198 s 14 are each amended to read
10 as follows:

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

1 same notice, invite tenders for the work or materials upon plans and
2 specifications to be submitted by the bidders.

3 Notwithstanding any other provisions herein, all contract projects,
4 the estimated cost of which is less than one hundred thousand dollars,
5 may be awarded to a contractor using the small works roster process
6 provided in RCW 39.04.155. All contract projects equal to or in excess
7 of one hundred thousand dollars shall be let by competitive bidding.

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

23 ~~After determination by the commission during a public meeting that
24 a particular purchase is available clearly and legitimately only from
25 a single source of supply, the bidding requirements of this section may
26 be waived by the commission.))~~

27 The commission may waive the requirements of this section pursuant
28 to section 1 of this act if an exemption contained within that section
29 applies to the work or contract.

30 **Sec. 9.** RCW 56.08.070 and 1993 c 198 s 16 and 1993 c 45 s 4 are
31 each reenacted and amended to read as follows:

32 (1) All materials purchased and work ordered, the estimated cost of
33 which is in excess of five thousand dollars shall be let by contract.
34 All contract projects, the estimated cost of which is less than fifty
35 thousand dollars, may be awarded to a contractor using the small works
36 roster process provided in RCW 39.04.155 or the process provided in RCW
37 39.04.190 for purchases. The board of sewer commissioners may set up
38 uniform procedures to prequalify contractors for inclusion on the small

1 works roster. All contract projects equal to or in excess of fifty
2 thousand dollars shall be let by competitive bidding. Before awarding
3 any competitive contract the board of sewer commissioners shall publish
4 a notice in a newspaper of general circulation where the district is
5 located at least once, thirteen days before the last date upon which
6 bids will be received, inviting sealed proposals for such work, plans
7 and specifications which must at the time of publication of such notice
8 be on file in the office of the board of sewer commissioners subject to
9 public inspection. Such notice shall state generally the work to be
10 done and shall call for proposals for doing the same to be sealed and
11 filed with the board of sewer commissioners on or before the day and
12 hour named therein.

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

36 (3) (~~In the event of an emergency when the public interest or~~
37 ~~property of the sewer district would suffer material injury or damage~~
38 ~~by delay, upon resolution of the board of sewer commissioners, or~~
39 ~~proclamation of an official designated by the board to act for the~~

1 board during such emergencies, declaring the existence of such
2 emergency and reciting the facts constituting the same, the board, or
3 the official acting for the board, may waive the requirements of this
4 chapter with reference to any purchase or contract. In addition, these
5 requirements may be waived for purchases which are clearly and
6 legitimately limited to a single source of supply and purchases
7 involving special facilities, services, or market conditions, in which
8 instances the purchase price may be best established by direct
9 negotiation.)) The board may waive the requirements of this section
10 pursuant to section 1 of this act if an exemption contained within that
11 section applies to the work or contract.

12 **Sec. 10.** RCW 57.08.050 and 1993 c 198 s 21 and 1993 c 45 s 8 are
13 each reenacted and amended to read as follows:

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

17 (2) All materials purchased and work ordered, the estimated cost of
18 which is in excess of five thousand dollars shall be let by contract.
19 All contract projects, the estimated cost of which is less than fifty
20 thousand dollars, may be awarded to a contractor using a small works
21 roster process provided in RCW 39.04.155 or the process provided in RCW
22 39.04.190 for purchases. The board of water commissioners may set up
23 uniform procedures to prequalify contractors for inclusion on the small
24 works roster. All contract projects equal to or in excess of fifty
25 thousand dollars shall be let by competitive bidding. Before awarding
26 any such contract the board of water commissioners shall publish a
27 notice in a newspaper of general circulation where the district is
28 located at least once thirteen days before the last date upon which
29 bids will be received, inviting sealed proposals for such work, plans
30 and specifications which must at the time of publication of such notice
31 be on file in the office of the board of water commissioners subject to
32 public inspection. Such notice shall state generally the work to be
33 done and shall call for proposals for doing the same to be sealed and
34 filed with the board of water commissioners on or before the day and
35 hour named therein.

36 (3) Each bid shall be accompanied by a certified or cashier's check
37 or postal money order payable to the order of the county treasurer for
38 a sum not less than five percent of the amount of the bid, or

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

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

1 ~~requirements may be waived for purchases which are clearly and~~
2 ~~legitimately limited to a single source of supply and purchases~~
3 ~~involving special facilities, services, or market conditions, in which~~
4 ~~instances the purchase price may be best established by direct~~
5 ~~negotiation.)) The board may waive the requirements of this section~~
6 ~~pursuant to section 1 of this act if an exemption contained within that~~
7 ~~section applies to the work or contract.~~

8 **Sec. 11.** RCW 70.44.140 and 1993 c 198 s 22 are each amended to
9 read as follows:

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

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

11 (2) In lieu of the procedures of subsection (1) of this section, a
12 public hospital district may use ((a)) the small works roster process
13 ((and)) provided in RCW 39.04.155 to award public works contracts for
14 projects in excess of five thousand dollars up to fifty thousand
15 dollars ((as provided in RCW 39.04.155)).

16 (3) For advertisement and formal sealed bidding to be dispensed
17 with as to purchases between five thousand and fifteen thousand
18 dollars, the commission must authorize by resolution a procedure as
19 provided in RCW 39.04.190.

20 (4) The commission may waive the requirements of this section
21 pursuant to section 1 of this act if an exemption contained within that
22 section applies to the work or contract."

23 **SHB 2321** - S COMM AMD
24 By Committee on Government Operations

25

26 On page 1, line 1 of the title, after "procedures;" strike the
27 remainder of the title and insert "amending RCW 28A.335.190, 35.22.620,
28 35.23.352, 36.32.270, 52.14.110, 53.08.120, 54.04.070, and 70.44.140;
29 reenacting and amending RCW 56.08.070 and 57.08.050; and adding a new
30 section to chapter 39.04 RCW."

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