

---

**SENATE BILL 5218**

---

**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senators McAuliffe, Prentice, Jesernig, A. Smith, Winsley, Vognild, Sutherland and Quigley

Read first time 01/18/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to public works contracts; amending RCW 28B.10.350,  
2 28B.10.355, 28B.50.330, 35.22.620, 35.23.352, 35.56.270, 35.82.075,  
3 36.32.250, 36.77.040, 39.04.015, 39.04.150, 39.04.155, 39.04.220,  
4 39.19.070, 43.19.1911, 47.28.090, 47.28.100, 47.28.170, 53.08.120,  
5 53.08.130, 54.04.070, 54.04.080, 56.08.070, 57.08.050, 70.44.140,  
6 72.01.120, 85.24.070, 86.09.178, 87.03.435, 87.03.436, 89.30.154, and  
7 91.08.530; and adding a new section to chapter 39.30 RCW.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 39.30 RCW  
10 to read as follows:

11 (1) A political entity, including the state, a city, county,  
12 municipality, or political subdivision, in determining the lowest  
13 responsible bidder for a public works contract, shall give  
14 consideration to, in addition to price:

15 (a) The quality of the contractor's past performance on contracts  
16 if the contractor has performed public works contracts of a similar  
17 nature with the political entity;

18 (b) The ability of the contractor to complete the contract within  
19 the prescribed schedule outlined in the contract specifications; and

1 (c) The compliance of the contractor with federal, state, and local  
2 laws pertaining to the contract.

3 (2) For the purposes of this section, "lowest responsible bidder"  
4 means a "lowest responsible bidder," "lowest and best bidder," "lowest  
5 quotation," or other phrase having a similar meaning.

6 **Sec. 2.** RCW 28B.10.350 and 1985 c 152 s 1 are each amended to read  
7 as follows:

8 (1) When the cost to The Evergreen State College, any regional  
9 university, or state university of any building, construction,  
10 renovation, remodeling, or demolition other than maintenance or repairs  
11 will equal or exceed the sum of twenty-five thousand dollars, complete  
12 plans and specifications for such work shall be prepared and such work  
13 shall be put out for public bids and the contract shall be awarded to  
14 the lowest responsible bidder if in accordance with the bid  
15 specifications: PROVIDED, That when the estimated cost of such  
16 building, construction, renovation, remodeling, or demolition equals or  
17 exceeds the sum of twenty-five thousand dollars, such project shall be  
18 deemed a public works and "the prevailing rate of wage," under chapter  
19 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when  
20 such building, construction, renovation, remodeling, or demolition  
21 involves one trade or craft area and the estimated cost exceeds ten  
22 thousand dollars, complete plans and specifications for such work shall  
23 be prepared and such work shall be put out for public bids, and the  
24 contract shall be awarded to the lowest responsible bidder if in  
25 accordance with the bid specifications. Section 1 of this act applies  
26 to this subsection. This subsection shall not apply when a contract is  
27 awarded by the small works procedure authorized in RCW 28B.10.355.

28 (2) The Evergreen State College, any regional university, or state  
29 university may require a project to be put to public bid even when it  
30 is not required to do so under subsection (1) of this section.

31 (3) Where the estimated cost to The Evergreen State College, any  
32 regional university, or state university of any building,  
33 construction, renovation, remodeling, or demolition is less than  
34 twenty-five thousand dollars or the contract is awarded by the small  
35 works procedure authorized in RCW 28B.10.355, the publication  
36 requirements of RCW 39.04.020 ((and 39.04.090)) shall be inapplicable.

37 (4) In the event of any emergency when the public interest or  
38 property of The Evergreen State College, regional university, or state

1 university would suffer material injury or damage by delay, the  
2 president of such college or university may declare the existence of  
3 such an emergency and reciting the facts constituting the same may  
4 waive the requirements of this section with reference to any contract  
5 in order to correct the condition causing the emergency: PROVIDED,  
6 That an "emergency," for the purposes of this section, means a  
7 condition likely to result in immediate physical injury to persons or  
8 to property of such college or university in the absence of prompt  
9 remedial action or a condition which immediately impairs the  
10 institution's ability to perform its educational obligations.

11 **Sec. 3.** RCW 28B.10.355 and 1985 c 152 s 2 are each amended to read  
12 as follows:

13 Each board of regents of the state universities and each board of  
14 trustees of the regional universities and The Evergreen State College  
15 may establish a small works roster. The small works roster authorized  
16 by this section may be used for any public works project for which the  
17 estimated cost is less than fifty thousand dollars. Each board shall  
18 adopt rules to implement this section.

19 The roster shall be composed of all responsible contractors who  
20 have requested to be on the list. Each board shall establish a  
21 procedure for securing telephone or written quotations from the  
22 contractors on the small works roster to assure establishment of a  
23 competitive price and for awarding contracts to the lowest responsible  
24 bidder. This procedure shall require either that a good faith effort  
25 be made to request quotations from all contractors on the small works  
26 roster who have indicated the capability of performing the kind of  
27 public works being contracted or that the board shall solicit  
28 quotations from at least five contractors in a manner that will  
29 equitably distribute the opportunity among contractors on the roster.  
30 Section 1 of this act applies to this section. Immediately after an  
31 award is made, the bid quotations obtained shall be recorded, open to  
32 public inspection and available by telephone inquiry. Each board may  
33 adopt a procedure to prequalify contractors for inclusion on the small  
34 works roster. No board may be required to make available for public  
35 inspection or copying under chapter 42.17 RCW financial information  
36 required to be provided by the prequalification procedure.

37 The small works roster shall be revised at least once each year by  
38 publishing notice of such opportunity in at least one newspaper of

1 general circulation in the state. Responsible contractors shall be  
2 added to the list at any time they submit a written request.

3 **Sec. 4.** RCW 28B.50.330 and 1991 c 238 s 48 are each amended to  
4 read as follows:

5 The boards of trustees of college districts are empowered in  
6 accordance with the provisions of this chapter to provide for the  
7 construction, reconstruction, erection, equipping, demolition, and  
8 major alterations of buildings and other capital assets, and the  
9 acquisition of sites, rights-of-way, easements, improvements, or  
10 appurtenances for the use of the aforementioned colleges as authorized  
11 by the college board in accordance with RCW 28B.50.140; to be financed  
12 by bonds payable out of special funds from revenues hereafter derived  
13 from income received from such facilities, gifts, bequests, or grants,  
14 and such additional funds as the legislature may provide, and payable  
15 out of a bond retirement fund to be established by the respective  
16 district boards in accordance with rules and regulations of the state  
17 board. With respect to building, improvements, or repairs, or other  
18 work, where the estimated cost exceeds fifteen thousand dollars,  
19 complete plans and specifications for such work shall be prepared and  
20 such work shall be prepared and such work shall be put out for public  
21 bids and the contract shall be awarded to the lowest responsible bidder  
22 if in accordance with the bid specifications(~~(:—PROVIDED, That)~~).  
23 Section 1 of this act applies to this section. Any project regardless  
24 of dollar amount may be put to public bid.

25 Where the estimated cost to any college of any building,  
26 improvements, or repairs, or other work, is less than five thousand  
27 dollars, the publication requirements of RCW 39.04.020 and 39.04.070  
28 shall be inapplicable.

29 **Sec. 5.** RCW 35.22.620 and 1989 c 431 s 59 are each amended to read  
30 as follows:

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

33 (2) A first class city may have public works performed by contract  
34 pursuant to public notice and call for competitive bids. As limited by  
35 subsection (3) of this section, a first class city may have public  
36 works performed by city employees in any annual or biennial budget  
37 period equal to a dollar value not exceeding ten percent of the public

1 works construction budget, including any amount in a supplemental  
2 public works construction budget, over the budget period. The amount  
3 of public works that a first class city has a county perform for it  
4 under RCW 35.77.020 shall be included within this ten percent  
5 limitation.

6 If a first class city has public works performed by public  
7 employees in any budget period that are in excess of this ten percent  
8 limitation, the amount in excess of the permitted amount shall be  
9 reduced from the otherwise permitted amount of public works that may be  
10 performed by public employees for that city in its next budget period.  
11 Twenty percent of the motor vehicle fuel tax distributions to that city  
12 shall be withheld if two years after the year in which the excess  
13 amount of work occurred, the city has failed to so reduce the amount of  
14 public works that it has performed by public employees. The amount so  
15 withheld shall be distributed to the city when it has demonstrated in  
16 its reports to the state auditor that the amount of public works it has  
17 performed by public employees has been so reduced.

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

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

27 (3) In addition to the percentage limitation provided in subsection  
28 (2) of this section, a first class city with a population in excess of  
29 one hundred fifty thousand shall not have public employees perform a  
30 public works project in excess of fifty thousand dollars if more than  
31 a single craft or trade is involved with the public works project, or  
32 a public works project in excess of twenty-five thousand dollars if  
33 only a single craft or trade is involved with the public works project  
34 or the public works project is street signalization or street lighting.  
35 In addition to the percentage limitation provided in subsection (2) of  
36 this section, a first class city with a population of one hundred fifty  
37 thousand or less shall not have public employees perform a public works  
38 project in excess of thirty-five thousand dollars if more than one  
39 craft or trade is involved with the public works project, or a public

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

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

20 After September 1, 1987, each first class city with a population of  
21 one hundred fifty thousand or less shall use the form required by RCW  
22 43.09.205 to account and record costs of public works in excess of five  
23 thousand dollars that are not let by contract.

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

28 (6) When any emergency shall require the immediate execution of  
29 such public work, upon the finding of the existence of such emergency  
30 by the authority having power to direct such public work to be done and  
31 duly entered of record, publication of description and estimate may be  
32 made within seven days after the commencement of the work. Within two  
33 weeks of the finding that such an emergency existed, the city council  
34 shall adopt a resolution certifying the existence of this emergency  
35 situation.

36 (7) In lieu of the procedures of subsections (2) and (6) of this  
37 section, a first class city may use a small works roster and award  
38 contracts under this subsection for contracts of one hundred thousand  
39 dollars or less.

1 (a) The city may maintain a small works roster comprised of all  
2 contractors who have requested to be on the roster and are, where  
3 required by law, properly licensed or registered to perform such work  
4 in this state.

5 (b) Whenever work is done by contract, the estimated cost of which  
6 is one hundred thousand dollars or less, and the city uses the small  
7 works roster, the city shall invite proposals from all appropriate  
8 contractors on the small works roster: PROVIDED, That not less than  
9 five separate appropriate contractors, if available, shall be invited  
10 to submit bids on any one contract: PROVIDED FURTHER, That whenever  
11 possible, the city shall invite at least one proposal from a minority  
12 or woman contractor who shall otherwise qualify under this section.  
13 Once a bidder on the small works roster has been offered an opportunity  
14 to bid, that bidder shall not be offered another opportunity until all  
15 other appropriate contractors on the small works roster have been  
16 afforded an opportunity to submit a bid. Invitations shall include an  
17 estimate of the scope and nature of the work to be performed, and  
18 materials and equipment to be furnished.

19 (c) When awarding such a contract for work, the estimated cost of  
20 which is one hundred thousand dollars or less, the city shall award the  
21 contract to the contractor submitting the lowest responsible bid.  
22 Section 1 of this act applies to this subsection.

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

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

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

31 **Sec. 6.** RCW 35.23.352 and 1989 c 431 s 56 are each amended to read  
32 as follows:

33 (1) Any second or third class city or any town may construct any  
34 public works, as defined in RCW 39.04.010, by contract or day labor  
35 without calling for bids therefor whenever the estimated cost of the  
36 work or improvement, including cost of materials, supplies and  
37 equipment will not exceed the sum of thirty thousand dollars if more  
38 than one craft or trade is involved with the public works, or twenty

1 thousand dollars if a single craft or trade is involved with the public  
2 works or the public works project is street signalization or street  
3 lighting. A public works project means a complete project. The  
4 restrictions in this subsection do not permit the division of the  
5 project into units of work or classes of work to avoid the restriction  
6 on work that may be performed by day labor on a single project.

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

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

37 If no bid is received on the first call the council or commission  
38 may readvertise and make a second call, or may enter into a contract



1 without any further call or may purchase the supplies, material or  
2 equipment and perform the work or improvement by day labor.

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

6 (3) In lieu of the procedures of subsection (1) of this section, a  
7 second or third class city or a town may use a small works roster and  
8 award contracts under this subsection for contracts of one hundred  
9 thousand dollars or less.

10 (a) The city or town may maintain a small works roster comprised of  
11 all contractors who have requested to be on the roster and are, where  
12 required by law, properly licensed or registered to perform such work  
13 in this state.

14 (b) Whenever work is done by contract, the estimated cost of which  
15 is one hundred thousand dollars or less, and the city uses the small  
16 works roster, the city or town shall invite proposals from all  
17 appropriate contractors on the small works roster: PROVIDED, That  
18 whenever possible, the city or town shall invite at least one proposal  
19 from a minority or woman contractor who shall otherwise qualify under  
20 this section. The invitation shall include an estimate of the scope  
21 and nature of the work to be performed, and materials and equipment to  
22 be furnished.

23 (c) When awarding such a contract for work, the estimated cost of  
24 which is one hundred thousand dollars or less, the city or town shall  
25 award the contract to the contractor submitting the lowest responsible  
26 bid.

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

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

34 (6) Any purchase of supplies, material, equipment or services other  
35 than professional services, except for public work or improvement,  
36 where the cost thereof exceeds seven thousand five hundred dollars  
37 shall be made upon call for bids: PROVIDED, That the limitations  
38 herein shall not apply to any purchases of materials at auctions

1 conducted by the government of the United States, any agency thereof or  
2 by the state of Washington or a political subdivision thereof.

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

8 (8) For advertisement and competitive bidding to be dispensed with  
9 as to purchases between seven thousand five hundred and fifteen  
10 thousand dollars, the city legislative authority must authorize by  
11 resolution a procedure for securing telephone and/or written quotations  
12 from enough vendors to assure establishment of a competitive price and  
13 for awarding the contracts for purchase of materials, equipment, or  
14 services to the lowest responsible bidder. Immediately after the award  
15 is made, the bid quotations obtained shall be recorded and open to  
16 public inspection and shall be available by telephone inquiry.

17 (9) For determining the lowest responsible bidder under this  
18 section, section 1 of this act applies.

19 (10) These requirements for purchasing may be waived by resolution  
20 of the city or town council which declared that the purchase is clearly  
21 and legitimately limited to a single source or supply within the near  
22 vicinity, or the materials, supplies, equipment, or services are  
23 subject to special market conditions, and recites why this situation  
24 exists. Such actions are subject to RCW 39.30.020.

25 (~~(10)~~) (11) This section does not apply to performance-based  
26 contracts, as defined in RCW 39.35A.020(3), that are negotiated under  
27 chapter 39.35A RCW.

28 (~~(11)~~) (12) Nothing in this section shall prohibit any second or  
29 third class city or any town from allowing for preferential purchase of  
30 products made from recycled materials or products that may be recycled  
31 or reused.

32 **Sec. 7.** RCW 35.56.270 and 1965 c 7 s 35.56.270 are each amended to  
33 read as follows:

34 When a city undertakes any improvement authorized by this chapter  
35 and the expenditures required exceed the sum of five hundred dollars,  
36 it shall be done by contract and shall be let to the lowest responsible  
37 bidder, after due notice, under such regulation as may be prescribed by  
38 ordinance: PROVIDED, That the city council or commission may reject

1 all bids presented and readvertise, or, if in the judgment of the city  
2 council or commission the work can be performed, or supplies or  
3 materials furnished by the city independent of contract, cheaper than  
4 under the bid submitted, it may after having so advertised and examined  
5 the bids, cause the work to be performed or supplies or materials to be  
6 furnished independent of contract. Section 1 of this act applies to  
7 this section. This section shall be construed as a concurrent and  
8 cumulative power conferred on cities and shall not be construed as in  
9 any wise repealing or affecting any law now in force relating to the  
10 performing, execution and construction of public works.

11 **Sec. 8.** RCW 35.82.075 and 1989 c 363 s 6 are each amended to read  
12 as follows:

13 (1) In addition to any other powers authorized in RCW 35.82.070, an  
14 authority may establish a small works roster consisting of all  
15 qualified contractors who have requested to be included on the roster  
16 and are, where required by law, properly licensed or registered to  
17 perform such work in the state of Washington.

18 (2) The small works roster may make distinctions between  
19 contractors based on the nature of the work the contractor is qualified  
20 to perform. At least once every year, the authority shall advertise in  
21 a newspaper of general circulation, in the authority's area of  
22 operation, the existence of the small works roster and shall add to the  
23 roster those contractors who request to be included on the roster.

24 (3) The commissioners of the authority shall establish uniform  
25 procedures to prequalify contractors for inclusion on the small works  
26 roster and a procedure for securing telephone or written quotations  
27 from contractors on the small works roster to assure establishment of  
28 a competitive price and for awarding contracts to the lowest  
29 responsible bidder. Section 1 of this act applies to this subsection.

30 (4) Construction, repair, or alteration projects estimated to cost  
31 less than forty thousand dollars are exempt from the requirement that  
32 contracts be awarded after advertisement and competitive bid as defined  
33 in RCW 39.04.010. In lieu of advertisement and competitive bid, the  
34 authority shall solicit at least five quotations, confirmed in writing,  
35 from contractors in a manner that will equitably distribute  
36 opportunities among contractors on the small works roster for the  
37 category of job type involved. Whenever possible, the authority shall  
38 invite at least one proposal from a minority or woman contractor, or

1 from a contractor that employs, or commits to employ, residents of  
2 housing owned or managed by the authority, who shall otherwise qualify  
3 under this section. Such solicitations shall include an estimate of  
4 the scope and nature of the work to be performed, and materials and  
5 equipment to be furnished.

6 (5) Immediately after an award is made, the bid quotations obtained  
7 shall be recorded, open to public inspection, and available by  
8 telephone request.

9 (6) The breaking-down of any public work or improvement into units,  
10 or accomplishing any public work or improvement by phases, for the  
11 purpose of avoiding the minimum dollar amount for bidding, is contrary  
12 to public policy and is prohibited.

13 (7) No authority under chapter 42.17 RCW shall be required to make  
14 financial information required to be provided by the prequalification  
15 procedure for inclusion on the small works roster available for public  
16 inspection or copying.

17 **Sec. 9.** RCW 36.32.250 and 1991 c 363 s 58 are each amended to read  
18 as follows:

19 No contract for public works may be entered into by the county  
20 legislative authority or by any elected or appointed officer of the  
21 county until after bids have been submitted to the county upon  
22 specifications therefor. Such specifications shall be in writing and  
23 shall be filed with the clerk of the county legislative authority for  
24 public inspection. An advertisement shall be published in the county  
25 official newspaper stating the time and place where bids will be  
26 opened, the time after which bids will not be received, the character  
27 of the work to be done, the materials and equipment to be furnished,  
28 and that specifications therefor may be seen at the office of the clerk  
29 of the county legislative authority. An advertisement shall also be  
30 published in a legal newspaper of general circulation in or as near as  
31 possible to that part of the county in which such work is to be done.  
32 If the county official newspaper is a newspaper of general circulation  
33 covering at least forty percent of the residences in that part of the  
34 county in which such public works are to be done, then the publication  
35 of an advertisement of the applicable specifications in the county  
36 official newspaper shall be sufficient. Such advertisements shall be  
37 published at least once at least ten days prior to the last date upon  
38 which bids will be received. The bids shall be in writing, shall be

1 filed with the clerk, shall be opened and read in public at the time  
2 and place named therefor in the advertisements, and after being opened,  
3 shall be filed for public inspection. No bid may be considered for  
4 public work unless it is accompanied by a bid deposit in the form of a  
5 surety bond, postal money order, cash, cashier's check, or certified  
6 check in an amount equal to five percent of the amount of the bid  
7 proposed. The contract for the public work shall be awarded to the  
8 lowest responsible bidder. Section 1 of this act applies to this  
9 section.

10 Any or all bids may be rejected for good cause. The county  
11 legislative authority shall require from the successful bidder for such  
12 public work a contractor's bond in the amount and with the conditions  
13 imposed by law. If the bidder to whom the contract is awarded fails to  
14 enter into the contract and furnish the contractor's bond as required  
15 within ten days after notice of the award, exclusive of the day of  
16 notice, the amount of the bid deposit shall be forfeited to the county  
17 and the contract awarded to the next lowest and best bidder. The bid  
18 deposit of all unsuccessful bidders shall be returned after the  
19 contract is awarded and the required contractor's bond given by the  
20 successful bidder is accepted by the county legislative authority. In  
21 the letting of any contract involving less than ten thousand dollars,  
22 advertisement and competitive bidding may be dispensed with on order of  
23 the county legislative authority. Immediately after the award is made,  
24 the bid quotations obtained shall be recorded and open to public  
25 inspection and shall be available by telephone inquiry.

26 For advertisement and competitive bidding to be dispensed with as  
27 to public works projects with an estimated value of one hundred  
28 thousand dollars or less, a county must use a small works roster  
29 process as provided in RCW 39.04.155.

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

33 **Sec. 10.** RCW 36.77.040 and 1963 c 4 s 36.77.040 are each amended  
34 to read as follows:

35 The board shall proceed to award the contract to the lowest and  
36 best bidder but may reject any or all bids if in its opinion good cause  
37 exists therefor. Section 1 of this act applies to this section. The  
38 board shall require from the successful bidder a contractor's bond in

1 the amount and with the conditions imposed by law. Should the bidder  
2 to whom the contract is awarded fail to enter into the contract and  
3 furnish the contractor's bond as required within ten days after notice  
4 of the award, exclusive of the day of notice, the amount of the bid  
5 deposit shall be forfeited to the county and placed in the county road  
6 fund and the contract awarded to the next lowest and best bidder. The  
7 bid deposit of all unsuccessful bidders shall be returned after the  
8 contract is awarded and the required contractor's bond given by the  
9 successful bidder is accepted by the board.

10 **Sec. 11.** RCW 39.04.015 and 1989 c 59 s 1 are each amended to read  
11 as follows:

12 Notwithstanding the provisions of RCW 39.04.010, a state  
13 contracting authority is authorized to negotiate an adjustment to a bid  
14 price, based upon agreed changes to the contract plans and  
15 specifications, with a low responsive and responsible bidder under the  
16 following conditions:

17 (1) All bids for a state public works project involving buildings  
18 and any associated building utilities and appendants exceed the  
19 available funds, as certified by the appropriate fiscal officer;

20 (2) The (~~apparent low responsive~~) bid does not exceed the  
21 available funds by: (a) Five percent on projects valued under one  
22 million dollars; (b) the greater of fifty thousand dollars or two and  
23 one-half percent for projects valued between one million dollars and  
24 five million dollars; or (c) the greater of one hundred twenty-five  
25 thousand dollars or one percent for projects valued over five million  
26 dollars; (~~and~~)

27 (3) The negotiated adjustment will bring the bid price within the  
28 amount of available funds; and

29 (4) Section 1 of this act applies to this section.

30 **Sec. 12.** RCW 39.04.150 and 1988 c 36 s 12 are each amended to read  
31 as follows:

32 (1) As used in this section, "agency" means the department of  
33 general administration, the department of fisheries, the department of  
34 wildlife, and the state parks and recreation commission.

35 (2) In addition to any other power or authority that an agency may  
36 have, each agency, alone or in concert, may establish a small works

1 roster consisting of all qualified contractors who have requested to be  
2 included on the roster.

3 (3) The small works roster may make distinctions between  
4 contractors based on the geographic areas served and the nature of the  
5 work the contractor is qualified to perform. At least once every year,  
6 the agency shall advertise in a newspaper of general circulation the  
7 existence of the small works roster and shall add to the roster those  
8 contractors who request to be included on the roster.

9 (4) Construction, repair, or alteration projects estimated to cost  
10 less than fifty thousand dollars are exempt from the requirement that  
11 the contracts be awarded after advertisement and competitive bid as  
12 defined by RCW 39.04.010. In lieu of advertisement and competitive  
13 bid, the agency shall solicit at least five quotations, confirmed in  
14 writing, from contractors chosen by random number generated by computer  
15 from the contractors on the small works roster for the category of job  
16 type involved and shall award the work to the party with the lowest  
17 quotation or reject all quotations. Section 1 of this act applies to  
18 this subsection. If the agency is unable to solicit quotations from  
19 five qualified contractors on the small works roster for a particular  
20 project, then the project shall be advertised and competitively bid.  
21 The agency shall solicit quotations randomly from contractors on the  
22 small works roster in a manner which will equitably distribute the  
23 opportunity for these contracts among contractors on the roster:  
24 PROVIDED, That whenever possible, the agency shall invite at least one  
25 proposal from a minority contractor who shall otherwise qualify to  
26 perform such work. Immediately after an award is made, the bid  
27 quotations obtained shall be recorded, open to public inspection, and  
28 available by telephone request.

29 (5) The breaking down of any public work or improvement into units  
30 or accomplishing any public work or improvement by phases for the  
31 purpose of avoiding the minimum dollar amount for bidding is contrary  
32 to public policy and is prohibited.

33 (6) The director of general administration shall adopt by rule a  
34 procedure to prequalify contractors for inclusion on the small works  
35 roster. Each agency shall follow the procedure adopted by the director  
36 of general administration. No agency shall be required to make  
37 available for public inspection or copying under chapter 42.17 RCW  
38 financial information required to be provided by the prequalification  
39 procedure.

1 (7) An agency may adopt by rule procedures to implement this  
2 section which shall not be inconsistent with the procedures adopted by  
3 the director of the department of general administration pursuant to  
4 subsection (6) of this section.

5 **Sec. 13.** RCW 39.04.155 and 1991 c 363 s 109 are each amended to  
6 read as follows:

7 (1) This section provides a uniform process to award contracts for  
8 public works projects by those counties that are authorized to use a  
9 small works roster in lieu of the requirements for formal sealed  
10 bidding. The state statutes governing counties shall establish the  
11 maximum dollar thresholds of the contracts that can be awarded under  
12 this process, and may include other matters concerning the small works  
13 roster process, for the county.

14 (2) Counties may create a single general small works roster, or may  
15 create a small works roster for different categories of anticipated  
16 work. The small works roster or rosters shall consist of all  
17 responsible contractors who have requested to be on the list, and where  
18 required by law are properly licensed or registered to perform such  
19 work in this state. At least once a year, the county shall publish in  
20 a newspaper of general circulation within the jurisdiction a notice of  
21 the existence of the roster or rosters and solicit the names of  
22 contractors for such roster or rosters.

23 The governing body of the county shall establish a procedure for  
24 securing telephone or written quotations from the contractors on the  
25 general small works roster, or a specific small works roster for the  
26 appropriate category of work, to assure that a competitive price is  
27 established and to award contracts to the lowest responsible bidder(~~(~~  
28 ~~as defined in RCW 43.19.1911)~~). Section 1 of this act applies to this  
29 section. Such invitations for quotations shall include an estimate of  
30 the scope and nature of the work to be performed as well as materials  
31 and equipment to be furnished. Whenever possible at least five  
32 contractors shall be invited to submit bids. Once a contractor has  
33 been afforded an opportunity to submit a proposal, that contractor  
34 shall not be offered another opportunity until all other appropriate  
35 contractors on the small works roster have been afforded an opportunity  
36 to submit a proposal on a contract.

37 A contract awarded from a small works roster under this section  
38 need not be advertised.



1 Immediately after an award is made, the bid quotations obtained  
2 shall be recorded, open to public inspection, and available by  
3 telephone inquiry.

4 **Sec. 14.** RCW 39.04.220 and 1991 c 130 s 2 are each amended to read  
5 as follows:

6 (1) In addition to currently authorized methods of public works  
7 contracting, and in lieu of the requirements of RCW 39.04.010 and  
8 39.04.020 through 39.04.060, capital projects funded for over ten  
9 million dollars appropriated and authorized by the legislature for the  
10 department of corrections in the 1989-91 biennium at the McNeil Island  
11 corrections center, the Clallam Bay corrections center, the  
12 construction of new correctional facilities under the authority of the  
13 secretary of corrections including drug camps; work camps; a new medium  
14 security prison and such other correctional facilities as may be  
15 authorized by the legislature during the biennium ending June 30, 1993,  
16 may be accomplished under contract using the general  
17 contractor/construction manager method described in this section. For  
18 the purposes of this section, "general contractor/construction manager"  
19 means a firm with which the department of general administration has  
20 selected and negotiated a maximum allowable construction cost to be  
21 guaranteed by the firm, after competitive selection through a formal  
22 advertisement, and competitive bids to provide services that may  
23 include life-cycle cost design considerations, value engineering,  
24 scheduling, cost estimating, constructability, alternative construction  
25 options for cost savings, and sequencing of work, and to act as the  
26 general contractor during the construction phase. Section 1 of this  
27 act applies to this subsection. The department of general  
28 administration shall establish an independent oversight advisory  
29 committee with representatives of interest groups with an interest in  
30 this subject area, the department of corrections, and the private  
31 sector, to review selection and contracting procedures. The general  
32 contractor/construction manager method is limited to contracts signed  
33 before July 1, 1996.

34 (2) Contracts for the services of a general contractor/construction  
35 manager awarded under the authority of this section shall be awarded  
36 through a competitive process requiring the public solicitation of  
37 proposals for general contractor/construction manager services.  
38 Minority and women enterprise total project goals shall be specified in

1 the bid instructions to the general contractor/construction manager  
2 finalists. The director of general administration is authorized to  
3 include an incentive clause in any contract awarded under this section  
4 for savings of either time or cost or both from that originally  
5 negotiated. No incentives granted shall exceed five percent of the  
6 maximum allowable construction cost. The director of general  
7 administration or his or her designee shall establish a committee to  
8 evaluate the proposals considering such factors as ability of  
9 professional personnel; past performance in negotiated and complex  
10 projects; ability to meet time and budget requirements; location;  
11 recent, current, and projected work loads of the firm; and the concept  
12 of their proposal. After the committee has selected the most qualified  
13 finalists, these finalists shall submit sealed bids for the percent  
14 fee, which is the percentage amount to be earned by the general  
15 contractor/construction manager as overhead and profit, on the  
16 estimated maximum allowable construction cost and the fixed amount for  
17 the detailed specified general conditions work. The maximum allowable  
18 construction cost may be negotiated between the department of general  
19 administration and the selected firm after the scope of the project is  
20 adequately determined to establish a guaranteed contract cost for which  
21 the general contractor/construction manager will provide a performance  
22 and payment bond. The guaranteed contract cost includes the fixed  
23 amount for the detailed specified general conditions work, the  
24 negotiated maximum allowable construction cost, the percent fee on the  
25 negotiated maximum allowable construction cost, and sales tax. If the  
26 department of general administration is unable to negotiate a  
27 satisfactory maximum allowable construction cost with the firm selected  
28 that the department of general administration determines to be fair,  
29 reasonable, and within the available funds, negotiations with that firm  
30 shall be formally terminated and the department of general  
31 administration shall negotiate with the next low bidder and continue  
32 until an agreement is reached or the process is terminated. If the  
33 maximum allowable construction cost varies more than fifteen percent  
34 from the bid estimated maximum allowable construction cost due to  
35 requested and approved changes in the scope by the state, the percent  
36 fee shall be renegotiated. All subcontract work shall be competitively  
37 bid with public bid openings. Specific goals for women and minority  
38 enterprises shall be specified in each subcontract bid package that  
39 responsive bidders will have to meet or exceed. All subcontractors who

1 bid work over one hundred thousand dollars shall post a bid bond and  
2 the awarded subcontractor shall provide a performance and payment bond  
3 for their contract amount if required by the general  
4 contractor/construction manager. The bidding of subcontract work by  
5 the general contractor/construction manager or its subsidiaries is  
6 prohibited but it may negotiate with the low-responsive bidder in  
7 accordance with RCW 39.04.015 or rebid if authorized by the director of  
8 general administration in the event no bids are received, the bids  
9 received are over the budget amount, or the subcontractor fails to  
10 perform.

11 (3) If the project is completed for less than the agreed upon  
12 maximum allowable construction cost, any savings not otherwise  
13 negotiated as part of an incentive clause shall accrue to the state.  
14 If the project is completed for more than the agreed upon maximum  
15 allowable construction cost, excepting increases due to any contract  
16 change orders approved by the state, the additional cost shall be the  
17 responsibility of the general contractor/construction manager.

18 (4) The powers and authority conferred by this section shall be  
19 construed as in addition and supplemental to powers or authority  
20 conferred by any other law, and nothing contained herein shall be  
21 construed as limiting any other powers or authority of the department  
22 of general administration.

23 **Sec. 15.** RCW 39.19.070 and 1987 c 328 s 4 are each amended to read  
24 as follows:

25 It is the intent of this chapter that the goals established under  
26 this chapter for participation by minority and women-owned and  
27 controlled businesses be achievable. If necessary to accomplish this  
28 intent, contracts shall be awarded to the next lowest responsible  
29 bidder, or all bids may be rejected and new bids obtained, if the  
30 lowest responsible bidder does not meet the goals established for a  
31 particular contract under this chapter. Section 1 of this act applies  
32 to this section. The dollar value of the total contract used for the  
33 calculation of the specific contract goal may be increased or decreased  
34 to reflect executed change orders. An apparent low-bidder must be in  
35 compliance with the contract provisions required under this chapter as  
36 a condition precedent to the granting of a notice of award by any state  
37 agency or educational institution.

1       **Sec. 16.** RCW 43.19.1911 and 1989 c 431 s 60 are each amended to  
2 read as follows:

3       When purchases are made through competitive bidding, the contract  
4 shall be let to the lowest responsible bidder, subject to any  
5 preferences provided by law to Washington products and vendors and to  
6 RCW 43.19.704, taking into consideration the quality of the articles  
7 proposed to be supplied, their conformity with specifications, the  
8 purposes for which required, and the times of delivery: PROVIDED, That  
9 whenever there is reason to believe that the lowest acceptable bid is  
10 not the best price obtainable, all bids may be rejected and the  
11 division of purchasing may call for new bids or enter into direct  
12 negotiations to achieve the best possible price. Each bid with the  
13 name of the bidder shall be entered of record and each record, with the  
14 successful bid indicated, shall, after letting of the contract, be open  
15 to public inspection. In determining "lowest responsible bidder", in  
16 addition to price, the following elements shall be given consideration:

17       (1) The ability, capacity, and skill of the bidder to perform the  
18 contract or provide the service required;

19       (2) The character, integrity, reputation, judgment, experience, and  
20 efficiency of the bidder;

21       (3) Whether the bidder can perform the contract within the time  
22 specified;

23       (4) The quality of performance of previous contracts or services;

24       (5) The previous and existing compliance by the bidder with laws  
25 relating to the contract or services;

26       (6) Section 1 of this act; and

27       (7) Such other information as may be secured having a bearing on  
28 the decision to award the contract: PROVIDED, That in considering bids  
29 for purchase, manufacture, or lease, and in determining the "lowest  
30 responsible bidder," whenever there is reason to believe that applying  
31 the "life cycle costing" technique to bid evaluation would result in  
32 lowest total cost to the state, first consideration shall be given by  
33 state purchasing activities to the bid with the lowest life cycle cost  
34 which complies with specifications. "Life cycle cost" means the total  
35 cost of an item to the state over its estimated useful life, including  
36 costs of selection, acquisition, operation, maintenance, and where  
37 applicable, disposal, as far as these costs can reasonably be  
38 determined, minus the salvage value at the end of its estimated useful  
39 life. The "estimated useful life" of an item means the estimated time

1 from the date of acquisition to the date of replacement or disposal,  
2 determined in any reasonable manner. Nothing in this section shall  
3 prohibit any state agency, department, board, commission, committee, or  
4 other state-level entity from allowing for preferential purchase of  
5 products made from recycled materials or products that may be recycled  
6 or reused.

7 **Sec. 17.** RCW 47.28.090 and 1985 c 242 s 3 are each amended to read  
8 as follows:

9 At the time and place named in the call for bids the department of  
10 transportation shall publicly open and read the final figure in each of  
11 the bid proposals that have been properly filed and read only the unit  
12 prices of the three lowest bids, and shall award the contract to the  
13 lowest responsible bidder unless the department has, for good cause,  
14 continued the date of opening bids to a day certain, or rejected that  
15 bid. Section 1 of this act applies to this section. Any bid may be  
16 rejected if the bidder has previously defaulted in the performance of  
17 and failed to complete a written public contract, or has been convicted  
18 of a crime arising from a previous public contract. If the lowest  
19 responsible bidder fails to meet the provisions or specifications  
20 requiring compliance with chapter 39.19 RCW and the rules adopted to  
21 implement that chapter, the department may award the contract to the  
22 next lowest responsible bidder which does meet the provisions or  
23 specifications or may reject all bids and readvertise. All bids shall  
24 be under sealed cover and accompanied by deposit in cash, certified  
25 check, cashier's check, or surety bond in an amount equal to five  
26 percent of the amount of the bid, and a bid shall not be considered  
27 unless the deposit is enclosed with it.

28 **Sec. 18.** RCW 47.28.100 and 1984 c 7 s 171 are each amended to read  
29 as follows:

30 If the successful bidder fails to enter into the contract and  
31 furnish satisfactory bond as provided by law within twenty days from  
32 the award, exclusive of the day of the award, his deposit shall be  
33 forfeited to the state and deposited by the state treasurer to the  
34 credit of the motor vehicle fund, and the department may award the  
35 contract to the second lowest responsible bidder. If the second lowest  
36 responsible bidder fails to enter into the contract and furnish bond  
37 within twenty days after award to him, forfeiture of his deposit shall

1 also be made, and the contract may be awarded to the third lowest  
2 responsible bidder, and in like manner until the contract and bond are  
3 executed by a responsible bidder to whom award is made, or further bid  
4 proposals are rejected, or the number of bid proposals are exhausted.  
5 If the contract is not executed or no contractor's bond provided within  
6 the time required, and there appear circumstances that are deemed to  
7 warrant an extension of time, the department may extend the time for  
8 execution of the contract or furnishing bond for not to exceed twenty  
9 additional days. After awarding the contract the deposits of  
10 unsuccessful bidders shall be returned, but the department may retain  
11 the deposit of the next lowest responsible bidder or bidders as it  
12 desires until such time as the contract is entered into and  
13 satisfactory bond is provided by the bidder to whom the award is  
14 ultimately made.

15 If in the opinion of the department the acceptance of the bid of  
16 the lowest responsible bidder or bidders, or on prior failure of the  
17 lowest responsible bidder or bidders the acceptance of the bid of the  
18 remaining lowest responsible bidder or bidders, will not be for the  
19 best interest of the state, it may reject all bids or all remaining  
20 bids and republish a call for bids in the same manner as for an  
21 original publication thereof.

22 Section 1 of this act applies to this section.

23 **Sec. 19.** RCW 47.28.170 and 1990 c 265 s 1 are each amended to read  
24 as follows:

25 (1) Whenever the department finds that as a consequence of  
26 accident, natural disaster, or other emergency, an existing state  
27 highway is in jeopardy or is rendered impassible in one or both  
28 directions and the department further finds that prompt reconstruction,  
29 repair, or other work is needed to preserve or restore the highway for  
30 public travel, the department may obtain at least three written bids  
31 for the work without publishing a call for bids, and the secretary of  
32 transportation may award a contract forthwith to the lowest responsible  
33 bidder. Section 1 of this act applies to this subsection.

34 The department shall notify any association or organization of  
35 contractors filing a request to regularly receive notification.  
36 Notification to an association or organization of contractors shall  
37 include: (a) The location of the work to be done; (b) the general  
38 anticipated nature of the work to be done; and (c) the date determined

1 by the department as reasonable in view of the nature of the work and  
2 emergent nature of the problem after which the department will not  
3 receive bids.

4 (2) Whenever the department finds it necessary to protect a highway  
5 facility from imminent damage or to perform emergency work to reopen a  
6 highway facility, the department may contract for such work on a  
7 negotiated basis not to exceed force account rates for a period not to  
8 exceed thirty working days.

9 (3) The secretary shall review any contract exceeding two hundred  
10 thousand dollars awarded under subsection (1) or (2) of this section  
11 with the transportation commission at its next regularly scheduled  
12 meeting.

13 (4) Any person, firm, or corporation awarded a contract for work  
14 must be prequalified pursuant to RCW 47.28.070 and may be required to  
15 furnish a bid deposit or performance bond.

16 **Sec. 20.** RCW 53.08.120 and 1988 c 235 s 1 are each amended to read  
17 as follows:

18 All material required by a port district may be procured in the  
19 open market or by contract and all work ordered may be done by contract  
20 or day labor. All such contracts for work, the estimated cost of which  
21 exceeds one hundred thousand dollars, shall be let at public bidding  
22 upon notice published in a newspaper in the district at least ten days  
23 before the letting, calling for sealed bids upon the work, plans and  
24 specifications for which shall then be on file in the office of the  
25 commission for public inspection. The same notice may call for bids on  
26 such work or material based upon plans and specifications submitted by  
27 the bidder.

28 Each port district shall maintain a small works roster which shall  
29 be comprised of all contractors who have requested to be on the roster  
30 and are, where required by law, properly licensed or registered to  
31 perform such work in the state of Washington.

32 Whenever work is done by contract, the estimated cost of which is  
33 one hundred thousand dollars or less, the managing official of the port  
34 district may invite proposals from all appropriate contractors on the  
35 small works roster: PROVIDED, That not less than five separate  
36 appropriate contractors shall be invited to submit proposals on any  
37 individual contract: PROVIDED FURTHER, That whenever possible, the  
38 managing official shall invite at least one proposal from a minority

1 contractor who shall otherwise qualify under this section. Such  
2 invitation shall include an estimate of the scope and nature of the  
3 work to be performed, and materials and equipment to be furnished.

4 When awarding such a contract for work, when utilizing proposals  
5 from the small works roster, the managing official shall give weight to  
6 the contractor submitting the lowest and best proposal, and whenever it  
7 would not violate the public interest, such contracts shall be  
8 distributed equally among contractors, including minority contractors,  
9 on the small works roster. Section 1 of this act applies to this  
10 section.

11 **Sec. 21.** RCW 53.08.130 and 1971 ex.s. c 258 s 2 are each amended  
12 to read as follows:

13 The notice shall state generally the nature of the work to be done  
14 and require that bids be sealed and filed with the commission at a time  
15 specified therein. Each bid shall be accompanied by a bid proposal  
16 deposit in the form of a cashier's check, money order, or surety bid  
17 bond to the commission for a sum not less than five percent of the  
18 amount of the bid, and no bid shall be considered unless accompanied by  
19 such bid proposal deposit. At the time and place named the bids shall  
20 be publicly opened and read and the commission shall proceed to canvass  
21 the bids and, except as otherwise in this section provided, shall let  
22 the contract to the lowest responsible bidder upon plans and  
23 specifications on file, or to the best bidder submitting his own plans  
24 and specifications. Section 1 of this act applies to this section.

25 If, in the opinion of the commission, all bids are unsatisfactory, they  
26 may reject all of them and readvertise, and in such case all such bid  
27 proposal deposits shall be returned to the bidders; but if the contract  
28 is let, then all bid proposal deposits shall be returned to the  
29 bidders, except that of the successful bidder which shall be retained  
30 until a contract is entered into for the purchase of such materials or  
31 doing such work, and a bond given to the port district for the  
32 performance of the contract and otherwise conditioned as required by  
33 law, with sureties satisfactory to the commission, in an amount to be  
34 fixed by the commission, but not in any event less than twenty-five  
35 percent of the contract price. If said bidder fails to enter into the  
36 contract in accordance with his bid and furnish such bond within ten  
37 days from the date at which he is notified that he is the successful  
38 bidder, the check or money order and the amount thereof shall be



1 forfeited to the port district or the port district shall recover the  
2 amount of the surety bid bond.

3 **Sec. 22.** RCW 54.04.070 and 1990 c 251 s 1 are each amended to read  
4 as follows:

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

35 Notwithstanding any other provisions herein, all contract projects,  
36 the estimated cost of which is less than one hundred thousand dollars,  
37 may be awarded to a contractor on the small works roster. The small  
38 works roster shall be comprised of all responsible contractors who have

1 requested to be on the list. The commission shall authorize by  
2 resolution a procedure for securing telephone and/or written quotations  
3 from the contractors on the small works roster to assure establishment  
4 of a competitive price and for awarding contracts to the lowest  
5 responsible bidder. Section 1 of this act applies to this section.  
6 Such procedure shall require that a good-faith effort be made to  
7 request quotations from all contractors on the small works roster.  
8 Immediately after an award is made, the bid quotations obtained shall  
9 be recorded, open to public inspection, and available by telephone  
10 inquiry. The small works roster shall be revised once a year. All  
11 contract projects equal to or in excess of one hundred thousand dollars  
12 shall be let by competitive bidding.

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

28 After determination by the commission during a public meeting that  
29 a particular purchase is available clearly and legitimately only from  
30 a single source of supply, the bidding requirements of this section may  
31 be waived by the commission.

32 **Sec. 23.** RCW 54.04.080 and 1972 ex.s. c 41 s 1 are each amended to  
33 read as follows:

34 Any notice inviting sealed bids shall state generally the work to  
35 be done, or the material to be purchased and shall call for proposals  
36 for furnishing it, to be sealed and filed with the commission on or  
37 before the time named therein. Each bid shall be accompanied by a  
38 certified or cashier's check, payable to the order of the commission,

1 for a sum not less than five percent of the amount of the bid, or  
2 accompanied by a bid bond in an amount not less than five percent of  
3 the bid with a corporate surety licensed to do business in the state,  
4 conditioned that the bidder will pay the district as liquidated damages  
5 the amount specified in the bond unless he enters into a contract in  
6 accordance with his bid and furnishes the performance bond herein  
7 mentioned within ten days from the date on which he is notified that he  
8 is the successful bidder. At the time and place named, the bids shall  
9 be publicly opened and read, and the commission shall canvass the bids,  
10 and may let the contract to the lowest responsible bidder upon the  
11 plans and specifications on file, or to the best bidder submitting his  
12 own plans or specifications; or if the contract to be let is to  
13 construct or improve electrical facilities, the contract may be let to  
14 the lowest bidder prequalified according to the provisions of RCW  
15 54.04.085 upon the plans and specifications on file, or to the best  
16 bidder submitting his own plans and specifications: PROVIDED, That no  
17 contract shall be let for more than fifteen percent in excess of the  
18 estimated cost of the materials or work. Section 1 of this act applies  
19 to this section. The commission may reject all bids and readvertise,  
20 and in such case all checks shall be returned to the bidders. The  
21 commission may procure materials in the open market, have its own  
22 personnel perform the work or negotiate a contract for such work to be  
23 performed by others, in lieu of readvertising, if it receives no bid.  
24 If the contract is let, all checks shall be returned to the bidders,  
25 except that of the successful bidder, which shall be retained until a  
26 contract is entered into and a bond to perform the work furnished, with  
27 sureties satisfactory to the commission, in an amount to be fixed by  
28 the commission, not less than twenty-five percent of the contract  
29 price, in accordance with the bid. If the bidder fails to enter into  
30 the contract and furnish the bond within ten days from the date at  
31 which he is notified that he is the successful bidder, his check and  
32 the amount thereof shall be forfeited to the district.

33 The commission shall, by resolution, define the term "same kind of  
34 materials, equipment, and supplies" with respect to purchase of items  
35 under the provisions of RCW 54.04.070.

36 The term "construction or improvement of any electrical facility"  
37 as used in this section and in RCW 54.04.085, shall mean the  
38 construction, the moving, maintenance, modification, or enlargement of  
39 facilities primarily used or to be used for the transmission or

1 distribution of electricity at voltages above seven hundred fifty  
2 volts, including structures directly supporting transmission or  
3 distribution conductors but not including site preparation, housing, or  
4 protective fencing associated with but not included in a contract for  
5 such construction, moving, modification, maintenance, or enlargement of  
6 such facilities.

7 The commission shall be the final authority with regard to whether  
8 a bid is responsive to the call for bids and as to whether a bidder is  
9 a responsible bidder under the conditions of his bid. No award of  
10 contract shall be invalidated solely because of the failure of any  
11 prospective bidder to receive an invitation to bid.

12 **Sec. 24.** RCW 56.08.070 and 1989 c 105 s 1 are each amended to read  
13 as follows:

14 (1) All materials purchased and work ordered, the estimated cost of  
15 which is in excess of five thousand dollars shall be let by contract.  
16 All contract projects, the estimated cost of which is less than fifty  
17 thousand dollars, may be awarded to a contractor on the small works  
18 roster. The small works roster shall be comprised of all responsible  
19 contractors who have requested to be on the list. The board of sewer  
20 commissioners may set up uniform procedures to prequalify contractors  
21 for inclusion on the small works roster. The board of sewer  
22 commissioners shall authorize by resolution a procedure for securing  
23 telephone and/or written quotations from the contractors on the small  
24 works roster to assure establishment of a competitive price and for  
25 awarding contracts to the lowest responsible bidder. Such procedure  
26 shall require that a good faith effort be made to request quotations  
27 from all contractors on the small works roster. Immediately after an  
28 award is made, the bid quotations obtained shall be recorded, open to  
29 public inspection, and available by telephone inquiry. The small works  
30 roster shall be revised once a year. All contract projects equal to or  
31 in excess of fifty thousand dollars shall be let by competitive  
32 bidding. Before awarding any competitive contract the board of sewer  
33 commissioners shall cause a notice to be published in a newspaper in  
34 general circulation where the district is located at least once, ten  
35 days before the letting of such contract, inviting sealed proposals for  
36 such work, plans and specifications which must at the time of  
37 publication of such notice be on file in the office of the board of  
38 sewer commissioners subject to public inspection. Such notice shall

1 state generally the work to be done and shall call for proposals for  
2 doing the same to be sealed and filed with the board of sewer  
3 commissioners on or before the day and hour named therein.

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

28 (3) In the event of an emergency when the public interest or  
29 property of the sewer district would suffer material injury or damage  
30 by delay, upon resolution of the board of sewer commissioners, or  
31 proclamation of an official designated by the board to act for the  
32 board during such emergencies, declaring the existence of such  
33 emergency and reciting the facts constituting the same, the board, or  
34 the official acting for the board, may waive the requirements of this  
35 chapter with reference to any purchase or contract. In addition, these  
36 requirements may be waived for purchases which are clearly and  
37 legitimately limited to a single source of supply and purchases  
38 involving special facilities, services, or market conditions, in which

1 instances the purchase price may be best established by direct  
2 negotiation.

3 (4) Section 1 of this act applies to this section.

4 **Sec. 25.** RCW 57.08.050 and 1989 c 105 s 2 are each amended to read  
5 as follows:

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

9 (2) All materials purchased and work ordered, the estimated cost of  
10 which is in excess of five thousand dollars shall be let by contract.  
11 All contract projects, the estimated cost of which is less than fifty  
12 thousand dollars, may be awarded to a contractor on the small works  
13 roster. The small works roster shall be comprised of all responsible  
14 contractors who have requested to be on the list. The board of water  
15 commissioners may set up uniform procedures to prequalify contractors  
16 for inclusion on the small works roster. The board of water  
17 commissioners shall authorize by resolution a procedure for securing  
18 telephone and/or written quotations from the contractors on the small  
19 works roster to assure establishment of a competitive price and for  
20 awarding contracts to the lowest responsible bidder. Such procedure  
21 shall require that a good faith effort be made to request quotations  
22 from all contractors on the small works roster. Immediately after an  
23 award is made, the bid quotations obtained shall be recorded, open to  
24 public inspection, and available by telephone inquiry. The small works  
25 roster shall be revised once a year. All contract projects equal to or  
26 in excess of fifty thousand dollars shall be let by competitive  
27 bidding. Before awarding any such contract the board of water  
28 commissioners shall cause a notice to be published in a newspaper in  
29 general circulation where the district is located at least once ten  
30 days before the letting of such contract, inviting sealed proposals for  
31 such work, plans and specifications which must at the time of  
32 publication of such notice be on file in the office of the board of  
33 water commissioners subject to public inspection. Such notice shall  
34 state generally the work to be done and shall call for proposals for  
35 doing the same to be sealed and filed with the board of water  
36 commissioners on or before the day and hour named therein.

37 (3) Each bid shall be accompanied by a certified or cashier's check  
38 or postal money order payable to the order of the county treasurer for

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

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

1 chapter with reference to any purchase or contract. In addition, these  
2 requirements may be waived for purchases which are clearly and  
3 legitimately limited to a single source of supply and purchases  
4 involving special facilities, services, or market conditions, in which  
5 instances the purchase price may be best established by direct  
6 negotiation.

7 (5) Section 1 of this act applies to this section.

8 **Sec. 26.** RCW 70.44.140 and 1965 c 83 s 1 are each amended to read  
9 as follows:

10 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 cause to be  
13 published a notice at least thirty days before the letting of said  
14 contract, inviting sealed proposals for such work, plans and  
15 specifications which must at the time of the publication of such notice  
16 be on file at the office of the public hospital district, subject to  
17 public inspection: PROVIDED, HOWEVER, That the commission may at the  
18 same time, and as part of the same notice, invite tenders for said work  
19 or materials upon plans and specifications to be submitted by bidders.  
20 Such 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 own plans and specifications: PROVIDED,  
32 HOWEVER, That no contract shall be let in excess of the estimated cost  
33 of said materials or work, or if, in the opinion of the commission, all  
34 bids are unsatisfactory, they may reject all of them and readvertise,  
35 and in such case all bid proposal security shall be returned to the  
36 bidders; but if such contract be let, then and in such case all bid  
37 proposal security shall be returned to the bidders, except that of the  
38 successful bidder, which shall be retained until a contract shall be



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

10 Section 1 of this act applies to this section.

11 **Sec. 27.** RCW 72.01.120 and 1979 c 141 s 148 are each amended to  
12 read as follows:

13 When improvements are to be made under contract, notice of the call  
14 for the same shall be published in at least two newspapers of general  
15 circulation in the state for two weeks prior to the award being made.  
16 The contract shall be awarded to the lowest responsible bidder.  
17 Section 1 of this act applies to this section. The secretary is  
18 authorized to require such security as he may deem proper to accompany  
19 the bids submitted, and shall also fix the amount of the bond or other  
20 security that shall be furnished by the person or firm to whom the  
21 contract is awarded. The secretary shall have the power to reject any  
22 or all bids submitted, if for any reason it is deemed for the best  
23 interest of the state to do so, and to readvertise in accordance with  
24 the provisions hereof. The secretary shall also have the power to  
25 reject the bid of any person or firm who has had a prior contract, and  
26 who did not, in the opinion of the secretary, faithfully comply with  
27 the same.

28 **Sec. 28.** RCW 85.24.070 and 1985 c 396 s 53 are each amended to  
29 read as follows:

30 A three-member board of commissioners shall be the governing body  
31 of an intercounty diking and drainage district. The initial  
32 commissioners shall be appointed, and the elected commissioners  
33 elected, as provided in chapter 85.38 RCW.

34 The members of such board, before entering upon their duties, shall  
35 take and subscribe on oath substantially as follows:

1 State of Washington,  
2  
3 County of . . . . .

ss.

4 I, the undersigned, a member of the board of commissioners of the  
5 diking and drainage district No. . . . ., in . . . . . and  
6 . . . . . counties, do solemnly swear (or affirm) that I will  
7 faithfully discharge my duties as a member of the commission.

8 Upon the taking of such oath and the entering into a bond, as provided  
9 in RCW 85.38.080, the county legislative authority shall enter an order  
10 upon its records that the three persons named have qualified as the  
11 board of commissioners for diking and drainage district No. . . . ., in  
12 . . . . . and . . . . . counties, and that those persons and their  
13 successors do and shall constitute a board of commissioners for the  
14 diking and drainage district. The order when made shall be conclusive  
15 of the regularity of the election and qualification of the board of  
16 diking and drainage commissioners for the particular district, and the  
17 persons named therein shall constitute the board of diking and drainage  
18 commissioners.

19 The board of diking and drainage commissioners shall thereupon  
20 immediately organize and elect one of their number as chairman and may  
21 either appoint a voter of the district or another diking and drainage  
22 commissioner to act as secretary. The board shall then proceed to make  
23 and cause to be made specifications and details of a system which may  
24 be adopted by the board for the improvements to be made, together with  
25 an estimate of the total cost thereof; and shall, upon the adoption of  
26 the plan of improvement of the district, proceed to acquire the  
27 necessary property and property rights for the construction,  
28 establishment and maintenance of the system either by purchase or by  
29 power of eminent domain as hereinafter provided. Upon such acquisition  
30 being had, the board shall then proceed with the construction of the  
31 diking and drainage system and in doing so shall have the power to do  
32 the work directly or in its discretion to have all or any part of the  
33 work done by contract. In case the board shall decide upon doing the  
34 same by contract, it shall advertise for bids for the construction  
35 work, or such part thereof as they may determine to have done by  
36 contract, and shall have the authority to let a contract to the lowest  
37 responsible bidder after advertising for bids. Section 1 of this act  
38 applies to this section.

1 Any contractor doing work hereunder shall be required to furnish a  
2 bond as provided by the laws of the state of Washington relating to  
3 contractors of public work.

4 The board shall have the right, power and authority to issue  
5 vouchers or warrants in payment or evidence of payment of any and all  
6 expenses incurred under this chapter, and shall have the power to issue  
7 the same to any contractor as the work progresses, the same to be based  
8 upon the partial estimates furnished from time to time by engineers of  
9 the district. All warrants issued hereunder shall draw interest at a  
10 rate determined by the board.

11 Upon the completion of the construction of the system, and  
12 ascertainment of the total cost thereof including all compensation and  
13 damages and costs and expenses incident to the acquiring of the  
14 necessary property and property right, the board shall then proceed to  
15 levy an assessment upon the taxable real property within the district  
16 which the board may find to be specially benefited by the proposed  
17 improvements; and shall make and levy such assessment upon each piece,  
18 lot, parcel and separate tract of real estate in proportion to the  
19 particular and special benefits thereto. Upon determining the amount  
20 of the assessment against each particular tract of real estate as  
21 aforesaid, the commissioners shall make or cause to be made an  
22 assessment roll, in which shall appear the names of the owners of the  
23 property assessed, so far as known, and a general description of each  
24 lot, block, parcel or tract of land within the district, and the amount  
25 assessed against the same, as separate, special or particular benefits.  
26 The board shall thereupon make an order setting and fixing a day for  
27 hearing any objections to the assessment roll by any one affected  
28 thereby, which day shall be at least twenty days after the mailing of  
29 notices thereof, postage prepaid, as herein provided. The board shall  
30 send or cause to be sent by mail to each owner of the premises  
31 assessed, whose name and place of residence is known, a notice,  
32 substantially in the following form:

33 To . . . . .: Your property (here describe the property) is  
34 assessed \$ . . . . . A hearing on the assessment roll will be had  
35 before the undersigned at the office of the board at . . . . . on the  
36 . . . . day of . . . . . at which time you are notified to be and  
37 appear and to make any and all objections which you may have as to the  
38 amount of the assessment against your property, or as to whether it  
39 should be assessed at all; and to make any and all objections which you

1 may have to the assessment against your lands, or any part or portion  
2 thereof.

3 The failure to send or cause to be sent such notice shall not be  
4 fatal to the proceedings herein described. The secretary of the board  
5 on the mailing of the notices shall certify generally that he has  
6 mailed such notices to the known address of all owners, and such  
7 certificate shall be prima facie evidence of the mailing of all such  
8 notices at the date mentioned in the certificate.

9 The board shall cause at least ten days' notice of the hearing to  
10 be given by posting notice in at least ten public places within the  
11 boundaries of the district, and by publishing the same at least five  
12 successive times in a daily newspaper published in each of the counties  
13 affected; and for at least two successive weeks in one or more weekly  
14 newspapers within the boundaries of the district, in each county if  
15 there are such newspapers published therein, and if there is no such  
16 newspaper published, then in one or more weekly newspapers, having a  
17 circulation in the district, for two successive weeks. The notice  
18 shall be signed by the chairman or secretary of the board of  
19 commissioners, and shall state the date and place of hearing of  
20 objections to the assessment roll and levy, and of all other  
21 objections; and that all interested parties will be heard as to any  
22 objection to the assessment roll and the levies as therein made.

23 **Sec. 29.** RCW 86.09.178 and 1965 c 26 s 2 are each amended to read  
24 as follows:

25 Contracts for construction, or for labor or materials entering into  
26 the construction of any improvement authorized by the district shall be  
27 awarded at public bidding except as herein otherwise provided. A  
28 notice calling for sealed proposals shall be published in such  
29 newspaper or newspapers of general circulation as the board shall  
30 designate for a period of not less than two weeks (three weekly issues)  
31 prior to the day of the opening of the bids. Such proposals shall be  
32 accompanied by a certified check for such amount as the board shall  
33 decide upon, to guarantee a compliance with the bid and shall be opened  
34 in public at the time and place designated in the notice. The contract  
35 shall be awarded to the lowest and best responsible bidder: PROVIDED,  
36 That the board shall have authority to reject any or all bids, in which  
37 event they shall readvertise for bids and, when no satisfactory bid is  
38 then received and with the written approval of the director, may

1 proceed to construct the works by force account. Section 1 of this act  
2 applies to this section.

3 **Sec. 30.** RCW 87.03.435 and 1990 c 39 s 1 are each amended to read  
4 as follows:

5 (1) Any person to whom a contract may have been awarded for the  
6 construction of a canal or any of the works of the district, or any  
7 portion thereof, or for the furnishing of labor or material, shall  
8 enter into a bond with good and sufficient sureties, to be approved by  
9 the board of directors, payable to the district for its use, for at  
10 least twenty-five percent of the amount of the contract price,  
11 conditioned for the faithful performance of said contract, and with  
12 such further conditions as may be required by law in the case of  
13 contracts for public work, and as may be required by resolution of the  
14 board. All works shall be done under the direction and to the  
15 satisfaction of the engineer of the district, and be approved by the  
16 board. Except as provided in subsections (2) and (3) of this section  
17 and RCW 87.03.436, whenever in the construction of the district canal  
18 or canals, or other works, or the furnishing of materials therefor, the  
19 board of directors shall determine to let a contract or contracts for  
20 the doing of the work or the furnishing of the materials, a notice  
21 calling for sealed proposals shall be published. The notice shall be  
22 published in a newspaper in the county in which the office of the board  
23 is situated, and in any other newspaper which may be designated by the  
24 board, and for such length of time, not less than once each week for  
25 two weeks, as may be fixed by the board. At the time and place  
26 appointed in the notice for the opening of bids, the sealed proposals  
27 shall be opened in public, and as soon as convenient thereafter, the  
28 board shall let the work or the contract for the purchase of materials,  
29 either in portions or as a whole, to the lowest responsible bidder, or  
30 the board may reject any or all bids and readvertise, or may proceed to  
31 construct the work under its own superintendence. Section 1 of this  
32 act applies to this subsection.

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

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

37 (a) In the case of any contract between the district and the United  
38 States;

1 (b) In the case of an emergency when the public interest or  
2 property of the district would suffer material injury or damage by  
3 delay, upon resolution of the board of directors or proclamation of an  
4 official designated by the board to act for the board during such  
5 emergencies. The resolution or proclamation shall declare the  
6 existence of the emergency and recite the facts constituting the  
7 emergency; or

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

12 **Sec. 31.** RCW 87.03.436 and 1990 c 39 s 2 are each amended to read  
13 as follows:

14 All contract projects, the estimated cost of which is less than one  
15 hundred thousand dollars, may be awarded to a contractor on the small  
16 works roster. The small works roster shall be comprised of all  
17 responsible contractors who have requested to be on the list. The  
18 board of directors shall authorize by resolution a procedure for  
19 securing telephone and/or written quotations from the contractors on  
20 the small works roster to assure establishment of a competitive price  
21 and for awarding contracts to the lowest responsible bidder. Such  
22 procedure shall require that a good-faith effort be made to request  
23 quotations from all responsible contractors on the small works roster.  
24 Section 1 of this act applies to this section. Immediately after an  
25 award is made, the bid quotations obtained shall be recorded, open to  
26 public inspection, and available by telephone inquiry. The small works  
27 roster shall be revised once a year.

28 **Sec. 32.** RCW 89.30.154 and 1927 c 254 s 52 are each amended to  
29 read as follows:

30 Contracts for labor or materials entering into the construction of  
31 any improvement authorized by the district shall be awarded at public  
32 bidding except as herein otherwise provided. A notice calling for  
33 sealed proposals shall be published in such newspaper or newspapers of  
34 such general circulation as the board shall designate for a period of  
35 not less than two weeks (three issues) prior to the date of the opening  
36 of the bids. Such proposals shall be accompanied by a certified check  
37 for such amount as the board shall decide upon to guarantee compliance

1 with the bid, and shall be opened in public at the time and place  
2 designated in the notice. The contract shall be awarded to the lowest  
3 and best responsible bidder; PROVIDED, That the board shall have  
4 authority to reject any and all bids. Section 1 of this act applies to  
5 this section.

6 **Sec. 33.** RCW 91.08.530 and 1911 c 23 s 52 are each amended to read  
7 as follows:

8 After the confirmation of the assessment roll of any improvement  
9 district provided for herein, the board shall proceed at once with the  
10 construction of the improvement, and in carrying on said construction  
11 it shall have full charge and management thereof and the power to  
12 employ such assistants as it may deem necessary, and purchase all  
13 material required in such construction; and it shall have power to let  
14 the whole or any part of the work of said improvement to the lowest and  
15 best bidder therefor, after public advertisement and call for bids; and  
16 in case of such letting of a contract it shall have the power also to  
17 enter into all necessary agreements with the contractor in the  
18 premises: PROVIDED, That in the case of the letting of a contract the  
19 board shall require the contractor to give a bond in the amount of the  
20 contract price, with sureties to be approved by the board and running  
21 to the board as obligee therein, conditioned for the faithful and  
22 accurate performance of his contract by said contractor, and that he  
23 will pay, or cause to be paid, all just claims of all persons  
24 performing labor upon or rendering services in doing said work, or  
25 furnishing materials, merchandise or provisions used by said contractor  
26 in the construction of said improvement. Said bond shall be filed and  
27 recorded in the office of the auditor of the county and every  
28 subcontractor on any such work shall file and record a like bond in the  
29 full amount of his subcontract. Unless otherwise paid their claims for  
30 labor or services, materials, merchandise or provisions, the claimants  
31 may have recourse by suit upon such bond in their own names: PROVIDED,  
32 That no such claim or suit shall be maintained unless the persons  
33 making said claim shall within thirty days after the completion of said  
34 improvement, file their claims, duly verified, to the effect that the  
35 amounts thereof are just and due and are unpaid, with the clerk of the  
36 board. Each bidder for a contract to be let under this section shall  
37 deliver with his bid a check for five percent of the amount of the bid,  
38 drawn upon a bank in this state and certified by the bank, as surety to

- 1 the board that the bidder will enter into the contract with the board.
- 2 The checks of unsuccessful bidders will be returned to them when an
- 3 award of the contract has been made by the board.
- 4 Section 1 of this act applies to this section.

--- END ---