

2 **SHB 2785** - S AMD - 224

3 By Senators Haugen and Winsley

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

7 "**Sec. 1.** RCW 36.32.240 and 1993 c 198 s 5 are each amended to read  
8 as follows:

9 (1) In any county the county legislative authority may by  
10 resolution establish a county purchasing department.

11 (2) In each county with a population of less than one million which  
12 exercises this option, the purchasing department shall contract on a  
13 competitive basis for all public works, enter into leases of personal  
14 property on a competitive basis, and purchase all supplies, materials,  
15 and equipment, on a competitive basis, for all departments of the  
16 county, as provided in this chapter and chapter 39.04 RCW, except that  
17 the county purchasing department is not required to make purchases for  
18 the county hospital, or make purchases that are paid from the county  
19 road fund or equipment rental and revolving fund.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.32 RCW  
21 to read as follows:

22 (1) In each county with a population of one million or more which  
23 by resolution establishes a county purchasing department, the  
24 purchasing department shall enter into leases of personal property on  
25 a competitive basis and purchase all supplies, materials, and equipment  
26 on a competitive basis, for all departments of the county, as provided  
27 in this chapter and chapter 39.04 RCW, except that the county  
28 purchasing department is not required to make purchases that are paid  
29 from the county road fund or equipment rental and revolving fund.

30 (2) As used in this section, "public works" has the same definition  
31 as in RCW 39.04.010.

32 (3) Except as otherwise specified in this chapter or in chapter  
33 36.77 RCW, all counties subject to these provisions shall contract on  
34 a competitive basis for all public works after bids have been submitted  
35 to the county upon specifications therefor. Such specifications shall

1 be in writing and shall be filed with the clerk of the county  
2 legislative authority for public inspection.

3 (4) An advertisement shall be published in the county official  
4 newspaper stating the time and place where bids will be opened, the  
5 time after which bids will not be received, the character of the work  
6 to be done, the materials and equipment to be furnished, and that  
7 specifications therefor may be seen at the office of the clerk of the  
8 county legislative authority. An advertisement shall also be published  
9 in a legal newspaper of general circulation in or as near as possible  
10 to that part of the county in which such work is to be done. If the  
11 county official newspaper is a newspaper of general circulation  
12 covering at least forty percent of the residences in that part of the  
13 county in which such public works are to be done, then the publication  
14 of an advertisement of the applicable specifications in the county  
15 official newspaper is sufficient. Such advertisements shall be  
16 published at least once at least thirteen days prior to the last date  
17 upon which bids will be received.

18 (5) The bids shall be in writing, shall be filed with the clerk,  
19 shall be opened and read in public at the time and place named therefor  
20 in the advertisements, and after being opened, shall be filed for  
21 public inspection. No bid may be considered for public work unless it  
22 is accompanied by a bid deposit in the form of a surety bond, postal  
23 money order, cash, cashier's check, or certified check in an amount  
24 equal to five percent of the amount of the bid proposed.

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

30 (7) If the bidder to whom the contract is awarded fails to enter  
31 into the contract and furnish the contractor's bond as required within  
32 ten days after notice of the award, exclusive of the day of notice, the  
33 amount of the bid deposit shall be forfeited to the county and the  
34 contract awarded to the next lowest and best bidder. The bid deposit  
35 of all unsuccessful bidders shall be returned after the contract is  
36 awarded and the required contractor's bond given by the successful  
37 bidder is accepted by the county legislative authority. Immediately  
38 after the award is made, the bid quotations obtained shall be recorded

1 and open to public inspection and shall be available by telephone  
2 inquiry.

3 (8) As limited by subsection (10) of this section, a county subject  
4 to these provisions may have public works performed by county employees  
5 in any annual or biennial budget period equal to a dollar value not  
6 exceeding ten percent of the public works construction budget,  
7 including any amount in a supplemental public works construction  
8 budget, over the budget period.

9 Whenever a county subject to these provisions has had public works  
10 performed in any budget period up to the maximum permitted amount for  
11 that budget period, all remaining public works except emergency work  
12 under subsection (12) of this section within that budget period shall  
13 be done by contract pursuant to public notice and call for competitive  
14 bids as specified in subsection (3) of this section. The state auditor  
15 shall report to the state treasurer any county subject to these  
16 provisions that exceeds this amount and the extent to which the county  
17 has or has not reduced the amount of public works it has performed by  
18 public employees in subsequent years.

19 (9) If a county subject to these provisions has public works  
20 performed by public employees in any budget period that are in excess  
21 of this ten percent limitation, the amount in excess of the permitted  
22 amount shall be reduced from the otherwise permitted amount of public  
23 works that may be performed by public employees for that county in its  
24 next budget period. Ten percent of the motor vehicle fuel tax  
25 distributions to that county shall be withheld if two years after the  
26 year in which the excess amount of work occurred, the county has failed  
27 to so reduce the amount of public works that it has performed by public  
28 employees. The amount withheld shall be distributed to the county when  
29 it has demonstrated in its reports to the state auditor that the amount  
30 of public works it has performed by public employees has been reduced  
31 as required.

32 (10) In addition to the percentage limitation provided in  
33 subsection (8) of this section, counties subject to these provisions  
34 containing a population of one million or more shall not have public  
35 employees perform a public works project in excess of seventy thousand  
36 dollars if more than a single craft or trade is involved with the  
37 public works project, or a public works project in excess of twenty-  
38 five thousand dollars if only a single craft or trade is involved with  
39 the public works project. A public works project means a complete

1 project. The restrictions in this subsection do not permit the  
2 division of the project into units of work or classes of work to avoid  
3 the restriction on work that may be performed by public employees on a  
4 single project.

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

9 (11) In addition to the accounting and recordkeeping requirements  
10 contained in chapter 39.04 RCW, any county which uses public employees  
11 to perform public works projects under RCW 36.32.240(1) shall prepare  
12 a year-end report to be submitted to the state auditor indicating the  
13 total dollar amount of the county's public works construction budget  
14 and the total dollar amount for public works projects performed by  
15 public employees for that year.

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

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

32 (13) In lieu of the procedures of subsections (3) through (11) of  
33 this section, a county may use a small works roster process and award  
34 contracts for public works projects with an estimated value of ten  
35 thousand dollars up to one hundred thousand dollars as provided in RCW  
36 39.04.155.

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

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

4 (15) This section does not apply to performance-based contracts, as  
5 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A  
6 RCW.

7 (16) Nothing in this section prohibits any county from allowing for  
8 preferential purchase of products made from recycled materials or  
9 products that may be recycled or reused."

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13 On page 1, line 1 of the title, after "projects;" strike the  
14 remainder of the title and insert "amending RCW 36.32.240; and adding  
15 a new section to chapter 36.32 RCW."

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