

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2785

Chapter 219, Laws of 1996

54th Legislature
1996 Regular Session

COUNTY PUBLIC WORKS PROJECTS--BIDDING PROCEDURES

EFFECTIVE DATE: 6/6/96

Passed by the House March 5, 1996
Yeas 82 Nays 13

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 1, 1996
Yeas 49 Nays 0

JOEL PRITCHARD
President of the Senate

Approved March 28, 1996

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2785** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 28, 1996 - 4:40 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2785

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Government Operations (originally sponsored by Representatives Reams, Chopp, Cairnes, Thompson and Elliot)

Read first time 02/02/96.

1 AN ACT Relating to county public works projects; amending RCW
2 36.32.240; and adding a new section to chapter 36.32 RCW.

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

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

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

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

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

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

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

11 (3) Except as otherwise specified in this chapter or in chapter
12 36.77 RCW, all counties subject to these provisions shall contract on
13 a competitive basis for all public works after bids have been submitted
14 to the county upon specifications therefor. Such specifications shall
15 be in writing and shall be filed with the clerk of the county
16 legislative authority for public inspection.

17 (4) An advertisement shall be published in the county official
18 newspaper stating the time and place where bids will be opened, the
19 time after which bids will not be received, the character of the work
20 to be done, the materials and equipment to be furnished, and that
21 specifications therefor may be seen at the office of the clerk of the
22 county legislative authority. An advertisement shall also be published
23 in a legal newspaper of general circulation in or as near as possible
24 to that part of the county in which such work is to be done. If the
25 county official newspaper is a newspaper of general circulation
26 covering at least forty percent of the residences in that part of the
27 county in which such public works are to be done, then the publication
28 of an advertisement of the applicable specifications in the county
29 official newspaper is sufficient. Such advertisements shall be
30 published at least once at least thirteen days prior to the last date
31 upon which bids will be received.

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

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

6 (7) If the bidder to whom the contract is awarded fails to enter
7 into the contract and furnish the contractor's bond as required within
8 ten days after notice of the award, exclusive of the day of notice, the
9 amount of the bid deposit shall be forfeited to the county and the
10 contract awarded to the next lowest and best bidder. The bid deposit
11 of all unsuccessful bidders shall be returned after the contract is
12 awarded and the required contractor's bond given by the successful
13 bidder is accepted by the county legislative authority. Immediately
14 after the award is made, the bid quotations obtained shall be recorded
15 and open to public inspection and shall be available by telephone
16 inquiry.

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

23 Whenever a county subject to these provisions has had public works
24 performed in any budget period up to the maximum permitted amount for
25 that budget period, all remaining public works except emergency work
26 under subsection (12) of this section within that budget period shall
27 be done by contract pursuant to public notice and call for competitive
28 bids as specified in subsection (3) of this section. The state auditor
29 shall report to the state treasurer any county subject to these
30 provisions that exceeds this amount and the extent to which the county
31 has or has not reduced the amount of public works it has performed by
32 public employees in subsequent years.

33 (9) If a county subject to these provisions has public works
34 performed by public employees in any budget period that are in excess
35 of this ten percent limitation, the amount in excess of the permitted
36 amount shall be reduced from the otherwise permitted amount of public
37 works that may be performed by public employees for that county in its
38 next budget period. Ten percent of the motor vehicle fuel tax
39 distributions to that county shall be withheld if two years after the

1 year in which the excess amount of work occurred, the county has failed
2 to so reduce the amount of public works that it has performed by public
3 employees. The amount withheld shall be distributed to the county when
4 it has demonstrated in its reports to the state auditor that the amount
5 of public works it has performed by public employees has been reduced
6 as required.

7 (10) In addition to the percentage limitation provided in
8 subsection (8) of this section, counties subject to these provisions
9 containing a population of one million or more shall not have public
10 employees perform a public works project in excess of seventy thousand
11 dollars if more than a single craft or trade is involved with the
12 public works project, or a public works project in excess of twenty-
13 five thousand dollars if only a single craft or trade is involved with
14 the public works project. A public works project means a complete
15 project. The restrictions in this subsection do not permit the
16 division of the project into units of work or classes of work to avoid
17 the restriction on work that may be performed by public employees on a
18 single project.

19 The cost of a separate public works project shall be the costs of
20 materials, supplies, equipment, and labor on the construction of that
21 project. The value of the public works budget shall be the value of
22 all the separate public works projects within the budget.

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

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

33 (12) Notwithstanding any other provision in this section, counties
34 may use public employees without any limitation for emergency work
35 performed under an emergency declared pursuant to RCW 36.32.270, and
36 any such emergency work shall not be subject to the limitations of this
37 section. Publication of the description and estimate of costs relating
38 to correcting the emergency may be made within seven days after the
39 commencement of the work. Within two weeks of the finding that such an

1 emergency existed, the county legislative authority shall adopt a
2 resolution certifying the damage to public facilities and costs
3 incurred or anticipated relating to correcting the emergency.
4 Additionally this section shall not apply to architectural and
5 engineering or other technical or professional services performed by
6 public employees in connection with a public works project.

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

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

15 (14) The allocation of public works projects to be performed by
16 county employees shall not be subject to a collective bargaining
17 agreement.

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

21 (16) Nothing in this section prohibits any county from allowing for
22 preferential purchase of products made from recycled materials or
23 products that may be recycled or reused.

Passed the House March 5, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.