

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2527

Chapter 94, Laws of 2002

57th Legislature
2002 Regular Session

DAY LABOR LIMITS

EFFECTIVE DATE: 6/13/02

Passed by the House February 15, 2002
Yeas 75 Nays 23

FRANK CHOPP
**Speaker of the House of
Representatives**

Passed by the Senate March 7, 2002
Yeas 27 Nays 18

BRAD OWEN
President of the Senate

Approved March 22, 2002

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2527** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

FILED

March 22, 2002 - 12:42 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 2527

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Representatives Sullivan, Dunshee, Edwards, DeBolt, Reardon, Kirby, Cooper, Crouse, Mielke, Miloscia, Chase and Wood

Read first time 01/21/2002. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to revising certain day labor limits to account for
2 inflation; and amending RCW 35.22.620 and 35.23.352.

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

4 **Sec. 1.** RCW 35.22.620 and 2000 c 138 s 203 are each amended to
5 read as follows:

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

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

18 If a first class city has public works performed by public
19 employees in any budget period that are in excess of this ten percent

1 limitation, the amount in excess of the permitted amount shall be
2 reduced from the otherwise permitted amount of public works that may be
3 performed by public employees for that city in its next budget period.
4 Twenty percent of the motor vehicle fuel tax distributions to that city
5 shall be withheld if two years after the year in which the excess
6 amount of work occurred, the city has failed to so reduce the amount of
7 public works that it has performed by public employees. The amount so
8 withheld shall be distributed to the city when it has demonstrated in
9 its reports to the state auditor that the amount of public works it has
10 performed by public employees has been so reduced.

11 Whenever a first class city has had public works performed in any
12 budget period up to the maximum permitted amount for that budget
13 period, all remaining public works within that budget period shall be
14 done by contract pursuant to public notice and call for competitive
15 bids.

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

20 (3) In addition to the percentage limitation provided in subsection
21 (2) of this section, a first class city with a population in excess of
22 one hundred fifty thousand shall not have public employees perform a
23 public works project in excess of (~~(fifty)~~) seventy thousand dollars,
24 or ninety thousand dollars after January 1, 2010, if more than a single
25 craft or trade is involved with the public works project, or a public
26 works project in excess of (~~(twenty-five)~~) thirty-five thousand
27 dollars, or forty-five thousand dollars after January 1, 2010, if only
28 a single craft or trade is involved with the public works project or
29 the public works project is street signalization or street lighting.
30 In addition to the percentage limitation provided in subsection (2) of
31 this section, a first class city with a population of one hundred fifty
32 thousand or less shall not have public employees perform a public works
33 project in excess of (~~(thirty-five)~~) fifty thousand dollars, or sixty-
34 five thousand dollars after January 1, 2010, if more than one craft or
35 trade is involved with the public works project, or a public works
36 project in excess of (~~(twenty)~~) thirty thousand dollars, or forty
37 thousand dollars after January 1, 2010, if only a single craft or trade
38 is involved with the public works project or the public works project
39 is street signalization or street lighting. A public works project

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

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

17 Each first class city with a population of one hundred fifty
18 thousand or less shall use the form required by RCW 43.09.205 to
19 account and record costs of public works in excess of five thousand
20 dollars that are not let by contract.

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

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

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

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

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

37 (9) This section does not apply to performance-based contracts, as
38 defined in RCW 39.35A.020(~~(+3)~~) (4), that are negotiated under chapter
39 39.35A RCW.

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

4 **Sec. 2.** RCW 35.23.352 and 2000 c 138 s 204 are each amended to
5 read as follows:

6 (1) Any second class city or any town may construct any public
7 works, as defined in RCW 39.04.010, by contract or day labor without
8 calling for bids therefor whenever the estimated cost of the work or
9 improvement, including cost of materials, supplies and equipment will
10 not exceed the sum of (~~thirty~~) forty-five thousand dollars, or sixty
11 thousand dollars after January 1, 2010, if more than one craft or trade
12 is involved with the public works, or (~~twenty~~) thirty thousand
13 dollars, or forty thousand dollars after January 1, 2010, if a single
14 craft or trade is involved with the public works or the public works
15 project is street signalization or street lighting. A public works
16 project means a complete project. The restrictions in this subsection
17 do not permit the division of the project into units of work or classes
18 of work to avoid the restriction on work that may be performed by day
19 labor on a single project.

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

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

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

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

21 (3) In lieu of the procedures of subsection (1) of this section, a
22 second class city or a town may let contracts using the small works
23 roster process provided in RCW 39.04.155.

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

27 (4) The form required by RCW 43.09.205 shall be to account and
28 record costs of public works in excess of five thousand dollars that
29 are not let by contract.

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

33 (6) Any purchase of supplies, material, or equipment, except for
34 public work or improvement, where the cost thereof exceeds seven
35 thousand five hundred dollars shall be made upon call for bids.

36 (7) Bids shall be called annually and at a time and in the manner
37 prescribed by ordinance for the publication in a newspaper of general
38 circulation in the city or town of all notices or newspaper

1 publications required by law. The contract shall be awarded to the
2 lowest responsible bidder.

3 (8) For advertisement and formal sealed bidding to be dispensed
4 with as to purchases with an estimated value of fifteen thousand
5 dollars or less, the council or commission must authorize by
6 resolution, use of the uniform procedure provided in RCW 39.04.190.

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

11 (10) This section does not apply to performance-based contracts, as
12 defined in RCW 39.35A.020(~~(+3)~~) (4), that are negotiated under chapter
13 39.35A RCW.

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

Passed the House February 15, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor March 22, 2002.

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