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ENGROSSED SUBSTITUTE HOUSE BILL 1847

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State of Washington

61st Legislature

2009 Regular Session

By House State Government & Tribal Affairs (originally sponsored by Representative Haigh)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to bid limits; amending RCW 28B.50.330, 28B.10.350,  
2 35.22.620, 35.23.352, 35A.40.210, 36.32.235, 36.32.240, 36.32.250,  
3 52.14.110, 35.61.135, 70.44.140, and 87.03.437; and reenacting and  
4 amending RCW 57.08.050.

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

6 **Sec. 1.** RCW 28B.50.330 and 2007 c 495 s 2 are each amended to read  
7 as follows:

8 (1) The boards of trustees of college districts are empowered in  
9 accordance with the provisions of this chapter to provide for the  
10 construction, reconstruction, erection, equipping, demolition, and  
11 major alterations of buildings and other capital assets, and the  
12 acquisition of sites, rights-of-way, easements, improvements, or  
13 appurtenances for the use of the aforementioned colleges as authorized  
14 by the college board in accordance with RCW 28B.50.140; to be financed  
15 by bonds payable out of special funds from revenues hereafter derived  
16 from income received from such facilities, gifts, bequests, or grants,  
17 and such additional funds as the legislature may provide, and payable  
18 out of a bond retirement fund to be established by the respective  
19 district boards in accordance with rules ((and-regulations)) of the

1 state board. With respect to building, improvements, or repairs, or  
2 other work, where the estimated cost exceeds ((~~fifty-five~~)) ninety  
3 thousand dollars, or ((~~thirty-five~~)) forty-five thousand dollars if the  
4 work involves one trade or craft area, complete plans and  
5 specifications for the work shall be prepared, the work shall be put  
6 out for a public bid, and the contract shall be awarded to the  
7 responsible bidder who submits the lowest responsive bid. Any project  
8 regardless of dollar amount may be put to public bid.

9 (2) This section does not apply when a contract is awarded by the  
10 small works roster procedure authorized in RCW 39.04.155.

11 (3) Where the estimated cost to any college of any building,  
12 improvements, or repairs, or other work, is less than ((~~fifty-five~~))  
13 ninety thousand dollars, or ((~~thirty-five~~)) forty-five thousand dollars  
14 if the work involves one trade or craft area, the publication  
15 requirements of RCW 39.04.020 do not apply.

16 **Sec. 2.** RCW 28B.10.350 and 2007 c 495 s 1 are each amended to read  
17 as follows:

18 (1) When the cost to The Evergreen State College or any regional or  
19 state university of any building, construction, renovation, remodeling,  
20 or demolition, other than maintenance or repairs, will equal or exceed  
21 the sum of ((~~fifty-five~~)) ninety thousand dollars, or ((~~thirty-five~~))  
22 forty-five thousand dollars if the work involves one trade or craft  
23 area, complete plans and specifications for the work shall be prepared,  
24 the work shall be put out for public bid, and the contract shall be  
25 awarded to the responsible bidder who submits the lowest responsive  
26 bid.

27 (2) Any building, construction, renovation, remodeling, or  
28 demolition project that exceeds the dollar amounts in subsection (1) of  
29 this section is subject to the provisions of chapter 39.12 RCW.

30 (3) The Evergreen State College or any regional or state university  
31 may require a project to be put to public bid even when it is not  
32 required to do so under subsection (1) of this section. Any project  
33 publicly bid under this subsection is subject to the provisions of  
34 chapter 39.12 RCW.

35 (4) Where the estimated cost of any building, construction,  
36 renovation, remodeling, or demolition is less than ((~~fifty-five~~))

1 ninety thousand dollars or the contract is awarded by the small works  
2 roster procedure authorized in RCW 39.04.155, the publication  
3 requirements of RCW 39.04.020 do not apply.

4 (5) In the event of any emergency when the public interest or  
5 property of The Evergreen State College or a regional or state  
6 university would suffer material injury or damage by delay, the  
7 president of such college or university may declare the existence of an  
8 emergency and, reciting the facts constituting the same, may waive the  
9 requirements of this section with reference to any contract in order to  
10 correct the condition causing the emergency. For the purposes of this  
11 section, "emergency" means a condition likely to result in immediate  
12 physical injury to persons or to property of the college or university  
13 in the absence of prompt remedial action or a condition which  
14 immediately impairs the institution's ability to perform its  
15 educational obligations.

16 (6) This section does not apply when a contract is awarded by the  
17 small works roster procedure authorized in RCW 39.04.155 or under any  
18 other procedure authorized for an institution of higher education.

19 **Sec. 3.** RCW 35.22.620 and 2002 c 94 s 1 are each amended to read  
20 as follows:

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

23 (2) A first-class city may have public works performed by contract  
24 pursuant to public notice and call for competitive bids. As limited by  
25 subsection (3) of this section, a first-class city may have public  
26 works performed by city employees in any annual or biennial budget  
27 period equal to a dollar value not exceeding ten percent of the public  
28 works construction budget, including any amount in a supplemental  
29 public works construction budget, over the budget period. The amount  
30 of public works that a first-class city has a county perform for it  
31 under RCW 35.77.020 shall be included within this ten percent  
32 limitation.

33 If a first-class city has public works performed by public  
34 employees in any budget period that are in excess of this ten percent  
35 limitation, the amount in excess of the permitted amount shall be  
36 reduced from the otherwise permitted amount of public works that may be  
37 performed by public employees for that city in its next budget period.

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

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

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

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

1 the division of the project into units of work or classes of work to  
2 avoid the restriction on work that may be performed by day labor on a  
3 single project.

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

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

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

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

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

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

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

36 (9) This section does not apply to performance-based contracts, as  
37 defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A  
38 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. 4.** RCW 35.23.352 and 2002 c 94 s 2 are each amended to read  
5 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 (~~forty five thousand dollars, or sixty thousand~~  
11 ~~dollars after January 1, 2010,~~) sixty-five thousand dollars if more  
12 than one craft or trade is involved with the public works, or (~~thirty~~  
13 ~~thousand dollars, or~~) forty thousand dollars (~~after January 1,~~  
14 ~~2010,~~) if a single craft or trade is involved with the public works or  
15 the public works project is street signalization or street lighting.  
16 A public works project means a complete project. The restrictions in  
17 this subsection do not permit the division of the project into units of  
18 work or classes of work to avoid the restriction on work that may be  
19 performed by day 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

1 bidder or shall have power by resolution to reject any or all bids and  
2 to make further calls for bids in the same manner as the original call.

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

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

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

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

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

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

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

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

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

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

10 (9) The city or town legislative authority may waive the  
11 competitive bidding requirements of this section pursuant to RCW  
12 39.04.280 if an exemption contained within that section applies to the  
13 purchase or public work.

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

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

20 **Sec. 5.** RCW 35A.40.210 and 1989 c 11 s 8 are each amended to read  
21 as follows:

22 Procedures for any public work or improvement (~~((contracts or~~  
23 ~~purchases))~~) for code cities shall be governed by (~~((the following~~  
24 ~~statutes, as indicated:))~~) RCW 35.23.352.

25 (~~((1))~~) Purchases for code cities (~~((of))~~) with twenty thousand  
26 population or (~~((over,))~~) more shall be governed by RCW 35.22.620(~~((and~~  
27 ~~(2))~~). Purchases for code cities with under twenty thousand  
28 population(~~((+))~~) shall be governed by RCW 35.23.352.

29 **Sec. 6.** RCW 36.32.235 and 2000 c 138 s 206 are each amended to  
30 read as follows:

31 (1) In each county with a population of (~~((one million))~~) four  
32 hundred thousand or more which by resolution establishes a county  
33 purchasing department, the purchasing department shall enter into  
34 leases of personal property on a competitive basis and purchase all  
35 supplies, materials, and equipment on a competitive basis, for all  
36 departments of the county, as provided in this chapter and chapter

1 39.04 RCW, except that the county purchasing department is not required  
2 to make purchases that are paid from the county road fund or equipment  
3 rental and revolving fund.

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

6 (3) Except as otherwise specified in this chapter or in chapter  
7 36.77 RCW, all counties subject to these provisions shall contract on  
8 a competitive basis for all public works after bids have been submitted  
9 to the county upon specifications therefor. Such specifications shall  
10 be in writing and shall be filed with the clerk of the county  
11 legislative authority for public inspection.

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

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

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

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

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

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

28 (9) If a county subject to these provisions has public works  
29 performed by public employees in any budget period that are in excess  
30 of this ten percent limitation, the amount in excess of the permitted  
31 amount shall be reduced from the otherwise permitted amount of public  
32 works that may be performed by public employees for that county in its  
33 next budget period. Ten percent of the motor vehicle fuel tax  
34 distributions to that county shall be withheld if two years after the  
35 year in which the excess amount of work occurred, the county has failed  
36 to so reduce the amount of public works that it has performed by public  
37 employees. The amount withheld shall be distributed to the county when

1 it has demonstrated in its reports to the state auditor that the amount  
2 of public works it has performed by public employees has been reduced  
3 as required.

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

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

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

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

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

1 incurred or anticipated relating to correcting the emergency.  
2 Additionally this section shall not apply to architectural and  
3 engineering or other technical or professional services performed by  
4 public employees in connection with a public works project.

5 (13) In lieu of the procedures of subsections (3) through (11) of  
6 this section, a county may let contracts using the small works roster  
7 process provided in RCW 39.04.155.

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

11 (14) The allocation of public works projects to be performed by  
12 county employees shall not be subject to a collective bargaining  
13 agreement.

14 (15) This section does not apply to performance-based contracts, as  
15 defined in RCW 39.35A.020(~~((3))~~) (4), that are negotiated under chapter  
16 39.35A RCW.

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

20 (17) This section does not apply to contracts between the public  
21 stadium authority and a team affiliate under RCW 36.102.060(4), or  
22 development agreements between the public stadium authority and a team  
23 affiliate under RCW 36.102.060(7) or leases entered into under RCW  
24 36.102.060(8).

25 **Sec. 7.** RCW 36.32.240 and 1996 c 219 s 1 are each amended to read  
26 as follows:

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

29 (2) In each county with a population of less than (~~one million~~)  
30 four hundred thousand which exercises this option, the purchasing  
31 department shall contract on a competitive basis for all public works,  
32 enter into leases of personal property on a competitive basis, and  
33 purchase all supplies, materials, and equipment, on a competitive  
34 basis, for all departments of the county, as provided in this chapter  
35 and chapter 39.04 RCW, except that the county purchasing department is  
36 not required to make purchases for the county hospital, or make

1 purchases that are paid from the county road fund or equipment rental  
2 and revolving fund.

3 **Sec. 8.** RCW 36.32.250 and 2000 c 138 s 207 are each amended to  
4 read as follows:

5 No contract for public works may be entered into by the county  
6 legislative authority or by any elected or appointed officer of the  
7 county until after bids have been submitted to the county upon  
8 specifications therefor. Such specifications shall be in writing and  
9 shall be filed with the clerk of the county legislative authority for  
10 public inspection. An advertisement shall be published in the county  
11 official newspaper stating the time and place where bids will be  
12 opened, the time after which bids will not be received, the character  
13 of the work to be done, the materials and equipment to be furnished,  
14 and that specifications therefor may be seen at the office of the clerk  
15 of the county legislative authority. An advertisement shall also be  
16 published in a legal newspaper of general circulation in or as near as  
17 possible to that part of the county in which such work is to be done.  
18 If the county official newspaper is a newspaper of general circulation  
19 covering at least forty percent of the residences in that part of the  
20 county in which such public works are to be done, then the publication  
21 of an advertisement of the applicable specifications in the county  
22 official newspaper shall be sufficient. Such advertisements shall be  
23 published at least once at least thirteen days prior to the last date  
24 upon which bids will be received. The bids shall be in writing, shall  
25 be filed with the clerk, shall be opened and read in public at the time  
26 and place named therefor in the advertisements, and after being opened,  
27 shall be filed for public inspection. No bid may be considered for  
28 public work unless it is accompanied by a bid deposit in the form of a  
29 surety bond, postal money order, cash, cashier's check, or certified  
30 check in an amount equal to five percent of the amount of the bid  
31 proposed. The contract for the public work shall be awarded to the  
32 lowest responsible bidder. Any or all bids may be rejected for good  
33 cause. The county legislative authority shall require from the  
34 successful bidder for such public work a contractor's bond in the  
35 amount and with the conditions imposed by law. If the bidder to whom  
36 the contract is awarded fails to enter into the contract and furnish  
37 the contractor's bond as required within ten days after notice of the

1 award, exclusive of the day of notice, the amount of the bid deposit  
2 shall be forfeited to the county and the contract awarded to the next  
3 lowest and best bidder. A low bidder who claims error and fails to  
4 enter into a contract is prohibited from bidding on the same project if  
5 a second or subsequent call for bids is made for the project. The bid  
6 deposit of all unsuccessful bidders shall be returned after the  
7 contract is awarded and the required contractor's bond given by the  
8 successful bidder is accepted by the county legislative authority. In  
9 the letting of any contract for public works involving less than  
10 (~~ten~~) forty thousand dollars, advertisement and competitive bidding  
11 may be dispensed with on order of the county legislative authority.  
12 Immediately after the award is made, the bid quotations obtained shall  
13 be recorded and open to public inspection and shall be available by  
14 telephone inquiry.

15 As an alternative to requirements under this section, a county may  
16 let contracts using the small works roster process under RCW 39.04.155.

17 This section does not apply to performance-based contracts, as  
18 defined in RCW 39.35A.020(~~(+3)~~) (4), that are negotiated under chapter  
19 39.35A RCW.

20 **Sec. 9.** RCW 52.14.110 and 2001 c 79 s 1 are each amended to read  
21 as follows:

22 Insofar as practicable, purchases and any public works by the  
23 district shall be based on competitive bids. A formal sealed bid  
24 procedure shall be used as standard procedure for purchases and  
25 contracts for purchases executed by the board of commissioners. Formal  
26 sealed bidding shall not be required for:

27 (1) The purchase of any materials, supplies, or equipment if the  
28 cost will not exceed the sum of ten thousand dollars. However,  
29 whenever the estimated cost does not exceed fifty thousand dollars, the  
30 commissioners may by resolution use the process provided in RCW  
31 39.04.190 to award contracts;

32 (2) Contracting for work to be done involving the construction or  
33 improvement of a fire station or other buildings where the estimated  
34 cost will not exceed the sum of (~~two thousand five hundred~~) twenty  
35 thousand dollars, which includes the costs of labor, material, and  
36 equipment;

1 (3) Contracts using the small works roster process under RCW  
2 39.04.155; and

3 (4) Any contract for purchases or public work pursuant to RCW  
4 39.04.280 if an exemption contained within that section applies to the  
5 purchase or public work.

6 **Sec. 10.** RCW 35.61.135 and 2001 c 29 s 1 are each amended to read  
7 as follows:

8 (1) All work ordered, the estimated cost of which is in excess of  
9 (~~five~~) twenty thousand dollars, shall be let by contract and  
10 competitive bidding. Before awarding any such contract the board of  
11 park commissioners shall publish a notice in a newspaper of general  
12 circulation where the district is located at least once thirteen days  
13 before the last date upon which bids will be received, inviting sealed  
14 proposals for such work, plans, and specifications which must at the  
15 time of publication of such notice be on file in the office of the  
16 board of park commissioners subject to the public inspection. The  
17 notice shall state generally the work to be done and shall call for  
18 proposals for doing the same to be sealed and filed with the board of  
19 park commissioners on or before the day and hour named therein.

20 Each bid shall be accompanied by a certified or cashier's check or  
21 postal money order payable to the order of the metropolitan park  
22 district for a sum not less than five percent of the amount of the bid,  
23 or accompanied by a bid bond in an amount not less than five percent of  
24 the bid with a corporate surety licensed to do business in the state,  
25 conditioned that the bidder will pay the metropolitan park district as  
26 liquidated damages the amount specified in the bond, unless the bidder  
27 enters into a contract in accordance with the bidder's bid, and no bid  
28 shall be considered unless accompanied by such check, cash, or bid  
29 bond. At the time and place named such bids shall be publicly opened  
30 and read and the board of park commissioners shall proceed to canvass  
31 the bids and may let such contract to the lowest responsible bidder  
32 upon plans and specifications on file or to the best bidder submitting  
33 the bidder's own plans and specifications. The board of park  
34 commissioners may reject all bids for good cause and readvertise and in  
35 such case all checks, cash, or bid bonds shall be returned to the  
36 bidders. If the contract is let, then all checks, cash, or bid bonds  
37 shall be returned to the bidders, except that of the successful bidder,

1 which shall be retained until a contract is entered into for doing the  
2 work, and a bond to perform such work furnished with sureties  
3 satisfactory to the board of park commissioners in the full amount of  
4 the contract price between the bidder and the metropolitan park  
5 district in accordance with the bid. If the bidder fails to enter into  
6 the contract in accordance with the bid and furnish the bond within ten  
7 days from the date at which the bidder is notified that the bidder is  
8 the successful bidder, the check, cash, or bid bonds and the amount  
9 thereof shall be forfeited to the metropolitan park district. If the  
10 bidder fails to enter into a contract in accordance with the bidder's  
11 bid, and the board of park commissioners deems it necessary to take  
12 legal action to collect on any bid bond required by this section, then  
13 the metropolitan park district is entitled to collect from the bidder  
14 any legal expenses, including reasonable attorneys' fees occasioned  
15 thereby. A low bidder who claims error and fails to enter into a  
16 contract is prohibited from bidding on the same project if a second or  
17 subsequent call for bids is made for the project.

18 (2) As an alternative to requirements under subsection (1) of this  
19 section, a metropolitan park district may let contracts using the small  
20 works roster process under RCW 39.04.155.

21 (3) Any purchase of materials, supplies, or equipment, with an  
22 estimated cost in excess of forty thousand dollars, shall be by  
23 contract. Any purchase of materials, supplies, or equipment, with an  
24 estimated cost of less than fifty thousand dollars shall be made using  
25 the process provided in RCW 39.04.190. Any purchase of materials,  
26 supplies, or equipment with an estimated cost of fifty thousand dollars  
27 or more shall be made by competitive bidding following the procedure  
28 for letting contracts for projects under subsection (1) of this  
29 section.

30 (4) As an alternative to requirements under subsection (3) of this  
31 section, a metropolitan park district may let contracts for purchase of  
32 materials, supplies, or equipment with the suppliers designated on  
33 current state agency, county, city, or town purchasing rosters for the  
34 materials, supplies, or equipment, when the roster has been established  
35 in accordance with the competitive bidding law for purchases applicable  
36 to the state agency, county, city, or town. The price and terms for  
37 purchases shall be as described on the applicable roster.

1       (5) The park board may waive the competitive bidding requirements  
2 of this section pursuant to RCW 39.04.280 if an exemption contained  
3 within RCW 39.04.280 applies to the purchase or public work.

4       **Sec. 11.** RCW 57.08.050 and 2003 c 145 s 1 and 2003 c 60 s 1 are  
5 each reenacted and amended to read as follows:

6       (1) All work ordered, the estimated cost of which is in excess of  
7 (~~ten~~) twenty thousand dollars, shall be let by contract and  
8 competitive bidding. Before awarding any such contract the board of  
9 commissioners shall publish a notice in a newspaper of general  
10 circulation where the district is located at least once thirteen days  
11 before the last date upon which bids will be received, inviting sealed  
12 proposals for such work, plans and specifications which must at the  
13 time of publication of such notice be on file in the office of the  
14 board of commissioners subject to the public inspection. The notice  
15 shall state generally the work to be done and shall call for proposals  
16 for doing the same to be sealed and filed with the board of  
17 commissioners on or before the day and hour named therein.

18       Each bid shall be accompanied by a certified or cashier's check or  
19 postal money order payable to the order of the county treasurer for a  
20 sum not less than five percent of the amount of the bid, or accompanied  
21 by a bid bond in an amount not less than five percent of the bid with  
22 a corporate surety licensed to do business in the state, conditioned  
23 that the bidder will pay the district as liquidated damages the amount  
24 specified in the bond, unless the bidder enters into a contract in  
25 accordance with the bidder's bid, and no bid shall be considered unless  
26 accompanied by such check, cash or bid bond. At the time and place  
27 named such bids shall be publicly opened and read and the board of  
28 commissioners shall proceed to canvass the bids and may let such  
29 contract to the lowest responsible bidder upon plans and specifications  
30 on file or to the best bidder submitting the bidder's own plans and  
31 specifications. The board of commissioners may reject all bids for  
32 good cause and readvertise and in such case all checks, cash or bid  
33 bonds shall be returned to the bidders. If the contract is let, then  
34 all checks, cash, or bid bonds shall be returned to the bidders, except  
35 that of the successful bidder, which shall be retained until a contract  
36 shall be entered into for doing the work, and a bond to perform such  
37 work furnished with sureties satisfactory to the board of commissioners

1 in the full amount of the contract price between the bidder and the  
2 commission in accordance with the bid. If the bidder fails to enter  
3 into the contract in accordance with the bid and furnish the bond  
4 within ten days from the date at which the bidder is notified that the  
5 bidder is the successful bidder, the check, cash, or bid bonds and the  
6 amount thereof shall be forfeited to the district. If the bidder fails  
7 to enter into a contract in accordance with the bidder's bid, and the  
8 board of commissioners deems it necessary to take legal action to  
9 collect on any bid bond required by this section, then the district  
10 shall be entitled to collect from the bidder any legal expenses,  
11 including reasonable attorneys' fees occasioned thereby. A low bidder  
12 who claims error and fails to enter into a contract is prohibited from  
13 bidding on the same project if a second or subsequent call for bids is  
14 made for the project.

15 (2) As an alternative to requirements under subsection (1) of this  
16 section, a water-sewer district may let contracts using the small works  
17 roster process under RCW 39.04.155.

18 (3) Any purchase of materials, supplies, or equipment, with an  
19 estimated cost in excess of (~~ten~~) forty thousand dollars, shall be by  
20 contract. Any purchase of materials, supplies, or equipment, with an  
21 estimated cost of less than fifty thousand dollars shall be made using  
22 the process provided in RCW 39.04.190. Any purchase of materials,  
23 supplies, or equipment with an estimated cost of fifty thousand dollars  
24 or more shall be made by competitive bidding following the procedure  
25 for letting contracts for projects under subsection (1) of this  
26 section.

27 (4) As an alternative to requirements under subsection (3) of this  
28 section, a water-sewer district may let contracts for purchase of  
29 materials, supplies, or equipment with the suppliers designated on  
30 current state agency, county, city, or town purchasing rosters for the  
31 materials, supplies, or equipment, when the roster has been established  
32 in accordance with the competitive bidding law for purchases applicable  
33 to the state agency, county, city, or town. The price and terms for  
34 purchases shall be as described on the applicable roster.

35 (5) The board may waive the competitive bidding requirements of  
36 this section pursuant to RCW 39.04.280 if an exemption contained within  
37 that section applies to the purchase or public work.

1       **Sec. 12.** RCW 70.44.140 and 2002 c 106 s 1 are each amended to read  
2 as follows:

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

1 he or she is the successful bidder, the bid proposal security and the  
2 amount thereof shall be forfeited to the public hospital district. A  
3 low bidder who claims error and fails to enter into a contract is  
4 prohibited from bidding on the same project if a second or subsequent  
5 call for bids is made for the project.

6 (2) As an alternative to the requirements of subsection (1) of this  
7 section, a public hospital district may let contracts using the small  
8 works roster process under RCW 39.04.155.

9 (3) Any purchases with an estimated cost of up to fifteen thousand  
10 dollars may be made using the process provided in RCW 39.04.190.

11 (4) The commission may waive the competitive bidding requirements  
12 of this section pursuant to RCW 39.04.280 if an exemption contained  
13 within that section applies to the purchase or public work.

14 **Sec. 13.** RCW 87.03.437 and 1999 c 234 s 2 are each amended to read  
15 as follows:

16 (1) Purchases of any materials, supplies, or equipment by the  
17 district shall be based on competitive bids except as provided in RCW  
18 87.03.435 and 39.04.280. A formal sealed bid procedure shall be used  
19 as standard procedure for the purchases made by irrigation districts.  
20 However, the board may by resolution adopt a policy to waive formal  
21 sealed bidding procedures for purchases of any materials, supplies, or  
22 equipment for an amount set by the board not to exceed (~~ten~~) forty  
23 thousand dollars for each purchase.

24 (2) The directors may by resolution adopt a policy to use the  
25 process provided in RCW 39.04.190 for purchases of materials, supplies,  
26 or equipment when the estimated cost is between the amount established  
27 by the board under subsection (1) of this section and a maximum amount  
28 set by resolution adopted by the board for purchases up to fifty  
29 thousand dollars exclusive of sales tax.

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