
ENGROSSED SENATE BILL 6167

State of Washington

68th Legislature

2024 Regular Session

By Senator Hasegawa

1 AN ACT Relating to adopting the recommendations of the capital
2 projects advisory review board regarding local government procurement
3 rules among special purpose districts, first-class and second-class
4 cities, and public utility districts; reenacting and amending RCW
5 54.04.070, 35.23.352, 35.22.620, 57.08.050, and 52.14.110; creating a
6 new section; and providing an effective date.

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

8 **Sec. 1.** RCW 54.04.070 and 2023 c 395 s 32 and 2023 c 255 s 1 are
9 each reenacted and amended to read as follows:

10 (1) Any item, or items of the same kind of materials, equipment,
11 or supplies purchased, the estimated cost of which is in excess of
12 \$30,000, exclusive of sales tax, shall be by contract. However, a
13 district may make purchases of the same kind of items of materials,
14 equipment, and supplies not exceeding \$12,000 in any calendar month
15 without a contract, purchasing any excess thereof over \$12,000 by
16 contract.

17 (2) (a) Any work ordered by a district commission, the estimated
18 cost of which is in excess of \$150,000 exclusive of sales tax if more
19 than a single craft or trade is involved with the public works
20 project, or a public works project in excess of \$75,500 exclusive of

1 sales tax if only a single craft or trade is involved with the public
2 works project, shall be by contract. (~~However, a~~)

3 (b) A district commission may have its own regularly employed
4 personnel perform work which is an accepted industry practice under
5 prudent utility management without a contract. For purposes of this
6 section, "prudent utility management" means performing work with
7 regularly employed personnel utilizing material of a worth not
8 exceeding \$300,000 in value without a contract. This limit on the
9 value of material being utilized in work being performed by regularly
10 employed personnel shall not include the value of individual items of
11 equipment. For the purposes of this section, the term "equipment"
12 includes but is not limited to conductor, cabling, wire, pipe, or
13 lines used for electrical, water, fiber optic, or telecommunications.

14 (3) Before awarding a contract required under subsection (1) or
15 (2) of this section, the commission shall publish a notice once or
16 more in a newspaper of general circulation in the district at least
17 13 days before the last date upon which bids will be received,
18 inviting sealed proposals for the work or materials. Plans and
19 specifications for the work or materials shall at the time of
20 publication be on file at the office of the district and subject to
21 public inspection. Any published notice ordering work to be performed
22 for the district shall be mailed at the time of publication to any
23 established trade association which files a written request with the
24 district to receive such notices. The commission may, at the same
25 time and as part of the same notice, invite tenders for the work or
26 materials upon plans and specifications to be submitted by the
27 bidders.

28 (4) As an alternative to the competitive bidding requirements of
29 this section and RCW 54.04.080, a district may let contracts using
30 the small works roster process under RCW 39.04.151 through 39.04.154.

31 (5) Whenever equipment or materials required by a district are
32 held by a governmental agency and are available for sale but such
33 agency is unwilling to submit a proposal, the commission may
34 ascertain the price of such items and file a statement of such price
35 supported by the sworn affidavit of one member of the commission, and
36 may consider such price as a bid without a deposit or bond.

37 (6) Pursuant to RCW 39.04.280, the commission may waive the
38 competitive bidding requirements of this section and RCW 54.04.080 if
39 an exemption contained within RCW 39.04.280 applies to the purchase
40 or public work.

1 (7)(a) A district may procure public works with a unit priced
2 contract under this section, RCW 54.04.080, or 54.04.085 for the
3 purpose of completing anticipated types of work based on hourly rates
4 or unit pricing for one or more categories of work or trades.

5 (b) For the purposes of this section, unit priced contract means
6 a competitively bid contract in which public works are anticipated on
7 a recurring basis to meet the business or operational needs of a
8 district, under which the contractor agrees to a fixed period
9 indefinite quantity delivery of work, at a defined unit price, for
10 each category of work.

11 (c) Unit priced contracts must be executed for an initial
12 contract term not to exceed three years, with the district having the
13 option of extending or renewing the unit priced contract for one
14 additional year.

15 (d) Invitations for unit price bids shall include, for purposes
16 of the bid evaluation, estimated quantities of the anticipated types
17 of work or trades, and specify how the district will issue or release
18 work assignments, work orders, or task authorizations pursuant to a
19 unit priced contract for projects, tasks, or other work based on the
20 hourly rates or unit prices bid by the contractor. Where electrical
21 facility construction or improvement work is anticipated, contractors
22 on a unit priced contract shall comply with the requirements under
23 RCW 54.04.085 (1) through (5). Contracts must be awarded to the
24 lowest responsible bidder as per RCW 39.04.010.

25 (e) Unit price contractors shall pay prevailing wages for all
26 work that would otherwise be subject to the requirements of chapter
27 39.12 RCW. Prevailing wages for all work performed pursuant to each
28 work order must be the prevailing wage rates in effect at the
29 beginning date for each contract year. Unit priced contracts must
30 have prevailing wage rates updated annually. Intents and affidavits
31 for prevailing wages paid must be submitted annually for all work
32 completed within the previous 12-month period of the unit priced
33 contract.

34 (8)(a) For the purposes of this section, "lowest responsible
35 bidder" means a bid that meets the criteria under RCW 39.04.350 and
36 has the lowest bid; provided, that if the district commission issues
37 a written finding that the lowest bidder has delivered a project to
38 the district within the last three years which was late, over budget,
39 or did not meet specifications, and the commission does not find in
40 writing that such bidder has shown how they would improve performance

1 to be likely to meet project specifications then the commission may
2 choose the second lowest bidder whose bid is within five percent of
3 the lowest bid and meets the same criteria as the lowest bidder.

4 (b) This subsection (8) does not apply until July 1, 2025.

5 **Sec. 2.** RCW 35.23.352 and 2023 c 395 s 21 and 2023 c 255 s 2 are
6 each reenacted and amended to read as follows:

7 (1) (a) Any second-class city or any town may construct any public
8 works, as defined in RCW 39.04.010, by contract or day labor without
9 calling for bids therefor whenever the estimated cost of the work or
10 improvement, including cost of materials, supplies and equipment will
11 not exceed the sum of \$150,000 if more than one craft or trade is
12 involved with the public works, or \$75,500 if a single craft or trade
13 is involved with the public works or the public works project is
14 street signalization or street lighting. A public works project means
15 a complete project. The restrictions in this subsection do not permit
16 the division of the project into units of work or classes of work to
17 avoid the restriction on work that may be performed by day labor on a
18 single project. (~~However~~)

19 (b) Beginning July 1, 2025, a second-class city or any town may
20 have its own regularly employed personnel perform work which is an
21 accepted industry practice under prudent utility management without a
22 contract. For purposes of this section, "prudent utility management"
23 means performing work with regularly employed personnel utilizing
24 material of a worth not exceeding \$300,000 in value without a
25 contract. This limit on value of material being utilized in work
26 being performed by regularly employed personnel shall not include the
27 value of individual items of equipment. For purposes of this section,
28 "equipment" includes, but is not limited to, conductor, cabling,
29 wire, pipe, or lines used for electrical, water, fiber optic, or
30 telecommunications.

31 Whenever the cost of the public work or improvement, including
32 materials, supplies and equipment, will exceed these figures, the
33 same shall be done by contract. All such contracts shall be let at
34 public bidding upon publication of notice calling for sealed bids
35 upon the work. The notice shall be published in the official
36 newspaper, or a newspaper of general circulation most likely to bring
37 responsive bids, at least 13 days prior to the last date upon which
38 bids will be received. The notice shall generally state the nature of
39 the work to be done that plans and specifications therefor shall then

1 be on file in the city or town hall for public inspections, and
2 require that bids be sealed and filed with the council or commission
3 within the time specified therein. Each bid shall be accompanied by a
4 bid proposal deposit in the form of a cashier's check, postal money
5 order, or surety bond to the council or commission for a sum of not
6 less than five percent of the amount of the bid, and no bid shall be
7 considered unless accompanied by such bid proposal deposit. The
8 council or commission of the city or town shall let the contract to
9 the lowest responsible bidder or shall have power by resolution to
10 reject any or all bids and to make further calls for bids in the same
11 manner as the original call.

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

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

29 (2) For the purposes of this section, "lowest responsible bidder"
30 means a bid that meets the criteria under RCW 39.04.350 and has the
31 lowest bid; provided, that if the city issues a written finding that
32 the lowest bidder has delivered a project to the city within the last
33 three years which was late, over budget, or did not meet
34 specifications, and the city does not find in writing that such
35 bidder has shown how they would improve performance to be likely to
36 meet project specifications then the city may choose the second
37 lowest bidder whose bid is within five percent of the lowest bid and
38 meets the same criteria as the lowest bidder.

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

4 (4) In lieu of the procedures of subsection (1) of this section,
5 a second-class city or a town may let contracts using the small works
6 roster process provided in RCW 39.04.151 through 39.04.154.

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

10 (5) The form required by RCW 43.09.205 shall be to account and
11 record costs of public works in excess of \$5,000 that are not let by
12 contract.

13 (6) The cost of a separate public works project shall be the
14 costs of the materials, equipment, supplies, and labor on that
15 construction project.

16 (7) Any purchase of supplies, material, or equipment, except for
17 public work or improvement, with an estimated cost in excess of
18 \$40,000, shall be by contract. Any purchase of materials, supplies,
19 or equipment with an estimated cost of less than \$50,000 shall be
20 made using the process provided in RCW 39.04.190.

21 (8) Bids shall be called annually and at a time and in the manner
22 prescribed by ordinance for the publication in a newspaper of general
23 circulation in the city or town of all notices or newspaper
24 publications required by law. The contract shall be awarded to the
25 lowest responsible bidder.

26 (9) For advertisement and formal sealed bidding to be dispensed
27 with as to purchases with an estimated value of \$15,000 or less, the
28 council or commission must authorize by resolution, use of the
29 uniform procedure provided in RCW 39.04.190.

30 (10) The city or town legislative authority may waive the
31 competitive bidding requirements of this section pursuant to RCW
32 39.04.280 if an exemption contained within that section applies to
33 the purchase or public work.

34 (11) This section does not apply to performance-based contracts,
35 as defined in RCW 39.35A.020(6), that are negotiated under chapter
36 39.35A RCW.

37 (12) Nothing in this section shall prohibit any second-class city
38 or any town from allowing for preferential purchase of products made
39 from recycled materials or products that may be recycled or reused.

1 (13)(a) Any second-class city or any town may procure public
2 works with a unit priced contract under this section for the purpose
3 of completing anticipated types of work based on hourly rates or unit
4 pricing for one or more categories of work or trades.

5 (b) For the purposes of this section, "unit priced contract"
6 means a competitively bid contract in which public works are
7 anticipated on a recurring basis to meet the business or operational
8 needs of the city or town, under which the contractor agrees to a
9 fixed period indefinite quantity delivery of work, at a defined unit
10 price for each category of work.

11 (c) Unit priced contracts must be executed for an initial
12 contract term not to exceed three years, with the city or town having
13 the option of extending or renewing the unit priced contract for one
14 additional year.

15 (d) Invitations for unit price bids shall include, for purposes
16 of the bid evaluation, estimated quantities of the anticipated types
17 of work or trades, and specify how the city or town will issue or
18 release work assignments, work orders, or task authorizations
19 pursuant to a unit priced contract for projects, tasks, or other work
20 based on the hourly rates or unit prices bid by the contractor.
21 Contracts must be awarded to the lowest responsible bidder as per RCW
22 39.04.010. Whenever possible, the city or town must invite at least
23 one proposal from a certified minority or woman contractor who
24 otherwise qualifies under this section.

25 (e) Unit price contractors shall pay prevailing wages for all
26 work that would otherwise be subject to the requirements of chapter
27 39.12 RCW. Prevailing wages for all work performed pursuant to each
28 work order must be the prevailing wage rates in effect at the
29 beginning date for each contract year. Unit priced contracts must
30 have prevailing wage rates updated annually. Intents and affidavits
31 for prevailing wages paid must be submitted annually for all work
32 completed within the previous 12-month period of the unit priced
33 contract.

34 (14) Any second-class city or town that awards a project to a
35 bidder under the criteria described in subsection (2) of this section
36 must make an annual report to the department of commerce that
37 includes the total number of bids awarded to certified minority or
38 women contractors and describing how notice was provided to potential
39 certified minority or women contractors.

1 **Sec. 3.** RCW 35.22.620 and 2023 c 395 s 20 and 2023 c 255 s 3 are
2 each reenacted and amended to read as follows:

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

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

15 If a first-class city has public works performed by public
16 employees in any budget period that are in excess of this 10 percent
17 limitation, the amount in excess of the permitted amount shall be
18 reduced from the otherwise permitted amount of public works that may
19 be performed by public employees for that city in its next budget
20 period. Twenty percent of the motor vehicle fuel tax distributions to
21 that city shall be withheld if two years after the year in which the
22 excess amount of work occurred, the city has failed to so reduce the
23 amount of public works that it has performed by public employees. The
24 amount so withheld shall be distributed to the city when it has
25 demonstrated in its reports to the state auditor that the amount of
26 public works it has performed by public employees has been so
27 reduced.

28 Whenever a first-class city has had public works performed in any
29 budget period up to the maximum permitted amount for that budget
30 period, all remaining public works within that budget period shall be
31 done by contract pursuant to public notice and call for competitive
32 bids.

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

37 (3) (a) In addition to the percentage limitation provided in
38 subsection (2) of this section, a first-class city shall not have
39 public employees perform a public works project in excess of \$150,000
40 if more than a single craft or trade is involved with the public

1 works project, or a public works project in excess of \$75,500 if only
2 a single craft or trade is involved with the public works project or
3 the public works project is street signalization or street lighting.
4 A public works project means a complete project. The restrictions in
5 this subsection do not permit the division of the project into units
6 of work or classes of work to avoid the restriction on work that may
7 be performed by day labor on a single project. ((However))

8 (b) Notwithstanding (a) of this subsection, beginning July 1,
9 2025, a first-class city may have its own regularly employed
10 personnel perform work which is an accepted industry practice under
11 prudent utility management without a contract. For purposes of this
12 section, "prudent utility management" means performing work with
13 regularly employed personnel utilizing material of a worth not
14 exceeding \$300,000 in value without a contract. This limit on the
15 value of material being utilized in work being performed by regularly
16 employed personnel shall not include the value of individual items of
17 equipment. For purposes of this section, the term "equipment"
18 includes, but is not limited to, conductor, cabling, wire, pipe, or
19 lines used for electrical, water, fiber optic, or telecommunications.

20 (4) In addition to the accounting and recordkeeping requirements
21 contained in RCW 39.04.070, every first-class city annually may
22 prepare a report for the state auditor indicating the total public
23 works construction budget and supplemental public works construction
24 budget for that year, the total construction costs of public works
25 performed by public employees for that year, and the amount of public
26 works that is performed by public employees above or below 10 percent
27 of the total construction budget. However, if a city budgets on a
28 biennial basis, this annual report may indicate the amount of public
29 works that is performed by public employees within the current
30 biennial period that is above or below 10 percent of the total
31 biennial construction budget.

32 Each first-class city with a population of 150,000 or less shall
33 use the form required by RCW 43.09.205 to account and record costs of
34 public works in excess of \$5,000 that are not let by contract.

35 (5) The cost of a separate public works project shall be the
36 costs of materials, supplies, equipment, and labor on the
37 construction of that project. The value of the public works budget
38 shall be the value of all the separate public works projects within
39 the budget.

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

5 (7) In lieu of the procedures of subsections (2) and (6) of this
6 section, a first-class city may let contracts using the small works
7 roster process in RCW 39.04.151 through 39.04.154.

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

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

14 (9) This section does not apply to performance-based contracts,
15 as defined in RCW 39.35A.020(6), that are negotiated under chapter
16 39.35A RCW.

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

20 (11)(a) Any first-class city may procure public works with a unit
21 priced contract under this section for the purpose of completing
22 anticipated types of work based on hourly rates or unit pricing for
23 one or more categories of work or trades.

24 (b) For the purposes of this section, "unit priced contract"
25 means a competitively bid contract in which public works are
26 anticipated on a recurring basis to meet the business or operational
27 needs of the city, under which the contractor agrees to a fixed
28 period indefinite quantity delivery of work, at a defined unit price
29 for each category of work.

30 (c) Unit priced contracts must be executed for an initial
31 contract term not to exceed three years, with the city having the
32 option of extending or renewing the unit priced contract for one
33 additional year.

34 (d) Invitations for unit price bids shall include, for purposes
35 of the bid evaluation, estimated quantities of the anticipated types
36 of work or trades, and specify how the city will issue or release
37 work assignments, work orders, or task authorizations pursuant to a
38 unit priced contract for projects, tasks, or other work based on the
39 hourly rates or unit prices bid by the contractor. Contracts must be
40 awarded to the lowest responsible bidder as per RCW 39.04.010.

1 Whenever possible, the city must invite at least one proposal from a
2 certified minority or woman contractor who otherwise qualifies under
3 this section.

4 (e) Unit price contractors shall pay prevailing wages for all
5 work that would otherwise be subject to the requirements of chapter
6 39.12 RCW. Prevailing wages for all work performed pursuant to each
7 work order must be the prevailing wage rates in effect at the
8 beginning date for each contract year. Unit priced contracts must
9 have prevailing wage rates updated annually. Intents and affidavits
10 for prevailing wages paid must be submitted annually for all work
11 completed within the previous 12-month period of the unit priced
12 contract.

13 (12)(a) For the purposes of this section, "lowest responsible
14 bidder" means a bid that meets the criteria under RCW 39.04.350 and
15 has the lowest bid; provided, that if the city issues a written
16 finding that the lowest bidder has delivered a project to the city
17 within the last three years which was late, over budget, or did not
18 meet specifications, and the city does not find in writing that such
19 bidder has shown how they would improve performance to be likely to
20 meet project specifications then the city may choose the second
21 lowest bidder whose bid is within five percent of the lowest bid and
22 meets the same criteria as the lowest bidder.

23 (b) This subsection (12) does not apply until July 1, 2025.

24 **Sec. 4.** RCW 57.08.050 and 2023 c 395 s 33 and 2023 c 255 s 4 are
25 each reenacted and amended to read as follows:

26 (1)(a) All work ordered, the estimated cost of which is in excess
27 of \$150,000 if more than a single craft or trade is involved with the
28 public works project, or a public works project in excess of \$75,500
29 if only a single craft or trade is involved with the public works
30 project, shall be let by contract and competitive bidding.

31 (b) Before awarding any such contract the board of commissioners
32 shall publish a notice in a newspaper of general circulation where
33 the district is located at least once 13 days before the last date
34 upon which bids will be received, inviting sealed proposals for such
35 work, plans and specifications which must at the time of publication
36 of such notice be on file in the office of the board of commissioners
37 subject to the public inspection. The notice shall state generally
38 the work to be done and shall call for proposals for doing the same

1 to be sealed and filed with the board of commissioners on or before
2 the day and hour named therein.

3 Each bid shall be accompanied by a certified or cashier's check
4 or postal money order payable to the order of the county treasurer
5 for a sum not less than five percent of the amount of the bid, or
6 accompanied by a bid bond in an amount not less than five percent of
7 the bid with a corporate surety licensed to do business in the state,
8 conditioned that the bidder will pay the district as liquidated
9 damages the amount specified in the bond, unless the bidder enters
10 into a contract in accordance with the bidder's bid, and no bid shall
11 be considered unless accompanied by such check, cash or bid bond. At
12 the time and place named such bids shall be publicly opened and read
13 and the board of commissioners shall proceed to canvass the bids and
14 may let such contract to the lowest responsible bidder upon plans and
15 specifications on file or to the best bidder submitting the bidder's
16 own plans and specifications. The board of commissioners may reject
17 all bids for good cause and readvertise and in such case all checks,
18 cash or bid bonds shall be returned to the bidders. If the contract
19 is let, then all checks, cash, or bid bonds shall be returned to the
20 bidders, except that of the successful bidder, which shall be
21 retained until a contract shall be entered into for doing the work,
22 and a bond to perform such work furnished with sureties satisfactory
23 to the board of commissioners in the full amount of the contract
24 price between the bidder and the commission in accordance with the
25 bid. If the bidder fails to enter into the contract in accordance
26 with the bid and furnish the bond within 10 days from the date at
27 which the bidder is notified that the bidder is the successful
28 bidder, the check, cash, or bid bonds and the amount thereof shall be
29 forfeited to the district. If the bidder fails to enter into a
30 contract in accordance with the bidder's bid, and the board of
31 commissioners deems it necessary to take legal action to collect on
32 any bid bond required by this section, then the district shall be
33 entitled to collect from the bidder any legal expenses, including
34 reasonable attorneys' fees occasioned thereby. A low bidder who
35 claims error and fails to enter into a contract is prohibited from
36 bidding on the same project if a second or subsequent call for bids
37 is made for the project.

38 (2) As an alternative to requirements under subsection (1) of
39 this section, a water-sewer district may let contracts using the
40 small works roster process under RCW 39.04.151 through 39.04.154.

1 (3) Any purchase of materials, supplies, or equipment, with an
2 estimated cost in excess of \$40,000, shall be by contract. Any
3 purchase of materials, supplies, or equipment, with an estimated cost
4 of less than \$50,000 shall be made using the process provided in RCW
5 39.04.190. Any purchase of materials, supplies, or equipment with an
6 estimated cost of \$50,000 or more shall be made by competitive
7 bidding following the procedure for letting contracts for projects
8 under subsection (1) of this section.

9 (4) As an alternative to requirements under subsection (3) of
10 this section, a water-sewer district may let contracts for purchase
11 of materials, supplies, or equipment with the suppliers designated on
12 current state agency, county, city, or town purchasing rosters for
13 the materials, supplies, or equipment, when the roster has been
14 established in accordance with the competitive bidding law for
15 purchases applicable to the state agency, county, city, or town. The
16 price and terms for purchases shall be as described on the applicable
17 roster.

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

21 (6)(a) A district may procure public works with a unit priced
22 contract under this section for the purpose of completing anticipated
23 types of work based on hourly rates or unit pricing for one or more
24 categories of work or trades.

25 (b) For the purposes of this section, "unit priced contract"
26 means a competitively bid contract in which public works are
27 anticipated on a recurring basis to meet the business or operational
28 needs of the district, under which the contractor agrees to a fixed
29 period indefinite quantity delivery of work, at a defined unit price
30 for each category of work.

31 (c) Unit priced contracts must be executed for an initial
32 contract term not to exceed one year, with the district having the
33 option of extending or renewing the unit priced contract for one
34 additional year.

35 (d) Invitations for unit price bids must include, for purposes of
36 the bid evaluation, estimated quantities of the anticipated types of
37 work or trades, and specify how the district will issue or release
38 work assignments, work orders, or task authorizations pursuant to a
39 unit priced contract for projects, tasks, or other work based on the
40 hourly rates or unit prices bid by the contractor. Contracts must be

1 awarded to the lowest responsible bidder as per RCW 39.04.010.
2 Whenever possible, the district must invite at least one proposal
3 from a certified minority or woman contractor who otherwise qualifies
4 under this section.

5 (e) Unit price contractors shall pay prevailing wages for all
6 work that would otherwise be subject to the requirements of chapter
7 39.12 RCW. Prevailing wages for all work performed pursuant to each
8 work order must be the prevailing wage rates in effect at the
9 beginning date for each contract year. Unit priced contracts must
10 have prevailing wage rates updated annually. Intents and affidavits
11 for prevailing wages paid must be submitted annually for all work
12 completed within the previous 12-month period of the unit priced
13 contract.

14 (7) (a) A water-sewer district may have its own regularly employed
15 personnel perform work which is an accepted industry practice under
16 prudent utility management without a contract. For purposes of this
17 section, "prudent utility management" means performing work with
18 regularly employed personnel utilizing material of a worth not
19 exceeding \$300,000 in value without a contract. This limit on the
20 value of material being utilized in work being performed by regularly
21 employed personnel shall not include the value of individual items of
22 equipment. For the purposes of this section, the term "equipment"
23 includes but is not limited to conductor, cabling, wire, pipe, or
24 lines used for electrical, water, fiber optic, or telecommunications.

25 (b) This subsection (7) does not apply until July 1, 2025.

26 (8) (a) For the purposes of this section, "lowest responsible
27 bidder" means a bid that meets the criteria under RCW 39.04.350 and
28 has the lowest bid; provided, that if the district issues a written
29 finding that the lowest bidder has delivered a project to the
30 district within the last three years which was late, over budget, or
31 did not meet specifications, and the district does not find in
32 writing that such bidder has shown how they would improve performance
33 to be likely to meet project specifications then the district may
34 choose the second lowest bidder whose bid is within five percent of
35 the lowest bid and meets the same criteria as the lowest bidder.

36 (b) This subsection (8) does not apply until July 1, 2025.

37 **Sec. 5.** RCW 52.14.110 and 2023 c 395 s 30 and 2023 c 255 s 5 are
38 each reenacted and amended to read as follows:

1 (1) Insofar as practicable, purchases and any public works by the
2 district shall be based on competitive bids. A formal sealed bid
3 procedure shall be used as standard procedure for purchases and
4 contracts for purchases executed by the board of commissioners.
5 Formal sealed bidding shall not be required for:

6 (a) The purchase of any materials, supplies, or equipment if the
7 cost will not exceed the sum of \$75,500. However, whenever the
8 estimated cost does not exceed \$150,000, the commissioners may by
9 resolution use the process provided in RCW 39.04.190 to award
10 contracts;

11 (b) Contracting for work to be done involving the construction or
12 improvement of a fire station or other buildings where the estimated
13 cost will not exceed the sum of \$150,000 if more than a single craft
14 or trade is involved with the public works project, or a public works
15 project in excess of \$75,500 if only a single craft or trade is
16 involved with the public works project;

17 (c) Contracts using the small works roster process under RCW
18 39.04.151 through 39.04.154; and

19 (d) Any contract for purchases or public work pursuant to RCW
20 39.04.280 if an exemption contained within that section applies to
21 the purchase or public work.

22 (2) (a) A fire protection district may have its own regularly
23 employed personnel perform work which is an accepted industry
24 practice under prudent utility management without a contract. For
25 purposes of this section, "prudent utility management" means
26 performing work with regularly employed personnel utilizing material
27 of a worth not exceeding \$300,000 in value without a contract. This
28 limit on the value of material being utilized in work being performed
29 by regularly employed personnel shall not include the value of
30 individual items of equipment. For the purposes of this section, the
31 term "equipment" includes but is not limited to conductor, cabling,
32 wire, pipe, or lines used for electrical, water, fiber optic, or
33 telecommunications.

34 (b) This subsection (2) does not apply until July 1, 2025.

35 (3) (a) For the purposes of this section, "lowest responsible
36 bidder" means a bid that meets the criteria under RCW 39.04.350 and
37 has the lowest bid; provided, that if the district issues a written
38 finding that the lowest bidder has delivered a project to the
39 district within the last three years which was late, over budget, or
40 did not meet specifications, and the district does not find in

1 writing that such bidder has shown how they would improve performance
2 to be likely to meet project specifications then the district may
3 choose the second lowest bidder whose bid is within five percent of
4 the lowest bid and meets the same criteria as the lowest bidder.

5 (b) This subsection (3) does not apply until July 1, 2025.

6 NEW SECTION. **Sec. 6.** The capital projects advisory review board
7 shall review this act and make recommendations to the appropriate
8 committees of the legislature by October 31, 2024.

9 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2024.

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