
HOUSE BILL 1054

State of Washington

69th Legislature

2025 Regular Session

By Representatives Leavitt and Ramel

Prefiled 12/12/24.

1 AN ACT Relating to county ferry maintenance and repair contracts;
2 and amending RCW 36.32.235.

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

4 **Sec. 1.** RCW 36.32.235 and 2023 c 395 s 24 are each amended to
5 read as follows:

6 (1) In each county which by resolution establishes a county
7 purchasing department, the purchasing department shall enter into
8 leases of personal property on a competitive basis and purchase all
9 supplies, materials, and equipment on a competitive basis, for all
10 departments of the county, as provided in this chapter and chapter
11 39.04 RCW, except that the county purchasing department is not
12 required to make purchases that are paid from the county road fund or
13 equipment rental and revolving fund.

14 (2) As used in this section:

15 (a) "Public works" has the same definition as in RCW 39.04.010.

16 (b) "Riverine project" means a project of construction,
17 alteration, repair, replacement, or improvement other than ordinary
18 maintenance, executed at the cost of the state or of any
19 municipality, or which is by law a lien or charge on any property,
20 carried out on a river or stream and its tributaries and associated
21 floodplains, beds, banks, and waters for the purpose of improving

1 aquatic habitat, improving water quality, restoring floodplain
2 function, or providing flood protection.

3 (c) "Stormwater project" means a project of construction,
4 alteration, repair, replacement, or improvement other than ordinary
5 maintenance, executed at the cost of the state or of any
6 municipality, or which is by law a lien or charge on any property,
7 carried out on a municipal separate storm sewer system, and any
8 connections to the system, that is regulated under a state-issued
9 national pollutant discharge elimination system general municipal
10 stormwater permit for the purpose of improving control of stormwater
11 runoff quantity and quality from developed land, safely conveying
12 stormwater runoff, or reducing erosion or other water quality impacts
13 caused by municipal separate storm sewer system discharges.

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

20 (4) An advertisement shall be published in the county official
21 newspaper stating the time and place where bids will be opened, the
22 time after which bids will not be received, the character of the work
23 to be done, the materials and equipment to be furnished, and that
24 specifications therefor may be seen at the office of the clerk of the
25 county legislative authority. An advertisement shall also be
26 published in a legal newspaper of general circulation in or as near
27 as possible to that part of the county in which such work is to be
28 done. If the county official newspaper is a newspaper of general
29 circulation covering at least 40 percent of the residences in that
30 part of the county in which such public works are to be done, then
31 the publication of an advertisement of the applicable specifications
32 in the county official newspaper is sufficient. Such advertisements
33 shall be published at least once at least 13 days prior to the last
34 date upon which bids will be received.

35 (5) The bids shall be in writing, may be in either hard copy or
36 electronic form as specified by the county, shall be filed with the
37 clerk, shall be opened and read in public at the time and place named
38 therefor in the advertisements, and, after being opened, shall be
39 filed for public inspection. No bid may be considered for public work
40 unless it is accompanied by a bid deposit in the form of a surety

1 bond, postal money order, cash, cashier's check, or certified check
2 in an amount equal to five percent of the amount of the bid proposed.

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

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

19 (8) As limited by subsection (11) of this section, a county
20 subject to these provisions may have public works performed by county
21 employees in any annual or biennial budget period equal to a dollar
22 value not exceeding (~~ten~~) 10 percent of the public works
23 construction budget, including any amount in a supplemental public
24 works construction budget, over the budget period.

25 Whenever a county subject to these provisions has had public
26 works performed in any budget period up to the maximum permitted
27 amount for that budget period, all remaining public works except
28 emergency work under subsection (13) of this section within that
29 budget period shall be done by contract pursuant to public notice and
30 call for competitive bids as specified in subsection (3) of this
31 section. The state auditor shall report to the state treasurer any
32 county subject to these provisions that exceeds this amount and the
33 extent to which the county has or has not reduced the amount of
34 public works it has performed by public employees in subsequent
35 years.

36 (9) A county may procure public works with a unit priced contract
37 under this section for the purpose of completing anticipated types of
38 work based on hourly rates or unit pricing for one or more categories
39 of work or trades.

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

7 (b) Unit priced contracts must be executed for an initial
8 contract term not to exceed one year, with the county having the
9 option of extending or renewing the unit priced contract for one
10 additional year, except that contracts for the maintenance or repair
11 of a county ferry vessel or county ferry district vessel operated
12 under chapter 36.54 RCW may instead be for a term of up to 10 years.

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

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

32 (10) If a county subject to these provisions has public works
33 performed by public employees in any budget period that are in excess
34 of this (~~ten~~) 10 percent limitation, the amount in excess of the
35 permitted amount shall be reduced from the otherwise permitted amount
36 of public works that may be performed by public employees for that
37 county in its next budget period. Ten percent of the motor vehicle
38 fuel tax distributions to that county shall be withheld if two years
39 after the year in which the excess amount of work occurred, the
40 county has failed to so reduce the amount of public works that it has

1 performed by public employees. The amount withheld shall be
2 distributed to the county when it has demonstrated in its reports to
3 the state auditor that the amount of public works it has performed by
4 public employees has been reduced as required.

5 (11) In addition to the percentage limitation provided in
6 subsection (8) of this section, counties subject to these provisions
7 containing a population of 400,000 or more shall not have public
8 employees perform: A public works project in excess of \$90,000 if
9 more than a single craft or trade is involved with the public works
10 project, a riverine project or stormwater project in excess of
11 \$250,000 if more than a single craft or trade is involved with the
12 riverine project or stormwater project, a public works project in
13 excess of \$45,000 if only a single craft or trade is involved with
14 the public works project, or a riverine project or stormwater project
15 in excess of \$125,000 if only a single craft or trade is involved
16 with the riverine project or stormwater project. A public works
17 project, a riverine project, and a stormwater project means a
18 complete project. The restrictions in this subsection do not permit
19 the division of the project into units of work or classes of work to
20 avoid the restriction on work that may be performed by public
21 employees on a single project.

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

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

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

36 (13) Notwithstanding any other provision in this section,
37 counties may use public employees without any limitation for
38 emergency work performed under an emergency declared pursuant to RCW
39 36.32.270, and any such emergency work shall not be subject to the
40 limitations of this section. Publication of the description and

1 estimate of costs relating to correcting the emergency may be made
2 within seven days after the commencement of the work. Within two
3 weeks of the finding that such an emergency existed, the county
4 legislative authority shall adopt a resolution certifying the damage
5 to public facilities and costs incurred or anticipated relating to
6 correcting the emergency. Additionally this section shall not apply
7 to architectural and engineering or other technical or professional
8 services performed by public employees in connection with a public
9 works project.

10 (14) In lieu of the procedures of subsections (3) through (12) of
11 this section, a county may let contracts using the small works roster
12 process provided in RCW 39.04.151 through 39.04.154.

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

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

19 (16) This section does not apply to performance-based contracts,
20 as defined in RCW 39.35A.020(6), that are negotiated under chapter
21 39.35A RCW.

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

25 (18) This section does not apply to contracts between the public
26 stadium authority and a team affiliate under RCW 36.102.060(4), or
27 development agreements between the public stadium authority and a
28 team affiliate under RCW 36.102.060(7) or leases entered into under
29 RCW 36.102.060(8).

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