

2 **HB 1731** - S COMM AMD  
3 By Committee on Energy & Utilities

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5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 35.22.640 and 1983 c 217 s 1 are each amended to read  
8 as follows:

9 Cities of the first class and code cities of twenty thousand  
10 population or over are relieved from complying with the provisions of  
11 RCW 35.22.620 with respect to any public work or improvement relating  
12 solely to electrical distribution and generating systems on public  
13 rights of way or on municipally owned property: PROVIDED, That if a  
14 city-owned electrical utility directly assesses its customers a service  
15 installation charge for a temporary service, permanent service, or  
16 expanded service, the customer may(~~(, with the written approval of the~~  
17 ~~city-owned electric utility,))~~ contract with a qualified electrical  
18 contractor licensed under chapter 19.28 RCW to install any material or  
19 equipment in lieu of having city utility personnel perform the  
20 installation(~~(. In the event the city-owned electric utility denies~~  
21 ~~the customer's request to utilize a private electrical contractor for~~  
22 ~~such installation work, it shall provide the customer with written~~  
23 ~~reasons for such denial))~~): PROVIDED FURTHER, That nothing herein shall  
24 prevent any first class city from operating a solid waste department  
25 utilizing its own personnel.

26 If a customer elects to employ a private electrical contractor as  
27 provided in this section, the private electrical contractor shall be  
28 solely responsible for any damages resulting from the installation of  
29 any temporary service, permanent service, or expanded service and the  
30 city-owned electrical utility shall be immune from any tortious conduct  
31 actions as to that installation.

32 **Sec. 2.** RCW 35.23.352 and 1989 c 431 s 56 are each amended to read  
33 as follows:

34 (1) Any second or third class city or any town may construct any  
35 public works, as defined in RCW 39.04.010, by contract or day labor

1 without calling for bids therefor whenever the estimated cost of the  
2 work or improvement, including cost of materials, supplies and  
3 equipment will not exceed the sum of thirty thousand dollars if more  
4 than one craft or trade is involved with the public works, or twenty  
5 thousand dollars if a single craft or trade is involved with the public  
6 works or the public works project is street signalization or street  
7 lighting. A public works project means a complete project. The  
8 restrictions in this subsection do not permit the division of the  
9 project into units of work or classes of work to avoid the restriction  
10 on work that may be performed by day labor on a single project.

11 Whenever the cost of the public work or improvement, including  
12 materials, supplies and equipment, will exceed these figures, the same  
13 shall be done by contract. All such contracts shall be let at public  
14 bidding upon posting notice calling for sealed bids upon the work. The  
15 notice thereof shall be posted in a public place in the city or town  
16 and by publication in the official newspaper, or a newspaper of general  
17 circulation most likely to bring responsive bids, once each week for  
18 two consecutive weeks before the date fixed for opening the bids. The  
19 notice shall generally state the nature of the work to be done that  
20 plans and specifications therefor shall then be on file in the city or  
21 town hall for public inspections, and require that bids be sealed and  
22 filed with the council or commission within the time specified therein.  
23 Each bid shall be accompanied by a bid proposal deposit in the form of  
24 a cashier's check, postal money order, or surety bond to the council or  
25 commission for a sum of not less than five percent of the amount of the  
26 bid, and no bid shall be considered unless accompanied by such bid  
27 proposal deposit. The council or commission of the city or town shall  
28 let the contract to the lowest responsible bidder or shall have power  
29 by resolution to reject any or all bids and to make further calls for  
30 bids in the same manner as the original call.

31 When the contract is let then all bid proposal deposits shall be  
32 returned to the bidders except that of the successful bidder which  
33 shall be retained until a contract is entered into and a bond to  
34 perform the work furnished, with surety satisfactory to the council or  
35 commission, in the full amount of the contract price. If the bidder  
36 fails to enter into the contract in accordance with his or her bid and  
37 furnish a bond within ten days from the date at which he or she is  
38 notified that he or she is the successful bidder, the check or postal  
39 money order and the amount thereof shall be forfeited to the council or

1 commission or the council or commission shall recover the amount of the  
2 surety bond.

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

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

10 (3) In lieu of the procedures of subsection (1) of this section, a  
11 second or third class city or a town may use a small works roster and  
12 award contracts under this subsection for contracts of one hundred  
13 thousand dollars or less.

14 (a) The city or town may maintain a small works roster comprised of  
15 all contractors who have requested to be on the roster and are, where  
16 required by law, properly licensed or registered to perform such work  
17 in this state.

18 (b) Whenever work is done by contract, the estimated cost of which  
19 is one hundred thousand dollars or less, and the city uses the small  
20 works roster, the city or town shall invite proposals from all  
21 appropriate contractors on the small works roster: PROVIDED, That  
22 whenever possible, the city or town shall invite at least one proposal  
23 from a minority or woman contractor who shall otherwise qualify under  
24 this section. The invitation shall include an estimate of the scope  
25 and nature of the work to be performed, and materials and equipment to  
26 be furnished.

27 (c) When awarding such a contract for work, the estimated cost of  
28 which is one hundred thousand dollars or less, the city or town shall  
29 award the contract to the contractor submitting the lowest responsible  
30 bid.

31 (4) After September 1, 1987, each second class city, third class  
32 city, and town shall use the form required by RCW 43.09.205 to account  
33 and record costs of public works in excess of five thousand dollars  
34 that are not let by contract.

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

38 (6) Any purchase of supplies, material, equipment or services other  
39 than professional services, except for public work or improvement,

1 where the cost thereof exceeds seven thousand five hundred dollars  
2 shall be made upon call for bids: PROVIDED, That the limitations  
3 herein shall not apply to any purchases of materials at auctions  
4 conducted by the government of the United States, any agency thereof or  
5 by the state of Washington or a political subdivision thereof.

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

11 (8) For advertisement and competitive bidding to be dispensed with  
12 as to purchases between seven thousand five hundred and fifteen  
13 thousand dollars, the city legislative authority must authorize by  
14 resolution a procedure for securing telephone and/or written quotations  
15 from enough vendors to assure establishment of a competitive price and  
16 for awarding the contracts for purchase of materials, equipment, or  
17 services to the lowest responsible bidder. Immediately after the award  
18 is made, the bid quotations obtained shall be recorded and open to  
19 public inspection and shall be available by telephone inquiry.

20 (9) These requirements for purchasing may be waived by resolution  
21 of the city or town council which declared that the purchase is clearly  
22 and legitimately limited to a single source or supply within the near  
23 vicinity, or the materials, supplies, equipment, or services are  
24 subject to special market conditions, and recites why this situation  
25 exists. Such actions are subject to RCW 39.30.020.

26 (10) This section does not apply to performance-based contracts, as  
27 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A  
28 RCW.

29 (11) Nothing in this section shall prohibit any second or third  
30 class city or any town from allowing for preferential purchase of  
31 products made from recycled materials or products that may be recycled  
32 or reused.

33 (12) Cities of the second class and third class and towns are  
34 relieved from complying with municipal bid laws with respect to any  
35 public work or improvement that does not exceed fifty thousand dollars  
36 and relates solely to electrical distribution and generating systems on  
37 public rights of way or on municipally owned property. This fifty  
38 thousand dollar threshold shall not include the value of individual

1 items of equipment purchased or acquired and used as one unit of a  
2 project.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.23 RCW  
4 to read as follows:

5 If an electrical utility owned by a second or third class city,  
6 code city, or town directly assesses its customers a service  
7 installation charge for a temporary service, permanent service, or  
8 expanded service, the customer may contract with a qualified electrical  
9 contractor licensed under chapter 19.28 RCW to install any material or  
10 equipment in lieu of having city or town utility personnel perform the  
11 installation.

12 If a customer elects to employ a private electrical contractor as  
13 provided in this section, the private electrical contractor shall be  
14 solely responsible for any damages resulting from the installation of  
15 any temporary service, permanent service, or expanded service and the  
16 city or town-owned electrical utility shall be immune from any tortious  
17 conduct actions as to that installation."

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21 On page 1, line 2 of the title, after "systems;" strike the  
22 remainder of the title and insert "amending RCW 35.22.640 and  
23 35.23.352; and adding a new section to chapter 35.23 RCW."

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