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HOUSE BILL 1731

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State of Washington                      53rd Legislature                      1993 Regular Session

By Representatives Jones, Chandler, Kessler and Brumsickle

Read first time 02/05/93. Referred to Committee on Local Government.

1            AN ACT Relating to public works or improvements for electrical  
2 distribution and generating systems; amending RCW 35.22.640 and  
3 35.23.352; and adding a new section to chapter 35.23 RCW.

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

5            **Sec. 1.** RCW 35.22.640 and 1983 c 217 s 1 are each amended to read  
6 as follows:

7            Cities of the first class and code cities of twenty thousand  
8 population or over are relieved from complying with the provisions of  
9 RCW 35.22.620 with respect to any public work or improvement relating  
10 solely to electrical distribution and generating systems on public  
11 rights of way or on municipally owned property: PROVIDED, That if a  
12 city-owned electrical utility directly assesses its customers a service  
13 installation charge for a temporary service, permanent service, or  
14 expanded service, the customer may, with the written approval of the  
15 city-owned electric utility, contract with a qualified electrical  
16 contractor licensed under chapter 19.28 RCW to install any material or  
17 equipment in lieu of having city utility personnel perform the  
18 installation. In the event the city-owned electric utility denies the  
19 customer's request to utilize a private electrical contractor for such

1 installation work, it shall provide the customer with written reasons  
2 for such denial: PROVIDED FURTHER, That nothing herein shall prevent  
3 any first class city from operating a solid waste department utilizing  
4 its own personnel.

5 If a customer elects to employ a private electrical contractor as  
6 provided in this section, the private electrical contractor shall be  
7 solely responsible for any damages resulting from the installation of  
8 any temporary service, permanent service, or expanded service and the  
9 city-owned electrical utility shall be immune from any tortious conduct  
10 actions as to that installation.

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

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

25 Whenever the cost of the public work or improvement, including  
26 materials, supplies and equipment, will exceed these figures, the same  
27 shall be done by contract. All such contracts shall be let at public  
28 bidding upon posting notice calling for sealed bids upon the work. The  
29 notice thereof shall be posted in a public place in the city or town  
30 and by publication in the official newspaper, or a newspaper of general  
31 circulation most likely to bring responsive bids, once each week for  
32 two consecutive weeks before the date fixed for opening the bids. The  
33 notice shall generally state the nature of the work to be done that  
34 plans and specifications therefor shall then be on file in the city or  
35 town hall for public inspections, and require that bids be sealed and  
36 filed with the council or commission within the time specified therein.  
37 Each bid shall be accompanied by a bid proposal deposit in the form of  
38 a cashier's check, postal money order, or surety bond to the council or

1 commission for a sum of not less than five percent of the amount of the  
2 bid, and no bid shall be considered unless accompanied by such bid  
3 proposal deposit. The council or commission of the city or town shall  
4 let the contract to the lowest responsible bidder or shall have power  
5 by resolution to reject any or all bids and to make further calls for  
6 bids in the same manner as the original call.

7 When the contract is let then all bid proposal deposits shall be  
8 returned to the bidders except that of the successful bidder which  
9 shall be retained until a contract is entered into and a bond to  
10 perform the work furnished, with surety satisfactory to the council or  
11 commission, in the full amount of the contract price. If the bidder  
12 fails to enter into the contract in accordance with his or her bid and  
13 furnish a bond within ten days from the date at which he or she is  
14 notified that he or she is the successful bidder, the check or postal  
15 money order and the amount thereof shall be forfeited to the council or  
16 commission or the council or commission shall recover the amount of the  
17 surety bond.

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

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

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

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

33 (b) Whenever work is done by contract, the estimated cost of which  
34 is one hundred thousand dollars or less, and the city uses the small  
35 works roster, the city or town shall invite proposals from all  
36 appropriate contractors on the small works roster: PROVIDED, That  
37 whenever possible, the city or town shall invite at least one proposal  
38 from a minority or woman contractor who shall otherwise qualify under  
39 this section. The invitation shall include an estimate of the scope

1 and nature of the work to be performed, and materials and equipment to  
2 be furnished.

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

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

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

14 (6) Any purchase of supplies, material, equipment or services other  
15 than professional services, except for public work or improvement,  
16 where the cost thereof exceeds seven thousand five hundred dollars  
17 shall be made upon call for bids: PROVIDED, That the limitations  
18 herein shall not apply to any purchases of materials at auctions  
19 conducted by the government of the United States, any agency thereof or  
20 by the state of Washington or a political subdivision thereof.

21 (7) Bids shall be called annually and at a time and in the manner  
22 prescribed by ordinance for the publication in a newspaper published or  
23 of general 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 (8) For advertisement and competitive bidding to be dispensed with  
27 as to purchases between seven thousand five hundred and fifteen  
28 thousand dollars, the city legislative authority must authorize by  
29 resolution a procedure for securing telephone and/or written quotations  
30 from enough vendors to assure establishment of a competitive price and  
31 for awarding the contracts for purchase of materials, equipment, or  
32 services to the lowest responsible bidder. Immediately after the award  
33 is made, the bid quotations obtained shall be recorded and open to  
34 public inspection and shall be available by telephone inquiry.

35 (9) These requirements for purchasing may be waived by resolution  
36 of the city or town council which declared that the purchase is clearly  
37 and legitimately limited to a single source or supply within the near  
38 vicinity, or the materials, supplies, equipment, or services are

1 subject to special market conditions, and recites why this situation  
2 exists. Such actions are subject to RCW 39.30.020.

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

6 (11) Nothing in this section shall prohibit any second or third  
7 class city or any town from allowing for preferential purchase of  
8 products made from recycled materials or products that may be recycled  
9 or reused.

10 (12) Cities of the second class and third class and towns are  
11 relieved from complying with municipal bid laws with respect to any  
12 public work or improvement that does not exceed fifty thousand dollars  
13 and relates solely to electrical distribution and generating systems on  
14 public rights of way or on municipally owned property. This fifty  
15 thousand dollar threshold shall not include the value of individual  
16 items of equipment purchased or acquired and used as one unit of a  
17 project.

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

20 If an electrical utility owned by a second or third class city,  
21 code city, or town directly assesses its customers a service  
22 installation charge for a temporary service, permanent service, or  
23 expanded service, the customer may, with the written approval of the  
24 city or town-owned electrical utility, contract with a qualified  
25 electrical contractor licensed under chapter 19.28 RCW to install any  
26 material or equipment in lieu of having city or town utility personnel  
27 perform the installation. In the event the city or town-owned electric  
28 utility denies the customer's request to utilize a private electrical  
29 contractor for such installation work, it shall provide the customer  
30 with written reasons for such denial.

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

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