
SUBSTITUTE HOUSE BILL 2321

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Springer, H. Myers, Edmondson, Johanson and Jones)

Read first time 02/04/94.

1 AN ACT Relating to standardizing competitive bidding procedures;
2 amending RCW 28A.335.190, 35.22.620, 35.23.352, 36.32.270, 52.14.110,
3 53.08.120, 54.04.070, and 70.44.140; reenacting and amending RCW
4 56.08.070 and 57.08.050; and adding a new section to chapter 39.04 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW
7 to read as follows:

8 This section provides uniform exemptions to competitive bidding
9 procedures utilized by municipalities when awarding contracts for
10 public works and contracts for purchases. The state statutes governing
11 a specific type of municipality may also include other exemptions from
12 competitive bidding procedures. The purpose of this section is to
13 supplement and not to limit the current powers of any municipality to
14 provide exemptions from competitive bidding procedures.

15 (1) Competitive bidding procedures may be waived by resolution of
16 the governing body of the municipality for:

17 (a) Purchases that are clearly and legitimately limited to a single
18 source of supply;

- 1 (b) Purchases involving special facilities, services, or market
2 conditions;
- 3 (c) Purchases in the event of an emergency;
- 4 (d) Purchases of insurance or bonds;
- 5 (e) Purchases of computer systems; and
- 6 (f) Public works in the event of an emergency.

7 (2)(a) A resolution adopted by a governing body to waive
8 competitive bidding procedures pursuant to subsection (1) of this
9 section must recite the reasons why the situation exists, and the
10 economic or health-related justifications for the waiver. The
11 resolution must be adopted by the municipality prior to the final award
12 of the contract except in the event of an emergency.

13 (b) If an emergency exists, the person or persons designated by the
14 governing body of the municipality to act in the event of the emergency
15 may let all necessary contracts to address the emergency situation. If
16 a contract is let without competitive bidding due to an emergency, the
17 governing body of the municipality must adopt the resolution required
18 pursuant to (a) of this subsection at its next regularly scheduled
19 meeting or within two weeks, whichever is later.

20 (3) For purposes of this section, "emergency" means unforeseen
21 circumstances beyond the control of the municipality that either: (a)
22 Present a real, immediate threat to the proper performance of essential
23 functions; or (b) likely result in material loss or damage to property,
24 bodily injury, or loss of life if immediate action is not taken.

25 **Sec. 2.** RCW 28A.335.190 and 1990 c 33 s 362 are each amended to
26 read as follows:

27 (1) When, in the opinion of the board of directors of any school
28 district, the cost of any furniture, supplies, equipment, building,
29 improvements, or repairs, or other work or purchases, except books,
30 will equal or exceed the sum of twenty thousand dollars, complete plans
31 and specifications for such work or purchases shall be prepared and
32 notice (~~(by publication given)~~) published in at least one newspaper of
33 general circulation within the district(~~(, once each week for two~~
34 ~~consecutive weeks,)~~) of the intention to receive bids therefor (~~(and)~~).
35 The notice must include a statement that specifications and other
36 information may be examined at the office of the board or any other
37 officially designated location(~~(: PROVIDED, That)~~). The notice shall
38 be published at least once at least thirteen days prior to the last

1 date upon which bids will be received. The board, however, without
2 giving such notice may make improvements or repairs to the property of
3 the district through the shop and repair department of such district
4 when the total of such improvements or repair does not exceed the sum
5 of seventy-five hundred dollars. The cost of any public work,
6 improvement or repair for the purposes of this section shall be the
7 aggregate of all amounts to be paid for labor, material, and equipment
8 on one continuous or interrelated project where work is to be performed
9 simultaneously or in close sequence. The bids shall be in writing and
10 shall be opened and read in public on the date and in the place named
11 in the notice and after being opened shall be filed for public
12 inspection.

13 (2) Every purchase of furniture, equipment or supplies, except
14 books, the cost of which is estimated to be in excess of seventy-five
15 hundred dollars, shall be on a competitive basis. ~~((The board of
16 directors shall establish a procedure for securing telephone and/or
17 written quotations for such purchases.))~~ Whenever the estimated cost
18 is from seventy-five hundred dollars up to twenty thousand dollars, the
19 ~~((procedure shall require quotations from at least three different
20 sources to be obtained in writing or by telephone, and recorded for
21 public perusal))~~ board may by resolution use the uniform process
22 provided in RCW 39.04.190 to award contracts. Whenever the estimated
23 cost is in excess of twenty thousand dollars, the public bidding
24 process provided in subsection (1) of this section shall be followed.

25 (3) Every building, improvement, repair or other public works
26 project, the cost of which is estimated to be in excess of seventy-five
27 hundred dollars, shall be ~~((on))~~ awarded by a competitive bid process.
28 ~~((All such projects))~~ The board may use the small works roster process
29 provided in RCW 39.04.155 to award contracts for public works with an
30 estimated ((to be)) value of less than twenty thousand dollars ((may be
31 awarded to a contractor on the small works roster. The small works
32 roster shall be comprised of all responsible contractors who have
33 requested to be on the list. The board of directors shall establish a
34 procedure for securing telephone and/or written quotations from the
35 contractors on the small works roster to assure establishment of a
36 competitive price and for awarding contracts to the lowest responsible
37 bidder. Such procedure shall require that a good faith effort be made
38 to request quotations from all contractors on the small works roster
39 who have indicated the capability of performing the kind of public

1 works being contracted. Immediately after an award is made, the bid
2 quotations obtained shall be recorded, open to public inspection, and
3 available by telephone inquiry. The small works roster shall be
4 revised at least once each year by publishing notice of such
5 opportunity in at least one newspaper of general circulation in the
6 district. Responsible contractors shall be added to the list at any
7 time they submit a written request)). Whenever the estimated cost of
8 a public works project is twenty thousand dollars or more, the public
9 bidding process provided in subsection (1) of this section shall be
10 followed.

11 (4) The contract for the work or purchase shall be awarded to the
12 lowest responsible bidder as defined in RCW 43.19.1911 but the board
13 may by resolution reject any and all bids and make further calls for
14 bids in the same manner as the original call. On any work or purchase
15 the board shall provide bidding information to any qualified bidder or
16 the bidder's agent, requesting it in person.

17 (5) (~~In the event of any emergency when the public interest or~~
18 ~~property of the district would suffer material injury or damage by~~
19 ~~delay, upon resolution of the board declaring the existence of such an~~
20 ~~emergency and reciting the facts constituting the same, the board may~~
21 ~~waive the requirements of this section with reference to any purchase~~
22 ~~or contract: PROVIDED, That an "emergency", for the purposes of this~~
23 ~~section, means a condition likely to result in immediate physical~~
24 ~~injury to persons or to property of the school district in the absence~~
25 ~~of prompt remedial action.)) The board may waive the requirements of
26 this section pursuant to section 1 of this act if an exemption
27 contained within that section applies to the work or contract.~~

28 **Sec. 3.** RCW 35.22.620 and 1993 c 198 s 9 are each amended to read
29 as follows:

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

32 (2) A first class city may have public works performed by contract
33 pursuant to public notice and call for competitive bids. As limited by
34 subsection (3) of this section, a first class city may have public
35 works performed by city employees in any annual or biennial budget
36 period equal to a dollar value not exceeding ten percent of the public
37 works construction budget, including any amount in a supplemental
38 public works construction budget, over the budget period. The amount

1 of public works that a first class city has a county perform for it
2 under RCW 35.77.020 shall be included within this ten percent
3 limitation.

4 If a first class city has public works performed by public
5 employees in any budget period that are in excess of this ten percent
6 limitation, the amount in excess of the permitted amount shall be
7 reduced from the otherwise permitted amount of public works that may be
8 performed by public employees for that city in its next budget period.
9 Twenty percent of the motor vehicle fuel tax distributions to that city
10 shall be withheld if two years after the year in which the excess
11 amount of work occurred, the city has failed to so reduce the amount of
12 public works that it has performed by public employees. The amount so
13 withheld shall be distributed to the city when it has demonstrated in
14 its reports to the state auditor that the amount of public works it has
15 performed by public employees has been so reduced.

16 Whenever a first class city has had public works performed in any
17 budget period up to the maximum permitted amount for that budget
18 period, all remaining public works within that budget period shall be
19 done by contract pursuant to public notice and call for competitive
20 bids.

21 The state auditor shall report to the state treasurer any first
22 class city that exceeds this amount and the extent to which the city
23 has or has not reduced the amount of public works it has performed by
24 public employees in subsequent years.

25 (3) In addition to the percentage limitation provided in subsection
26 (2) of this section, a first class city with a population in excess of
27 one hundred fifty thousand shall not have public employees perform a
28 public works project in excess of fifty thousand dollars if more than
29 a single craft or trade is involved with the public works project, or
30 a public works project in excess of twenty-five thousand dollars if
31 only a single craft or trade is involved with the public works project
32 or the public works project is street signalization or street lighting.
33 In addition to the percentage limitation provided in subsection (2) of
34 this section, a first class city with a population of one hundred fifty
35 thousand or less shall not have public employees perform a public works
36 project in excess of thirty-five thousand dollars if more than one
37 craft or trade is involved with the public works project, or a public
38 works project in excess of twenty thousand dollars if only a single
39 craft or trade is involved with the public works project or the public

1 works project is street signalization or street lighting. A public
2 works project means a complete project. The restrictions in this
3 subsection do not permit the division of the project into units of work
4 or classes of work to avoid the restriction on work that may be
5 performed by day labor on a single project.

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

18 After September 1, 1987, each first class city with a population of
19 one hundred fifty thousand or less shall use the form required by RCW
20 43.09.205 to account and record costs of public works in excess of five
21 thousand dollars that are not let by contract.

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

26 ~~(6) ((When any emergency shall require the immediate execution of
27 such public work, upon the finding of the existence of such emergency
28 by the authority having power to direct such public work to be done and
29 duly entered of record, publication of description and estimate may be
30 made within seven days after the commencement of the work. Within two
31 weeks of the finding that such an emergency existed, the city council
32 shall adopt a resolution certifying the existence of this emergency
33 situation.))~~ The board may waive the requirements of this section
34 pursuant to section 1 of this act if an exemption contained within that
35 section applies to the work or contract.

36 (7) In lieu of the procedures of subsection((s)) (2) ((and-(6))) of
37 this section, a first class city may use ((a)) the small works roster
38 process ((and)) provided in RCW 39.04.155 to award contracts for public

1 works projects with an estimated value of one hundred thousand dollars
2 or less ((as provided in RCW 39.04.155)).

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

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

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

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

14 **Sec. 4.** RCW 35.23.352 and 1993 c 198 s 10 are each amended to read
15 as follows:

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

28 Whenever the cost of the public work or improvement, including
29 materials, supplies and equipment, will exceed these figures, the same
30 shall be done by contract. All such contracts shall be let at public
31 bidding upon publication of notice calling for sealed bids upon the
32 work. The notice shall be published in the official newspaper, or a
33 newspaper of general circulation most likely to bring responsive bids,
34 at least thirteen days prior to the last date upon which bids will be
35 received. The notice shall generally state the nature of the work to
36 be done that plans and specifications therefor shall then be on file in
37 the city or town hall for public inspections, and require that bids be
38 sealed and filed with the council or commission within the time

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

9 When the contract is let then all bid proposal deposits shall be
10 returned to the bidders except that of the successful bidder which
11 shall be retained until a contract is entered into and a bond to
12 perform the work furnished, with surety satisfactory to the council or
13 commission, in accordance with RCW 39.08.030. If the bidder fails to
14 enter into the contract in accordance with his or her bid and furnish
15 a bond within ten days from the date at which he or she is notified
16 that he or she is the successful bidder, the check or postal money
17 order and the amount thereof shall be forfeited to the council or
18 commission or the council or commission shall recover the amount of the
19 surety bond.

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

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

27 (3) In lieu of the procedures of subsection (1) of this section, a
28 second or third class city or a town may use ((a)) the small works
29 roster process ((and)) provided in RCW 39.04.155 to award public works
30 contracts with an estimated value of one hundred thousand dollars or
31 less ((as provided in RCW 39.04.155)).

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

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

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

4 (6) Any purchase of supplies, material, or equipment (~~(or services~~
5 ~~other than professional services)~~), except for public work or
6 improvement, where the cost thereof exceeds seven thousand five hundred
7 dollars shall be made upon call for bids.

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

13 (8) For advertisement and formal sealed bidding to be dispensed
14 with as to purchases between seven thousand five hundred and fifteen
15 thousand dollars, the city legislative authority must authorize by
16 resolution, use of the uniform procedure provided in RCW 39.04.190.

17 (9) (~~(These requirements for purchasing may be waived by resolution~~
18 ~~of the city or town council which declared that the purchase is clearly~~
19 ~~and legitimately limited to a single source or supply within the near~~
20 ~~vicinity, or the materials, supplies, equipment, or services are~~
21 ~~subject to special market conditions, and recites why this situation~~
22 ~~exists. Such actions are subject to RCW 39.30.020.)~~) The city or town
23 council may waive the requirements of this section pursuant to section
24 1 of this act if an exemption contained within that section applies to
25 the work or contract.

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 **Sec. 5.** RCW 36.32.270 and 1963 c 4 s 36.32.270 are each amended to
34 read as follows:

35 (~~(In the event of an emergency when the public interest or property~~
36 ~~of the county would suffer material injury or damage by delay, upon~~
37 ~~resolution of the board of county commissioners declaring the existence~~
38 ~~of such emergency and reciting the facts constituting the same, the~~

1 board)) The county legislative authority may waive the requirements of
2 this chapter with reference to any purchase or contract pursuant to
3 section 1 of this act if an exemption contained within that section
4 applies to the work or contract.

5 **Sec. 6.** RCW 52.14.110 and 1993 c 198 s 11 are each amended to read
6 as follows:

7 Insofar as practicable, purchases and any public works by the
8 district shall be based on competitive bids. A formal sealed bid
9 procedure shall be used as standard procedure for purchases and
10 contracts for purchases executed by the board of commissioners. Formal
11 sealed bidding shall not be required for:

12 ~~(1) ((Emergency purchases if the sealed bidding procedure would~~
13 ~~prevent or hinder the emergency from being addressed appropriately.~~
14 ~~The term emergency means an occurrence that creates an immediate threat~~
15 ~~to life or property;~~

16 ~~(2))~~ The purchase of any materials, supplies, or equipment if the
17 cost will not exceed the sum of four thousand five hundred dollars.
18 However, whenever the estimated cost is from four thousand five hundred
19 dollars up to ten thousand dollars, the commissioners may by resolution
20 use the process provided in RCW 39.04.190 to award contracts;

21 ~~((3))~~ (2) Contracting for work to be done involving the
22 construction or improvement of a fire station or other buildings where
23 the estimated cost will not exceed the sum of two thousand five hundred
24 dollars, which includes the costs of labor, material, and equipment.
25 However, whenever the estimated cost is from two thousand five hundred
26 dollars up to ten thousand dollars, the commissioner may by resolution
27 use the small works roster process provided in RCW 39.04.155; and

28 ~~((4) Purchases which are clearly and legitimately limited to a~~
29 ~~single source of supply, or services, in which instances the purchase~~
30 ~~price may be best established by direct negotiation: PROVIDED, That~~
31 ~~this subsection shall not apply to purchases or contracts relating to~~
32 ~~public works as defined in chapter 39.04 RCW; and~~

33 ~~(5) Purchases of insurance and bonds))~~ (3) Any purchase or contract
34 for work if an exemption contained within section 1 of this act applies
35 to the work or contract.

36 **Sec. 7.** RCW 53.08.120 and 1993 c 198 s 13 are each amended to read
37 as follows:

1 All material required by a port district may be procured in the
2 open market or by contract and all work ordered may be done by contract
3 or day labor. All such contracts for work, the estimated cost of which
4 exceeds one hundred thousand dollars, shall be let at public bidding
5 upon notice published in a newspaper of general circulation in the
6 district at least thirteen days before the last date upon which bids
7 will be received, calling for sealed bids upon the work, plans and
8 specifications for which shall then be on file in the office of the
9 commission for public inspection. The same notice may call for bids on
10 such work or material based upon plans and specifications submitted by
11 the bidder. The requirements of this section may be waived pursuant to
12 section 1 of this act if an exemption contained within that section
13 applies to the work or contract.

14 Each port district shall maintain a small works roster, as provided
15 in RCW 39.04.155, and may use the small works roster process to award
16 contracts in lieu of calling for sealed bids whenever work is done by
17 contract, the estimated cost of which is one hundred thousand dollars
18 or less. Whenever possible, the managing official shall invite at
19 least one proposal from a minority contractor who shall otherwise
20 qualify under this section.

21 When awarding such a contract for work, when utilizing proposals
22 from the small works roster, the managing official shall give weight to
23 the contractor submitting the lowest and best proposal, and whenever it
24 would not violate the public interest, such contracts shall be
25 distributed equally among contractors, including minority contractors,
26 on the small works roster.

27 **Sec. 8.** RCW 54.04.070 and 1993 c 198 s 14 are each amended to read
28 as follows:

29 Any item, or items of the same kind of materials, equipment, or
30 supplies purchased, the estimated cost of which is in excess of five
31 thousand dollars, exclusive of sales tax shall be by contract:
32 PROVIDED, That a district may make purchases of the same kind of items
33 of materials, equipment and supplies not exceeding five thousand
34 dollars in any calendar month without a contract, purchasing any excess
35 thereof over five thousand dollars by contract. Any work ordered by a
36 district commission, the estimated cost of which is in excess of ten
37 thousand dollars exclusive of sales tax, shall be by contract, except
38 that a district commission may have its own regularly employed

1 personnel perform work which is an accepted industry practice under
2 prudent utility management without a contract. Prudent utility
3 management means performing work with regularly employed personnel
4 utilizing material of a worth not exceeding fifty thousand dollars in
5 value without a contract: PROVIDED, That such limit on the value of
6 material being utilized in work being performed by regularly employed
7 personnel shall not include the value of individual items of equipment
8 purchased or acquired and used as one unit of a project. Before
9 awarding such a contract, the commission shall publish a notice once or
10 more in a newspaper of general circulation in the district at least
11 thirteen days before the last date upon which bids will be received,
12 inviting sealed proposals for the work or materials; plans and
13 specifications of which shall at the time of the publication be on file
14 at the office of the district subject to public inspection. Any
15 published notice ordering work to be performed for the district shall
16 be mailed at the time of publication to any established trade
17 association which files a written request with the district to receive
18 such notices. The commission may at the same time and as part of the
19 same notice, invite tenders for the work or materials upon plans and
20 specifications to be submitted by the bidders.

21 Notwithstanding any other provisions herein, all contract projects,
22 the estimated cost of which is less than one hundred thousand dollars,
23 may be awarded to a contractor using the small works roster process
24 provided in RCW 39.04.155. All contract projects equal to or in excess
25 of one hundred thousand dollars shall be let by competitive bidding.

26 Whenever equipment or materials required by a district are held by
27 a governmental agency and are available for sale but such agency is
28 unwilling to submit a proposal, the commission may ascertain the price
29 of such items and file a statement of such price supported by the sworn
30 affidavit of one member of the commission and may consider such price
31 as a bid without a deposit or bond. ~~((In the event of an emergency
32 when the public interest or property of the district would suffer
33 material injury or damage by delay, upon resolution of the commission,
34 or proclamation of an official designated by the board to act for the
35 board during such emergencies, declaring the existence of such
36 emergency and reciting the facts constituting the same, the board, or
37 the official acting for the board, may waive the requirements of this
38 chapter with reference to any purchase or contract, after having taken~~

1 precautions to secure the lowest price practicable under the
2 circumstances.

3 After determination by the commission during a public meeting that
4 a particular purchase is available clearly and legitimately only from
5 a single source of supply, the bidding requirements of this section may
6 be waived by the commission.))

7 The commission may waive the requirements of this section pursuant
8 to section 1 of this act if an exemption contained within that section
9 applies to the work or contract.

10 **Sec. 9.** RCW 56.08.070 and 1993 c 198 s 16 and 1993 c 45 s 4 are
11 each reenacted and amended to read as follows:

12 (1) All materials purchased and work ordered, the estimated cost of
13 which is in excess of five thousand dollars shall be let by contract.
14 All contract projects, the estimated cost of which is less than fifty
15 thousand dollars, may be awarded to a contractor using the small works
16 roster process provided in RCW 39.04.155 or the process provided in RCW
17 39.04.190 for purchases. The board of sewer commissioners may set up
18 uniform procedures to prequalify contractors for inclusion on the small
19 works roster. All contract projects equal to or in excess of fifty
20 thousand dollars shall be let by competitive bidding. Before awarding
21 any competitive contract the board of sewer commissioners shall publish
22 a notice in a newspaper of general circulation where the district is
23 located at least once, thirteen days before the last date upon which
24 bids will be received, inviting sealed proposals for such work, plans
25 and specifications which must at the time of publication of such notice
26 be on file in the office of the board of sewer commissioners subject to
27 public inspection. Such notice shall state generally the work to be
28 done and shall call for proposals for doing the same to be sealed and
29 filed with the board of sewer commissioners on or before the day and
30 hour named therein.

31 (2) Each bid shall be accompanied by a bid proposal deposit in the
32 form of a certified check, cashier's check, postal money order, or
33 surety bond payable to the order of the county treasurer for a sum not
34 less than five percent of the amount of the bid and no bid shall be
35 considered unless accompanied by such bid proposal deposit. At the
36 time and place named such bids shall be publicly opened and read and
37 the board of sewer commissioners shall proceed to canvass the bids and
38 may let such contract to the lowest responsible bidder upon plans and

1 specifications: PROVIDED, That no contract shall be let in excess of
2 the cost of the materials or work. The board of sewer commissioners
3 may reject all bids for good cause and readvertise and in such case all
4 checks, cash or bid bonds shall be returned to the bidders. If such
5 contract be let, then all checks, cash or bid bonds shall be returned
6 to the bidders, except that of the successful bidder, which shall be
7 retained until a contract shall be entered into for the purchase of
8 such materials or doing such work, and a bond to perform such work
9 furnished with sureties satisfactory to the board of sewer
10 commissioners in the full amount of the contract price between the
11 bidder and the commission in accordance with bid. If the bidder fails
12 to enter into the contract in accordance with the bid and furnish such
13 bond within ten days from the date at which the bidder is notified that
14 he or she is the successful bidder, the check, cash, or bid bonds and
15 the amount thereof shall be forfeited to the sewer district.

16 (3) (~~In the event of an emergency when the public interest or
17 property of the sewer district would suffer material injury or damage
18 by delay, upon resolution of the board of sewer commissioners, or
19 proclamation of an official designated by the board to act for the
20 board during such emergencies, declaring the existence of such
21 emergency and reciting the facts constituting the same, the board, or
22 the official acting for the board, may waive the requirements of this
23 chapter with reference to any purchase or contract. In addition, these
24 requirements may be waived for purchases which are clearly and
25 legitimately limited to a single source of supply and purchases
26 involving special facilities, services, or market conditions, in which
27 instances the purchase price may be best established by direct
28 negotiation.)) The board may waive the requirements of this section
29 pursuant to section 1 of this act if an exemption contained within that
30 section applies to the work or contract.~~

31 **Sec. 10.** RCW 57.08.050 and 1993 c 198 s 21 and 1993 c 45 s 8 are
32 each reenacted and amended to read as follows:

33 (1) The board of water commissioners shall have authority to create
34 and fill such positions and fix salaries and bonds thereof as it may by
35 resolution provide.

36 (2) All materials purchased and work ordered, the estimated cost of
37 which is in excess of five thousand dollars shall be let by contract.
38 All contract projects, the estimated cost of which is less than fifty

1 thousand dollars, may be awarded to a contractor using a small works
2 roster process provided in RCW 39.04.155 or the process provided in RCW
3 39.04.190 for purchases. The board of water commissioners may set up
4 uniform procedures to prequalify contractors for inclusion on the small
5 works roster. All contract projects equal to or in excess of fifty
6 thousand dollars shall be let by competitive bidding. Before awarding
7 any such contract the board of water commissioners shall publish a
8 notice in a newspaper of general circulation where the district is
9 located at least once thirteen days before the last date upon which
10 bids will be received, inviting sealed proposals for such work, plans
11 and specifications which must at the time of publication of such notice
12 be on file in the office of the board of water commissioners subject to
13 public inspection. Such notice shall state generally the work to be
14 done and shall call for proposals for doing the same to be sealed and
15 filed with the board of water commissioners on or before the day and
16 hour named therein.

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

1 bidder and the commission in accordance with the bid. If the bidder
2 fails to enter into the contract in accordance with the bid and furnish
3 such bond within ten days from the date at which the bidder is notified
4 that he or she is the successful bidder, the check, cash, or bid bonds
5 and the amount thereof shall be forfeited to the water district:
6 PROVIDED, That if the bidder fails to enter into a contract in
7 accordance with his or her bid, and the board of water commissioners
8 deems it necessary to take legal action to collect on any bid bond
9 required herein, then the water district shall be entitled to collect
10 from the bidder any legal expenses, including reasonable attorneys'
11 fees occasioned thereby.

12 (4) (~~In the event of an emergency when the public interest or~~
13 ~~property of the water district would suffer material injury or damage~~
14 ~~by delay, upon resolution of the board of water commissioners, or~~
15 ~~proclamation of an official designated by the board to act for the~~
16 ~~board during such emergencies, declaring the existence of such~~
17 ~~emergency and reciting the facts constituting the same, the board, or~~
18 ~~official acting for the board, may waive the requirements of this~~
19 ~~chapter with reference to any purchase or contract. In addition, these~~
20 ~~requirements may be waived for purchases which are clearly and~~
21 ~~legitimately limited to a single source of supply and purchases~~
22 ~~involving special facilities, services, or market conditions, in which~~
23 ~~instances the purchase price may be best established by direct~~
24 ~~negotiation.)) The board may waive the requirements of this section
25 pursuant to section 1 of this act if an exemption contained within that
26 section applies to the work or contract.~~

27 **Sec. 11.** RCW 70.44.140 and 1993 c 198 s 22 are each amended to
28 read as follows:

29 (1) All materials purchased and work ordered, the estimated cost of
30 which is in excess of five thousand dollars, shall be by contract.
31 Before awarding any such contract, the commission shall publish a
32 notice at least thirteen days before the last date upon which bids will
33 be received, inviting sealed proposals for such work. The plans and
34 specifications must at the time of the publication of such notice be on
35 file at the office of the public hospital district, subject to public
36 inspection: PROVIDED, HOWEVER, That the commission may at the same
37 time, and as part of the same notice, invite tenders for the work or
38 materials upon plans and specifications to be submitted by bidders.

1 The notice shall state generally the work to be done, and shall call
2 for proposals for doing the same, to be sealed and filed with the
3 commission on or before the day and hour named therein. Each bid shall
4 be accompanied by bid proposal security in the form of a certified
5 check, cashier's check, postal money order, or surety bond made payable
6 to the order of the commission, for a sum not less than five percent of
7 the amount of the bid, and no bid shall be considered unless
8 accompanied by such bid proposal security. At the time and place
9 named, such bids shall be publicly opened and read, and the commission
10 shall proceed to canvass the bids, and may let such contract to the
11 lowest responsible bidder upon plans and specifications on file, or to
12 the best bidder submitting his or her own plans and specifications:
13 PROVIDED, HOWEVER, That no contract shall be let in excess of the
14 estimated cost of the materials or work, or if, in the opinion of the
15 commission, all bids are unsatisfactory, they may reject all of them
16 and readvertise, and in such case all bid proposal security shall be
17 returned to the bidders; but if such contract be let, then and in such
18 case all bid proposal security shall be returned to the bidders, except
19 that of the successful bidder, which shall be retained until a contract
20 shall be entered into for the purchase of such materials for doing such
21 work, and a bond to perform such work furnished, with sureties
22 satisfactory to the commission, in an amount to be fixed by the
23 commission, not less than twenty-five percent of contract price in any
24 case, between the bidder and commission, in accordance with the bid.
25 If such bidder fails to enter into the contract in accordance with the
26 bid and furnish such bond within ten days from the date at which the
27 bidder is notified that he or she is the successful bidder, the bid
28 proposal security and the amount thereof shall be forfeited to the
29 public hospital district.

30 (2) In lieu of the procedures of subsection (1) of this section, a
31 public hospital district may use ((a)) the small works roster process
32 ((and)) provided in RCW 39.04.155 to award public works contracts for
33 projects in excess of five thousand dollars up to fifty thousand
34 dollars ((as provided in RCW 39.04.155)).

35 (3) For advertisement and formal sealed bidding to be dispensed
36 with as to purchases between five thousand and fifteen thousand
37 dollars, the commission must authorize by resolution a procedure as
38 provided in RCW 39.04.190.

1 (4) The commission may waive the requirements of this section
2 pursuant to section 1 of this act if an exemption contained within that
3 section applies to the work or contract.

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