

2 SB 5469 - S AMD - 137  
3 By Senator Patterson

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

7 "Sec. 1. RCW 35.22.620 and 1998 c 278 s 2 are each amended to read  
8 as follows:

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

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

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

33 Whenever a first class city has had public works performed in any  
34 budget period up to the maximum permitted amount for that budget  
35 period, all remaining public works within that budget period shall be

1 done by contract pursuant to public notice and call for competitive  
2 bids.

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

7 (3) In addition to the percentage limitation provided in subsection  
8 (2) of this section, a first class city with a population in excess of  
9 one hundred fifty thousand shall not have public employees perform a  
10 public works project in excess of fifty thousand dollars if more than  
11 a single craft or trade is involved with the public works project, or  
12 a public works project in excess of twenty-five thousand dollars if  
13 only a single craft or trade is involved with the public works project  
14 or the public works project is street signalization or street lighting.  
15 In addition to the percentage limitation provided in subsection (2) of  
16 this section, a first class city with a population of one hundred fifty  
17 thousand or less shall not have public employees perform a public works  
18 project in excess of thirty-five thousand dollars if more than one  
19 craft or trade is involved with the public works project, or a public  
20 works project in excess of twenty thousand dollars if only a single  
21 craft or trade is involved with the public works project or the public  
22 works project is street signalization or street lighting. A public  
23 works project means a complete project. The restrictions in this  
24 subsection do not permit the division of the project into units of work  
25 or classes of work to avoid the restriction on work that may be  
26 performed by day labor on a single project.

27 (4) In addition to the accounting and record-keeping requirements  
28 contained in RCW 39.04.070, every first class city annually shall  
29 prepare a report for the state auditor indicating the total public  
30 works construction budget and supplemental public works construction  
31 budget for that year, the total construction costs of public works  
32 performed by public employees for that year, and the amount of public  
33 works that is performed by public employees above or below ten percent  
34 of the total construction budget. However, if a city budgets on a  
35 biennial basis, this annual report shall indicate the amount of public  
36 works that is performed by public employees within the current biennial  
37 period that is above or below ten percent of the total biennial  
38 construction budget.

1 After September 1, 1987, each first class city with a population of  
2 one hundred fifty thousand or less shall use the form required by RCW  
3 43.09.205 to account and record costs of public works in excess of five  
4 thousand dollars that are not let by contract.

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

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

13 (7) In lieu of the procedures of subsections (2) and (6) of this  
14 section, a first class city may use the small works roster process in  
15 RCW 39.04.155 to award contracts for public works projects with an  
16 estimated value of one hundred thousand dollars or less.

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

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

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

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

28 (11) Beginning on July 1, 2001, and on July 1st of each succeeding  
29 odd-numbered year, the dollar limits specified in subsection (3) of  
30 this section shall be adjusted as follows: The office of financial  
31 management shall calculate such limits by adjusting the previous  
32 biennium's limits by the appropriate federal inflationary index  
33 reflecting the rate of inflation for the previous biennium. Such  
34 amounts shall be rounded to the nearest one hundred dollars.

35 **Sec. 2.** RCW 35.23.352 and 1998 c 278 s 3 are each amended to read  
36 as follows:

37 (1) Any second class city with a population of more than five  
38 thousand may construct public works, as defined in RCW 39.04.010, by

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

20 Whenever the cost of the public work or improvement, including  
21 materials, supplies and equipment, will exceed these figures, the same  
22 shall be done by contract. All such contracts shall be let at public  
23 bidding upon publication of notice calling for sealed bids upon the  
24 work. The notice shall be published in the official newspaper, or a  
25 newspaper of general circulation most likely to bring responsive bids,  
26 at least thirteen days prior to the last date upon which bids will be  
27 received. The notice shall generally state the nature of the work to  
28 be done that plans and specifications therefor shall then be on file in  
29 the city or town hall for public inspections, and require that bids be  
30 sealed and filed with the council or commission within the time  
31 specified therein. Each bid shall be accompanied by a bid proposal  
32 deposit in the form of a cashier's check, postal money order, or surety  
33 bond to the council or commission for a sum of not less than five  
34 percent of the amount of the bid, and no bid shall be considered unless  
35 accompanied by such bid proposal deposit. The council or commission of  
36 the city or town shall let the contract to the lowest responsible  
37 bidder or shall have power by resolution to reject any or all bids and  
38 to make further calls for bids in the same manner as the original call.

1       When the contract is let then all bid proposal deposits shall be  
2 returned to the bidders except that of the successful bidder which  
3 shall be retained until a contract is entered into and a bond to  
4 perform the work furnished, with surety satisfactory to the council or  
5 commission, in accordance with RCW 39.08.030. If the bidder fails to  
6 enter into the contract in accordance with his or her bid and furnish  
7 a bond within ten days from the date at which he or she is notified  
8 that he or she is the successful bidder, the check or postal money  
9 order and the amount thereof shall be forfeited to the council or  
10 commission or the council or commission shall recover the amount of the  
11 surety bond. A low bidder who claims error and fails to enter into a  
12 contract is prohibited from bidding on the same project if a second or  
13 subsequent call for bids is made for the project.

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

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

21       (3) In lieu of the procedures of subsection (1) of this section, a  
22 second class city or a town may use the small works roster process  
23 provided in RCW 39.04.155 to award public works contracts with an  
24 estimated value of one hundred thousand dollars or less.

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

28       (4) The form required by RCW 43.09.205 shall be to account and  
29 record costs of public works in excess of five thousand dollars that  
30 are not let by contract.

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

34       (6) Any purchase of supplies, material, or equipment, except for  
35 public work or improvement, where the cost thereof exceeds seven  
36 thousand five hundred dollars shall be made upon call for bids.

37       (7) Bids shall be called annually and at a time and in the manner  
38 prescribed by ordinance for the publication in a newspaper of general  
39 circulation in the city or town of all notices or newspaper

1 publications required by law. The contract shall be awarded to the  
2 lowest responsible bidder.

3 (8) For advertisement and formal sealed bidding to be dispensed  
4 with as to purchases with an estimated value of fifteen thousand  
5 dollars or less, the council or commission must authorize by  
6 resolution, use of the uniform procedure provided in RCW 39.04.190.

7 (9) The city or town legislative authority may waive the  
8 competitive bidding requirements of this section pursuant to RCW  
9 39.04.280 if an exemption contained within that section applies to the  
10 purchase or public work.

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

14 (11) Nothing in this section shall prohibit any second class city  
15 or any town from allowing for preferential purchase of products made  
16 from recycled materials or products that may be recycled or reused.

17 (12) Beginning on July 1, 2001, and on July 1st of each succeeding  
18 odd-numbered year, the dollar limits specified in subsection (1) of  
19 this section shall be adjusted as follows: The office of financial  
20 management shall calculate such limits by adjusting the previous  
21 biennium's limits by the appropriate federal inflationary index  
22 reflecting the rate of inflation for the previous biennium. Such  
23 amounts shall be rounded to the nearest one hundred dollars."

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27 On page 1, line 2 of the title, after "inflation;" strike the  
28 remainder of the title and insert "and amending RCW 35.22.620 and  
29 35.23.352."

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