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SENATE BILL 5873

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State of Washington

57th Legislature

2001 Regular Session

By Senators Patterson, Horn, Haugen, McCaslin, Kline, Fairley and Gardner

Read first time 02/06/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to revising certain day labor limits to account for  
2 inflation; and amending RCW 35.22.620 and 35.23.352.

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

4 **Sec. 1.** RCW 35.22.620 and 2000 c 138 s 203 are each amended to  
5 read as follows:

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

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

18 If a first class city has public works performed by public  
19 employees in any budget period that are in excess of this ten percent

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

11 Whenever a first class city has had public works performed in any  
12 budget period up to the maximum permitted amount for that budget  
13 period, all remaining public works within that budget period shall be  
14 done by contract pursuant to public notice and call for competitive  
15 bids.

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

20 (3) In addition to the percentage limitation provided in subsection  
21 (2) of this section, a first class city with a population in excess of  
22 one hundred fifty thousand shall not have public employees perform a  
23 public works project in excess of (~~(fifty)~~) seventy thousand dollars,  
24 or ninety thousand dollars after January 1, 2010, if more than a single  
25 craft or trade is involved with the public works project, or a public  
26 works project in excess of (~~(twenty-five)~~) thirty-five thousand  
27 dollars, or forty-five thousand dollars after January 1, 2010, if only  
28 a single craft or trade is involved with the public works project or  
29 the public works project is street signalization or street lighting.  
30 In addition to the percentage limitation provided in subsection (2) of  
31 this section, a first class city with a population of one hundred fifty  
32 thousand or less shall not have public employees perform a public works  
33 project in excess of (~~(thirty-five)~~) fifty thousand dollars, or sixty-  
34 five thousand dollars after January 1, 2010, if more than one craft or  
35 trade is involved with the public works project, or a public works  
36 project in excess of (~~(twenty)~~) thirty thousand dollars, or forty  
37 thousand dollars after January 1, 2010, if only a single craft or trade  
38 is involved with the public works project or the public works project  
39 is street signalization or street lighting. A public works project

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

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

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

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

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

29 (7) In lieu of the procedures of subsections (2) and (6) of this  
30 section, a first class city may let contracts using the small works  
31 roster process in RCW 39.04.155.

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

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

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

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

4 **Sec. 2.** RCW 35.23.352 and 2000 c 138 s 204 are each amended to  
5 read as follows:

6 (1) Any second class city or any town may construct any public  
7 works, as defined in RCW 39.04.010, by contract or day labor without  
8 calling for bids therefor whenever the estimated cost of the work or  
9 improvement, including cost of materials, supplies and equipment will  
10 not exceed the sum of (~~thirty~~) forty-five thousand dollars, or sixty  
11 thousand dollars after January 1, 2010, if more than one craft or trade  
12 is involved with the public works, or (~~twenty~~) thirty thousand  
13 dollars, or forty thousand dollars after January 1, 2010, if a single  
14 craft or trade is involved with the public works or the public works  
15 project is street signalization or street lighting. A public works  
16 project means a complete project. The restrictions in this subsection  
17 do not permit the division of the project into units of work or classes  
18 of work to avoid the restriction on work that may be performed by day  
19 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 let contracts using the small works  
23 roster process provided in RCW 39.04.155.

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

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

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

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

36       (7) Bids shall be called annually and at a time and in the manner  
37 prescribed by ordinance for the publication in a newspaper of general  
38 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.

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