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**SUBSTITUTE HOUSE BILL 2590**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Local Government (originally sponsored by Representatives Moscoso, Rodne, Clibborn, Stanford, and Springer)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to county road administration and maintenance;  
2 amending RCW 36.87.120, 36.80.015, 36.80.030, 36.80.040, 36.80.050,  
3 36.80.060, and 36.32.235; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The intent of the legislature is to update  
6 outdated local road statutes to provide taxpayers with lower road  
7 maintenance costs and greater road efficiencies.

8 **Sec. 2.** RCW 36.87.120 and 1969 ex.s. c 185 s 6 are each amended  
9 to read as follows:

10 Any ordinance adopted pursuant to this chapter may require that  
11 compensation for the vacation of county roads within particular  
12 classes shall equal all or a percentage of the appraised value of the  
13 vacated road as of the effective date of the vacation. In considering  
14 the appropriate compensation for the road or right-of-way, the  
15 appraising agency may include in the valuation the transfer of  
16 liability or risk, the increased value to the public in property  
17 taxes, the avoided costs for management or maintenance, and any  
18 limits on development or future public benefit. Costs of county  
19 appraisals of roads pursuant to such ordinances shall be deemed

1 expenses incurred in vacation proceedings, and shall be paid in the  
2 manner provided by RCW 36.87.070.

3 **Sec. 3.** RCW 36.80.015 and 2009 c 105 s 5 are each amended to  
4 read as follows:

5 The county road engineer shall keep an office at the county seat  
6 (~~in such room or rooms as are provided by the county, and he or she~~  
7 ~~shall be furnished with all necessary cases and other suitable~~  
8 ~~articles, and also with all blank books and blanks necessary to the~~  
9 ~~proper discharge of his or her official duties)). The records ((and~~  
10 ~~books in)) under the authority of the county road engineer(~~is~~  
11 ~~office)) shall be public records, shall be subject to the control of  
12 the county road engineer, and shall at all proper times be open to  
13 the inspection and examination of the public.~~~~

14 **Sec. 4.** RCW 36.80.030 and 2009 c 549 s 4133 are each amended to  
15 read as follows:

16 The county road engineer shall (~~examine and~~) certify to the  
17 board and has authority over all estimates and all bills for labor,  
18 materials, provisions, and supplies with respect to county roads,  
19 prepare standards of construction of roads and bridges, and perform  
20 such other duties as may be required by order of the board.

21 He or she shall have supervision, under the direction of the  
22 board, of establishing, laying out, constructing, altering,  
23 improving, repairing, and maintaining all county roads of the county.

24 **Sec. 5.** RCW 36.80.040 and 1995 c 194 s 8 are each amended to  
25 read as follows:

26 The office of county engineer shall be an office of record(~~+~~).  
27 The county road engineer shall: Record and ((file in his or her  
28 ~~office,)) has authority over all matters concerning the public roads,  
29 highways, bridges, ditches, or other surveys of the county, with the  
30 original papers, documents, petitions, surveys, repairs, and other  
31 papers, in order to have the complete history of any such road,  
32 highway, bridge, ditch, or other survey; and (~~shall~~) number each  
33 construction or improvement project. Records related to roads or  
34 rights-of-way annexed or transferred to other jurisdictions may be  
35 transferred to those jurisdictions. Records related to transitory or  
36 maintenance activities shall be kept according to record retention  
37 schedules. The county engineer is not required to retain and file~~

1 financial documents retained and filed in other departments in the  
2 county.

3 **Sec. 6.** RCW 36.80.050 and 2009 c 549 s 4134 are each amended to  
4 read as follows:

5 He or she shall (~~keep~~) ensure that a highway plat (~~book in his~~  
6 ~~or her office~~) record is kept and is publicly accessible, in which  
7 he or she shall have accurately platted all public roads and highways  
8 established by the board.

9 **Sec. 7.** RCW 36.80.060 and 2009 c 549 s 4135 are each amended to  
10 read as follows:

11 The county road engineer shall maintain (~~in his or her office~~)  
12 and has authority over complete and accurate records of all  
13 expenditures for (1) administration, (2) bond and warrant retirement,  
14 (3) maintenance, (4) construction, (5) purchase and operation of road  
15 equipment, and (6) purchase or manufacture of materials and supplies,  
16 and shall maintain a true and complete inventory of all road  
17 equipment. Records may be physically archived with other county  
18 records that are available to the public. The state auditor, with the  
19 advice and assistance of the county road administration board, shall  
20 prescribe forms and types of records to be maintained by the county  
21 road engineers.

22 **Sec. 8.** RCW 36.32.235 and 2009 c 229 s 6 are each amended to  
23 read as follows:

24 (1) In each county with a population of four hundred thousand or  
25 more which by resolution establishes a county purchasing department,  
26 the purchasing department shall enter into leases of personal  
27 property on a competitive basis and purchase all supplies, materials,  
28 and equipment on a competitive basis, for all departments of the  
29 county, as provided in this chapter and chapter 39.04 RCW, except  
30 that the county purchasing department is not required to make  
31 purchases that are paid from the county road fund or equipment rental  
32 and revolving fund.

33 (2) As used in this section(~~(7)~~):

34 (a) "Public works" has the same definition as in RCW 39.04.010.

35 (b) "Riverine project" means a project of construction,  
36 alteration, repair, replacement, or improvement other than ordinary  
37 maintenance, executed at the cost of the state or of any

1 municipality, or which is by law a lien or charge on any property,  
2 carried out on a river or stream and its tributaries and associated  
3 floodplains, beds, banks, and waters for the purpose of improving  
4 aquatic habitat, improving water quality, restoring floodplain  
5 function, or providing flood protection.

6 (c) "Storm water project" means a project of construction,  
7 alteration, repair, replacement, or improvement other than ordinary  
8 maintenance, executed at the cost of the state or of any  
9 municipality, or which is by law a lien or charge on any property,  
10 carried out on a municipal separate storm sewer system, and any  
11 connections to the system, that is regulated under a state-issued  
12 national pollutant discharge elimination system general municipal  
13 storm water permit for the purpose of improving control of storm  
14 water runoff quantity and quality from developed land, safely  
15 conveying storm water runoff, or reducing erosion or other water  
16 quality impacts caused by municipal separate storm sewer system  
17 discharges.

18 (3) Except as otherwise specified in this chapter or in chapter  
19 36.77 RCW, all counties subject to these provisions shall contract on  
20 a competitive basis for all public works after bids have been  
21 submitted to the county upon specifications therefor. Such  
22 specifications shall be in writing and shall be filed with the clerk  
23 of the county legislative authority for public inspection.

24 (4) An advertisement shall be published in the county official  
25 newspaper stating the time and place where bids will be opened, the  
26 time after which bids will not be received, the character of the work  
27 to be done, the materials and equipment to be furnished, and that  
28 specifications therefor may be seen at the office of the clerk of the  
29 county legislative authority. An advertisement shall also be  
30 published in a legal newspaper of general circulation in or as near  
31 as possible to that part of the county in which such work is to be  
32 done. If the county official newspaper is a newspaper of general  
33 circulation covering at least forty percent of the residences in that  
34 part of the county in which such public works are to be done, then  
35 the publication of an advertisement of the applicable specifications  
36 in the county official newspaper is sufficient. Such advertisements  
37 shall be published at least once at least thirteen days prior to the  
38 last date upon which bids will be received.

39 (5) The bids shall be in writing, shall be filed with the clerk,  
40 shall be opened and read in public at the time and place named

1 therefor in the advertisements, and after being opened, shall be  
2 filed for public inspection. No bid may be considered for public work  
3 unless it is accompanied by a bid deposit in the form of a surety  
4 bond, postal money order, cash, cashier's check, or certified check  
5 in an amount equal to five percent of the amount of the bid proposed.

6 (6) The contract for the public work shall be awarded to the  
7 lowest responsible bidder. Any or all bids may be rejected for good  
8 cause. The county legislative authority shall require from the  
9 successful bidder for such public work a contractor's bond in the  
10 amount and with the conditions imposed by law.

11 (7) If the bidder to whom the contract is awarded fails to enter  
12 into the contract and furnish the contractor's bond as required  
13 within ten days after notice of the award, exclusive of the day of  
14 notice, the amount of the bid deposit shall be forfeited to the  
15 county and the contract awarded to the next lowest and best bidder.  
16 The bid deposit of all unsuccessful bidders shall be returned after  
17 the contract is awarded and the required contractor's bond given by  
18 the successful bidder is accepted by the county legislative  
19 authority. Immediately after the award is made, the bid quotations  
20 obtained shall be recorded and open to public inspection and shall be  
21 available by telephone inquiry.

22 (8) As limited by subsection (10) of this section, a county  
23 subject to these provisions may have public works performed by county  
24 employees in any annual or biennial budget period equal to a dollar  
25 value not exceeding ten percent of the public works construction  
26 budget, including any amount in a supplemental public works  
27 construction budget, over the budget period.

28 Whenever a county subject to these provisions has had public  
29 works performed in any budget period up to the maximum permitted  
30 amount for that budget period, all remaining public works except  
31 emergency work under subsection (12) of this section within that  
32 budget period shall be done by contract pursuant to public notice and  
33 call for competitive bids as specified in subsection (3) of this  
34 section. The state auditor shall report to the state treasurer any  
35 county subject to these provisions that exceeds this amount and the  
36 extent to which the county has or has not reduced the amount of  
37 public works it has performed by public employees in subsequent  
38 years.

39 (9) If a county subject to these provisions has public works  
40 performed by public employees in any budget period that are in excess

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

12 (10) In addition to the percentage limitation provided in  
13 subsection (8) of this section, counties subject to these provisions  
14 containing a population of four hundred thousand or more shall not  
15 have public employees perform: A public works project in excess of  
16 ninety thousand dollars if more than a single craft or trade is  
17 involved with the public works project, (~~(or)) a riverine project or~~  
18 storm water project in excess of two hundred fifty thousand dollars  
19 if more than a single craft or trade is involved with the riverine  
20 project or storm water project, a public works project in excess of  
21 forty-five thousand dollars if only a single craft or trade is  
22 involved with the public works project, or a riverine project or  
23 storm water project in excess of one hundred twenty-five thousand  
24 dollars if only a single craft or trade is involved with the riverine  
25 project or storm water project. A public works project, a riverine  
26 project, and a storm water project means a complete project. The  
27 restrictions in this subsection do not permit the division of the  
28 project into units of work or classes of work to avoid the  
29 restriction on work that may be performed by public employees on a  
30 single project.

31 The cost of a separate public works project shall be the costs of  
32 materials, supplies, equipment, and labor on the construction of that  
33 project. The value of the public works budget shall be the value of  
34 all the separate public works projects within the budget.

35 (11) In addition to the accounting and recordkeeping requirements  
36 contained in chapter 39.04 RCW, any county which uses public  
37 employees to perform public works projects under RCW 36.32.240(1)  
38 shall prepare a year-end report to be submitted to the state auditor  
39 indicating the total dollar amount of the county's public works

1 construction budget and the total dollar amount for public works  
2 projects performed by public employees for that year.

3 The year-end report submitted pursuant to this subsection to the  
4 state auditor shall be in accordance with the standard form required  
5 by RCW 43.09.205.

6 (12) Notwithstanding any other provision in this section,  
7 counties may use public employees without any limitation for  
8 emergency work performed under an emergency declared pursuant to RCW  
9 36.32.270, and any such emergency work shall not be subject to the  
10 limitations of this section. Publication of the description and  
11 estimate of costs relating to correcting the emergency may be made  
12 within seven days after the commencement of the work. Within two  
13 weeks of the finding that such an emergency existed, the county  
14 legislative authority shall adopt a resolution certifying the damage  
15 to public facilities and costs incurred or anticipated relating to  
16 correcting the emergency. Additionally this section shall not apply  
17 to architectural and engineering or other technical or professional  
18 services performed by public employees in connection with a public  
19 works project.

20 (13) In lieu of the procedures of subsections (3) through (11) of  
21 this section, a county may let contracts using the small works roster  
22 process provided in RCW 39.04.155.

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

26 (14) The allocation of public works projects to be performed by  
27 county employees shall not be subject to a collective bargaining  
28 agreement.

29 (15) This section does not apply to performance-based contracts,  
30 as defined in RCW 39.35A.020(4), that are negotiated under chapter  
31 39.35A RCW.

32 (16) Nothing in this section prohibits any county from allowing  
33 for preferential purchase of products made from recycled materials or  
34 products that may be recycled or reused.

35 (17) This section does not apply to contracts between the public  
36 stadium authority and a team affiliate under RCW 36.102.060(4), or  
37 development agreements between the public stadium authority and a

1 team affiliate under RCW 36.102.060(7) or leases entered into under  
2 RCW 36.102.060(8).

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