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SENATE BILL 6314

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State of Washington

64th Legislature

2016 Regular Session

By Senators Fain and Mullet

Read first time 01/14/16. Referred to Committee on Transportation.

1 AN ACT Relating to county road administration and maintenance;  
2 amending RCW 35.21.790, 35A.21.210, 36.87.120, 36.80.015, 36.80.030,  
3 36.80.040, 36.80.050, 36.80.060, and 36.32.235; adding a new section  
4 to chapter 36.75 RCW; and creating a new section.

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

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7 outdated local road statutes to provide taxpayers with lower road  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

9 **Sec. 2.** RCW 35.21.790 and 1989 c 84 s 10 are each amended to  
10 read as follows:

11 (1) The governing bodies of a county and any city or town located  
12 therein may by agreement revise any part of the corporate boundary of  
13 the city or town which coincides with the centerline, edge, or any  
14 portion of a public street, road, or highway right-of-way by  
15 substituting therefor a right-of-way line of the same public street,  
16 road, or highway so as fully to include or fully to exclude that  
17 segment of the public street, road, or highway from the corporate  
18 limits of the city or town except when the county line is located  
19 within a public street, road, or highway right-of-way. When the  
20 county line coincides with the centerline, edge, or any portion of a

1 public street, road, or highway right-of-way, the governing bodies of  
2 a county and any city or town located therein may by agreement revise  
3 any part of the corporate boundary of the city or town to coincide  
4 with the county line or the right-of-way line.

5 (2) The revision of a corporate boundary as authorized by this  
6 section shall become effective when approved by ordinance of the city  
7 or town council or commission and by ordinance or resolution of the  
8 county legislative authority. Such a boundary revision is not subject  
9 to potential review by a boundary review board.

10 **Sec. 3.** RCW 35A.21.210 and 1989 c 84 s 11 are each amended to  
11 read as follows:

12 (1) The governing bodies of a county and any code city located  
13 therein may by agreement revise any part of the corporate boundary of  
14 the city which coincides with the centerline, edge, or any portion of  
15 a public street, road, or highway right-of-way by substituting  
16 therefor a right-of-way line of the same public street, road, or  
17 highway so as fully to include or fully to exclude that segment of  
18 the public street, road, or highway from the corporate limits of the  
19 city except when the county line is located within a public street,  
20 road, or highway right-of-way. When the county line coincides with  
21 the centerline, edge, or any portion of a public street, road, or  
22 highway right-of-way, the governing bodies of a county and any code  
23 city located therein may by agreement revise any part of the  
24 corporate boundary of the city to coincide with the county line or  
25 the right-of-way line.

26 (2) The revision of a corporate boundary as authorized by this  
27 section shall become effective when approved by ordinance of the city  
28 council and by ordinance or resolution of the county legislative  
29 authority. Such a boundary revision is not subject to potential  
30 review by a boundary review board.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.75  
32 RCW to read as follows:

33 If any portion of a county road is contained within the corporate  
34 boundary of a city or town or abuts the corporate boundary on both  
35 sides of the road, and that portion of the county road (1) has no  
36 connection to the county road system and (2) is not on the border of  
37 a county, ownership of all affected portions of the road is the

1 responsibility of the city or town after a legislative transfer by  
2 the county.

3 **Sec. 5.** RCW 36.87.120 and 1969 ex.s. c 185 s 6 are each amended  
4 to read as follows:

5 Any ordinance adopted pursuant to this chapter may require that  
6 compensation for the vacation of county roads within particular  
7 classes shall equal all or a percentage of the appraised value of the  
8 vacated road as of the effective date of the vacation. In considering  
9 the appropriate compensation for the road or right-of-way, the  
10 appraising agency may include in the valuation the transfer of  
11 liability or risk, the increased value to the public in property  
12 taxes, the avoided costs for management or maintenance, and any  
13 limits on development or future public benefit. Costs of county  
14 appraisals of roads pursuant to such ordinances shall be deemed  
15 expenses incurred in vacation proceedings, and shall be paid in the  
16 manner provided by RCW 36.87.070.

17 **Sec. 6.** RCW 36.80.015 and 2009 c 105 s 5 are each amended to  
18 read as follows:

19 The county road engineer shall keep an office at the county seat  
20 (~~in such room or rooms as are provided by the county, and he or she~~  
21 ~~shall be furnished with all necessary cases and other suitable~~  
22 ~~articles, and also with all blank books and blanks necessary to the~~  
23 ~~proper discharge of his or her official duties)). The records ((~~and~~  
24 ~~books in~~)) under the authority of the county road engineer(~~is~~  
25 ~~office~~)) shall be public records, shall be subject to the control of  
26 the county road engineer, and shall at all proper times be open to  
27 the inspection and examination of the public.~~

28 **Sec. 7.** RCW 36.80.030 and 2009 c 549 s 4133 are each amended to  
29 read as follows:

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

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

1       **Sec. 8.** RCW 36.80.040 and 1995 c 194 s 8 are each amended to  
2 read as follows:

3       The office of county engineer shall be an office of record(~~(+)~~).  
4 The county road engineer shall: Record and ((file in his or her  
5 office,)) has authority over all matters concerning the public roads,  
6 highways, bridges, ditches, or other surveys of the county, with the  
7 original papers, documents, petitions, surveys, repairs, and other  
8 papers, in order to have the complete history of any such road,  
9 highway, bridge, ditch, or other survey; and ((shall)) number each  
10 construction or improvement project. Records related to roads or  
11 rights-of-way annexed or transferred to other jurisdictions may be  
12 transferred to those jurisdictions. Records related to transitory or  
13 maintenance activities shall be kept according to record retention  
14 schedules. The county engineer is not required to retain and file  
15 financial documents retained and filed in other departments in the  
16 county.

17       **Sec. 9.** RCW 36.80.050 and 2009 c 549 s 4134 are each amended to  
18 read as follows:

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

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

25       The county road engineer shall maintain ((~~in his or her office~~))  
26 and has authority over complete and accurate records of all  
27 expenditures for (1) administration, (2) bond and warrant retirement,  
28 (3) maintenance, (4) construction, (5) purchase and operation of road  
29 equipment, and (6) purchase or manufacture of materials and supplies,  
30 and shall maintain a true and complete inventory of all road  
31 equipment. Records may be physically archived with other county  
32 records that are available to the public. The state auditor, with the  
33 advice and assistance of the county road administration board, shall  
34 prescribe forms and types of records to be maintained by the county  
35 road engineers.

36       **Sec. 11.** RCW 36.32.235 and 2009 c 229 s 6 are each amended to  
37 read as follows:

1 (1) In each county with a population of four hundred thousand or  
2 more which by resolution establishes a county purchasing department,  
3 the purchasing department shall enter into leases of personal  
4 property on a competitive basis and purchase all supplies, materials,  
5 and equipment on a competitive basis, for all departments of the  
6 county, as provided in this chapter and chapter 39.04 RCW, except  
7 that the county purchasing department is not required to make  
8 purchases that are paid from the county road fund or equipment rental  
9 and revolving fund.

10 (2) As used in this section((7)):

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

12 (b) "Riverine project" means a project of construction,  
13 alteration, repair, replacement, or improvement other than ordinary  
14 maintenance, executed at the cost of the state or of any  
15 municipality, or which is by law a lien or charge on any property,  
16 carried out on a river or stream and its tributaries and associated  
17 floodplains, beds, banks, and waters for the purpose of improving  
18 aquatic habitat, improving water quality, restoring floodplain  
19 function, or providing flood protection.

20 (c) "Storm water project" means a project of construction,  
21 alteration, repair, replacement, or improvement other than ordinary  
22 maintenance, executed at the cost of the state or of any  
23 municipality, or which is by law a lien or charge on any property,  
24 carried out on a municipal separate storm sewer system, and any  
25 connections to the system, that is regulated under a state-issued  
26 national pollutant discharge elimination system general municipal  
27 storm water permit for the purpose of improving control of storm  
28 water runoff quantity and quality from developed land, safely  
29 conveying storm water runoff, or reducing erosion or other water  
30 quality impacts caused by municipal separate storm sewer system  
31 discharges.

32 (3) Except as otherwise specified in this chapter or in chapter  
33 36.77 RCW, all counties subject to these provisions shall contract on  
34 a competitive basis for all public works after bids have been  
35 submitted to the county upon specifications therefor. Such  
36 specifications shall be in writing and shall be filed with the clerk  
37 of the county legislative authority for public inspection.

38 (4) An advertisement shall be published in the county official  
39 newspaper stating the time and place where bids will be opened, the  
40 time after which bids will not be received, the character of the work

1 to be done, the materials and equipment to be furnished, and that  
2 specifications therefor may be seen at the office of the clerk of the  
3 county legislative authority. An advertisement shall also be  
4 published in a legal newspaper of general circulation in or as near  
5 as possible to that part of the county in which such work is to be  
6 done. If the county official newspaper is a newspaper of general  
7 circulation covering at least forty percent of the residences in that  
8 part of the county in which such public works are to be done, then  
9 the publication of an advertisement of the applicable specifications  
10 in the county official newspaper is sufficient. Such advertisements  
11 shall be published at least once at least thirteen days prior to the  
12 last date upon which bids will be received.

13 (5) The bids shall be in writing, shall be filed with the clerk,  
14 shall be opened and read in public at the time and place named  
15 therefor in the advertisements, and after being opened, shall be  
16 filed for public inspection. No bid may be considered for public work  
17 unless it is accompanied by a bid deposit in the form of a surety  
18 bond, postal money order, cash, cashier's check, or certified check  
19 in an amount equal to five percent of the amount of the bid proposed.

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

25 (7) If the bidder to whom the contract is awarded fails to enter  
26 into the contract and furnish the contractor's bond as required  
27 within ten days after notice of the award, exclusive of the day of  
28 notice, the amount of the bid deposit shall be forfeited to the  
29 county and the contract awarded to the next lowest and best bidder.  
30 The bid deposit of all unsuccessful bidders shall be returned after  
31 the contract is awarded and the required contractor's bond given by  
32 the successful bidder is accepted by the county legislative  
33 authority. Immediately after the award is made, the bid quotations  
34 obtained shall be recorded and open to public inspection and shall be  
35 available by telephone inquiry.

36 (8) As limited by subsection (10) of this section, a county  
37 subject to these provisions may have public works performed by county  
38 employees in any annual or biennial budget period equal to a dollar  
39 value not exceeding ten percent of the public works construction

1 budget, including any amount in a supplemental public works  
2 construction budget, over the budget period.

3 Whenever a county subject to these provisions has had public  
4 works performed in any budget period up to the maximum permitted  
5 amount for that budget period, all remaining public works except  
6 emergency work under subsection (12) of this section within that  
7 budget period shall be done by contract pursuant to public notice and  
8 call for competitive bids as specified in subsection (3) of this  
9 section. The state auditor shall report to the state treasurer any  
10 county subject to these provisions that exceeds this amount and the  
11 extent to which the county has or has not reduced the amount of  
12 public works it has performed by public employees in subsequent  
13 years.

14 (9) If a county subject to these provisions has public works  
15 performed by public employees in any budget period that are in excess  
16 of this ten percent limitation, the amount in excess of the permitted  
17 amount shall be reduced from the otherwise permitted amount of public  
18 works that may be performed by public employees for that county in  
19 its next budget period. Ten percent of the motor vehicle fuel tax  
20 distributions to that county shall be withheld if two years after the  
21 year in which the excess amount of work occurred, the county has  
22 failed to so reduce the amount of public works that it has performed  
23 by public employees. The amount withheld shall be distributed to the  
24 county when it has demonstrated in its reports to the state auditor  
25 that the amount of public works it has performed by public employees  
26 has been reduced as required.

27 (10) In addition to the percentage limitation provided in  
28 subsection (8) of this section, counties subject to these provisions  
29 containing a population of four hundred thousand or more shall not  
30 have public employees perform: A public works project in excess of  
31 ninety thousand dollars if more than a single craft or trade is  
32 involved with the public works project, ((~~or~~)) a riverine project or  
33 storm water project in excess of two hundred fifty thousand dollars  
34 if more than a single craft or trade is involved with the riverine  
35 project or storm water project, a public works project in excess of  
36 forty-five thousand dollars if only a single craft or trade is  
37 involved with the public works project, or a riverine project or  
38 storm water project in excess of one hundred twenty-five thousand  
39 dollars if only a single craft or trade is involved with the riverine  
40 project or storm water project. A public works project, a riverine

1 project, and a storm water project means a complete project. The  
2 restrictions in this subsection do not permit the division of the  
3 project into units of work or classes of work to avoid the  
4 restriction on work that may be performed by public employees on a  
5 single project.

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

10 (11) In addition to the accounting and recordkeeping requirements  
11 contained in chapter 39.04 RCW, any county which uses public  
12 employees to perform public works projects under RCW 36.32.240(1)  
13 shall prepare a year-end report to be submitted to the state auditor  
14 indicating the total dollar amount of the county's public works  
15 construction budget and the total dollar amount for public works  
16 projects performed by public employees for that year.

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

20 (12) Notwithstanding any other provision in this section,  
21 counties may use public employees without any limitation for  
22 emergency work performed under an emergency declared pursuant to RCW  
23 36.32.270, and any such emergency work shall not be subject to the  
24 limitations of this section. Publication of the description and  
25 estimate of costs relating to correcting the emergency may be made  
26 within seven days after the commencement of the work. Within two  
27 weeks of the finding that such an emergency existed, the county  
28 legislative authority shall adopt a resolution certifying the damage  
29 to public facilities and costs incurred or anticipated relating to  
30 correcting the emergency. Additionally this section shall not apply  
31 to architectural and engineering or other technical or professional  
32 services performed by public employees in connection with a public  
33 works project.

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

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



1           (14) The allocation of public works projects to be performed by  
2 county employees shall not be subject to a collective bargaining  
3 agreement.

4           (15) This section does not apply to performance-based contracts,  
5 as defined in RCW 39.35A.020(4), that are negotiated under chapter  
6 39.35A RCW.

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

10          (17) This section does not apply to contracts between the public  
11 stadium authority and a team affiliate under RCW 36.102.060(4), or  
12 development agreements between the public stadium authority and a  
13 team affiliate under RCW 36.102.060(7) or leases entered into under  
14 RCW 36.102.060(8).

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