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**SENATE BILL 5191**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Takko, Sheldon, Hawkins, Short, and Wagoner

Read first time 01/15/19. Referred to Committee on Environment,  
Energy & Technology.

1 AN ACT Relating to public utility districts' contracts for work  
2 or materials; and amending RCW 54.04.070.

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

4 **Sec. 1.** RCW 54.04.070 and 2017 c 85 s 1 are each amended to read  
5 as follows:

6 (1) Any item, or items of the same kind of materials, equipment,  
7 or supplies purchased, the estimated cost of which is in excess of  
8 ~~((fifteen))~~ thirty thousand dollars, exclusive of sales tax, shall be  
9 by contract. However, a district may make purchases of the same kind  
10 of items of materials, equipment, and supplies not exceeding  
11 ~~((seven))~~ twelve thousand ~~((five-hundred))~~ dollars in any calendar  
12 month without a contract, purchasing any excess thereof over  
13 ~~((seven))~~ twelve thousand ~~((five-hundred))~~ dollars by contract.

14 (2) Any work ordered by a district commission, the estimated cost  
15 of which is in excess of ~~((twenty-five))~~ fifty thousand dollars,  
16 exclusive of sales tax, shall be by contract. However, a district  
17 commission may have its own regularly employed personnel perform work  
18 which is an accepted industry practice under prudent utility  
19 management without a contract. For purposes of this section, "prudent  
20 utility management" means performing work with regularly employed  
21 personnel utilizing material of a worth not exceeding ~~((one))~~ three

1 hundred (~~fifty~~) thousand dollars in value without a contract. This  
2 limit on the value of material being utilized in work being performed  
3 by regularly employed personnel shall not include the value of  
4 individual items of equipment (~~(purchased or acquired and used as one~~  
5 ~~unit of a project)~~). For the purposes of this section, the term  
6 "equipment" includes but is not limited to conductor, cabling, wire,  
7 pipe, or lines used for electrical, water, fiber optic, or  
8 telecommunications.

9 (3) Before awarding a contract required under subsection (1) or  
10 (2) of this section, the commission shall publish a notice once or  
11 more in a newspaper of general circulation in the district at least  
12 thirteen days before the last date upon which bids will be received,  
13 inviting sealed proposals for the work or materials. Plans and  
14 specifications for the work or materials shall at the time of  
15 publication be on file at the office of the district and subject to  
16 public inspection. Any published notice ordering work to be performed  
17 for the district shall be mailed at the time of publication to any  
18 established trade association which files a written request with the  
19 district to receive such notices. The commission may, at the same  
20 time and as part of the same notice, invite tenders for the work or  
21 materials upon plans and specifications to be submitted by the  
22 bidders.

23 (4) As an alternative to the competitive bidding requirements of  
24 this section and RCW 54.04.080, a district may let contracts using  
25 the small works roster process under RCW 39.04.155.

26 (5) Whenever equipment or materials required by a district are  
27 held by a governmental agency and are available for sale but such  
28 agency is unwilling to submit a proposal, the commission may  
29 ascertain the price of such items and file a statement of such price  
30 supported by the sworn affidavit of one member of the commission, and  
31 may consider such price as a bid without a deposit or bond.

32 (6) Pursuant to RCW 39.04.280, the commission may waive the  
33 competitive bidding requirements of this section and RCW 54.04.080 if  
34 an exemption contained within RCW 39.04.280 applies to the purchase  
35 or public work.

36 (7) (a) A district may procure public works with a unit priced  
37 contract under this section, RCW 54.04.080, or 54.04.085 for the  
38 purpose of completing anticipated types of work based on hourly rates  
39 or unit pricing for one or more categories of work or trades.

1 (b) For the purposes of this section, unit priced contract means  
2 a competitively bid contract in which public works are anticipated on  
3 a recurring basis to meet the business or operational needs of a  
4 district, under which the contractor agrees to a fixed period  
5 indefinite quantity delivery of work, at a defined unit price, for  
6 each category of work.

7 (c) Unit priced contracts must be executed for an initial  
8 contract term not to exceed three years, with the district having the  
9 option of extending or renewing the unit priced contract for one  
10 additional year.

11 (d) Invitations for unit price bids shall include, for purposes  
12 of the bid evaluation, estimated quantities of the anticipated types  
13 of work or trades, and specify how the district will issue or release  
14 work assignments, work orders, or task authorizations pursuant to a  
15 unit priced contract for projects, tasks, or other work based on the  
16 hourly rates or unit prices bid by the contractor. Where electrical  
17 facility construction or improvement work is anticipated, contractors  
18 on a unit priced contract shall comply with the requirements under  
19 RCW 54.04.085 (1) through (5). Contracts must be awarded to the  
20 lowest responsible bidder as per RCW 39.04.010.

21 (e) Unit price contractors shall pay prevailing wages for all  
22 work that would otherwise be subject to the requirements of chapter  
23 39.12 RCW. Prevailing wages for all work performed pursuant to each  
24 work order must be the rates in effect at the time the individual  
25 work order is issued.

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