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**SENATE BILL 5381**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Takko and Short

1 AN ACT Relating to clarifying the authority and procedures for  
2 unit priced contracting by water and sewer districts; and amending  
3 RCW 57.08.050.

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

5 **Sec. 1.** RCW 57.08.050 and 2015 c 136 s 1 are each amended to  
6 read as follows:

7 (1) All work ordered, the estimated cost of which is in excess of  
8 fifty thousand dollars, shall be let by contract and competitive  
9 bidding. Before awarding any such contract the board of commissioners  
10 shall publish a notice in a newspaper of general circulation where  
11 the district is located at least once thirteen days before the last  
12 date upon which bids will be received, inviting sealed proposals for  
13 such work, plans and specifications which must at the time of  
14 publication of such notice be on file in the office of the board of  
15 commissioners subject to the public inspection. The notice shall  
16 state generally the work to be done and shall call for proposals for  
17 doing the same to be sealed and filed with the board of commissioners  
18 on or before the day and hour named therein.

19 Each bid shall be accompanied by a certified or cashier's check  
20 or postal money order payable to the order of the county treasurer  
21 for a sum not less than five percent of the amount of the bid, or

1 accompanied by a bid bond in an amount not less than five percent of  
2 the bid with a corporate surety licensed to do business in the state,  
3 conditioned that the bidder will pay the district as liquidated  
4 damages the amount specified in the bond, unless the bidder enters  
5 into a contract in accordance with the bidder's bid, and no bid shall  
6 be considered unless accompanied by such check, cash or bid bond. At  
7 the time and place named such bids shall be publicly opened and read  
8 and the board of commissioners shall proceed to canvass the bids and  
9 may let such contract to the lowest responsible bidder upon plans and  
10 specifications on file or to the best bidder submitting the bidder's  
11 own plans and specifications. The board of commissioners may reject  
12 all bids for good cause and readvertise and in such case all checks,  
13 cash or bid bonds shall be returned to the bidders. If the contract  
14 is let, then all checks, cash, or bid bonds shall be returned to the  
15 bidders, except that of the successful bidder, which shall be  
16 retained until a contract shall be entered into for doing the work,  
17 and a bond to perform such work furnished with sureties satisfactory  
18 to the board of commissioners in the full amount of the contract  
19 price between the bidder and the commission in accordance with the  
20 bid. If the bidder fails to enter into the contract in accordance  
21 with the bid and furnish the bond within ten days from the date at  
22 which the bidder is notified that the bidder is the successful  
23 bidder, the check, cash, or bid bonds and the amount thereof shall be  
24 forfeited to the district. If the bidder fails to enter into a  
25 contract in accordance with the bidder's bid, and the board of  
26 commissioners deems it necessary to take legal action to collect on  
27 any bid bond required by this section, then the district shall be  
28 entitled to collect from the bidder any legal expenses, including  
29 reasonable attorneys' fees occasioned thereby. A low bidder who  
30 claims error and fails to enter into a contract is prohibited from  
31 bidding on the same project if a second or subsequent call for bids  
32 is made for the project.

33 (2) As an alternative to requirements under subsection (1) of  
34 this section, a water-sewer district may let contracts using the  
35 small works roster process under RCW 39.04.155.

36 (3) Any purchase of materials, supplies, or equipment, with an  
37 estimated cost in excess of forty thousand dollars, shall be by  
38 contract. Any purchase of materials, supplies, or equipment, with an  
39 estimated cost of less than fifty thousand dollars shall be made  
40 using the process provided in RCW 39.04.190. Any purchase of

1 materials, supplies, or equipment with an estimated cost of fifty  
2 thousand dollars or more shall be made by competitive bidding  
3 following the procedure for letting contracts for projects under  
4 subsection (1) of this section.

5 (4) As an alternative to requirements under subsection (3) of  
6 this section, a water-sewer district may let contracts for purchase  
7 of materials, supplies, or equipment with the suppliers designated on  
8 current state agency, county, city, or town purchasing rosters for  
9 the materials, supplies, or equipment, when the roster has been  
10 established in accordance with the competitive bidding law for  
11 purchases applicable to the state agency, county, city, or town. The  
12 price and terms for purchases shall be as described on the applicable  
13 roster.

14 (5) The board may waive the competitive bidding requirements of  
15 this section pursuant to RCW 39.04.280 if an exemption contained  
16 within that section applies to the purchase or public work.

17 (6) (a) A district may procure public works with a unit priced  
18 contract under this section for the purpose of completing anticipated  
19 types of work based on hourly rates or unit pricing for one or more  
20 categories of work or trades.

21 (b) For the purposes of this section, "unit priced contract"  
22 means a competitively bid contract in which public works are  
23 anticipated on a recurring basis to meet the business or operational  
24 needs of the district, under which the contractor agrees to a fixed  
25 period indefinite quantity delivery of work, at a defined unit price  
26 for each category of work.

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

31 (d) Invitations for unit price bids must include, for purposes of  
32 the bid evaluation, estimated quantities of the anticipated types of  
33 work or trades, and specify how the district will issue or release  
34 work assignments, work orders, or task authorizations pursuant to a  
35 unit priced contract for projects, tasks, or other work based on the  
36 hourly rates or unit prices bid by the contractor. Contracts must be  
37 awarded to the lowest responsible bidder as per RCW 39.04.010.  
38 Whenever possible, the district must invite at least one proposal  
39 from a minority or woman contractor who otherwise qualifies under  
40 this section.

1       (e) Unit price contractors shall pay prevailing wages for all  
2 work that would otherwise be subject to the requirements of chapter  
3 39.12 RCW. Prevailing wages for all work performed pursuant to each  
4 work order must be the prevailing wage rates in effect at the  
5 beginning date for each contract year. Unit priced contracts must  
6 have prevailing wage rates updated annually. Intents and affidavits  
7 for prevailing wages paid must be submitted annually for all work  
8 completed within the previous twelve-month period of the unit priced  
9 contract.

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