
HOUSE BILL 1529

State of Washington

69th Legislature

2025 Regular Session

By Representatives Griffey, Stuebe, Couture, and Waters

Read first time 01/23/25. Referred to Committee on Local Government.

1 AN ACT Relating to increasing opportunities for cities to utilize
2 county resources for road construction and maintenance; amending RCW
3 35.77.030; reenacting and amending RCW 35.22.620 and 35.23.352; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that most counties
7 have road construction crews that have the equipment and skills to
8 construct and maintain roads. It is the intent of the legislature to
9 make it easier for counties, through agreements with cities and
10 towns, to provide repairs, striping, maintenance, and construction
11 work on roads throughout the county in order to keep the highway
12 system in a state of good repair. The legislature finds counties can
13 be a particularly important resource in rural communities where
14 otherwise obtaining such services is challenging.

15 **Sec. 2.** RCW 35.22.620 and 2023 c 395 s 20 and 2023 c 255 s 3 are
16 each reenacted and amended to read as follows:

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

19 (2) A first-class city may have public works performed by
20 contract pursuant to public notice and call for competitive bids. As

1 limited by subsection (3) of this section, a first-class city may
2 have public works performed by city employees in any annual or
3 biennial budget period equal to a dollar value not exceeding 10
4 percent of the public works construction budget, including any amount
5 in a supplemental public works construction budget, over the budget
6 period. The amount of public works that a first-class city has a
7 county perform for it under RCW 35.77.020 shall not be included
8 within this 10 percent limitation, and such work shall not be
9 included when calculating the amount of public work performed by
10 public employees in a budget period.

11 If a first-class city has public works performed by public
12 employees in any budget period that are in excess of this 10 percent
13 limitation, the amount in excess of the permitted amount shall be
14 reduced from the otherwise permitted amount of public works that may
15 be performed by public employees for that city in its next budget
16 period. Twenty percent of the motor vehicle fuel tax distributions to
17 that city shall be withheld if two years after the year in which the
18 excess amount of work occurred, the city has failed to so reduce the
19 amount of public works that it has performed by public employees. The
20 amount so withheld shall be distributed to the city when it has
21 demonstrated in its reports to the state auditor that the amount of
22 public works it has performed by public employees has been so
23 reduced.

24 Whenever a first-class city has had public works performed in any
25 budget period up to the maximum permitted amount for that budget
26 period, all remaining public works within that budget period shall be
27 done by contract pursuant to public notice and call for competitive
28 bids.

29 The state auditor shall report to the state treasurer any
30 first-class city that exceeds this amount and the extent to which the
31 city has or has not reduced the amount of public works it has
32 performed by public employees in subsequent years.

33 (3) In addition to the percentage limitation provided in
34 subsection (2) of this section, a first-class city shall not have
35 public employees perform a public works project in excess of \$150,000
36 if more than a single craft or trade is involved with the public
37 works project, or a public works project in excess of \$75,500 if only
38 a single craft or trade is involved with the public works project or
39 the public works project is street signalization or street lighting.
40 A public works project means a complete project. The restrictions in

1 this subsection do not permit the division of the project into units
2 of work or classes of work to avoid the restriction on work that may
3 be performed by day labor on a single project. However, a first-class
4 city may have its own regularly employed personnel perform work which
5 is an accepted industry practice under prudent utility management
6 without a contract. For purposes of this section, "prudent utility
7 management" means performing work with regularly employed personnel
8 utilizing material of a worth not exceeding \$300,000 in value without
9 a contract. This limit on the value of material being utilized in
10 work being performed by regularly employed personnel shall not
11 include the value of individual items of equipment. For purposes of
12 this section, the term "equipment" includes, but is not limited to,
13 conductor, cabling, wire, pipe, or lines used for electrical, water,
14 fiber optic, or telecommunications. Public works that a first-class
15 city has a county perform for it under RCW 35.77.020 are not subject
16 to the limitations in this subsection.

17 (4) In addition to the accounting and recordkeeping requirements
18 contained in RCW 39.04.070, every first-class city annually may
19 prepare a report for the state auditor indicating the total public
20 works construction budget and supplemental public works construction
21 budget for that year, the total construction costs of public works
22 performed by public employees for that year, and the amount of public
23 works that is performed by public employees above or below 10 percent
24 of the total construction budget. However, if a city budgets on a
25 biennial basis, this annual report may indicate the amount of public
26 works that is performed by public employees within the current
27 biennial period that is above or below 10 percent of the total
28 biennial construction budget.

29 Each first-class city with a population of 150,000 or less shall
30 use the form required by RCW 43.09.205 to account and record costs of
31 public works in excess of \$5,000 that are not let by contract.

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

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

1 (7) In lieu of the procedures of subsections (2) and (6) of this
2 section, a first-class city may let contracts using the small works
3 roster process in RCW 39.04.151 through 39.04.154.

4 Whenever possible, the city shall invite at least one proposal
5 from a certified minority or woman contractor who shall otherwise
6 qualify under this section.

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

10 (9) This section does not apply to performance-based contracts,
11 as defined in RCW 39.35A.020(6), that are negotiated under chapter
12 39.35A RCW.

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

16 (11)(a) Any first-class city may procure public works with a unit
17 priced contract under this section for the purpose of completing
18 anticipated types of work based on hourly rates or unit pricing for
19 one or more categories of work or trades.

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

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

30 (d) Invitations for unit price bids shall include, for purposes
31 of the bid evaluation, estimated quantities of the anticipated types
32 of work or trades, and specify how the city will issue or release
33 work assignments, work orders, or task authorizations pursuant to a
34 unit priced contract for projects, tasks, or other work based on the
35 hourly rates or unit prices bid by the contractor. Contracts must be
36 awarded to the lowest responsible bidder as per RCW 39.04.010.
37 Whenever possible, the city must invite at least one proposal from a
38 certified minority or woman contractor who otherwise qualifies under
39 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 12-month period of the unit priced
9 contract.

10 (12) For the purposes of this section, "lowest responsible
11 bidder" means a bid that meets the criteria under RCW 39.04.350 and
12 has the lowest bid; provided, that if the city issues a written
13 finding that the lowest bidder has delivered a project to the city
14 within the last three years which was late, over budget, or did not
15 meet specifications, and the city does not find in writing that such
16 bidder has shown how they would improve performance to be likely to
17 meet project specifications then the city may choose the second
18 lowest bidder whose bid is within five percent of the lowest bid and
19 meets the same criteria as the lowest bidder.

20 **Sec. 3.** RCW 35.23.352 and 2023 c 395 s 21 and 2023 c 255 s 2 are
21 each reenacted and amended to read as follows:

22 (1) Any second-class city or any town may construct any public
23 works, as defined in RCW 39.04.010, by contract or day labor without
24 calling for bids therefor whenever the estimated cost of the work or
25 improvement, including cost of materials, supplies and equipment will
26 not exceed the sum of \$150,000 if more than one craft or trade is
27 involved with the public works, or \$75,500 if a single craft or trade
28 is involved with the public works or the public works project is
29 street signalization or street lighting. A public works project means
30 a complete project. The restrictions in this subsection do not permit
31 the division of the project into units of work or classes of work to
32 avoid the restriction on work that may be performed by day labor on a
33 single project. However, a second-class city or any town may have its
34 own regularly employed personnel perform work which is an accepted
35 industry practice under prudent utility management without a
36 contract. For purposes of this section, "prudent utility management"
37 means performing work with regularly employed personnel utilizing
38 material of a worth not exceeding \$300,000 in value without a
39 contract. This limit on value of material being utilized in work

1 being performed by regularly employed personnel shall not include the
2 value of individual items of equipment. For purposes of this section,
3 "equipment" includes, but is not limited to, conductor, cabling,
4 wire, pipe, or lines used for electrical, water, fiber optic, or
5 telecommunications.

6 Whenever the cost of the public work or improvement, including
7 materials, supplies and equipment, will exceed these figures, the
8 same shall be done by contract. All such contracts shall be let at
9 public bidding upon publication of notice calling for sealed bids
10 upon the work. The notice shall be published in the official
11 newspaper, or a newspaper of general circulation most likely to bring
12 responsive bids, at least 13 days prior to the last date upon which
13 bids will be received. The notice shall generally state the nature of
14 the work to be done that plans and specifications therefor shall then
15 be on file in the city or town hall for public inspections, and
16 require that bids be sealed and filed with the council or commission
17 within the time specified therein. Each bid shall be accompanied by a
18 bid proposal deposit in the form of a cashier's check, postal money
19 order, or surety bond to the council or commission for a sum of not
20 less than five percent of the amount of the bid, and no bid shall be
21 considered unless accompanied by such bid proposal deposit. The
22 council or commission of the city or town shall let the contract to
23 the lowest responsible bidder or shall have power by resolution to
24 reject any or all bids and to make further calls for bids in the same
25 manner as the original call.

26 When the contract is let then all bid proposal deposits shall be
27 returned to the bidders except that of the successful bidder which
28 shall be retained until a contract is entered into and a bond to
29 perform the work furnished, with surety satisfactory to the council
30 or commission, in accordance with RCW 39.08.030. If the bidder fails
31 to enter into the contract in accordance with his or her bid and
32 furnish a bond within 10 days from the date at which he or she is
33 notified that he or she is the successful bidder, the check or postal
34 money order and the amount thereof shall be forfeited to the council
35 or commission or the council or commission shall recover the amount
36 of the surety bond. A low bidder who claims error and fails to enter
37 into a contract is prohibited from bidding on the same project if a
38 second or subsequent call for bids is made for the project.

39 If no bid is received on the first call the council or commission
40 may readvertise and make a second call, or may enter into a contract

1 without any further call or may purchase the supplies, material or
2 equipment and perform the work or improvement by day labor.

3 (2) For the purposes of this section, "lowest responsible bidder"
4 means a bid that meets the criteria under RCW 39.04.350 and has the
5 lowest bid; provided, that if the city issues a written finding that
6 the lowest bidder has delivered a project to the city within the last
7 three years which was late, over budget, or did not meet
8 specifications, and the city does not find in writing that such
9 bidder has shown how they would improve performance to be likely to
10 meet project specifications then the city may choose the second
11 lowest bidder whose bid is within five percent of the lowest bid and
12 meets the same criteria as the lowest bidder.

13 (3) The allocation of public works projects to be performed by
14 city or town employees shall not be subject to a collective
15 bargaining agreement.

16 (4) In lieu of the procedures of subsection (1) of this section,
17 a second-class city or a town may let contracts using the small works
18 roster process provided in RCW 39.04.151 through 39.04.154.

19 Whenever possible, the city or town shall invite at least one
20 proposal from a certified minority or woman contractor who shall
21 otherwise qualify under this section.

22 (5) The form required by RCW 43.09.205 shall be to account and
23 record costs of public works in excess of \$5,000 that are not let by
24 contract.

25 (6) The cost of a separate public works project shall be the
26 costs of the materials, equipment, supplies, and labor on that
27 construction project.

28 (7) Any purchase of supplies, material, or equipment, except for
29 public work or improvement, with an estimated cost in excess of
30 \$40,000, shall be by contract. Any purchase of materials, supplies,
31 or equipment with an estimated cost of less than \$50,000 shall be
32 made using the process provided in RCW 39.04.190.

33 (8) Bids shall be called annually and at a time and in the manner
34 prescribed by ordinance for the publication in a newspaper of general
35 circulation in the city or town of all notices or newspaper
36 publications required by law. The contract shall be awarded to the
37 lowest responsible bidder.

38 (9) For advertisement and formal sealed bidding to be dispensed
39 with as to purchases with an estimated value of \$15,000 or less, the

1 council or commission must authorize by resolution, use of the
2 uniform procedure provided in RCW 39.04.190.

3 (10) The city or town legislative authority may waive the
4 competitive bidding requirements of this section pursuant to RCW
5 39.04.280 if an exemption contained within that section applies to
6 the purchase or public work.

7 (11) This section does not apply to performance-based contracts,
8 as defined in RCW 39.35A.020(6), that are negotiated under chapter
9 39.35A RCW, or to public works performed for the city or town by a
10 county under RCW 35.77.020.

11 (12) Nothing in this section shall prohibit any second-class city
12 or any town from allowing for preferential purchase of products made
13 from recycled materials or products that may be recycled or reused.

14 (13)(a) Any second-class city or any town may procure public
15 works with a unit priced contract under this section for the purpose
16 of completing anticipated types of work based on hourly rates or unit
17 pricing for one or more categories of work or trades.

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

24 (c) Unit priced contracts must be executed for an initial
25 contract term not to exceed three years, with the city or town having
26 the option of extending or renewing the unit priced contract for one
27 additional year.

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

38 (e) Unit price contractors shall pay prevailing wages for all
39 work that would otherwise be subject to the requirements of chapter
40 39.12 RCW. Prevailing wages for all work performed pursuant to each

1 work order must be the prevailing wage rates in effect at the
2 beginning date for each contract year. Unit priced contracts must
3 have prevailing wage rates updated annually. Intents and affidavits
4 for prevailing wages paid must be submitted annually for all work
5 completed within the previous 12-month period of the unit priced
6 contract.

7 (14) Any second-class city or town that awards a project to a
8 bidder under the criteria described in subsection (2) of this section
9 must make an annual report to the department of commerce that
10 includes the total number of bids awarded to certified minority or
11 women contractors and describing how notice was provided to potential
12 certified minority or women contractors.

13 **Sec. 4.** RCW 35.77.030 and 2009 c 549 s 2123 are each amended to
14 read as follows:

15 Pursuant to an agreement authorized by RCW 35.77.020, the board
16 of county commissioners may expend funds from the county road fund
17 for the construction, repair, and maintenance of the streets of such
18 city or town and for engineering and administrative services.
19 Payments by a city or town under such an agreement shall be made to
20 the county treasurer and by him or her deposited in the county road
21 fund. Such construction, repair, maintenance, and engineering service
22 shall be ordered by resolution and proceedings conducted in respect
23 thereto in the same manner as provided for the construction, repair,
24 and maintenance of county roads by counties, and for the preparation
25 of maps, plans and specifications, advertising and award of contracts
26 therefor: PROVIDED, That except in case of emergency all construction
27 work performed by a county on city streets pursuant to RCW 35.77.020
28 through 35.77.040, which exceeds ten thousand dollars, shall be done
29 by contract, unless after advertisement and solicitation of
30 competitive bids it appears that bids are unobtainable or that the
31 lowest bid exceeds the amount for which such construction can be done
32 by means other than contract, including by utilizing regularly
33 employed county personnel. No street construction project shall be
34 divided into lesser component parts for the purpose of avoiding the
35 requirements for competitive bidding.

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