
SENATE BILL 5017

State of Washington

67th Legislature

2021 Regular Session

By Senators Wellman and Nobles

Prefiled 12/15/20.

1 AN ACT Relating to clarifying school district procurement
2 requirements for personal service contracts for construction
3 management, value engineering, constructibility review, and building
4 commissioning; amending RCW 28A.335.190; creating a new section; and
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that school
8 construction procurement processes must comply with the requirements
9 of public works laws specified in chapter 39.04 RCW. Competitive
10 bidding requirements under chapter 39.04 RCW apply to construction
11 contracts by registered contractors. Procurement requirements in RCW
12 28A.335.190 for public works by school districts are not well defined
13 and may be interpreted as being inconsistent with the requirements of
14 chapter 39.04 RCW and with the authority to contract for personal
15 services under RCW 28A.320.035. The purpose of this act is to make
16 retroactive, remedial, curative, and technical amendments to clarify
17 the intent of RCW 28A.335.190.

18 **Sec. 2.** RCW 28A.335.190 and 2013 c 223 s 1 are each amended to
19 read as follows:

1 (1) When, in the opinion of the board of directors of any school
2 district, the cost of any furniture, supplies, equipment, building,
3 improvements, or repairs, (~~(or)~~) other construction work by a
4 contractor who meets the criteria in RCW 39.04.350, or other
5 purchases, except books, will equal or exceed the threshold levels
6 specified in subsections (2) and (4) of this section, complete plans
7 and specifications for such work or purchases shall be prepared and
8 notice by publication given in at least one newspaper of general
9 circulation within the district, once each week for two consecutive
10 weeks, of the intention to receive bids and that specifications and
11 other information may be examined at the office of the board or any
12 other officially designated location. The cost of any public work,
13 improvement, or repair for the purposes of this section shall be the
14 aggregate of all amounts to be paid for labor, material, and
15 equipment on one continuous or interrelated project where work is to
16 be performed simultaneously or in close sequence. The bids shall be
17 in writing and shall be opened and read in public on the date and in
18 the place named in the notice and after being opened shall be filed
19 for public inspection.

20 (2) Every purchase of furniture, equipment, or supplies, except
21 books, the cost of which is estimated to be in excess of forty
22 thousand dollars, shall be on a competitive basis. The board of
23 directors shall establish a procedure for securing telephone and/or
24 written quotations for such purchases. Whenever the estimated cost is
25 from forty thousand dollars up to seventy-five thousand dollars, the
26 procedure shall require quotations from at least three different
27 sources to be obtained in writing or by telephone, and recorded for
28 public perusal. Whenever the estimated cost is in excess of seventy-
29 five thousand dollars, the public bidding process provided in
30 subsection (1) of this section shall be followed.

31 (3) Any school district may purchase goods produced or provided
32 in whole or in part from class II inmate work programs operated by
33 the department of corrections pursuant to RCW 72.09.100, including
34 but not limited to furniture, equipment, or supplies. School
35 districts are encouraged to set as a target to contract, beginning
36 after June 30, 2006, to purchase up to one percent of the total goods
37 required by the school districts each year, goods produced or
38 provided in whole or in part from class II inmate work programs
39 operated by the department of corrections.

1 (4) The board may make improvements or repairs to the property of
2 the district through a department within the district without
3 following the public bidding process provided in subsection (1) of
4 this section when the total of such improvements or repairs does not
5 exceed the sum of seventy-five thousand dollars. Whenever the
6 estimated cost of a building, improvement, repair, or other public
7 works project is one hundred thousand dollars or more, the public
8 bidding process provided in subsection (1) of this section shall be
9 followed unless the contract is let using the small works roster
10 process in RCW 39.04.155 or under any other procedure authorized for
11 school districts. One or more school districts may authorize an
12 educational service district to establish and operate a small works
13 roster for the school district under the provisions of RCW 39.04.155.

14 (5) The contract for the work or purchase shall be awarded to the
15 lowest responsible bidder as described in RCW 39.26.160(2) but the
16 board may by resolution reject any and all bids and make further
17 calls for bids in the same manner as the original call. On any work
18 or purchase the board shall provide bidding information to any
19 qualified bidder or the bidder's agent, requesting it in person.

20 (6) In the event of any emergency when the public interest or
21 property of the district would suffer material injury or damage by
22 delay, upon resolution of the board declaring the existence of such
23 an emergency and reciting the facts constituting the same, the board
24 may waive the requirements of this section with reference to any
25 purchase or contract: PROVIDED, That an "emergency," for the purposes
26 of this section, means a condition likely to result in immediate
27 physical injury to persons or to property of the school district in
28 the absence of prompt remedial action.

29 (7) This section does not apply to the direct purchase of school
30 buses by school districts and educational services in accordance with
31 RCW 28A.160.195.

32 (8) This section does not apply to the purchase of Washington
33 grown food.

34 (9) At the discretion of the board, a school district may develop
35 and implement policies and procedures to facilitate and maximize to
36 the extent practicable, purchases of Washington grown food including,
37 but not limited to, policies that permit a percentage price
38 preference for the purpose of procuring Washington grown food.

39 (10) As used in this section, "Washington grown" has the
40 definition in RCW 15.64.060.

1 (11) As used in this section, "price percentage preference" means
2 the percent by which a responsive bid from a responsible bidder whose
3 product is a Washington grown food may exceed the lowest responsive
4 bid submitted by a responsible bidder whose product is not a
5 Washington grown food.

6 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of
8 the state government and its existing public institutions, and takes
9 effect immediately.

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