
SUBSTITUTE SENATE BILL 6315

State of Washington 64th Legislature 2016 Regular Session

By Senate Government Operations & Security (originally sponsored by Senators Roach, Takko, Fain, and Mullet)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to local government modernization; amending RCW
2 19.360.020, 19.360.030, 19.360.040, 19.360.050, 19.360.060,
3 36.32.235, and 36.32.245; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** Local governments must be efficient and
6 prudent stewards of our residents' tax resources. To best serve our
7 communities, certain local government statutes must be amended to
8 reflect technological and organizational change. It is the intent of
9 the legislature to clarify current authorities so that local
10 government can better serve their residents, and it is the intent of
11 the legislature that the following sections allow local government to
12 pursue modern methods of serving their residents while preserving the
13 public's right to access public records, and judiciously using scarce
14 county resources to achieve maximum benefit.

15 **Sec. 2.** RCW 19.360.020 and 2015 c 72 s 2 are each amended to
16 read as follows:

17 (1) Unless specifically provided otherwise by law or agency rule,
18 whenever the use of a written signature is authorized or required by
19 this code with a state or local agency, an electronic signature may
20 be used with the same force and effect as the use of a signature

1 affixed by hand, as long as the electronic signature conforms to the
2 definition in RCW 19.360.030 and the writing conforms to RCW
3 19.360.040.

4 (2) Except as otherwise provided by law, each state or local
5 agency may determine whether, and to what extent, the agency will
6 send and accept electronic records and electronic signatures to and
7 from other persons and otherwise create, generate, communicate,
8 store, process, use, and rely upon electronic records and electronic
9 signatures. Nothing in this act requires a state or local agency to
10 send or accept electronic records or electronic signatures when a
11 writing or signature is required by statute.

12 (3) Except as otherwise provided by law, for governmental affairs
13 and governmental transactions with state agencies, each state agency
14 electing to send and accept shall establish the method that must be
15 used for electronic submissions and electronic signatures. The method
16 and process for electronic submissions and the use of electronic
17 signatures must be established by policy or rule and be consistent
18 with the policies, standards, or guidance established by the chief
19 information officer required in subsection (4) of this section.

20 (4)(a) The chief information officer, in coordination with state
21 agencies, must establish standards, guidelines, or policies for the
22 electronic submittal and receipt of electronic records and electronic
23 signatures for governmental affairs and governmental transactions.
24 The standards, policies, or guidelines must take into account
25 reasonable access by and ability of persons to participate in
26 governmental affairs or governmental transactions and be able to rely
27 on transactions that are conducted electronically with agencies.
28 Through the standards, policies, or guidelines, the chief information
29 officer should encourage and promote consistency and interoperability
30 among state agencies.

31 (b) In order to provide a single point of access, the chief
32 information officer must establish a web site that maintains or links
33 to the agency rules and policies established pursuant to subsection
34 (3) of this section.

35 (5) Except as otherwise provided by law, for governmental affairs
36 and governmental transactions with local agencies, each local agency
37 electing to send and accept shall establish the method that must be
38 used for electronic submissions and electronic signatures. The method
39 and process for electronic submissions and the use of electronic
40 signatures must be established by ordinance, resolution, policy, or

1 rule. The local agency shall also establish standards, guidelines, or
2 policies for the electronic submittal and receipt of electronic
3 records and electronic signatures for governmental affairs and
4 governmental transactions. The standards, policies, or guidelines
5 must take into account reasonable access by and ability of persons to
6 participate in governmental affairs or governmental transactions and
7 be able to rely on transactions that are conducted electronically
8 with agencies.

9 **Sec. 3.** RCW 19.360.030 and 2015 c 72 s 3 are each amended to
10 read as follows:

11 (1) Unless specifically provided otherwise by law or rule or
12 unless the context clearly indicates otherwise, whenever the term
13 "signature" is used in this code for governmental affairs and is
14 authorized by state or local agency ordinance, resolution, rule, or
15 policy pursuant to RCW 19.360.020, the term includes an electronic
16 signature as defined in subsection (2) of this section.

17 (2) "Electronic signature" means an electronic sound, symbol, or
18 process attached to or logically associated with a contract or other
19 record and executed or adopted by a person with the intent to sign
20 the record.

21 **Sec. 4.** RCW 19.360.040 and 2015 c 72 s 4 are each amended to
22 read as follows:

23 (1) Unless specifically provided otherwise by law or rule or
24 unless the context clearly indicates otherwise, whenever the term
25 "writing" is used in this code for governmental affairs and is
26 authorized by state or local agency ordinance, resolution, rule, or
27 policy pursuant to RCW 19.360.020, the term means a record.

28 (2) "Record," as used in subsection (1) of this section, means
29 information that is inscribed on a tangible medium or that is stored
30 in an electronic or other medium and is retrievable in perceivable
31 form, except as otherwise defined for the purpose of state or local
32 agency record retention, preservation, or disclosure.

33 **Sec. 5.** RCW 19.360.050 and 2015 c 72 s 5 are each amended to
34 read as follows:

35 (1) Unless specifically provided otherwise by law or rule or
36 unless the context clearly indicates otherwise, whenever the term
37 "mail" is used in this code and authorized by state or local agency

1 ordinance, resolution, rule, or policy pursuant to RCW 19.360.020 to
2 transmit a writing with a state or local agency, the term includes
3 the use of mail delivered through an electronic system such as email
4 or secure mail transfer if authorized by the state agency in rule.

5 (2) For the purposes of this section, "electronic" means relating
6 to technology having electrical, digital, magnetic, wireless,
7 optical, electromagnetic, or similar capabilities.

8 **Sec. 6.** RCW 19.360.060 and 2015 c 72 s 6 are each amended to
9 read as follows:

10 For purposes of RCW 19.360.020 through 19.360.050, "state agency"
11 means any state board, commission, bureau, committee, department,
12 institution, division, or tribunal in the executive branch of state
13 government, including statewide elected offices and institutions of
14 higher education created and supported by the state government.
15 "Local agency" means every county, city, town, municipal corporation,
16 quasi-municipal corporation, special purpose district, or other local
17 public agency.

18 **Sec. 7.** RCW 36.32.235 and 2009 c 229 s 6 are each amended to
19 read as follows:

20 (1) In each county with a population of four hundred thousand or
21 more which by resolution establishes a county purchasing department,
22 the purchasing department shall enter into leases of personal
23 property on a competitive basis and purchase all supplies, materials,
24 and equipment on a competitive basis, for all departments of the
25 county, as provided in this chapter and chapter 39.04 RCW, except
26 that the county purchasing department is not required to make
27 purchases that are paid from the county road fund or equipment rental
28 and revolving fund.

29 (2) As used in this section, "public works" has the same
30 definition as in RCW 39.04.010.

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

37 (4) An advertisement shall be published in the county official
38 newspaper stating the time and place where bids will be opened, the

1 time after which bids will not be received, the character of the work
2 to be done, the materials and equipment to be furnished, and that
3 specifications therefor may be seen at the office of the clerk of the
4 county legislative authority. An advertisement shall also be
5 published in a legal newspaper of general circulation in or as near
6 as possible to that part of the county in which such work is to be
7 done. If the county official newspaper is a newspaper of general
8 circulation covering at least forty percent of the residences in that
9 part of the county in which such public works are to be done, then
10 the publication of an advertisement of the applicable specifications
11 in the county official newspaper is sufficient. Such advertisements
12 shall be published at least once at least thirteen days prior to the
13 last date upon which bids will be received.

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

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

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

38 (8) As limited by subsection (10) of this section, a county
39 subject to these provisions may have public works performed by county
40 employees in any annual or biennial budget period equal to a dollar

1 value not exceeding ten percent of the public works construction
2 budget, including any amount in a supplemental public works
3 construction budget, over the budget period.

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

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

28 (10) In addition to the percentage limitation provided in
29 subsection (8) of this section, counties subject to these provisions
30 containing a population of four hundred thousand or more shall not
31 have public employees perform a public works project in excess of
32 ninety thousand dollars if more than a single craft or trade is
33 involved with the public works project, or a public works project in
34 excess of forty-five thousand dollars if only a single craft or trade
35 is involved with the public works project. A public works project
36 means a complete project. The restrictions in this subsection do not
37 permit the division of the project into units of work or classes of
38 work to avoid the restriction on work that may be performed by public
39 employees on a single project.

1 The cost of a separate public works project shall be the costs of
2 materials, supplies, equipment, and labor on the construction of that
3 project. The value of the public works budget shall be the value of
4 all the separate public works projects within the budget.

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

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

15 (12) Notwithstanding any other provision in this section,
16 counties may use public employees without any limitation for
17 emergency work performed under an emergency declared pursuant to RCW
18 36.32.270, and any such emergency work shall not be subject to the
19 limitations of this section. Publication of the description and
20 estimate of costs relating to correcting the emergency may be made
21 within seven days after the commencement of the work. Within two
22 weeks of the finding that such an emergency existed, the county
23 legislative authority shall adopt a resolution certifying the damage
24 to public facilities and costs incurred or anticipated relating to
25 correcting the emergency. Additionally this section shall not apply
26 to architectural and engineering or other technical or professional
27 services performed by public employees in connection with a public
28 works project.

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

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

35 (14) The allocation of public works projects to be performed by
36 county employees shall not be subject to a collective bargaining
37 agreement.

38 (15) This section does not apply to performance-based contracts,
39 as defined in RCW 39.35A.020(4), that are negotiated under chapter
40 39.35A RCW.

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

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

9 **Sec. 8.** RCW 36.32.245 and 2007 c 88 s 1 are each amended to read
10 as follows:

11 (1) No contract for the purchase of materials, equipment, or
12 supplies may be entered into by the county legislative authority or
13 by any elected or appointed officer of the county until after bids
14 have been submitted to the county. Bid specifications shall be in
15 writing and shall be filed with the clerk of the county legislative
16 authority for public inspection. An advertisement shall be published
17 in the official newspaper of the county stating the time and place
18 where bids will be opened, the time after which bids will not be
19 received, the materials, equipment, supplies, or services to be
20 purchased, and that the specifications may be seen at the office of
21 the clerk of the county legislative authority. The advertisement
22 shall be published at least once at least thirteen days prior to the
23 last date upon which bids will be received.

24 (2) The bids shall be in writing and filed with the clerk. The
25 bids shall be opened and read in public at the time and place named
26 in the advertisement. Contracts requiring competitive bidding under
27 this section may be awarded only to the lowest responsible bidder.
28 Immediately after the award is made, the bid quotations shall be
29 recorded and open to public inspection and shall be available by
30 telephone inquiry. Any or all bids may be rejected for good cause.

31 (3) For advertisement and formal sealed bidding to be dispensed
32 with as to purchases between ((five)) ten thousand and ((~~twenty-~~
33 ~~five~~) fifty thousand dollars, the county legislative authority must
34 use the uniform process to award contracts as provided in RCW
35 39.04.190. Advertisement and formal sealed bidding may be dispensed
36 with as to purchases of less than ((five)) ten thousand dollars upon
37 the order of the county legislative authority.

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

1 39.35A RCW; or contracts and purchases for the printing of election
2 ballots, voting machine labels, and all other election material
3 containing the names of candidates and ballot titles.

4 (5) Nothing in this section shall prohibit the legislative
5 authority of any county from allowing for preferential purchase of
6 products made from recycled materials or products that may be
7 recycled or reused.

8 (6) This section does not apply to contracting for public
9 defender services by a county.

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