

Proposed SHB 1621 Revision for 1st and 2nd Class Cities and Towns

Sec. 2. RCW 35.23.352 and 2019 c 434 s 1 are each amended to read as follows:

- (1) As used in this section, the term “public works” is as defined in RCW 39.04.010.
- (2) Any second-class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or city crew labor without calling for bids whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of \$150,000 if more than one craft or trade is involved with the public works, or \$75,500 if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.
- (3) Pursuant to the obligation for second-class cities and towns to address urgent or exigent public works infrastructure needs where 1) safety or security of the public is at risk, 2) expediency in addressing the public works need will avoid unnecessary financial impacts to the city or town, such as loss of funding or incurrence of extra costs for the work, 3) lack of receiving bids for contracted work requires use of city crew labor to perform the work, 4) special situations cause the need for immediate action, such as timing restrictions to perform the work, adverse environmental impacts, or adverse societal impacts (such as business or traffic disruptions that could be avoided if the work is performed in an expedited and efficient manner), the second-class city or town may have its own regularly employed personnel perform public works projects without a contract up to a worth not exceeding \$300,000. Project costs shall include materials, supplies, and equipment. A public works project shall mean a complete project; therefore, the restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by crew labor on a single project.

In addition, the amount of public works performed by a second-class city or town in any given year, to address urgent or exigent public works needs not exceeding

SHB 1621 Review Committee

\$300,000, shall be limited to a dollar value not exceeding 10 percent of the public works construction budget for the annual or biennial budget period, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a second-class city or town has a county perform for it under RCW 35.77.020 shall be included within this 10 percent limitation. If a second-class city has public works performed by public employees in any budget period that are in excess of this 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced. Whenever a second-class city or town has had public works performed by city crew labor in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids. The state auditor shall report to the state treasurer any second-class city or town that exceeds this amount and the extent to which the city or town has or has not reduced the amount of public works it has performed by public employees in subsequent years.

.....(Continuation with the rest of Sec. 2 .)

Sec. 3. RCW 35.22.620 and 2019 c 434 s 11 are each amended to read as follows:

- (1) As used in this section, the term "public works" means as defined in RCW 39.04.010.6 7
- (2) A first-class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first-class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding 10 percent of the public works construction budget, including any amount in a supplemental public

SHB 1621 Review Committee

works construction budget, over the budget period. The amount of public works that a first-class city has a county perform for it under RCW 35.77.020 shall be included within this 10 percent limitation. If a first-class city has public works performed by public employees in any budget period that are in excess of this 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced. Whenever a first-class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids. The state auditor shall report to the state treasurer any first-class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

- (3) In addition to the percentage limitation provided in subsection (2) of this section, a first-class city shall not have public employees perform a public works project in excess of \$150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of \$75,500 if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.
- (4) Pursuant to the obligation for first-class cities to address urgent or exigent public works infrastructure needs where 1) safety or security of the public is at risk, 2) expediency in addressing the public works need will avoid unnecessary financial impacts to the city or town, such as loss of funding or incurrence of extra costs for the work, 3) lack of receiving bids for contracted work requires use of city crew labor to perform the work, or 4) special situations cause the need for immediate action, such as timing restrictions to perform the work, adverse

SHB 1621 Review Committee

Proposed SHB 1621 Revision for 1st and 2nd Class Cities & Towns

environmental impacts, or adverse societal impacts (such as business or traffic disruptions that could be avoided if the work is performed in an expedited and efficient manner.) the first-class city may have its own regularly employed personnel perform public works projects without a contract up to a worth not exceeding \$300,000. Project costs shall include materials, supplies, and equipment. A public works project means a complete project; therefore, the restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by crew labor on a single project. These projects shall also be subject to the provisions of section (2) above, whereby the total amount of public works performed by city crew labor shall be limited to 10% of the public works construction budget for the annual or biennial budget period, including any amount in a supplemental public works construction budget, over the budget period.

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