
SUBSTITUTE HOUSE BILL 1049

State of Washington 63rd Legislature 2013 Regular Session

By House Local Government (originally sponsored by Representative Takko)

READ FIRST TIME 02/05/13.

1 AN ACT Relating to the administration and operation of flood
2 control districts; amending RCW 86.09.175, 86.09.178, 86.09.181,
3 86.09.259, 86.09.268, and 86.09.271; and repealing RCW 86.09.274,
4 86.09.277, and 86.09.280.

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

6 **Sec. 1.** RCW 86.09.175 and 1937 c 72 s 59 are each amended to read
7 as follows:

8 (1) Contracts entered into by districts for construction (~~or~~
9 ~~for~~) services (~~or~~) materials, or maintenance may provide that
10 payments (~~shall~~) will be made in such monthly proportion of the
11 contract price, as the board shall determine thereon, as the work
12 progresses, or as the services (~~or~~) materials, or maintenance are
13 furnished, on monthly estimates of the value thereof (~~approved by the~~
14 ~~state director. Before the district shall enter into any contract, the~~
15 ~~plans, specifications and form of contract therefor shall be approved~~
16 ~~by the state director~~)).

17 (2) The district must withhold five percent of all payments made
18 under subsection (1) of this section until the contract is complete, as

1 evidenced by releases issued by the district. This subsection (2) does
2 not apply to contracts for materials.

3 **Sec. 2.** RCW 86.09.178 and 1965 c 26 s 2 are each amended to read
4 as follows:

5 ~~((Contracts for construction, or for labor or materials entering~~
6 ~~into the construction of any improvement authorized by the district~~
7 ~~shall be awarded at public bidding except as herein otherwise provided.~~
8 ~~A notice calling for sealed proposals shall be published in such~~
9 ~~newspaper or newspapers of general circulation as the board shall~~
10 ~~designate for a period of not less than two weeks (three weekly issues)~~
11 ~~prior to the day of the opening of the bids. Such proposals shall be~~
12 ~~accompanied by a certified check for such amount as the board shall~~
13 ~~decide upon, to guarantee a compliance with the bid and shall be opened~~
14 ~~in public at the time and place designated in the notice. The contract~~
15 ~~shall be awarded to the lowest and best responsible bidder: PROVIDED,~~
16 ~~That the board shall have authority to reject any or all bids, in which~~
17 ~~event they shall readvertise for bids and, when no satisfactory bid is~~
18 ~~then received and with the written approval of the director, may~~
19 ~~proceed to construct the works by force account.)) (1) Except for any~~
20 contract with a total cost of less than five thousand dollars and as
21 otherwise provided in this section, contracts for construction or
22 maintenance, or for labor or materials used in the construction or
23 maintenance of any improvement authorized by the district, may only be
24 awarded through a public bidding process that complies with the
25 following:

26 (a) Notices calling for sealed bid proposals must be published in
27 at least one newspaper of general circulation in the district. The
28 notices must be published at least once fourteen or more days before
29 the deadline for submitting proposals;

30 (b) Bid proposals must be in writing, must be filed at the location
31 specified in the notice, and must be opened and read in public by the
32 board or its designee at a time and location also specified in the
33 notice. Proposals must be filed in the official records of the
34 district and available for public inspection. Proposals also must be
35 accompanied by a bid proposal deposit, in the form of cash, a certified
36 check, a cashier's check, or a surety bond, equaling five percent of
37 the total cost of the project; and

1 (c) No fewer than three bid proposals are required for contracts
2 awarded through the public bidding process set out in this section,
3 unless three bidders are not available.

4 (2) If the successful bidder fails to enter into a contract and
5 fails to furnish a satisfactory performance bond within the time
6 specifications established by the district, the bid proposal deposit
7 must be forfeited to the district.

8 (3) The contract must be awarded to the lowest and best responsible
9 bidder, except that the board may reject any and all bids. If the
10 board rejects one or more bids, the board must submit a new notice
11 calling for sealed bid proposals that complies with subsection (1)(a)
12 of this section.

13 (4) If a satisfactory bid is not received under this section, the
14 district may complete the project by an agreed price or force account.

15 (5) In the letting of any contract under this section with a total
16 cost of less than fifty thousand dollars, advertisement and competitive
17 bidding may be dispensed with by order of the board.

18 (6) This section does not restrict a district from: (a) Using
19 volunteer labor and equipment on improvements and providing
20 reimbursement for actual expenses; or (b) entering into an interlocal
21 agreement for district construction, maintenance, or other work with a
22 county, city, or other governmental entity.

23 **Sec. 3.** RCW 86.09.181 and 1965 c 26 s 3 are each amended to read
24 as follows:

25 (1) Any person(~~(, except the state of Washington and the United~~
26 States~~),~~) acting under the provisions of this chapter, to whom (~~or to~~
27 which)) a contract (~~(may have)~~) of at least five thousand dollars has
28 been awarded by the district for construction (~~(purposes)~~),
29 maintenance, or (~~(for))~~ labor (~~(or materials entering therein when the~~
30 total amount to be paid therefor exceeds one thousand dollars)), shall
31 enter into a bond to the (~~(state of Washington))~~ district, with good
32 and sufficient sureties(~~(, to be approved and filed with the state~~
33 director~~),~~) for one hundred percent of the contract price, conditioned
34 for the faithful performance of said contract and with (~~(such))~~ further
35 conditions as may be required by law.

36 (2) This section does not apply to district contracts awarded to

1 the United States, the state of Washington, or counties and cities
2 within the state of Washington.

3 **Sec. 4.** RCW 86.09.259 and 1985 c 396 s 58 are each amended to read
4 as follows:

5 A flood control district shall be managed by a board of directors
6 consisting of three members. The initial directors shall be appointed,
7 and the elected directors elected, as provided in chapter 85.38 RCW.
8 The directors shall elect a ~~((chairman))~~ chair and vice chair from
9 their number ~~((and shall either))~~. The directors may elect ((one of))
10 a secretary from their number((, or appoint a voter of the district, as
11 secretary)) to hold office at ~~((its))~~ the board's pleasure and who
12 shall keep a record of its proceedings. In accordance with RCW
13 86.09.268, the directors may also appoint and employ a secretary.

14 **Sec. 5.** RCW 86.09.268 and 1937 c 72 s 90 are each amended to read
15 as follows:

16 The board shall ~~((have the power and it shall be its duty to adopt~~
17 ~~a seal of the district, to))~~;

18 (1) Manage and conduct the business affairs of the district, ((to))
19 including holding regular meetings at least once each year;

20 (2) Employ and appoint ((such)) agents, engineers, attorneys,
21 officers, and employees as may be necessary, and prescribe their
22 duties((, to));

23 (3) Establish reasonable ((by laws,)) rules and regulations for the
24 government and management of affairs of the district((, and));

25 (4) Hold open meetings in accordance with chapter 42.30 RCW; and

26 (5) Generally to perform any and all acts necessary to carry out
27 the purpose of the district organization.

28 **Sec. 6.** RCW 86.09.271 and 1985 c 396 s 59 are each amended to read
29 as follows:

30 The office of the directors and principal place of business of the
31 district shall be located, if possible, at some place within the
32 district to be designated by the board. If a place convenient and
33 suitable for conducting district business and public hearings required
34 by this chapter cannot be found within the district, the office may be
35 located in the county within which the major portion of district lands

1 is situated. (~~The office and place of business cannot thereafter be
2 changed, except with the previous written consent of the county
3 legislative authority of the county within which the major portion of
4 the district is situated, and without passing a resolution to that
5 effect at a previous regular meeting of the board, entered in the
6 minutes thereof and without posting a notice of the change in a
7 conspicuous public place at or near the place of business which is to
8 be changed at least ten days prior thereto and by the previous posting
9 of a copy of the notice for the same length of time at or near the new
10 location of the office.~~)

11 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
12 repealed:

13 (1) RCW 86.09.274 (Board of directors--Meetings--Change of date)
14 and 1985 c 396 s 60 & 1937 c 72 s 92;

15 (2) RCW 86.09.277 (Board of directors--Special meetings--When
16 notice required--Authorized business) and 1937 c 72 s 93; and

17 (3) RCW 86.09.280 (Board of directors--Meetings and records
18 public--Printing of bylaws and rules) and 1937 c 72 s 94.

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