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**SENATE BILL 5458**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Kauffman, Kuderer, Lovelett, and C. Wilson

Read first time 01/19/23. Referred to Committee on Local Government,  
Land Use & Tribal Affairs.

1 AN ACT Relating to port districts public works contracting; and  
2 amending RCW 53.08.120.

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

4 **Sec. 1.** RCW 53.08.120 and 2018 c 149 s 2 are each amended to  
5 read as follows:

6 (1) All material and work required by a port district not meeting  
7 the definition of public work in RCW 39.04.010(4) may be procured in  
8 the open market or by contract and all work ordered may be done by  
9 contract or day labor.

10 (2)(a) All such contracts for work meeting the definition of  
11 "public work" in RCW 39.04.010(4), the estimated cost of which  
12 exceeds (~~three hundred thousand dollars~~) the cost thresholds  
13 established in RCW 39.04.155, shall be awarded using a competitive  
14 bid process. The contract must be awarded at public bidding upon  
15 notice published in a newspaper of general circulation in the  
16 district at least thirteen days before the last date upon which bids  
17 will be received, calling for bids upon the work, plans and  
18 specifications for which shall then be on file in the office of the  
19 commission for public inspection. The same notice may call for bids  
20 on such work or material based upon plans and specifications  
21 submitted by the bidder. The competitive bidding requirements for

1 purchases or public works may be waived pursuant to RCW 39.04.280 if  
2 an exemption contained within that section applies to the purchase or  
3 public work.

4 (b) For all contracts related to work meeting the definition of  
5 "public work" in RCW 39.04.010(4) (~~that are estimated at three~~  
6 ~~hundred thousand dollars or less~~), the estimated cost of which do  
7 not exceed the cost thresholds established in RCW 39.04.155, a port  
8 district may let contracts using the small works roster process under  
9 RCW 39.04.155 in lieu of advertising for bids. Whenever possible, the  
10 managing official shall invite at least one proposal from a minority  
11 contractor who shall otherwise qualify under this section.

12 When awarding such a contract for work, when utilizing proposals  
13 from the small works roster, the managing official shall give weight  
14 to the contractor submitting the lowest and best proposal, and  
15 whenever it would not violate the public interest, such contracts  
16 shall be distributed equally among contractors, including minority  
17 contractors, on the small works roster.

18 (c) Any port district may construct any public work, as defined  
19 in RCW 39.04.010, by contract without calling for bids whenever the  
20 estimated cost of the work or improvement, including cost of  
21 materials, supplies, and equipment, will not exceed the sum of forty  
22 thousand dollars. A "public works project" means a complete project.  
23 The restrictions in this subsection do not permit the division of the  
24 project into units of work or classes of work to avoid calling for  
25 bids. The port district managing official shall make his or her best  
26 effort to reach out to qualified contractors, including certified  
27 minority and woman-owned contractors.

28 (3)(a) A port district may procure public works with a unit  
29 priced contract under this section or RCW 39.04.010(2) for the  
30 purpose of completing anticipated types of work based on hourly rates  
31 or unit pricing for one or more categories of work or trades.

32 (b) For the purposes of this section, unit priced contract means  
33 a competitively bid contract in which public works are anticipated on  
34 a recurring basis to meet the business or operational needs of a port  
35 district, under which the contractor agrees to a fixed period  
36 indefinite quantity delivery of work, at a defined unit price, for  
37 each category of work.

38 (c) Unit priced contracts must be executed for an initial  
39 contract term not to exceed three years, with the port district

1 having the option of extending or renewing the unit priced contract  
2 for one additional year.

3 (d) Invitations for unit priced bids shall include, for purposes  
4 of the bid evaluation, estimated quantities of the anticipated types  
5 of work or trades, and specify how the port district will issue or  
6 release work assignments, work orders, or task authorizations  
7 pursuant to a unit priced contract for projects, tasks, or other work  
8 based on the hourly rates or unit prices bid by the contractor.  
9 Contracts must be awarded to the lowest responsible bidder as per RCW  
10 39.04.010. Whenever possible, the port district must invite at least  
11 one proposal from a minority or woman contractor who otherwise  
12 qualifies under this section.

13 (e) Unit priced contractors shall pay prevailing wages for all  
14 work that would otherwise be subject to the requirements of chapter  
15 39.12 RCW. Prevailing wages for all work performed pursuant to each  
16 work order must be the prevailing wage rates in effect at the  
17 beginning date for each contract year. Unit priced contracts shall  
18 have prevailing wage rates updated annually. Intents and affidavits  
19 for prevailing wages paid shall be submitted annually for all work  
20 completed within the previous twelve-month period of the unit priced  
21 contract.

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