

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6329

Chapter 149, Laws of 2018

65th Legislature
2018 Regular Session

PORT DISTRICTS--CONTRACTING--UNIT PRICE CONTRACTS

EFFECTIVE DATE: June 7, 2018

Passed by the Senate March 6, 2018
Yeas 48 Nays 1

CYRUS HABIB

President of the Senate

Passed by the House February 28, 2018
Yeas 91 Nays 7

FRANK CHOPP

Speaker of the House of Representatives

Approved March 21, 2018 11:57 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6329** as passed by Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

March 23, 2018

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6329

AS AMENDED BY THE HOUSE

Passed Legislature - 2018 Regular Session

State of Washington **65th Legislature** **2018 Regular Session**

By Senate Local Government (originally sponsored by Senators Takko, Angel, and Chase)

READ FIRST TIME 01/29/18.

1 AN ACT Relating to clarifying the authority and procedures for
2 contracting by public port districts; amending RCW 53.08.120; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that unit priced
6 contracting is a decades old, proven practice used at ports for
7 competitively bid maintenance and repair work that is common but
8 unpredictable in its timing and scope. Unit priced contracting is an
9 efficient mechanism to maintain essential services to port customers,
10 often on short notice or in emergency situations.

11 (2) The legislature also finds that unit priced contracting
12 ensures that necessary work is performed safely and at a competitive
13 rate by qualified contractors, and also saves public money because of
14 additional costs that would be incurred by bidding each work order
15 separately.

16 (3) The legislature also finds that, in order to avoid litigation
17 and audit risk, statutory clarification is needed regarding the
18 authority for port districts to engage in unit priced contracting.

19 (4) The legislature also finds that flexibility for small
20 projects produces a more efficient process.

1 **Sec. 2.** RCW 53.08.120 and 2009 c 74 s 2 are each amended to read
2 as follows:

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

7 (2)(a) All such contracts for work meeting the definition of
8 "public work" in RCW 39.04.010(4), the estimated cost of which
9 exceeds three hundred thousand dollars, shall be awarded using a
10 competitive bid process. The contract must be awarded at public
11 bidding upon notice published in a newspaper of general circulation
12 in the district at least thirteen days before the last date upon
13 which bids will be received, calling for bids upon the work, plans
14 and specifications for which shall then be on file in the office of
15 the commission for public inspection. The same notice may call for
16 bids on such work or material based upon plans and specifications
17 submitted by the bidder. The competitive bidding requirements for
18 purchases or public works may be waived pursuant to RCW 39.04.280 if
19 an exemption contained within that section applies to the purchase or
20 public work.

21 (b) For all contracts related to work meeting the definition of
22 "public work" in RCW 39.04.010(4) that are estimated at three hundred
23 thousand dollars or less, a port district may let contracts using the
24 small works roster process under RCW 39.04.155 in lieu of advertising
25 for bids. Whenever possible, the managing official shall invite at
26 least one proposal from a minority contractor who shall otherwise
27 qualify under this section.

28 When awarding such a contract for work, when utilizing proposals
29 from the small works roster, the managing official shall give weight
30 to the contractor submitting the lowest and best proposal, and
31 whenever it would not violate the public interest, such contracts
32 shall be distributed equally among contractors, including minority
33 contractors, on the small works roster.

34 (c) Any port district may construct any public work, as defined
35 in RCW 39.04.010, by contract without calling for bids whenever the
36 estimated cost of the work or improvement, including cost of
37 materials, supplies, and equipment, will not exceed the sum of forty
38 thousand dollars. A "public works project" means a complete project.
39 The restrictions in this subsection do not permit the division of the
40 project into units of work or classes of work to avoid calling for

1 bids. The port district managing official shall make his or her best
2 effort to reach out to qualified contractors, including certified
3 minority and woman-owned contractors.

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

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

14 (c) Unit priced contracts must be executed for an initial
15 contract term not to exceed three years, with the port district
16 having the option of extending or renewing the unit priced contract
17 for one additional year.

18 (d) Invitations for unit priced bids shall include, for purposes
19 of the bid evaluation, estimated quantities of the anticipated types
20 of work or trades, and specify how the port district will issue or
21 release work assignments, work orders, or task authorizations
22 pursuant to a unit priced contract for projects, tasks, or other work
23 based on the hourly rates or unit prices bid by the contractor.
24 Contracts must be awarded to the lowest responsible bidder as per RCW
25 39.04.010. Whenever possible, the port district must invite at least
26 one proposal from a minority or woman contractor who otherwise
27 qualifies under this section.

28 (e) Unit priced contractors shall pay prevailing wages for all
29 work that would otherwise be subject to the requirements of chapter
30 39.12 RCW. Prevailing wages for all work performed pursuant to each
31 work order must be the prevailing wage rates in effect at the
32 beginning date for each contract year. Unit priced contracts shall
33 have prevailing wage rates updated annually. Intents and affidavits
34 for prevailing wages paid shall be submitted annually for all work
35 completed within the previous twelve-month period of the unit priced
36 contract.

Passed by the Senate March 6, 2018.
Passed by the House February 28, 2018.
Approved by the Governor March 21, 2018.

Filed in Office of Secretary of State March 23, 2018.

--- END ---