
ENGROSSED SUBSTITUTE HOUSE BILL 1170

State of Washington

64th Legislature

2015 Regular Session

By House Local Government (originally sponsored by Representatives Clibborn, Zeiger, Tarleton, Wilcox, Springer, Jenkins, Fey, Kilduff, Fitzgibbon, Gregerson, and Tharinger)

READ FIRST TIME 01/30/15.

1 AN ACT Relating to the administrative powers of port districts;
2 adding a new chapter to Title 53 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the shipping
5 and port industries must contend with an increasingly competitive
6 global market. Historically, port districts competed against other
7 local port districts. Today, port districts compete on a global
8 scale, and the current landscape is rapidly changing with the
9 expansion of facilities in Canada and the impending widening of the
10 Panama Canal. The ports of Seattle and Tacoma are the third largest
11 container trade centers in the United States, but they are in a race
12 to hold onto this position. The legislature finds that Washington's
13 ports need to be able to work cooperatively to protect the maritime
14 base of the state.

15 The legislature intends to enable certain port districts to
16 create port public development authorities for the management of
17 their maritime activities and to act cooperatively under the
18 interlocal cooperation act, chapter 39.34 RCW. The legislature
19 intends for the port districts to be able to partner as a single
20 management team and use financial resources strategically, while
21 remaining separate entities and complying with federal regulations.

1 The legislature finds that enacting this authority will help
2 Washington remain competitive globally, protect the state's long-term
3 economic and societal interests in port district jobs and growth, and
4 provide a tool to allow ports to work together on behalf of the
5 state.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Port commission" means a port commission governed by chapter
10 53.12 RCW of a port district that either singly or jointly creates a
11 port development authority under the provisions of this chapter.

12 (2) "Port district" or "port districts" means a port district or
13 port districts that are located in a county with a population of more
14 than eight hundred thousand on the effective date of this section.

15 (3) "Port public development authority" or "port development
16 authority" means a port public development authority created by a
17 single port district or jointly created by two port districts in
18 accordance with section 3 of this act.

19 NEW SECTION. **Sec. 3.** (1) A port district or two port districts
20 that act jointly in accordance with subsection (3) of this section
21 may by resolution:

22 (a) Create a port development authority solely to manage maritime
23 activities of the port district or districts; and

24 (b) Transfer to any port development authority created under this
25 section, with or without consideration, any funds, real or personal
26 property, property interests, or services.

27 (2) Port development authorities created under subsection (1) of
28 this section may:

29 (a) Administer and execute federal grants or programs;

30 (b) Receive and administer private funds, goods, or services for
31 any lawful public purpose related to maritime activities of the port
32 district or districts; and

33 (c) Perform any lawful public purpose or public function related
34 to maritime activities of the port district or districts, including
35 exercise any powers of the port district or districts that created
36 the port development authority, subject to limitations provided in
37 this chapter.

1 (3) Two port districts, each located in a county with a
2 population of more than eight hundred thousand on the effective date
3 of this section, may jointly exercise the authority provided in this
4 section under an agreement for joint or cooperative action executed
5 in accordance with the interlocal cooperation act, chapter 39.34 RCW.

6 (4) Any resolution to create a port development authority that is
7 adopted by a port district under this section must limit the
8 liability of the port development authority to the assets and
9 property of the port development authority.

10 NEW SECTION. **Sec. 4.** (1) The affairs, operations, and funds of
11 a port development authority must be governed by the port district or
12 districts that created the port development authority. Each port
13 district governing the port development authority must oversee the
14 affairs, operations, and funds of the port development authority
15 exclusively through the elected port commission of the port district.
16 If the port development authority is jointly created by more than one
17 port district under section 3 of this act, then the port development
18 authority must be managed by each port district as a member of the
19 port development authority, in accordance with the terms of this
20 section and the charter for the port development authority. Each port
21 district member shall act in such capacity through its own elected
22 commissioners.

23 (2) Any port district that creates a port development authority
24 under section 3 of this act must provide for the organization and
25 operation of the port development authority, oversee the affairs,
26 operations, and funds of the port development authority in order to
27 correct any deficiency, and ensure that the purposes of each program
28 undertaken are reasonably accomplished.

29 (3) A port development authority, in managing maritime activities
30 of a port district or districts under this chapter, may:

- 31 (a) Own and sell real and personal property;
- 32 (b) Contract with individuals, associations, corporations, the
33 state, and the United States;
- 34 (c) Sue and be sued;
- 35 (d) Loan and borrow funds;
- 36 (e) Issue bonds, notes, and other evidences of indebtedness;
- 37 (f) Transfer funds, real or personal property, property
38 interests, or services; and

1 (g) Perform community services related to maritime activities
2 managed by the port development authority.

3 (4) Port development authorities do not have the power of eminent
4 domain or the power to levy taxes or special assessments.

5 NEW SECTION. **Sec. 5.** (1) For the management of maritime
6 activities, port districts and port development authorities are
7 authorized to enter into an agreement with the federal government,
8 any federal agency or department, and any state agency or political
9 subdivision of the state, and pursuant to the agreement:

10 (a) Receive and expend, or cause to be received and expended by a
11 trustee or custodian, federal or private funds for any lawful public
12 purpose related to management of maritime activities of the port
13 district or port development authority;

14 (b) Issue bonds, notes, or other evidences of indebtedness that
15 are guaranteed or otherwise secured by funds or other instruments
16 provided by or through the federal government; and

17 (c) Agree to repay and reimburse for any liability of a guarantor
18 of bonds, notes, or other evidences of indebtedness issued by the
19 port district or port development authority.

20 (2) A port district or port development authority may pledge as
21 security for any bond, note, or other evidence of indebtedness, or
22 for any obligation to repay or reimburse the guarantor of a bond,
23 note, or evidence of indebtedness, its right, title, and interest to
24 or in the following:

25 (a) Any federal grant or payment received by the port district or
26 port development authority, or that may be received in the future;

27 (b) Property and revenues that may be obtained directly or
28 indirectly from the use of any federal or private funds received by
29 the port district or port development authority under subsection (1)
30 of this section;

31 (c) Payments received or owing from any person as a result of the
32 lending of any federal or private funds received by the port district
33 or port development authority under subsection (1) of this section;

34 (d) Any proceeds under (a), (b), or (c) of this subsection (2),
35 and any securities or investments in which (a), (b), or (c) of this
36 subsection (2) and any associated proceeds are invested; and

37 (e) Any interest or other earnings on (a), (b), (c), or (d) of
38 this subsection (2).

1 (3)(a) A port district or port development authority may
2 establish one or more special funds relating to any or all of the
3 sources listed in subsection (2)(a) through (e) of this section. The
4 port district or port development authority may use funds from a
5 special fund to pay:

6 (i) The principal, interest, premium, if any, and other amounts
7 payable on any bond, note, or other evidence of indebtedness
8 authorized under this section; and

9 (ii) Any amounts owing on obligations for repayment or
10 reimbursement of guarantors of bonds, notes, or other evidences of
11 indebtedness as authorized under this section.

12 (b) A port district or port development authority may contract
13 with a financial institution to act as trustee or custodian to: (i)
14 Receive, administer, and expend any federal or private funds; (ii)
15 collect, administer, and make payments from any special fund
16 authorized under this subsection (3); or (iii) perform the functions
17 authorized under both (b)(i) and (ii) of this subsection (3). The
18 trustee or custodian may also perform other duties and functions in
19 connection with authorized transactions.

20 (c) If any bond, note, other evidence of indebtedness, or related
21 agreement complies with subsection (4) of this section, then any of
22 the funds held by a trustee or custodian, or by a port development
23 authority, do not constitute public moneys or funds of a port
24 district, and must be kept segregated and set apart from other funds
25 at all times.

26 (4)(a) If a port development authority loans or grants federal or
27 private funds to a private party, or uses federal or private funds to
28 guarantee any obligations of a private party, then any bond, note, or
29 other evidence of indebtedness issued or entered into for the purpose
30 of receiving the federal or private funds, or any agreement to repay
31 or reimburse guarantors, are not obligations of a port district.
32 These obligations may be paid only from:

33 (i) A special fund established in accordance with subsection (3)
34 of this section;

35 (ii) Any security pledged in accordance with this section; or

36 (iii) Both (a)(i) and (ii) of this subsection (4).

37 (b) Any bond, note, or other evidence of indebtedness to which
38 this subsection (4) applies must contain a recital establishing that
39 the bond, note, or evidence of indebtedness is not an obligation of
40 the port district or the state, and that neither the faith and

1 credit, nor the taxing power of the state, any subdivision or agency
2 of the state, or any port district is pledged to pay the principal,
3 interest, or premium, if any, on the bond, note, or evidence of
4 indebtedness.

5 (c) Any bond, note, other evidence of indebtedness, or other
6 obligation to which this subsection (4) applies may not be included
7 in any computation for purposes of limitations on indebtedness.

8 (5) For the purposes of this section, "lawful public purpose"
9 includes any use of funds related to management of the maritime
10 activities of a port district or port development authority,
11 including loans of funds to public or private parties authorized by
12 an agreement with the United States or any federal department or
13 agency through which federal or private funds are obtained or
14 authorized under the federal laws and regulations pertinent to the
15 agreement.

16 NEW SECTION. **Sec. 6.** Powers, authorities, or rights expressly
17 or impliedly granted to any port district or agents of the port
18 district under the provisions of this chapter are not operable,
19 applicable, or effective beyond the boundaries of the port district,
20 unless so provided by contract between the port district and a
21 county, a city, or another port district in accordance with an
22 agreement for joint or cooperative action under the interlocal
23 cooperation act, chapter 39.34 RCW.

24 NEW SECTION. **Sec. 7.** A port development authority created under
25 this chapter must comply with applicable laws including, but not
26 limited to, the following:

27 (1) Requirements concerning local government audits by the state
28 auditor and applicable accounting requirements set forth in chapter
29 43.09 RCW;

30 (2) The public records act, chapter 42.56 RCW;

31 (3) Prohibitions on using facilities for campaign purposes under
32 RCW 42.17A.555;

33 (4) The open public meetings act, chapter 42.30 RCW;

34 (5) The code of ethics for municipal officers under chapter 42.23
35 RCW; and

36 (6) Local government whistleblower protection laws set forth in
37 chapter 42.41 RCW.

1 NEW SECTION. **Sec. 8.** (1) In transferring real property to a
2 port development authority under section 3 of this act, the port
3 district or districts creating the port development authority must
4 impose appropriate deed restrictions necessary to ensure the
5 continued use of the property for the public purpose for which the
6 property is transferred.

7 (2) A port development authority must provide written notice at
8 least thirty days prior to any proposed sale or encumbrance of real
9 property that was transferred by a port district to the port
10 development authority under section 3(1) of this act. The port
11 development authority must, at a minimum, provide notice to:

12 (a) The port commission of the port district that transferred the
13 real property;

14 (b) Each local newspaper of general circulation within the
15 boundaries of the port district; and

16 (c) Each local radio station, television station, or other news
17 medium that has submitted to the port development authority a written
18 request to receive notification.

19 (3)(a) A port development authority may sell or encumber property
20 transferred by a port district under section 3(1) of this act only
21 after approval of the sale or encumbrance by the port development
22 authority at a public meeting. Notice of the public meeting must be:

23 (i) Provided in accordance with RCW 42.30.080; and (ii) published at
24 least twice in a local newspaper of general circulation no fewer than
25 seven days and no more than two weeks before the public meeting.

26 (b) Nothing in this section may be construed to prevent the port
27 development authority from holding an executive session during a
28 regular or special meeting in accordance with RCW 42.30.110(1)(c).

29 NEW SECTION. **Sec. 9.** (1) If a port development authority is
30 insolvent or dissolved, the superior court of a county in which the
31 port development authority operates has jurisdiction and authority to
32 appoint trustees or receivers of the assets and property of the port
33 development authority and to supervise the trusteeship or
34 receivership.

35 (2) All liabilities incurred by a port development authority must
36 be satisfied exclusively from the assets and properties of the port
37 development authority. No creditor or other person has any right of
38 action against the port district or districts creating the port

1 development authority on account of any debts, obligations, or
2 liabilities of the port development authority.

3 NEW SECTION. **Sec. 10.** Sections 2 through 9 of this act
4 constitute a new chapter in Title 53 RCW.

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