

# HOUSE BILL REPORT

## HB 1372

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### As Reported by House Committee On: Local Government

**Title:** An act relating to authorizing the acquisition and operation of tourism-related facilities by port districts.

**Brief Description:** Authorizing the acquisition and operation of tourism-related facilities by port districts.

**Sponsors:** Representatives Rolfes, Appleton, Simpson, Haigh, Seaquist and Darneille.

**Brief History:**

**Committee Activity:**

Local Government: 1/25/07, 2/13/07 [DPS].

#### Brief Summary of Substitute Bill

- Authorizes a port district to acquire and operate tourism-related facilities either individually or in conjunction with a municipality.
- Grants specified powers to a port district pertaining to land use, bond issuance, and leasing, related to the acquisition and operation of tourism-related facilities.
- Prohibits ports from exercising the taxing or eminent domain powers granted to other municipalities with respect to tourism-related development activities.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Simpson, Chair; Eddy, Vice Chair; Curtis, Ranking Minority Member; Ross, B. Sullivan and Takko.

**Minority Report:** Do not pass. Signed by 1 member: Representative Schindler, Assistant Ranking Minority Member.

**Staff:** Thamas Osborn (786-7129).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### **General Powers and Authority of Port Districts**

Port districts are authorized for the purpose of acquisition, construction, maintenance, operation, development, and regulation of harbor improvements, rail or motor vehicle transfer and terminal facilities, water and air transfer and terminal facilities, or any combination of these facilities.

In addition, state law explicitly authorizes a port to promote *tourism* by granting it the authority to "expend moneys and conduct promotion of resources and facilities in the district or general area by advertising, publicizing, or otherwise distributing information to attract visitors and encourage tourist expansion."

Among the general powers granted to ports are the following:

- to acquire land, property, leases, and easements;
- to condemn property and exercise the power of eminent domain;
- to develop lands for industrial and commercial purposes;
- to impose taxes, rates, and charges;
- to sell or otherwise convey rights to property; and
- to construct and maintain specified types of park and recreation facilities.

### **Constitutional Provisions Providing Special Treatment to Port Districts**

Article VII, Section 8, of the State Constitution explicitly allows the Legislature to grant authority to port districts to use public funds for "industrial development or trade promotion and promotional hosting." This constitutional provision also states that such use of state funds by a port is deemed a "public use for a public purpose" and is therefore not subject to the constitutional prohibition against making a gift of public funds to a private party. (See Article VIII, Section 7.)

### **Governance of Port Districts**

Port districts are governed by a board of commissioners consisting of either three or five members in accordance with specified statutory criteria. Port commissioners are nominated either by commissioner district or, under certain circumstances, at-large. In all districts, port commissioners are elected at-large. Subject to voter approval, a port district with five commissioners may be authorized to have two commissioners who are both nominated and elected at-large.

### **Acquisition, Operation, and Maintenance, of Tourism-Related Facilities by Municipalities**

State law provides municipalities with the following powers and authority with respect to the acquisition, operation, and maintenance of tourism-related facilities:

- to acquire and operate tourism-related facilities either individually or jointly with any other municipality;
- to convey or lease any lands, properties, or facilities to any other municipality for the development by such other municipality of tourism-related facilities, to engage in joint

tourism-related projects with other municipalities, and to participate in joint financing arrangements for such projects;

- to exercise the right of eminent domain;
- to issue general obligation bonds in accordance with applicable statutory requirements;
- to issue revenue bonds without submitting the matter to the voters provided specified requirements are met; and
- to lease all or part of all tourism-related facilities or enter into contracts pertaining to the operation of such facilities.

In the statutory scheme set forth in chapter 67.28 RCW, conferring the authority to municipalities to acquire, operate, and maintain tourist-related facilities, the following definitions apply:

- "Municipality" means any county, city or town in the state of Washington.
- "Acquisition" includes, but is not limited to, siting, acquisition, design, construction, refurbishing, expansion, repair, improvement, and the payment of related financial obligations.
- "Operation" includes, but is not limited to, operation, management, and marketing.
- "Person" means the federal government or any agency thereof, the state or any agency, subdivision, taxing district or municipal corporation thereof other than county, city or town, any private corporation, partnership, association, or individual.
- "Tourism" means economic activity resulting from tourists, which may include sales of overnight lodging, meals, tours, gifts, or souvenirs.
- "Tourism promotion" means activities and expenditures designed to increase tourism, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists; developing strategies to expand tourism; operating tourism promotion agencies; and funding marketing of special events and festivals designed to attract tourists.
- "Tourism-related facility" means real or tangible personal property with a usable life of three or more years, or constructed with volunteer labor, and used to support tourism, performing arts, or to accommodate tourist activities.

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### **Summary of Substitute Bill:**

Port districts are included within the definition of "municipality" as part of the statutory scheme regulating the activities of municipalities under chapter 67.28 RCW with respect to the development, acquisition, and operation of tourism-related facilities.

A port district is granted the authority to acquire and operate tourism-related facilities either individually or in conjunction with a municipality or person. Though subject to specified limitations, this grant of authority includes the following powers:

- to acquire and operate tourism-related facilities either individually or jointly with any other municipality;
- to convey or lease any lands, properties, or facilities to any other municipality for the development by such other municipality of tourism-related facilities, to engage in joint

tourism-related projects with other municipalities, and to participate in joint financing arrangements for such projects;

- to issue general obligation bonds in accordance with applicable statutory requirements;
- to issue revenue bonds without submitting the matter to the voters provided specified requirements are met; and
- to lease all or part of all tourism-related facilities or enter into contracts pertaining to the operation of such facilities.

The authority of ports to engage in tourism-related activities is not coextensive with that granted to the other types of municipalities. Specifically, unlike other municipalities, a port district is not authorized to levy any lodging or special excise taxes related to its tourism-related activities. In addition, ports are prohibited from exercising the eminent domain powers granted to other municipalities for the purpose of the acquisition or development of tourism-related facilities or projects.

A port, and any entity involved in a joint venture with a port, must comply with "prevailing wage" requirements under chapter 39.12 RCW.

**Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes to the original bill:

- reorganizes the bill so as to directly amend chapter 67.28 RCW (pertaining to the development of tourism-related facilities) and omit the amendment of RCW 53.08.255 (pertaining to the general powers and authorities of ports);
- directly includes "port districts" in the definition of "municipality" under chapter 67.28 RCW;
- contains more explicit provisions prohibiting ports from exercising the taxing authority granted to municipalities under chapter 67.28 RCW;
- prohibits ports from exercising the eminent domain powers currently granted to other municipalities with respect to the development of tourism-related facilities; and
- requires a port and any entity involved in a joint venture with a port to comply with the "prevailing wage" requirements under chapter 39.12 RCW.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) Allowing ports to participate in tourism-related economic development activities with municipalities would be of great economic benefit to Bremerton. The bill would allow ports to acquire and develop tourism-related facilities, either on their own or in conjunction

with a municipality. This would provide an economic stimulus to those jurisdictions with ports that have little opportunity for other types of commercial or industrial activities. This would especially benefit many small and rural ports where tourism could be a major source of economic development. Many feel that this bill is necessary to give ports the explicit legal authority needed to engage in the development of tourism-related activities and development. The bill would not provide ports with any additional taxing authority. Also, ports are currently subject to all local ordinances pertaining to permitting and land use, and the bill would not change this. The bill should, however, be amended to require compliance with "prevailing wage" statutes.

(Opposed) None.

**Persons Testifying:** Gordon Walgren, Ken Attebery, and Bill Mahan, Port of Bremerton; Gary Tusberg, Bremerton Community Renewal Agency; Kirk Deal, Pacific Northwest Regional Council of Carpenters; Becky Bogard, Washington Association of Convention and Visitors Bureau; and Pat Jones, Washington Public Ports Association.

**Persons Signed In To Testify But Not Testifying:** None.