

Chapter 53.08 RCW
POWERS

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Acquisition of vacated waterways: RCW 79.120.060.

Actions by and against public corporations: RCW 4.08.110 and 4.08.120.

Airport zoning: Chapter 14.12 RCW.

Deferral of special assessments: Chapter 84.38 RCW.

Emergency public works: Chapter 39.28 RCW.

Heating systems authorized: RCW 35.97.020.

Industrial development revenue bonds: Chapter 39.84 RCW.

Lien for labor and materials on public works: Chapter 60.28 RCW.

Municipal airports: Chapters 14.07 and 14.08 RCW.

Permits to use waterways within a port district: RCW 79.120.040.

Public contracts: Chapters 39.04 through 39.32 RCW.

Rewards for arrest and conviction of certain persons: RCW 10.85.030.

Special purpose districts, expenditures to recruit job candidates: RCW 42.24.170.

RCW 53.08.005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the Washington utilities and transportation commission.

(2) "Retail telecommunications services" means the sale, lease, license, or indivisible right of use of telecommunications services or telecommunications facilities directly to end users.

(3) "Telecommunications" has the same meaning as contained in RCW 80.04.010.

(4) "Telecommunications facilities" means lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property, and routes used, operated, owned, or controlled by any entity to facilitate the provision of telecommunications services.

(5) "Wholesale telecommunications services" means the provision of telecommunications services or telecommunications facilities for resale to an entity authorized to provide telecommunications services. Wholesale telecommunications services includes the provision of unlit or dark optical fiber for resale, but not the provision of lit optical fiber. [2021 c 294 § 8; 2018 c 169 § 1; 2000 c 81 § 6.]

Short title—2021 c 294: See note following RCW 54.16.330.

Findings—2000 c 81: "The legislature makes the following findings:

(1) Access to telecommunications facilities and services is essential to the economic well-being of both rural and urban areas.

(2) Many persons and entities, particularly in rural areas, do not have adequate access to telecommunications facilities and services.

(3) Public utility districts and rural port districts may be well-positioned to construct and operate telecommunications facilities." [2000 c 81 § 1.]

RCW 53.08.010 Acquisition of property—Levy of assessments. A port district may acquire by purchase, for cash or on deferred payments for a period not exceeding twenty years, or by condemnation, or both, all lands, property, property rights, leases, or easements necessary for its purposes and may exercise the right of eminent domain in the acquirement or damaging of all such lands, property, and property rights, and may levy and collect assessments upon property for the payment of all damages and compensation in carrying out its purposes, and such right shall be exercised in the same manner and by the same procedure as provided for cities of the first class insofar as consistent with this title, and in connection therewith the county treasurer shall perform the duties of the treasurers of such cities. [1983 c 24 § 1; 1955 c 65 § 2. Prior: 1953 c 171 § 1; 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Eminent domain: State Constitution Art. 1 § 16 (Amendment 9).

Eminent domain by cities: Chapter 8.12 RCW.

RCW 53.08.020 Acquisition and operation of facilities. A port district may construct, condemn, purchase, acquire, add to, maintain, conduct, and operate sea walls, jetties, piers, wharves, docks, boat landings, and other harbor improvements, warehouses, storehouses, elevators, grain-bins, cold storage plants, terminal icing plants, bunkers, oil tanks, ferries, canals, locks, tidal basins, bridges, subways, tramways, cableways, conveyors, administration buildings, fishing terminals, together with modern appliances and buildings for the economical handling, packaging, storing, and transporting of freight and handling of passenger traffic, rail and motor vehicle transfer and terminal facilities, water transfer and terminal facilities, air transfer and terminal facilities, and any combination of such transfer and terminal facilities, commercial transportation, transfer, handling, storage and terminal facilities, and improvements relating to industrial and manufacturing activities within the district, and in connection with the operation of the facilities and improvements of the district, it may perform all customary services including the handling, weighing, measuring and reconditioning of all commodities received. A port district may also construct, condemn, purchase, acquire, add to and maintain facilities for the freezing or processing of goods, agricultural products, meats or perishable commodities. A port district may also construct, purchase and operate belt line railways, but shall not acquire the same by condemnation. [1963 c 147 § 3; 1961 c 126 § 1; 1955 c 65 § 3. Prior: 1953 c 171 § 2; 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Severability—1961 c 126: "If any provision of this act, or its application to any person or circumstance is held invalid, the

remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1961 c 126 § 2.]

Essential rail assistance account, distribution of moneys to port districts: RCW 47.76.250.

RCW 53.08.030 Operation of foreign trade zones. A district may apply to the United States for permission to establish, operate, and maintain foreign trade zones: (1) Within the district; and (2) on property adjacent to but outside the district if the property is beyond the boundaries of any existing foreign trade zone grantee and is not currently designated as a foreign trade zone: PROVIDED, That nothing herein shall be construed to prevent such zones from being operated and financed by a private corporation(s) on behalf of such district acting as zone sponsor: PROVIDED FURTHER, That when the money so raised is to be used exclusively for the purpose of acquiring land for sites and constructing warehouses, storage plants, and other facilities to be constructed within the zone for use in the operation and maintenance of the zones, the district may contract indebtedness and issue general bonds therefor in an amount, in addition to the three-fourths of one percent hereinafter fixed, of one percent of the value of the taxable property in the district, as the term "value of the taxable property" is defined in RCW 39.36.015, such additional indebtedness only to be incurred with the assent of three-fifths of the voters of the district voting thereon. [2011 c 11 § 1; 1977 ex.s. c 196 § 7; 1970 ex.s. c 42 § 31; 1955 c 65 § 4. Prior: 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Effective date—1977 ex.s. c 196: See note following RCW 24.46.010.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Foreign trade zones: Chapter 24.46 RCW.

RCW 53.08.040 Improvement of lands for industrial and commercial purposes—Providing sewer and water utilities—Providing pollution control facilities. (1) A district may improve its lands by dredging, filling, bulkheading, providing waterways or otherwise developing such lands for industrial and commercial purposes. A district may also acquire, construct, install, improve, and operate sewer and water utilities to serve its own property and other property owners under terms, conditions, and rates to be fixed and approved by the port commission. A district may also acquire, by purchase, construction, lease, or in any other manner, and may maintain and operate other facilities for the control or elimination of air, water, or other pollution, including, but not limited to, facilities for the treatment and/or disposal of industrial wastes, and may make such facilities available to others under terms, conditions and rates to be fixed and approved by the port commission.

(2) Such conditions and rates shall be sufficient to reimburse the port for all costs, including reasonable amortization of capital

outlays caused by or incidental to providing such other pollution control facilities.

(3) No part of such costs of providing any pollution control facility to others shall be paid out of any tax revenues of the port.

(4) No port shall enter into an agreement or contract to provide sewer and/or water utilities or pollution control facilities if substantially similar utilities or facilities are available from another source (or sources) which is able and willing to provide such utilities or facilities on a reasonable and nondiscriminatory basis unless such other source (or sources) consents thereto.

(5) In the event that a port elects to make such other pollution control facilities available to others, it shall do so by lease, lease-purchase agreement, or other agreement binding such user to pay for the use of said facilities for the full term of the revenue bonds issued by the port for the acquisition of said facilities, and said payments shall at least fully reimburse the port for all principal and interest paid by it on said bonds and for all operating or other costs, if any, incurred by the port in connection with said facilities. However, where there is more than one user of any such facilities, each user shall be responsible for its pro rata share of such costs and payment of principal and interest. Any port intending to provide pollution control facilities to others shall first survey the port district to ascertain the potential users of such facilities and the extent of their needs. The port shall conduct a public hearing upon the proposal and shall give each potential user an opportunity to participate in the use of such facilities upon equal terms and conditions.

(6) "Pollution control facility," as used in this section and RCW 53.08.041, includes programs and activities that are intended to reduce air pollution from vehicles used in cargo transport to, from, and within district facilities; and programs and activities that are intended to reduce air pollution from cargo vessels within the district. Use of district funds for these purposes are deemed a governmental and public function, exercised for a public purpose and as a public necessity for promoting cleaner air; provided however, the provisions of subsections (2), (3), (4), and (5) of this section relating to condition, rates, other providers, and cost recovery do not apply to this subsection's subset of port pollution control facilities. [2018 c 148 § 2; 2007 c 348 § 103; 1989 c 298 § 1; 1972 ex.s. c 54 § 1; 1967 c 131 § 1; 1955 c 65 § 5. Prior: 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Findings—2018 c 148: "(1) The legislature finds that clean fuels and vehicles protect public health by reducing toxic air and climate change emissions.

(2) The legislature also finds that to encourage clean fuels and vehicles, the state should develop policies and incentives that help businesses gain greater access to affordable clean fuels and vehicles. These policies and incentives should include incentives for replacement of the most polluting diesel engines, especially in trucks calling on the state's largest seaports.

(3) The legislature also finds that while the state, in 2007, sought to allow port districts to use tax revenue to support this type of equipment, the statute is confusing and further clarification is

needed for port districts to avoid litigation and audit risk." [2018 c 148 § 1.]

Findings—2007 c 348: See RCW 43.325.005.

Severability—1972 ex.s. c 54: "If any provision of this 1972 amendatory act or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this 1972 amendatory act are declared to be severable." [1972 ex.s. c 54 § 5.]

Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 53.08.041 Pollution control facilities or other industrial development actions—Validation—Implementation of Article 8, section 8 of the Constitution. All actions heretofore taken by port districts in conformity with the provisions of this chapter, and the provisions of chapter 6, Laws of 1975 hereby made applicable thereto, relating to pollution control facilities or other industrial development, including, but not limited to, all bonds issued for such purposes, shall be deemed to have been taken pursuant to Article 8, section 8 of the Washington state Constitution and are hereby declared to be valid, legal and binding in all respects. All provisions of Title 53 RCW directly or indirectly relating to pollution control facilities or other industrial development are hereby found and declared to be legislation implementing the provisions of Article 8, section 8 of the Washington state Constitution. [1975 c 6 § 5.]

Construction—1975 c 6: See RCW 70A.210.901.

RCW 53.08.043 Powers relative to systems of sewerage. A port district may exercise all the powers relating to systems of sewerage authorized by RCW 35.67.010 and 35.67.020 for cities and towns. [1997 c 447 § 15.]

Finding—Purpose—1997 c 447: See note following RCW 70.05.074.

RCW 53.08.045 Facilities constructed under authority of chapter subject to taxation of leasehold interest. Facilities constructed by a port district under authority of this chapter will be subject to taxation of leasehold interest pursuant to applicable laws as now or hereafter enacted. [1972 ex.s. c 54 § 3.]

Severability—1972 ex.s. c 54: See note following RCW 53.08.040.

RCW 53.08.047 Chapter not to be construed as restricting or limiting powers of district under other laws. Neither this chapter nor anything herein contained shall be construed as a restriction or limitation upon any powers which a district might otherwise have under

any laws of this state, but shall be construed as cumulative. [1972 ex.s. c 54 § 4.]

Severability—1972 ex.s. c 54: See note following RCW 53.08.040.

RCW 53.08.049 Community revitalization financing—Public improvements. In addition to other authority that a port district possesses, a port district may provide any public improvement as defined under RCW 39.89.020, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW 39.89.050.

This section does not limit the authority of a port district to otherwise participate in the public improvements if that authority exists elsewhere. [2001 c 212 § 18.]

RCW 53.08.050 Local improvement districts—Assessments—Bonds.

(1) A district may establish local improvement districts within the district, and levy special assessments, in annual installments extending over a period not exceeding ten years on all property specially benefited by the local improvement, on the basis of special benefits, to pay in whole or in part the damages or costs of the local improvement, and issue local improvement bonds to be paid from local improvement assessments. The levy and collection of such assessments and issuance of such bonds shall be as provided for the levy and collection of local improvement assessments and the issuance of local improvement bonds by cities and towns, insofar as consistent with this title: PROVIDED, That the duties of the treasurers of such cities and towns in connection therewith shall be performed by the county treasurer. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW. [1983 c 167 § 132; 1955 c 65 § 6. Prior: 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Assessments and charges against state lands: Chapter 79.44 RCW.

Cities

issuance of local improvement bonds: Chapter 35.45 RCW.

levy and collection of local improvement assessments:

Chapters 35.44, 35.49 RCW.

Local improvements, supplemental authority: Chapter 35.51 RCW.

Public lands subject to local assessments: RCW 79.44.010.

RCW 53.08.055 Local improvement districts—Notice must contain statement that assessments may vary from estimates. Any notice given to the public or to the owners of specific lots, tracts, or parcels of

land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property. [1989 c 243 § 8.]

RCW 53.08.060 Improvement of waters and waterways. A district may improve navigable and nonnavigable waters of the United States and the state of Washington within the district; create and improve for harbor purposes new waterways within the district; and regulate and control all such waters and all natural or artificial waterways within the district and remove obstructions therefrom, and straighten, widen, deepen, and otherwise improve any water, watercourses, bays, lakes or streams, whether navigable or otherwise, flowing through or located within the district. [1979 ex.s. c 30 § 8; 1955 c 65 § 7. Prior: 1943 c 171 § 1; 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

RCW 53.08.070 Rates and charges—Government contracts. A district may fix, without right of appeal therefrom the rates of wharfage, dockage, warehousing, and port and terminal charges upon all improvements owned and operated by it, and the charges of ferries operated by it.

It may fix, subject to state regulation, rates of wharfage, dockage, warehousing, and all necessary port and terminal charges upon all docks, wharves, warehouses, quays, and piers owned by it and operated under lease from it.

Notwithstanding any provision of this section, a port district may enter into any contract for wharfage, dockage, warehousing, or port or terminal charges, with the United States or any governmental agency thereof or with the state of Washington or any political subdivision thereof under such terms as the commission may, in its discretion, negotiate. [1995 c 146 § 1; 1955 c 65 § 8. Prior: 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Utilities and transportation commission: Chapter 80.01 RCW.

RCW 53.08.080 Lease of property—Authorized—Duration. A district may lease all lands, wharves, docks and real and personal property owned and controlled by it, for such purposes and upon such terms as the port commission deems proper: PROVIDED, That no lease shall be for a period longer than fifty years with option for extensions for up to an additional thirty years, except where the property involved is or is to be devoted to airport purposes the port commission may lease said property for such period as may equal the estimated useful life of such work or facilities, but not to exceed seventy-five years: PROVIDED FURTHER, That where the property is held by the district under lease from the United States government or the state of Washington, or any agency or department thereof, the port commission may sublease said property, with option for extensions, up to the total term and extensions thereof permitted by such lease, but

in any event not to exceed ninety years. [1989 c 298 § 2; 1983 c 64 § 1; 1973 c 87 § 1; 1961 ex.s. c 8 § 1; 1959 c 157 § 1; 1955 c 65 § 9. Prior: 1953 c 243 § 1; 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Lease of

county property for airport purposes: RCW 36.34.180.

municipal property for airport purposes: RCW 14.08.120.

Restrictions on leases of harbor areas: State Constitution Art. 15 § 2.

RCW 53.08.085 Lease of property—Security for rent. Every lease of all lands, wharves, docks, and real and personal property of a port district for a term of more than one year shall have the rent secured by rental insurance, bond, or other security satisfactory to the port commission, in an amount equal to one-sixth the total rent, but in no case shall such security be less than an amount equal to one year's rent or more than an amount equal to three years' rent. Evidence of the existence of such insurance, bonds, or security shall be on file with the commission at all times during the term of the lease: PROVIDED, That nothing in this section shall prevent the port commission from requiring additional security on leases or provisions thereof, or on other agreements to use port facilities: PROVIDED FURTHER, That any security agreement may provide for termination on the anniversary date of such agreement on not less than one year's written notice to the port if said lease is not in default at the time of said notice: PROVIDED FURTHER, That if the security as required herein is not maintained throughout the full term of the lease, said lease shall be considered in default: PROVIDED, HOWEVER, That the port commission may in its discretion waive the rent security requirement or lower the amount of such requirement on the lease of real and/or personal port property. [1981 c 125 § 1; 1977 c 41 § 1; 1973 c 87 § 2.]

RCW 53.08.090 Sale of property. (1) A port commission may, by resolution, authorize the managing official of a port district to sell and convey port district property having a value not exceeding the value limit in subsection (2) of this section. The authority must be in force for not more than one calendar year from the date of resolution and may be renewed from year to year. Prior to any such sale or conveyance the managing official shall itemize and list the property to be sold and make written certification to the commission that the listed property is no longer needed for district purposes. Any large block of the property having a value in excess of the value limit in subsection (2) of this section must not be broken down into components having a value not exceeding the value limit in subsection (2) of this section and sold in the smaller components unless the smaller components be sold by public competitive bid. A port district may sell and convey any of its real or personal property valued at more than the value limit in subsection (2) of this section when the port commission has, by resolution, declared the property to be no longer needed for district purposes, but no property which is a part

of the comprehensive plan of improvement or modification thereof must be disposed of until the comprehensive plan has been modified to find the property surplus to port needs. The comprehensive plan must be modified only after public notice and hearing provided by RCW 53.20.010.

Nothing in this section repeals or modifies procedures for property sales within industrial development districts as set forth in chapter 53.25 RCW.

(2) (a) Beginning on July 23, 2023, the value limit in subsection (1) of this section is \$22,000. Beginning December 2024, and each December thereafter, the department [of revenue] shall adjust the value limit for the following calendar year by multiplying the current value limit by one plus the percentage by which the most current consumer price index available on December 1st of the current year exceeds the consumer price index for the prior 12-month period, and rounding the result to the nearest \$10.

(b) For purposes of this subsection (2):

(i) "Consumer price index" means the consumer price index for all urban consumers, all items less food and energy, for the Seattle area as calculated by the United States bureau of labor statistics or successor agency.

(ii) "Seattle area" means the geographic area sample that includes Seattle and surrounding areas. [2023 c 68 § 1; 1994 c 26 § 1; 1981 c 262 § 1; 1969 ex.s. c 30 § 1; 1965 c 23 § 1; 1955 c 65 § 10. Prior: 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Restriction on sale of harbor rights and property: State Constitution Art. 15 § 1 (Amendment 15).

RCW 53.08.091 Sale of property—Contract sales—Terms and conditions. Except in cases where the full purchase price is paid at the time of the purchase, every sale of real property or personal property under authority of RCW 53.08.090 or 53.25.110 shall be subject to the following terms and conditions:

(1) The purchaser shall enter into a contract with the district in which the purchaser shall covenant that he or she will make the payments of principal and interest when due, and that he or she will pay all taxes and assessments on such property. Upon failure to make payments of principal, interest, assessments, or taxes when due all rights of the purchaser under said contract may, at the election of the district, after notice to said purchaser, be declared to be forfeited. When the rights of the purchaser are declared forfeited, the district shall be released from all obligation to convey land covered by the contract, and in the case of personal property, the district shall have all rights granted to a secured party under *chapter 62A.9 RCW;

(2) The district may, as it deems advisable, extend the time for payment of principal and interest due or to become due;

(3) The district shall notify the purchaser in each instance when payment is overdue, and that the purchaser is liable to forfeiture if payment is not made within thirty days from the time the same became due, unless the time be extended by the district;

(4) Not less than four percent of the total purchase price shall be paid on the date of execution of the contract for sale and not less than four percent shall be paid annually thereafter until the full purchase price has been paid, but any purchaser may make full payment at any time. All unpaid deferred payments shall draw interest at a rate not less than six percent per annum.

Nothing in this section shall be deemed to supersede other provisions of law more specifically governing sales of port district property. It is the purpose of this section to provide additional authority and procedures for sale of port district property no longer needed for port purposes. [2010 c 8 § 16001; 1982 c 75 § 1; 1969 ex.s. c 11 § 1; 1965 c 23 § 2.]

***Reviser's note:** Chapter 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see chapter 62A.9A RCW.

RCW 53.08.092 Sale of property—Taxes and assessments against property sold by contract. A copy of all contract sales of port district property shall be filed with the county assessor within thirty days after the first payment is received by the port. The assessor shall place such property on the tax rolls of the county and the purchaser of such property shall become liable for all levies and assessments against such property. The port shall not be liable for any taxes or assessments, but if any outstanding taxes are not paid the property may be sold by the county as with other property with delinquent taxes due. Any amounts accruing from such a sale by the county, not required to pay outstanding and delinquent taxes or assessments and foreclosure costs, shall be paid to the port district. [1965 c 23 § 3.]

RCW 53.08.110 Gifts—Improvement. Port commissioners of any port district are hereby authorized to accept for and on behalf of said port district gifts of real and personal property and to expend in improvements and betterment such amount as may be necessary. [1921 c 39 § 4; RRS § 9705.]

RCW 53.08.120 Contracts for labor and material—Small works roster. (1) All material and work required by a port district not meeting the definition of public work in RCW 39.04.010 may be procured in the open market or by contract and all work ordered may be done by contract or day labor.

(2) (a) All such contracts for work meeting the definition of "public work" in RCW 39.04.010 shall be awarded using a competitive bid process. The contract must be awarded at public bidding upon notice published in a newspaper of general circulation in the district at least 13 days before the last date upon which bids will be received, calling for bids upon the work, plans and specifications for which shall then be on file in the office of the commission for public inspection. The same notice may call for bids on such work or material based upon plans and specifications submitted by the bidder. The competitive bidding requirements for purchases or public works may be waived pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(b) (i) For all contracts related to work meeting the definition of "public work" in RCW 39.04.010:

(A) Until July 1, 2024, a port district may let contracts using the small works roster process under *RCW 39.04.155 in lieu of advertising for bids.

(B) Beginning July 1, 2024, a port district may let contracts using the small works roster process under RCW 39.04.151 through 39.04.154 in lieu of advertising for bids.

(ii) Whenever possible, the managing official shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section.

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

(c) Any port district may construct any public work, as defined in RCW 39.04.010, by contract without calling for bids whenever the estimated cost of the work or improvement, including cost of materials, supplies, and equipment, will not exceed the sum of \$40,000. A "public works project" means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid calling for bids. The port district managing official shall make his or her best effort to reach out to qualified contractors, including certified minority and woman-owned contractors.

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

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

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

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

(e) Unit priced contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts shall have prevailing wage rates updated annually. Intents and affidavits

for prevailing wages paid shall be submitted annually for all work completed within the previous 12-month period of the unit priced contract. [2023 c 395 § 31; 2018 c 149 § 2; 2009 c 74 § 2; 2008 c 130 § 1; 2000 c 138 § 210; 1999 c 29 § 1; 1998 c 278 § 6; 1993 c 198 § 13; 1988 c 235 § 1; 1982 c 92 § 1; 1975 1st ex.s. c 47 § 1; 1955 c 348 § 2. Prior: 1921 c 179 § 1, part; 1911 c 92 § 5, part; RRS § 9693, part.]

***Reviser's note:** RCW 39.04.155 was repealed by 2023 c 395 § 37, effective July 1, 2024.

Effective date—2023 c 395 §§ 31 and 35: "Sections 31 and 35 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023." [2023 c 395 § 40.]

Findings—Intent—2023 c 395: See note following RCW 39.04.010.

Findings—2018 c 149: "(1) The legislature finds that unit priced contracting is a decades old, proven practice used at ports for competitively bid maintenance and repair work that is common but unpredictable in its timing and scope. Unit priced contracting is an efficient mechanism to maintain essential services to port customers, often on short notice or in emergency situations.

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

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

(4) The legislature also finds that flexibility for small projects produces a more efficient process." [2018 c 149 § 1.]

Purpose—Part headings not law—2000 c 138: See notes following RCW 39.04.155.

Severability—1955 c 348: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1955 c 348 § 7.]

RCW 53.08.130 Notice—Award of contract—Low bidder claiming error. The notice shall state generally the nature of the work to be done and require that bids be sealed and filed with the commission at a time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, money order, or surety bid bond to the commission for a sum not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. At the time and place named the bids shall be publicly opened and read and the commission shall proceed to canvass the bids and, except as otherwise in this section provided, shall let the contract to the lowest responsible bidder upon plans and specifications on file, or to the best bidder submitting his

or her own plans and specifications. If, in the opinion of the commission, all bids are unsatisfactory, they may reject all of them and readvertise, and in such case all such bid proposal deposits shall be returned to the bidders; but if the contract is let, then all bid proposal deposits shall be returned to the bidders, except that of the successful bidder which shall be retained until a contract is entered into for the purchase of such materials or doing such work, and a bond given to the port district for the performance of the contract and otherwise conditioned as required by law, with sureties satisfactory to the commission, in an amount to be fixed by the commission, but not in any event less than twenty-five percent of the contract price. If the bidder fails to enter into the contract in accordance with his or her bid and furnish such bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or money order and the amount thereof shall be forfeited to the port district or the port district shall recover the amount of the surety bid bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. [1996 c 18 § 11; 1971 ex.s. c 258 § 2; 1955 c 348 § 3. Prior: 1921 c 179 § 1, part; 1911 c 92 § 5, part; RRS § 9693, part.]

Severability—1971 ex.s. c 258: See note following RCW 28B.10.350.

Severability—1955 c 348: See note following RCW 53.08.120.

Contractor's bond: Chapter 39.08 RCW.

Lien on public works, retained percentage of contractor's earnings: Chapter 60.28 RCW.

RCW 53.08.135 Construction projects over forty thousand dollars —Contracting out. Port districts shall determine if any construction project over forty thousand dollars can be accomplished less expensively by contracting out. If contracting out is less expensive, the port district may contract out such project. [1982 c 92 § 2.]

RCW 53.08.140 Leases or contracts without bond. Port districts may enter into leases and contracts of every kind and nature with the United States of America or any of its departments, the state of Washington or any of its departments, or its political subdivisions or with any municipal corporation or quasi municipal corporation of the state of Washington, without requiring said port district or public bodies to provide bonds to secure the performance thereof. All such leases or contracts heretofore entered into are hereby ratified. [1943 c 136 § 1; Rem. Supp. 1943 § 9710.]

RCW 53.08.150 Notices when no newspaper in county. Notices required in port districts in which no newspaper is published may be given by publication in any newspaper of general circulation in the county. [1921 c 39 § 3; RRS § 9704.]

RCW 53.08.160 Studies, investigations, surveys—Promotion of facilities. All port districts organized under the provisions of this act shall be, and they are hereby, authorized and empowered to initiate and carry on the necessary studies, investigations and surveys required for the proper development, improvement and utilization of all port properties, utilities and facilities, and for industrial development within the district when such agricultural and industrial development is carried out by a public agency, institution, or body for a public purpose, and to assemble and analyze the data thus obtained and to cooperate with the state of Washington, other port districts and other operators of terminal and transportation facilities for these purposes, and to make such expenditures as are necessary for said purposes, and for the proper promotion, advertising, improvement and development of such port properties, utilities and facilities: PROVIDED HOWEVER, That nothing in this section shall authorize a port district to develop its properties as an agricultural or dairy farm. [1973 1st ex.s. c 55 § 1; 1947 c 24 § 2; Rem. Supp. 1947 § 9692A.]

RCW 53.08.170 Employment—Wages—Benefits—Agents—Insurance for port district commissioners. The port commission shall have authority to create and fill positions, to fix wages, salaries and bonds thereof, to pay costs and assessments involved in securing or arranging to secure employees, and to establish such benefits for employees, including holiday pay, vacations or vacation pay, retirement and pension benefits, medical, surgical or hospital care, life, accident, or health disability insurance, and similar benefits, already established by other employers of similar employees, as the port commissioner shall by resolution provide: PROVIDED, That any district providing insurance benefits for its employees in any manner whatsoever may provide health and accident insurance, life insurance with coverage not to exceed that provided district employees, and business related travel, liability, and errors and omissions insurance, for its commissioners, which insurance shall not be considered to be compensation.

Subject to chapter 48.62 RCW, the port commission shall have authority to provide or pay such benefits directly, or to provide for such benefits by the purchase of insurance policies or entering into contracts with and compensating any person, firm, agency or organization furnishing such benefits, or by making contributions to vacation plans or funds, or health and welfare plans and funds, or pension plans or funds, or similar plans or funds, already established by other employers of similar employees and in which the port district is permitted to participate for particular classifications of its employees by the trustees or other persons responsible for the administration of such established plans or funds: PROVIDED FURTHER, That no port district employee shall be allowed to apply for admission to or be accepted as a member of the state employees' retirement system after January 1, 1965, if admission to such system would result in coverage under both a private pension system and the state employees' retirement system, it being the purpose of this proviso that port districts shall not at the same time contribute for any employee to both a private pension or retirement plan and to the state employees' retirement system. The port commission shall have authority by resolution to utilize and compensate agents for the purpose of

paying, in the name and by the check of such agent or agents or otherwise, wages, salaries and other benefits to employees, or particular classifications thereof, and for the purpose of withholding payroll taxes and paying over tax moneys so withheld to appropriate government agencies, on a combined basis with the wages, salaries, benefits, or taxes of other employers or otherwise; to enter into such contracts and arrangements with and to transfer by warrant such funds from time to time to any such agent or agents so appointed as are necessary to accomplish such salary, wage, benefit, or tax payments as though the port district were a private employer, notwithstanding any other provision of the law to the contrary. The funds of a port district transferred to such an agent or agents for the payment of wages or salaries of its employees in the name or by the check of such agent or agents shall be subject to garnishment with respect to salaries or wages so paid, notwithstanding any provision of the law relating to municipal corporations to the contrary.

Notwithstanding any provision in this section, the governing body of a port district may enter into an agreement in writing with one or more of its officers or employees or a group of such officers and employees, authorizing deductions from the officer's or employee's salary or wages of the amount of any premium specified in writing by the officer or employee, for contribution to any private pension plan, without loss of eligibility for membership in the state employees' retirement system, and may agree to remit that amount to the management of such private pension plan. However, no port district funds shall be contributed or paid to such private plan. When such authorized deductions are certified by the port commission to the port district's auditor, the auditor shall draw and issue a proper warrant or warrants, or check or checks if that method of payment is authorized by statute, directly to and in favor of the person, firm, corporation, or organization named in the authorization, for the total amount authorized to be deducted from the payroll, together with a list identifying the officers and employees for whom the payment is made.

Nothing in this section may be invoked to invalidate any private pension plan or any public or private contributions or payments thereto, or exclude members of any such private pension plan from membership in the state employees' retirement system, if such private plan was in operation on December 31, 2001. [2002 c 362 § 1; 1991 sp.s. c 30 § 22; 1987 c 50 § 1; 1985 c 81 § 1; 1973 1st ex.s. c 6 § 1; 1965 c 20 § 1; 1955 c 64 § 1.]

Effective date, implementation, application—1991 sp.s. c 30: See RCW 48.62.900.

Garnishment: Chapter 6.27 RCW.

Hospitalization and medical insurance authorized: RCW 41.04.180.

Hospitalization and medical insurance not deemed additional compensation: RCW 41.04.190.

Payroll deductions: RCW 41.04.020.

Prevailing wages on public works: Chapter 39.12 RCW.

RCW 53.08.175 Commissioners, officers, and employees—Reimbursement of expenses. Employees, officers, and commissioners of port districts shall, when engaged in official business of the port district, be entitled to receive their necessary and reasonable travel and other business expenses incurred on behalf of the port district. Reimbursement of such expenses may be granted, whether incurred within or without the port district, when submitted on a voucher with appropriate evidence of payment by such employee or official. [1965 c 101 § 1.]

Section headings—1965 c 101: "Section headings as used in this act do not constitute any part of the law." [1965 c 101 § 3.]

RCW 53.08.176 Commissioners, officers, and employees—Regulation of expenses. Each port district shall adopt a resolution (which may be amended from time to time) which shall establish the basic rules and regulations governing methods and amount of reimbursement payable to such port officials and employees for travel and other business expenses incurred on behalf of the district. The resolution shall, among other things, establish procedures for approving such expenses; set forth the method of authorizing the direct purchase of transportation; the form of the voucher; and requirements governing the use of credit cards issued in the name of the port district. Such regulations may provide for payment of per diem in lieu of actual expenses when travel requires overnight lodging: PROVIDED, That in all cases any per diem payment shall not exceed the United States general service administration's per diem rates. The state auditor shall, as provided by general law, cooperate with the port district in establishing adequate procedures for regulating and auditing the reimbursement of all such expenses. [2015 c 29 § 1; 1965 c 101 § 2.]

Section headings—1965 c 101: See note following RCW 53.08.175.

RCW 53.08.180 Federal old age and survivors' insurance for employees. As used in RCW 53.08.180 through 53.08.200, the term "employees" shall be as defined in RCW 41.48.020 and no distinction shall be made for the purposes of coverage under the social security act, between persons employed by a port district on a casual or temporary basis, or on a regular or steady basis, or between persons paid hourly wages and persons paid wages on a weekly, monthly, or other periodic basis. It being the intent of RCW 53.08.180 through 53.08.200 that all employees shall be entitled to the coverage of the federal social security act for work performed in the service of a port district, which is not covered by the state employees' retirement system. [1955 c 219 § 1.]

Public employees' retirement system: Chapter 41.40 RCW.

RCW 53.08.190 Federal old age and survivors' insurance for employees—Plan for extension of benefits. Each port district, which has not previously done so, shall within thirty days of June 8, 1955, submit for approval by the governor a plan for extending the benefits of Title II of the federal social security act, as amended, in

conformity with applicable provisions of said act as set forth in chapter 41.48 RCW, to employees of such port district who are employed in positions not covered by the employees' retirement system of the state of Washington. The plan required to be submitted by this section shall be as set forth in RCW 41.48.050 and shall be in conformance therewith. [1955 c 219 § 2.]

RCW 53.08.200 Federal old age and survivors' insurance for employees—Contributions. All port districts are authorized to make contributions on employees' wages, and to impose upon their employees contributions with respect to their wages in accordance with RCW 41.48.030 through 41.48.050. [1955 c 219 § 3.]

RCW 53.08.205 Liability insurance for officials and employees. The board of commissioners of each port district may purchase liability insurance with such limits as they may deem reasonable for the purpose of protecting their officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties. [1973 c 125 § 4.]

RCW 53.08.208 Actions against officer, employee, or agent—Defense and costs provided by port district—Exception. Whenever any action, claim, or proceeding is instituted against any person who is or was an officer, employee, or agent of a port district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district, the commission of the district may grant a request by such person that the attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the district's funds: PROVIDED, That costs of defense and/or judgment or settlement against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his or her employment with or duties for the district. [2010 c 8 § 16002; 1975 c 60 § 1.]

RCW 53.08.220 Regulations authorized—Adoption as part of ordinance or resolution of city or county, procedure—Enforcement—Penalty for violation. (1) A port district may formulate all needful regulations for the use by tenants, agents, servants, licensees, invitees, suppliers, passengers, customers, shippers, business visitors, and members of the general public of any properties or facilities owned or operated by it, and request the adoption, amendment, or repeal of such regulations as part of the ordinances of the city or town in which such properties or facilities are situated, or as part of the resolutions of the county, if such properties or facilities be situated outside any city or town. The port commission shall make such request by resolution after holding a public hearing on the proposed regulations, of which at least ten days' notice shall be published in a legal newspaper of general circulation in the port district. Such regulations must conform to and be consistent with

federal and state law. As to properties or facilities situated within a city or town, such regulations must conform to and be consistent with the ordinances of the city or town. As to properties or facilities situated outside any city or town, such regulations must conform to and be consistent with county resolutions. Upon receiving such request, the governing body of the city, town, or county, as the case may be, may adopt such regulations as part of its ordinances or resolutions, or amend or repeal such regulations in accordance with the terms of the request.

(2) (a) Except as otherwise provided in this subsection, any violation of the regulations described in subsection (1) of this section is a misdemeanor which shall be redressed in the same manner as other police regulations of the city, town, or county, and it shall be the duty of all law enforcement officers to enforce such regulations accordingly.

(b) Except as provided in (c) of this subsection, violation of such a regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction.

(c) Violation of such a regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. [2003 c 53 § 286; 1979 ex.s. c 136 § 103; 1961 c 38 § 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 53.08.230 Making motor vehicle and other police regulations applicable to district property—Filing plat with county auditor—Duty of law enforcement officers. A port district may at its option file with the county auditor a plat of any of its properties or facilities, showing thereon such private streets, alleys, access roads, parking areas, parks and other places as the port district may wish to have treated as public for purposes of motor vehicle or other police regulations. Such plat may be amended at any time by the filing of an amendatory plat, and may be vacated at any time by the filing of a resolution of vacation. So long as any such plat or amendatory plat is on file and not vacated, the motor vehicle or other police regulations of the state, and the motor vehicle regulations of the city, town or county, as the case may be, in which the areas described in the plat are situated, shall apply to such areas as though they were public streets, alleys, access roads, parking areas, parks or other places, and it shall be the duty of all state and local law enforcement officers to enforce such regulations accordingly. [1961 c 38 § 2.]

RCW 53.08.240 Joint exercise of powers and joint acquisition of property—Contracts with other governmental entities. (1) Any two or more port districts shall have the power, by mutual agreement, to exercise jointly all powers granted to each individual district, and in the exercise of such powers shall have the right and power to acquire jointly all lands, property, property rights, leases, or easements necessary for their purposes, either entirely within or partly within or partly without or entirely without such districts:

PROVIDED, That any two or more districts so acting jointly, by mutual agreement, shall not acquire any real property or real property rights in any other port district without the consent of such district.

(2) A district may enter into any contract with the United States, or any state, county, or municipal corporation, or any department of those entities, for carrying out any of the powers that each of the contracting parties may by law exercise separately.

(3) (a) A port district that is located in a county that has a contiguous border with another state, and a population between fifty and seventy thousand, may enter into any contract that each of the contracting parties may by law exercise separately with, including but not limited to, municipal corporations of adjoining states.

(b) In addition to other powers granted by statute, a port district that is located in a county that has a contiguous border with another state, and a population between fifty and seventy thousand, may enter into agreements with the United States or any of its agencies, or with any state, or with any municipal corporation of this state or of an adjoining state, for exercising jointly or cooperatively within or outside the district, in whole or in part, any of the powers that each of the contracting parties may by law exercise separately, for the promotion or development of trade or industry. Such powers may be exercised outside the boundaries of this state only after a public hearing of which notice has been published in a newspaper of general circulation within the district at least ten days in advance, and pursuant to findings and a resolution by the port district's commission that: (i) The undertaking and the district's participation in it will substantially benefit the district and the state of Washington; and (ii) the districts' share of the cost will not exceed an amount calculated by dividing the total cost of the undertaking by the number of participants. [1999 c 306 § 3; 1961 c 24 § 1.]

Purpose—1999 c 306: See note following RCW 53.04.010.

RCW 53.08.245 Economic development programs authorized—Job training and education. (1) It shall be in the public purpose for all port districts to engage in economic development programs. In addition, port districts may contract with nonprofit corporations and private and public entities that provide training systems as defined in RCW 28C.18.010 and promote workforce diversity in furtherance of this and other acts relating to economic development.

(2) (a) Economic development programs may include: Occupational job training and placement, job advancement and job retention, preapprenticeship training, or occupational education programs associated with port tenants, customers, and local economic development related to port tenants or port-related economic activities that are sponsored by a port and operated by a nonprofit, private, or public entity.

(b) Ports seeking to engage in activities or contracts pursuant to this subsection shall, by resolution, declare that port-related workforce development provides a substantial public benefit consistent with the port commission's economic development goals, and is consistent with ongoing worker training initiatives in place in the port district.

(c) As a contract condition, a sponsoring port must require any entity that operates programs such as those described in (a) of this subsection to submit annually quantitative information on program outcomes including: The number of workers trained, recruited, placed in jobs, and retained; the types of jobs and range of compensation; the number and types of businesses that are served; and any other tangible benefits realized by the port, the workers, businesses, and the public. [2019 c 117 § 1; 2010 c 195 § 1; 1985 c 125 § 1.]

RCW 53.08.255 Tourism promotion and tourism-related facilities authorized. (1) Any port district in this state, acting through its commission, has power 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.

(2) (a) Any port district is authorized either individually or jointly with any other municipality, or person, or any combination thereof, to acquire and to operate tourism-related facilities.

(b) When exercising the authority granted under (a) of this subsection, a port district may exercise any of the powers granted to a municipality under RCW 67.28.120, 67.28.130 through 67.28.170, and 67.28.220, but may not exercise powers granted to municipalities under RCW 67.28.180 and 67.28.181 or other powers granted to municipalities under chapter 67.28 RCW. The definitions contained in RCW 67.28.080 apply to the exercise of authority by a port district under (a) of this subsection, and for that purpose the term "municipality" includes a port district.

(c) Port districts may not use this section as the authority for the exercise of the power of eminent domain. [2007 c 476 § 1; 1984 c 122 § 10.]

RCW 53.08.260 Park and recreation facilities. A port district may construct, improve, maintain, and operate public park and recreation facilities when such facilities are necessary to more fully utilize boat landings, harbors, wharves and piers, air, land, and water passenger and transfer terminals, waterways, and other port facilities authorized by law pursuant to the port's comprehensive plan of harbor improvements and industrial development. [1965 c 81 § 1.]

Harbor improvement plan: RCW 53.20.010.

RCW 53.08.270 Park and recreation facilities—Approval of other agencies. Before undertaking any such plan for the acquisition and operation of any park or recreational facility the proposed plan therefor shall be first submitted in writing to the director of the parks and recreation commission and to the governing body of any county or municipal park agency having jurisdiction in the area. The state director and/or such county or municipal park agency shall examine the port's proposed plan, and may disapprove such proposed plan if it is found to be in conflict with state or local park and recreation plans for the same area. If such proposed port plan is disapproved the port district shall not proceed further with such plan. If the state director or the governing body of the county or

municipal agency does not respond in writing to the port within sixty days, it shall be deemed that approval has been granted. [1965 c 81 § 2.]

RCW 53.08.280 Police officers—Appointment authorized—

Jurisdiction. Any port district operating an airport with a police department as authorized by RCW 14.08.120 or designated as a port of entry by the federal government is authorized to appoint police officers with full police powers to enforce all applicable federal, state, or municipal statutes, rules, regulations, or ordinances upon any port-owned or operated properties or operations: PROVIDED, That such police officers must have successfully graduated from a recognized professional police academy or training institution. [1981 c 97 § 1; 1974 ex.s. c 62 § 1.]

RCW 53.08.290 Intermodal movement of interstate and foreign

cargo—Restrictions. In addition to the other powers under this chapter, a port district, in connection with the operation of facilities and improvements of the district, may perform all necessary activities related to the intermodal movement of interstate and foreign cargo: PROVIDED, That nothing contained herein shall authorize a port district to engage in the transportation of commodities by motor vehicle for compensation outside the boundaries of the port district. A port district may, by itself or in conjunction with public or private entities, acquire, construct, purchase, lease, contract for, provide, and operate rail services, equipment, and facilities inside or outside the port district: PROVIDED, That such authority may only be exercised outside the boundaries of the port district if such extraterritorial rail services, equipment, or facilities are found, by resolution of the commission of the port district exercising such authority, to be reasonably necessary to link the rail services, equipment, and facilities within the port district to an interstate railroad system; however, if such extraterritorial rail services, equipment, or facilities are in or are to be located in one or more other port districts, the commission of such other port district or districts must consent by resolution to the proposed plan of the originating port district which consent shall not be unreasonably withheld: PROVIDED FURTHER, That no port district shall engage in the manufacture of railcars for use off port property. [1981 c 47 § 1; 1980 c 110 § 2.]

Purpose—1980 c 110: "The purpose of this act is to:

(1) Clarify existing law as to the authority of port districts to perform certain cargo movement activities and to contract for or otherwise provide facilities for rail service for the movement of such cargo; and

(2) Provide authority for port districts to assist in development of the recreation-tourism industry by acquiring and operating certain watercraft in limited areas." [1980 c 110 § 1.]

RCW 53.08.295 Passenger-carrying vessels. A port district may acquire, lease, construct, purchase, maintain, and operate passenger-carrying vessels on Puget Sound, interstate navigable rivers of the

state, and intrastate waters of adjoining states. Service provided shall be under terms, conditions, and rates to be fixed and approved by the port commission. Operation of such vessels shall be subject to applicable state and federal laws pertaining to such service. [2008 c 45 § 4; 1980 c 110 § 3.]

Purpose—1980 c 110: See note following RCW 53.08.290.

RCW 53.08.310 Moorage facilities—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this section, RCW 53.08.480, and 53.08.320.

(1) "Moorage facility" means any properties or facilities owned or operated by a moorage facility operator which are capable of use for the moorage or storage of vessels.

(2) "Moorage facility operator" means any port district, city, town, metropolitan park district, or county which owns and/or operates a moorage facility.

(3) "Owner" means every natural person, firm, partnership, corporation, association, or organization, or agent thereof, with actual or apparent authority, who expressly or impliedly contracts for use of a moorage facility.

(4) "Port charges" mean charges of a moorage facility operator for moorage and storage, and all other charges owing or to become owing under a contract between a vessel owner and the moorage facility operator, or under an officially adopted tariff including, but not limited to, costs of sale and related legal expenses.

(5) "Transient vessel" means a vessel using a moorage facility and which belongs to an owner who does not have a moorage agreement with the moorage facility operator. Transient vessels include, but are not limited to: Vessels seeking a harbor of refuge, day use, or overnight use of a moorage facility on a space-as-available basis. Transient vessels may also include vessels taken into custody under RCW 79.100.040.

(6) "Vessel" means every species of watercraft or other artificial contrivance capable of being used as a means of transportation on water and which does not exceed two hundred feet in length. "Vessel" includes any trailer used for the transportation of watercraft. [2014 c 195 § 205; 1986 c 260 § 1; 1983 c 188 § 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—Intent—2014 c 195: See notes following RCW 79.100.170 and 79.100.180.

Construction—Savings—1983 c 188: "Nothing contained in RCW 53.08.310 and 53.08.320 may be construed as a limitation of any rights, privileges, or remedies previously existing under any applicable laws of port districts, cities, towns, metropolitan park districts, or counties." [1983 c 188 § 3.]

Severability—1983 c 188: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 188 § 5.]

RCW 53.08.320 Moorage facilities—Rules authorized—Port charges, delinquency—Abandoned vessels, public sale. A moorage facility operator may adopt all rules necessary for rental and use of moorage facilities and for the expeditious collection of port charges. The rules may also establish procedures for the enforcement of these rules by port district, city, county, metropolitan park district or town personnel. The rules shall include the following:

(1) Procedures authorizing moorage facility personnel to take reasonable measures, including the use of chains, ropes, and locks, or removal from the water, to secure vessels within the moorage facility so that the vessels are in the possession and control of the moorage facility operator and cannot be removed from the moorage facility. These procedures may be used if an owner mooring or storing a vessel at the moorage facility fails, after being notified that charges are owing and of the owner's right to commence legal proceedings to contest that such charges are owing, to pay the port charges owed or to commence legal proceedings. Notification shall be by registered mail to the owner at his or her last known address. In the case of a transient vessel, or where no address was furnished by the owner, the moorage facility operator need not give such notice prior to securing the vessel. At the time of securing the vessel, an authorized moorage facility employee shall attach to the vessel a readily visible notice. The notice shall be of a reasonable size and shall contain the following information:

(a) The date and time the notice was attached;

(b) A statement that if the account is not paid in full within ninety days from the time the notice is attached, the vessel may be sold at public auction to satisfy the port charges; and

(c) The address and telephone number where additional information may be obtained concerning release of the vessel.

After a vessel is secured, the operator shall make a reasonable effort to notify the owner by registered mail in order to give the owner the information contained in the notice.

(2) Procedures authorizing moorage facility personnel at their discretion to move moored vessels ashore for storage within properties under the operator's control or for storage with private persons under their control as bailees of the moorage facility, if the vessel is, in the opinion of port personnel a nuisance, if the vessel is in danger of sinking or creating other damage, or is owing port charges. Costs of any such procedure shall be paid by the vessel's owner. If the owner is not known, or unable to reimburse the moorage facility operator for the costs of these procedures, the mooring facility operators may seek reimbursement of ninety percent of all reasonable and auditable costs from the derelict vessel removal account established in RCW 79.100.100.

(3) If a vessel is secured under subsection (1) of this section or moved ashore under subsection (2) of this section, the owner who is obligated to the moorage facility operator for port charges may regain possession of the vessel by:

(a) Making arrangements satisfactory with the moorage facility operator for the immediate removal of the vessel from the moorage facility or for authorized moorage; and

(b) Making payment to the moorage facility operator of all port charges, or by posting with the moorage facility operator a sufficient cash bond or other acceptable security, to be held in trust by the moorage facility operator pending written agreement of the parties

with respect to payment by the vessel owner of the amount owing, or pending resolution of the matter of the charges in a civil action in a court of competent jurisdiction. After entry of judgment, including any appeals, in a court of competent jurisdiction, or after the parties reach agreement with respect to payment, the trust shall terminate and the moorage facility operator shall receive so much of the bond or other security as is agreed, or as is necessary to satisfy any judgment, costs, and interest as may be awarded to the moorage facility operator. The balance shall be refunded immediately to the owner at his or her last known address.

(4) If a vessel has been secured by the moorage facility operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within ninety days after notifying or attempting to notify the owner under subsection (1) of this section, the vessel shall be conclusively presumed to have been abandoned by the owner.

(5) If a vessel moored or stored at a moorage facility is abandoned, the moorage facility operator may, by resolution of its legislative authority, authorize the public sale of the vessel by authorized personnel to the highest and best bidder for cash as prescribed by this subsection (5). Either a minimum bid may be established or a letter of credit may be required, or both, to discourage the future reabandonment of the vessel.

(a) Before the vessel is sold, the owner of the vessel shall be given at least twenty days' notice of the sale in the manner set forth in subsection (1) of this section if the name and address of the owner is known. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of port charges owed with respect to the vessel. The notice of sale shall be published at least once, more than ten but not more than twenty days before the sale, in a newspaper of general circulation in the county in which the moorage facility is located. Such notice shall include the name of the vessel, if any, the last known owner and address, and a reasonable description of the vessel to be sold. The moorage facility operator may bid all or part of its port charges at the sale and may become a purchaser at the sale.

(b) Before the vessel is sold, any person seeking to redeem an impounded vessel under this section may commence a lawsuit in the superior court for the county in which the vessel was impounded to contest the validity of the impoundment or the amount of the port charges owing. Such lawsuit must be commenced within ten days of the date the notification was provided pursuant to subsection (1) of this section, or the right to a hearing shall be deemed waived and the owner shall be liable for any port charges owing the moorage facility operator. In the event of litigation, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

(c) The proceeds of a sale under this section shall first be applied to the payment of port charges. The balance, if any, shall be paid to the owner. If the owner cannot in the exercise of due diligence be located by the moorage facility operator within one year of the date of the sale, the excess funds from the sale shall revert to the derelict vessel removal account established in RCW 79.100.100. If the sale is for a sum less than the applicable port charges, the moorage facility operator is entitled to assert a claim for a deficiency.

(d) In the event no one purchases the vessel at a sale, or a vessel is not removed from the premises or other arrangements are not

made within ten days of sale, title to the vessel will revert to the moorage facility operator.

(6) The rules authorized under this section shall be enforceable only if the moorage facility has had its tariff containing such rules conspicuously posted at its moorage facility at all times. [2011 c 247 § 3; 2002 c 286 § 23; 1986 c 260 § 2; 1985 c 7 § 124; 1983 c 188 § 2.]

Effective date—2002 c 286: See RCW 79.100.901.

Severability—Construction—Savings—1983 c 188: See notes following RCW 53.08.310.

RCW 53.08.330 Streets, roads, and highways—Construction, upgrading, improvement, and repair authorized. Any port district in this state, acting through its commission, may expend port funds toward construction, upgrading, improvement, or repair of any street, road, or highway that serves port facilities. [1990 c 5 § 1.]

RCW 53.08.340 Streets, roads, and highways—Expenditure of funds. The funds authorized by RCW 53.08.330 may be expended by the port commission in conjunction with any plan of improvements undertaken by the state of Washington, an adjoining state, or a county or municipal government of either, in combination with any of said public entities, and without regard to whether expenditures are made for a road located within the state of Washington or an adjoining state. [1990 c 5 § 2.]

RCW 53.08.360 Annexation of port district property—Transfer of employees engaged in firefighting. (1) When a port district provides its own fire protection services with port district employees, and port district property is included as part of an annexation, incorporation, consolidation, or merger by a city, town, or fire protection district, and fire protection services for this port district property will be furnished by the city, town, or fire protection district, an eligible employee may transfer employment to the city, town, or fire protection district in the same manner and under the same conditions that a firefighter may transfer employment into a fire protection district pursuant to RCW 52.04.111, 52.04.121, and 52.04.131.

(2) "Eligible employee" means an employee of the port district who (a) was at the time of the annexation, merger, consolidation, or incorporation employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the fire department of the city, town, or fire protection district, (b) will, as a direct consequence of the annexation, merger, consolidation, or incorporation, be separated from the employ of the port district, and (c) can perform the duties and meet the minimum requirements of the position to be filled. [1994 c 74 § 2.]

Intent—1994 c 74: "The legislature recognizes that it passed comprehensive legislation in 1986 to provide protection to firefighters who risk losing their jobs as a result of an annexation,

incorporation, merger, or consolidation by a city, town, or fire protection district. The legislation did not, however, grant these same protections to firefighters who are employed by port districts. It is the intent of the legislature that firefighters who are employed by port districts should have the same transfer rights as other local government firefighters in the event of an annexation, consolidation, merger, or incorporation by a city, town, or fire protection district." [1994 c 74 § 1.]

RCW 53.08.370 Telecommunications facilities—Construct, purchase, acquire, etc.—Purposes—Limitations—Eminent domain. (1) A port district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

- (a) For the district's own use;
- (b) For the provision of wholesale telecommunications services within or without the district's limits; or
- (c) For the provision of retail telecommunications services as authorized under this section.

(2) Except as provided in subsection (8) of this section, a port district providing wholesale or retail telecommunications services under this section shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a port district offering such rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) When a port district establishes a separate utility function for the provision of wholesale or retail telecommunications services, it shall account for any and all revenues and expenditures related to its wholesale or retail telecommunications facilities and services separately from revenues and expenditures related to its internal telecommunications operations. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to the utility function that includes the provision of wholesale or retail telecommunications services for costs incurred to build and maintain the telecommunications facilities until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance the telecommunications facilities are discharged or retired.

(4) When a port district establishes a separate utility function for the provision of wholesale or retail telecommunications services, all telecommunications services rendered by the separate function to the district for the district's internal telecommunications needs shall be charged at its true and full value. A port district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) A port district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(6) Except as otherwise specifically provided, a port district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a port district under this title.

(7) A port district with telecommunications facilities for use in the provision of wholesale or retail telecommunications in accordance with subsection (1) of this section may be subject to local leasehold excise taxes under RCW 82.29A.040.

(8) (a) A port district under this section may select a telecommunications company to operate all or a portion of the port district's telecommunications facilities.

(b) For the purposes of this section "telecommunications company" means any for-profit entity owned by investors that sells telecommunications services to end users.

(c) Nothing in this subsection (8) is intended to limit or otherwise restrict any other authority provided by law.

(9) A port district may provide retail telecommunications services within or without the district's limits.

(10) (a) A port district may provide retail telecommunications services to end users in unserved areas.

(b) A port district must notify and consult with the governor's statewide broadband office within 30 days of its decision to provide retail telecommunications services to unserved areas. The governor's statewide broadband office must post notices received from a port district pursuant to this subsection on its public website.

(c) Any port district that intends to provide retail telecommunications services to unserved areas must submit a telecommunications infrastructure and service plan to the governor's statewide broadband office that will be published on the office's website. Submission of plans will enable the governor's statewide broadband office: (i) To better understand infrastructure deployment; (ii) to potentially allocate funding for unserved areas; (iii) to advance the state policy objectives; (iv) to determine whether the plan aligns with state policy objectives and broadband priorities; (v) to measure progress toward serving those in unserved areas; (vi) to report on the feasibility and sustainability of the project; and (vii) to confirm that the project is within an unserved area. The telecommunications infrastructure and service plans shall include, but not be limited to, the following:

(A) Map and description of how the deployment of proposed broadband infrastructure will achieve at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed and then increases to be consistent with the stated long-term state broadband speed goals for unserved areas;

(B) Project timeline prioritization of unserved areas; and

(C) Description of potential state and federal funding available to provide service to the unserved area.

(d) A port district that exercises its authority under (a) of this subsection to provide retail telecommunications services may use state funds, federal funds appropriated through the state, or federal funds dedicated for projects in unserved areas to fund projects identified in the submitted telecommunications infrastructure and service plan required in (c) of this subsection.

(e) A port district providing retail telecommunications services under this subsection must operate an open access network.

(f) Provisions in this subsection do not apply to the provision of wholesale telecommunications services authorized in this section.

(g) For the purposes of this subsection:

(i) "Open access network" means a network that, during the useful life of the infrastructure, ensures service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employs accountable interconnection arrangements published and available publicly.

(ii) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service of speeds at a minimum of 100 megabits per second download and at a minimum 20 megabits per second upload. [2023 c 470 § 1010. Prior: 2021 c 294 § 9; 2021 c 293 § 3; 2019 c 365 § 10; 2018 c 169 § 2; 2000 c 81 § 7.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Short title—2021 c 294: See note following RCW 54.16.330.

Findings—2021 c 293: See note following RCW 54.16.330.

Findings—2019 c 365: See note following RCW 43.330.532.

Findings—2000 c 81: See note following RCW 53.08.005.

RCW 53.08.375 Retail telecommunications services—Reporting requirements. (1) Before providing retail telecommunications services, a port district must report to its governing body and to the state broadband office the following about the area to be served by the port district:

(a) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(b) The location of where retail telecommunications services will be provided;

(c) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(d) Expected costs of providing retail telecommunications services to customers to be served by the port district;

(e) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(f) Sources of funding for the project that will supplement any grant or loan awards; and

(g) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(2) The state broadband office must post a review of the proposed project on their website.

(3) For the purposes of this section, "unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed. [2021 c 294 § 10.]

Short title—2021 c 294: See note following RCW 54.16.330.

RCW 53.08.380 Wholesale telecommunications services—Petition for review of rates, terms, conditions. (1) A person or entity that has requested wholesale telecommunications services from a port district may petition the commission under the procedures set forth in RCW 80.04.110 (1) through (3) if it believes the district's rates, terms, and conditions are unduly or unreasonably discriminatory or preferential. The person or entity shall provide the district notice of its intent to petition the commission and an opportunity to review within thirty days the rates, terms, and conditions as applied to it prior to submitting its petition. In determining whether a district is providing discriminatory or preferential rates, terms, and conditions, the commission may consider such matters as service quality, technical feasibility of connection points on the district's telecommunications facilities, time of response to service requests, system capacity, and other matters reasonably related to the provision of wholesale telecommunications services. If the commission, after notice and hearing, determines that a port district's rates, terms, and conditions are unduly or unreasonably discriminatory or preferential, it shall issue a final order finding noncompliance with this section and setting forth the specific areas of apparent noncompliance. An order imposed under this section shall be enforceable in any court of competent jurisdiction.

(2) The commission may order a port district to pay a share of the costs incurred by the commission in adjudicating or enforcing this section.

(3) Without limiting other remedies at law or equity, the commission and prevailing party may also seek injunctive relief to compel compliance with an order.

(4) Nothing in this section shall be construed to affect the commission's authority and jurisdiction with respect to actions, proceedings, or orders permitted or contemplated for a state commission under the federal telecommunications act of 1996, P.L. 104-104 (110 Stat. 56). [2018 c 169 § 3; 2000 c 81 § 9.]

Findings—2000 c 81: See note following RCW 53.08.005.

RCW 53.08.390 Grays Harbor pilotage district—Conditions on pilotage service. A countywide port district located in part or in whole within the Grays Harbor pilotage district, as defined by RCW 88.16.050(2), may commence pilotage service with the following powers and subject to the conditions contained in this section.

(1) Persons employed to perform the pilotage service of a port district must be licensed under chapter 88.16 RCW to provide pilotage.

(2) Before establishing pilotage service, a port district shall give at least sixty days' written notice to the chair of the board of pilotage commissioners to provide pilotage.

(3) A port district providing pilotage service under this section requiring additional pilots may petition the board of pilotage commissioners to qualify and license as a pilot a person who has passed the examination and is on the waiting list for the training program for the district. If there are no persons on the waiting list, the board shall solicit applicants and offer the examination.

(4) In addition to the power to employ or contract with pilots, a port district providing pilotage services under this section has such other powers as are reasonably necessary to accomplish the purpose of this section including, but not limited to, providing through ownership or contract pilots launches, dispatcher services, or ancillary tug services required for operations or safety.

(5) (a) A port district providing pilotage services under this section may recommend to the utilities and transportation commission tariffs for pilotage services provided under chapter 88.16 RCW, and may recommend to the board of pilotage commissioners rules of service governing its pilotage services for consideration and adoption consistent with RCW 88.16.035. The rules of service, rates, and tariffs recommended by the port district must have been approved in open meetings of the port district thirty or more days after published notice in a newspaper of general circulation and after mailing a copy of the notice to: (i) The utilities and transportation commission for rate and tariff consideration, or (ii) the chair of the board of pilotage commissioners for rules of service consideration. The port district shall release its pilotage budget, including the five-year capital spending plan, prior year pilotage financial statement, and the proposed pilotage tariff, no later than thirty days prior to a public hearing. The port district shall receive public comments for thirty days before the port district commission may approve and recommend the pilotage tariff, rates, or rules of service.

(b) The port district must include a charge in its tariff until such time as the pilot retirement agreement expenses for Grays Harbor pilotage district pilots employed prior to October 1, 2001, are no longer owed. The port district shall determine the charge owed as pilot retirement agreement expenses. The charge must be sufficient to cover costs associated with the pilot retirement agreement expenses for Grays Harbor pilots employed prior to October 1, 2001. The revenue collected from the charge must be deposited into an account maintained by the port district solely for the pilot retirement agreement expenses of the Grays Harbor pilots employed prior to October 1, 2001. Under no circumstances shall the port district be obligated to fund or pay for any portion of the retirement agreement expenses for Grays Harbor pilots employed prior to October 1, 2001.

(6) A pilot providing pilotage services under this section must comply with all requirements of the pilotage act, chapter 88.16 RCW, and all rules adopted thereunder. [2018 c 107 § 2; 2010 c 8 § 16003; 2001 2nd sp.s. c 22 § 1.]

Effective date—2018 c 107: See note following RCW 88.16.055.

Construction—2001 2nd sp.s. c 22: "Nothing in this act is intended to amend chapter 88.16 RCW." [2001 2nd sp.s. c 22 § 3.]

Effective date—2001 2nd sp.s. c 22: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 13, 2001]." [2001 2nd sp.s. c 22 § 4.]

RCW 53.08.400 District may exercise powers of community renewal agency. A port district may enter into a contract with any city,

town, or county for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW. [2002 c 218 § 27.]

Severability—Savings—Construction—2002 c 218: See notes following RCW 35.81.005.

RCW 53.08.410 Abandoned or derelict vessels. A port district has the authority, subject to the processes and limitation outlined in chapter 79.100 RCW, to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above publicly or privately owned aquatic lands within the jurisdiction of the port district. [2002 c 286 § 18.]

Effective date—2002 c 286: See RCW 79.100.901.

RCW 53.08.420 Cooperative watershed management. In addition to the authority provided in this chapter, a port district may participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under RCW 39.34.210 and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management. [2003 c 327 § 16.]

Finding—Intent—2003 c 327: See note following RCW 39.34.190.

RCW 53.08.440 Website for contract database—Requirements. By January 1, 2010, each port with more than ten million dollars in annual gross revenues, excluding grant and loan funds, shall maintain a database on a public website of all contracts, including public works and personal services. At a minimum, the database shall identify the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis. [2008 c 130 § 3.]

RCW 53.08.450 Property outside jurisdiction—Future property development—Communication plan. (1) If a port district purchases property for a facility outside the port's jurisdiction, the port district or districts with responsibility for the future property development and use must prepare and implement a communication plan within sixty days after contracting with a site planning consultant. The communication plan must be reasonably calculated to provide property owners and other affected and interested individuals information for review and comment. The plan shall be made available through the planning and predesign phase. The communication plan shall include information about:

- (a) The type and scale of proposed uses on the site;
- (b) The type and scale of business and industrial activities that the development is likely to later attract to the site and to the nearby area;

(c) The general character and scope of potential impacts on air and water quality, noise, and local and state transportation infrastructure, including state highways, local roads, rail, and shipping.

(2) Information included in the communication plan under subsection (1) of this section may be made available by means of web pages, office inspection and copying of materials, one or more property tours, and public meetings that allow interested citizens to comment to port officials on several occasions over time as the development plans evolve.

(3) Environmental mitigation, habitat restoration, and dredged material disposal projects are exempt from the requirements of this section. [2008 c 130 § 4.]

RCW 53.08.460 Transfer of ownership of port district-owned vessel—Review of vessel's physical condition.

(1) Prior to transferring ownership of a vessel owned by a port district and used primarily to conduct port business, the port district shall conduct a thorough review of the physical condition of the vessel, the vessel's operating capability, and any containers and other materials that are not fixed to the vessel.

(2) If the port district determines that the vessel is in a state of advanced deterioration or poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination, the port district may: (a) Not transfer the vessel until the conditions identified under this subsection have been corrected; or (b) permanently dispose of the vessel by landfill, deconstruction, or other related method.

(3) Vessels taken into custody under chapter 79.100 RCW are not subject to this section or RCW 53.08.470. [2013 c 291 § 21.]

RCW 53.08.470 Transfer of ownership of port district-owned vessel—Further requirements.

(1) Following the inspection required under RCW 53.08.460 and prior to transferring ownership of a port district-owned vessel, a port district shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the port district.

(2) (a) The port district shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70A.305.020.

(b) However, the port district may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the port district's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the port district, based on factors including the vessel's size, condition, and anticipated use of the vessel including initial destination following transfer.

(c) The port district may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the port district is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550. [2021 c 65 § 59; 2013 c 291 § 22.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

RCW 53.08.480 Insurance requirements. (1) Every moorage facility operator must:

(a) Obtain and maintain insurance coverage for the moorage facility;

(b) Require, as a condition of moorage, all vessels other than transient vessels to provide proof of marine insurance to the moorage facility.

(2) Unless rules adopted by the department of natural resources require otherwise, insurance maintained by moorage facility operators and required of moored vessels must:

(a) Provide coverage at liability limits of at least three hundred thousand dollars per occurrence; and

(b) Include, at a minimum, general, legal, and pollution liability coverage.

(3) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(4) The requirement under this section for moorage facility operators to require proof of marine insurance from mooring vessels applies whenever a moorage facility operator enters an initial or renewal moorage agreement after June 12, 2014. The moorage facility operator is not required to verify independently whether a mooring vessel's insurance policy meets the requirements of this section and is not responsible for any change in insurance coverage applicable to the vessel that occurs after the initial agreement is entered into or in the time period between agreement renewals.

(5) Any moorage facility operator that the department has determined has failed to satisfy the requirements of this section is not eligible for reimbursement from the derelict vessel removal account under RCW 79.100.100. [2014 c 195 § 203.]

Findings—Intent—2014 c 195: See notes following RCW 79.100.170 and 79.100.180.

RCW 53.08.490 Bridge jumping hazard signs. (1) Before entering into any contract for the construction of or replacement of any bridge on port controlled land, the port's executive officer must consider whether to require the installation of informational signs that address the hazards of diving or jumping off the bridge as part of the contract. These signs are meant to provide more information than just a "no jumping" sign so that people can better understand the hazards related to a particular location. Signs with information on the hazard of cold-water shock that leads to drowning are encouraged to be installed in locations where people might otherwise think a location

is safe for swimming. Signs under this section may include the statewide 988 suicide prevention hotline.

(2) Signs created under this section for placement within the right-of-way of the state highway system may not conflict with provisions of the manual on uniform traffic control devices or existing state laws related to placement and design of signs that are placed along transportation corridors.

(3) This section does not create a private right of action by, or a legal duty to, any party, and may not be used to impose liability on the port if a sign has or has not been erected on its property. The state of Washington, including all of its agencies, subdivisions, employees, and agents, shall not be liable in tort for any violation of chapter 54, Laws of 2023, notwithstanding any other provision of law. [2023 c 54 § 9.]

Short title—Intent—Finding—2023 c 54: See notes following RCW 35.21.095.

RCW 53.08.500 Joint levy. (1) Two or more port districts, operating under a mutual agreement pursuant to RCW 53.08.240, may levy and collect jointly the property tax assessments authorized under RCW 53.36.020 under the following conditions:

(a) The port districts are adjacent, and the boundaries of the port districts are coextensive with county boundaries;

(b) The commissioners of each port district have, no later than July 1st, and by at least a two-thirds margin, voted to conduct a joint property tax levy for collection in the following year and for subsequent years, until such time as the commissioners of each port district have voted to discontinue the joint property tax levy;

(c) The joint property tax levy has been approved by a majority of voters at general elections called under RCW 29A.04.330 by the port district commissioners of the port districts that propose to conduct the joint property tax levy. The general elections within each port district must be held on the same day. If the certified election results show that a majority of the total votes cast among all the port districts participating in the general elections approve the joint property tax levy, then the joint levy shall be deemed approved. Once voters have approved the conduct of a joint property tax levy, the conduct of a joint levy in subsequent consecutive years does not require voter approval; and

(d) The joint property tax rate imposed is the same in each participating port district.

(2) The respective port districts are encouraged and authorized to share information with residents of each county, including mailed items to households, related to the ballot measure.

(3) (a) Two or more port districts that are jointly levying and collecting property taxes as provided for under subsection (1) of this section are considered a "taxing district" under RCW 84.04.120.

(b) The commissioners of the port districts that are jointly levying and collecting property taxes under subsection (1) of this section are considered the governing body of the districts for the purposes of RCW 84.55.120.

(4) (a) Port districts that are jointly levying and collecting property taxes as provided for in subsection (1) of this section may

not independently conduct a property tax levy under RCW 53.36.020, except as provided in (b) of this subsection.

(b) Port districts conducting a joint levy may independently approve a property tax levy under RCW 53.36.020 to the extent needed to provide for payment of principal and interest on general bonded indebtedness.

(5) (a) Notwithstanding RCW 84.55.035, when conducting a joint property tax levy, the first joint levy amount must be set as provided for in RCW 84.55.020 as if the port districts had consolidated. Subsequent joint levies are subject to the limitations in RCW 84.55.010.

(b) Any increase in the property tax revenue by the jointly taxing port districts may only be authorized pursuant to RCW 84.55.120, except that any such increase must be approved by at least two-thirds of the commissioners of each of the port districts.

(c) Port districts that are jointly levying and collecting property taxes may conduct a levy in an amount exceeding the limitations provided for in chapter 84.55 RCW as provided for in RCW 84.55.050, except that such a levy may only be conducted if approved by a majority of voters in each port district participating in the joint property tax levy.

(6) The separate obligations of each of the port districts conducting a joint property tax levy shall not be affected by the conduct of the joint levy, and shall remain the responsibility of the individual port district subject to the obligation. Taxes and assessments for payment of such obligations shall continue to be levied and collected as provided for in subsection (4)(b) of this section in each port district notwithstanding the joint property tax levy. While any such obligations remain outstanding, funds subject to such obligations shall be kept separate.

(7) (a) In the event that two or more port districts operating under a mutual agreement pursuant to RCW 53.08.240 cease to operate under the agreement, the joint debts and assets of the port districts must be divided as provided for in the agreement. If no provision for such division was made, the debts and assets must be divided amongst the port districts in the same proportion as the property tax assessments were divided amongst the districts.

(b) The first property tax levy conducted by a port district after it ceases to conduct a joint property tax levy with another port district must be set so that the levy does not exceed the port district's proportional share of the last levy jointly conducted with one or more other port districts plus additional increases allowed under RCW 84.55.010. [2023 c 215 § 1.]

RCW 53.08.510 Coordination with other ports. (Expires July 23, 2033.) (1) For the purpose of this section, "qualified cargo and passenger port" means a Washington public port district that: (a) Provides or seeks to provide wharfage, dock, warehouse, or other marine terminal facilities to marine carriers; and (b) participates in a meeting of other cargo and passenger ports where discussion of wharfage, dockage, warehouse, and other issues affecting marine terminal facilities are held under an agreement filed with the federal maritime commission under 46 U.S.C. Sec. 40301(b) and 40302(a).

(2) Qualified cargo and passenger ports have the power to coordinate, reach agreement on, and implement all actions under their authority with other qualified cargo and passenger ports. This

includes the power to meet with qualified cargo and passenger ports and other port authorities to discuss and agree on issues of mutual interest relating to maritime operations, including:

(a) Rates and charges to be assessed at the qualified cargo and passenger ports;

(b) Rules, practices, and procedures relating to cargo and passenger service operations;

(c) Matters concerning the planning, development, management, marketing, operation, and use of their facilities; and

(d) Any other matters relating to cargo and passenger service operations.

(3) This section expires 10 years after July 23, 2023. [2023 c 347 § 2.]

Findings—Intent—2023 c 347: "(1) Washington state ports were created to preserve public ownership of public resources, giving local governments the ability and statutory authority to support economic development for the public benefit.

(2) The legislature finds and declares that Washington public port districts that carry out or seek to carry out operations involving the movement of cargo or passengers are a vital part of the economy and trade infrastructure within the state.

(3) The legislature further finds that there is an important public purpose for qualified cargo and passenger ports to coordinate, reach agreement on, and implement all actions under their authority with other qualified cargo and passenger ports. The legislature intends by this act to grant qualified cargo and passenger ports with the authority to operate in furtherance of this public purpose, including the specified powers granted in this act relating to cargo and passenger transportation, without liability under federal antitrust laws.

(4) The legislature further intends to restore parity between qualified cargo and passenger ports and the marine carrier industry. The marine carrier industry can create an exemption from federal antitrust law liability and with this act the legislature intends to allow the same protection to the qualified cargo and passenger ports they serve." [2023 c 347 § 1.]