

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 s 2; 2007 c 348 s 103; 1989 c 298 s 1; 1972

ex.s. c 54 s 1; 1967 c 131 s 1; 1955 c 65 s 5. Prior: 1943 c 166 s 2, part; 1921 c 183 s 1, part; 1917 c 125 s 1, part; 1913 c 62 s 4, part; 1911 c 92 s 4, part; Rem. Supp. 1943 s 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 s 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 s 5.]

Assessments and charges against state lands: Chapter 79.44 RCW.