

HOUSE BILL REPORT

HB 3034

As Reported by House Committee On:
Community & Economic Development & Trade

Title: An act relating to encouraging private investment in port terminal facilities with tax incentives to local governments.

Brief Description: Encouraging private investment in port terminal facilities by providing tax incentives to local governments.

Sponsors: Representatives Linville, Bailey, Ericksen, Flannigan, Darneille, Seaquist, Pettigrew and Kelley.

Brief History:

Committee Activity:

Community & Economic Development & Trade: 1/31/08, 2/5/08 [DPS].

Brief Summary of Substitute Bill

- Creates a Port Terminal Private Investment Pilot Program in the Department of Community, Trade and Economic Development (DCTED).
- Defines a qualified port terminal as a facility for cargo-related maritime activities constructed after the effective date of the act, reasonably estimated to cost at least \$150 million to construct, with a prevailing wage agreement in place and a commitment to adding new Longshore jobs to the State.
- Authorizes the distribution of state sales and use tax revenues generated by qualified port terminal construction to a city or county for use exclusively on terminal-related public infrastructure.
- Provides an application process through the DCTED and a revenue distribution process through the Department of Revenue.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

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

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kenney, Chair; Pettigrew, Vice Chair; Bailey, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Darneille, Haler, Rolfes and Sullivan.

Minority Report: Do not pass. Signed by 1 member: Representative Chase.

Staff: Meg Van Schoorl (786-7105).

Background:

Washington ports are municipal corporations that have specific powers granted under state law. Ports are authorized to levy property taxes and typically use revenues generated to pay for capital development such as marine terminals, industrial parks, infrastructure, and airport facilities. Ports also may issue municipal bonds for use on capital construction projects, repaying the bonds with property tax revenues. Ports may also issue revenue bonds which are guaranteed by the revenues generated by a specific project. Ports buy, lease, and sell personal and real property; build and operate facilities such as docks, warehouses, elevators, and fishing terminals; develop lands for industrial and commercial purposes; enter into public works contracts; and establish and operate foreign trade zones. Ports pay sales taxes on their purchases and also pay a business and occupation tax on services they provide to their customers. Businesses who lease port property pay a leasehold tax.

Summary of Substitute Bill:

The Port Terminal Private Investment Pilot Program (Pilot Program) in the Department of Community, Trade and Economic Development (DCTED) is created. Its purpose is to authorize and evaluate the use of tax incentives to local governments as a means of encouraging private investment in port terminal construction. A "qualified port terminal" is a facility for cargo-related maritime activities constructed after the effective date of the act, reasonably estimated to cost at least \$150 million to construct, with a prevailing wage agreement in place and a commitment to adding new Longshore jobs to the state.

A maximum of two pilot projects can be approved. The DCTED and the Department of Revenue (DOR) must report to the Governor and Legislature on January 1, 2011, on findings and recommendations, including whether or not to authorize future programs related to this purpose. The Pilot Program terminates on June 30, 2011.

State sales and use taxes on tangible personal property and labor and services used in the construction of a qualified port terminal will be distributed to the county or city within which a qualified port terminal is located. The tax revenues may only be used for public infrastructure needs related to the qualified port terminal.

To receive distributions, the city or county must apply to the DCTED before port terminal construction begins. The application must verify that the port terminal construction costs are estimated to exceed \$150 million and must give an expected construction completion date.

The application must also verify the existence of the required prevailing wage agreement and the Longshore jobs agreement. The DCTED must rule on the application within 45 days.

The city or county must also submit an expenditure plan to the DCTED within 120 days of submitting the application. The plan must be developed in consultation with governments and public and private entities in close proximity to the proposed project. The DCTED must report any deficiencies in the plan to the county or city within 90 days of submittal.

The DOR must distribute funds at no cost to the city or county receiving them by July 1 of the state fiscal year following the fiscal year when construction began. The DOR may not distribute funds for construction occurring after the date of completion noted in the application, but the DOR can consult with the DCTED and extend the date of completion for good cause.

Substitute Bill Compared to Original Bill:

A Port Terminal Private Investment Pilot Program is created in the DCTED. Its purpose is to authorize and evaluate the use of tax incentives for local governments as a means of encouraging private investment in port terminal construction. The maximum number of pilot projects is two. Two requirements are added to the definition of "qualified port terminal:" (1) an agreement must be in place that wages will be paid on the terminal's construction at the prevailing wage rates as determined by the Department of Labor and Industries under RCW 39.12; and (2) the terminal will be adding new Longshore jobs to the state. A January 1, 2011 report is required to the Governor and Legislature from the DCTED and the DOR on their findings and recommendations, including recommendations regarding future programs. The Pilot Program is terminated on June 30, 2011.

Appropriation: None.

Fiscal Note: New fiscal note requested on February 7, 2008.

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

Staff Summary of Public Testimony:

(In support) This legislation relates to private capital investment in construction of port terminal facilities, not necessarily to private ownership of such facilities. The mechanism in this bill does not necessarily cover the mitigation of impacts caused by construction. The private developer would still be responsible for impact mitigation. The Cherry Point project in Whatcom County may not happen because the port does not have adequate bonding capacity to build it. Having the port terminal built by \$200 million in private investment and making the sales tax from construction available for related infrastructure would give the Port the ability to lure a Canadian customer. Offering a better rail line, road, and freight capacity could make the difference. There could be 75 high paying Longshore jobs generated as a result of terminal construction. Regarding union contracts and prevailing wage, SSA Marine is the

largest International Longshore and Warehouse Union (ILWU) employer in the world, employing 10,000 union members across North America. SSA Marine would never employ anyone other than union labor on their operations and would be fine with adding language on union labor and prevailing wages to the bill. Public ports are the prevailing system in our state; this bill is simply a tool for those few projects that do not have adequate public financial backing.

(With concerns) If the policy is to take State General Fund revenue and redirect it to local projects to essentially mitigate the impacts of marine terminal development, the Legislature should target the revenues to intermodal freight mobility infrastructure. Although the intent section highlights private investment, the way the body of the bill reads, the tax revenue redirection in the bill would also be available to public port terminal construction projects. There are currently at least two in the planning stage.

(Opposed) Several privately owned terminals have been established around the world – in Liverpool, France, Australia and, unfortunately, at Terminal 106 in Seattle. These developments have increased profits for a few companies and individuals and have undermined public facilities, family wage jobs, and union contracts with good benefits. We have an active, viable public ports system in our state. The premise of the bill, that there are many port terminal projects not moving forward because of lack of public financing, is not necessarily true. We are not opposed to economic development or public-private partnerships on the waterfront, but we are concerned that this bill will open up the floodgates for public money to go towards private investment in ports. We are willing to look at this during the interim, but right now there are too many questions including State General Fund financing, job creation, applicability to public ports, and labor relations. Economic development begins when construction workers are put on the job. Prevailing wage provisions will automatically be triggered in the public infrastructure piece of this bill. Our concerns with the bill would be lightened if there was explicit attachment of prevailing wage provisions to the privately-financed terminal construction.

Persons Testifying: (In support) Derek Young and Tim Shellberg, SSA Marine; and Randall Lewis, City of Tacoma.

(With concerns) Pat Jones, Washington Public Ports Association; and David Johnson, Washington State Building Trades.

(Opposed) Jeff Davis and Gordon Baxter, International Longshore and Warehouse Union.

Persons Signed In To Testify But Not Testifying: None.