

# HOUSE BILL REPORT

## HB 1917

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

**Title:** An act relating to the imposition of port district facility entry fees for certain ground transportation service providers.

**Brief Description:** Concerning the imposition of port district facility entry fees for certain ground transportation service providers.

**Sponsors:** Representatives Appleton, Ryu and Pettigrew.

**Brief History:**

**Committee Activity:**

Local Government: 2/7/17, 2/15/17 [DPS].

**Brief Summary of Substitute Bill**

- Authorizes port districts to limit entry and charge an entry fee to their facilities for the purpose of on-demand passenger service by motor vehicles licensed and regulated as for-hire vehicles, limousines, and taxicabs.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Appleton, Chair; McBride, Vice Chair; Gregerson and Peterson.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Griffey, Ranking Minority Member; Pike, Assistant Ranking Minority Member; Taylor.

**Staff:** Yvonne Walker (786-7841).

**Background:**

In 1911 the Legislature authorized the Port District Act allowing citizens to create port districts. Today, there are 75 port districts in Washington.

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

### General Powers and Authority of Port Districts.

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

Among the general powers granted to ports are the following:

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

### Governance of Port Districts.

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

### Airport Facility Charges.

Generally, commercial operators must obtain permission from an airport to engage in commercial activity on airport property. The agreements include access fees in the form of annual amounts, per-trip fees, or minimum annual guarantees or percentage of revenues. Fees are generally only assessed on commercial pick-up trips. Private owners/drivers are not required to have operating agreements and are not charged access fees.

Washington's statute requires that rates set by airports must be fair and uniform for the same class of service and established with regard to the property and improvements used and the expense of operation to the municipality.

On-demand service is generally requested by the traveler upon deplaning, with no prior transportation arrangements in place. Pre-arranged pick-up service has already been established by the customer prior to arrival. Taxi and limousine operations are typically considered on-demand types of services. The rates for on-demand pick-up services are determined through a competitive bid process associated with an exclusive contract. Other modes of transportation, such as shared ride, courtesy vehicle, charter, flat-rate-for-hire and Transportation Network Companies ("TNCs" such as UberX, Lyft, and Sidecar) have primarily accommodated the pre-arranged pick-up demand.

Generally, TNCs are considered commercial transportation service providers. A "commercial transportation services provider" is a corporation, partnership, sole proprietorship, or other entity operating in Washington, that uses a digital network or software application to connect passengers to drivers for the purpose of providing a prearranged ride. A "commercial transportation services provider driver" means an individual who uses a personal vehicle to provide services for passengers matched through a commercial transportation services

provider's digital network or software application. "Commercial transportation services" means all times the driver is logged in to a commercial transportation service provider's digital network or software application or until the passenger has left the personal vehicle, whichever is later.

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

A port district may place limits on entry to port facilities and grounds by ground transportation service providers. A port district that limits such entry must charge an entry fee to its facilities for the purpose of on-demand passenger service by vehicles licensed and regulated as for-hire vehicles, limousines, and taxicabs.

The port district may require that the vehicles, subject to the entry fee, register with the port district and have an electronic or other device affixed to it in order to efficiently assess and monitor payment of the entry fee. The port district may recover the cost of the device from the registered owner of the vehicle.

The entry fee may be charged as a per-trip fee or as a permit issued on a weekly, monthly, or other calendar basis. The entry fee charged to for-hire vehicles, limousines, and taxicabs cannot exceed the entry fee assessed to personal vehicles (working for a commercial transportation service provider).

The port commission must determine the minimum entry fee. If the port district enters into a contract for the management of the transportation on-demand services for the entry fee, the contract must be subject to a competitive public bid for a period of not more than five years. The entry fee must be established by the port commission in advance of the competitive bidding process and may include the recovery cost of managing the on-demand services.

Any entry fee imposed by the port commission must be borne by the transportation services provider or by the transportation service driver in all instances. This requirement applies to all service providers and all drivers of for-hire vehicles, limousines, taxicabs and drivers of personal vehicles driving for a commercial transportation service provider.

### **Substitute Bill Compared to Original Bill:**

Provisions are added that:

- require that the minimum entry access fee for ports must be established by the port commission in advance of the competitive bidding process;
- prohibit the access fee imposed for taxicabs, limousines, and for-hire vehicles from exceeding the fee imposed for personal vehicles; and
- require that any entry fees imposed by the port must be borne by either the company or the driver in all instances for all car companies accessing the airport roadways (for example, taxicabs and Uber services will have to treat the access entry fees the same by having either the company or the driver pay for the fees).

In addition, the provision that required the act to apply retroactively to any existing contract of the port district that imposes an entry fee is eliminated.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) This is a fix to an unintended consequence and the lack of clarity of the law at the local level. The Office of the State Auditor informed the Port of Seattle (Port) that it had to put its master contract for on-demand service for taxis and for-hire vehicles out to bid. The contract was put out to bid, however, it enabled the contractor to bid on the contract with the taxi cab drivers' money instead of the money of the contractor or operator. In other words, the contract stated that the individual taxi cab drivers would pay a per-trip fee.

The operators that bid on the contract offered bids ranging anywhere from \$6 to \$10 per trip that the cab drivers would have to pay from the airport. Today, each taxicab driver is required to pay the Port \$7 per trip, off the top commission, when transporting a passenger from the airport. This is the highest per-trip cost in North America and Europe. The per-trip rate for taxi cab drivers and for-hire drivers is very high. These drivers are also competing with other TNC vehicles like Uber and Lyft.

Sometimes drivers only take home \$20 to \$50 after a 10-hour workday. An average driver will only have five trips per day. Cab drivers should not have to suffer. This bill enables and requires the Port to set that per-trip fee at the cost of recovery of its facilities.

(Oppose) The Port opposes this legislation. The Port contracts with on-demand taxis and limousine services which means that these providers get to wait on airport property as opposed to prearranged transportation services. The contract with these providers ensures that vehicles are always available to customers, it lessens congestion on airport roadways, and it helps to hold vendors to certain operational standards. In return for this service, on-demand taxis pay a fee to the Port developed through a competitive bidding process. The current contract, signed in October 2016, is scheduled to last three years, with two one-year optional extensions. This bill would alter the terms of the current contract because the bill's provisions apply retroactively and would require the port to reopen a contract that is already signed. There is concern about the precedent this would create.

The current per-trip fee that is paid to the Port was part of the winning bid proposed by operator. The current rate is \$7 and could eventually increase to \$9 per trip. The Port records show that the average cost for a fare originating from the airport, over an 11-month period, is \$43.86. Due to the addition of TNC companies, the winning bidder had a chance to adjust their fee but they declined.

The SeaTac Airport is operated through the federal government's airport system which means they receive matching dollars. It also requires the Port to charge a market fee. The alteration of the per-trip fee could put the Port at risk of losing federal dollars.

(Other) Today the per-trip taxi fee to the Port is a \$7 ride; this is too much. On some of the shorter trips, the taxi cab driver may only make \$5, which means that the driver has to pay the extra \$2 out of his or her own pocket. This does not include the insurance that they pay and the hours of time that drivers are required to wait until they get their next passenger. The cost recovery fee for the Port is less than \$2 but the taxi cab drivers are required to pay \$7 per trip. That means the Port is making a 200 percent profit.

**Persons Testifying:** (In support) Representative Appleton, prime sponsor; Chris Van Dyk, Bainbridge Media; Hussein Sahal; Abdigafar Hassan; Gurdev Mann; and Mahad Isaq.

(Opposed) Trent House, Port of Seattle; and Eric Johnson, Washington Public Ports Association.

(Other) Sadhu Singh, eCab.

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