

HOUSE BILL REPORT

HB 2540

As Reported by House Committee On: Local Government

Title: An act relating to clarifying the authority of port districts to offer programs relating to air quality improvement equipment and fuel programs that provide emission reductions for engines, vehicles, and vessels.

Brief Description: Clarifying the authority of port districts to offer programs relating to air quality improvement equipment and fuel programs that provide emission reductions for engines, vehicles, and vessels.

Sponsors: Representatives McBride, Griffey, Ryu, Fitzgibbon, Ortiz-Self, Gregerson, Wylie, Slatter, Stanford and Doglio.

Brief History:

Committee Activity:

Local Government: 1/17/18, 1/24/18 [DP].

Brief Summary of Bill

- Modifies the authority of a port district to maintain and operate pollution control facilities (PCF) by expanding the definition of PCFs to include programs and activities that are intended to reduce air pollution from: (1) vehicles used in transport to, from, or within district facilities; and (2) cargo vessels used within the district.
- Deems the use of port district funds for PCFs to be a governmental and public function exercised for a public purpose as a public necessity for promoting cleaner air.
- Exempts a subset of port district PCFs from certain requirements relating to conditions and rates, use of port district tax revenues, substantially similar utilities, and cost recovery.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 4 members: Representatives Appleton, Chair; McBride, Vice Chair; Gregerson and Peterson.

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.

Minority Report: Do not pass. Signed by 2 members: Representatives Pike, Assistant Ranking Minority Member; Taylor.

Minority Report: Without recommendation. Signed by 1 member: Representative Griffey, Ranking Minority Member.

Staff: Cassie Jones (786-7303).

Background:

Port Districts – Pollution Control Facilities.

Ports districts (port districts or districts) are special purpose districts established for purposes related to: harbor improvements; rail, motor vehicle, water, air, or any combination of such transfer and terminal facilities; and other commercial transportation, transfer, handling, storage and terminal facilities, and industrial improvements. Port districts have the authority to impose property tax levies. They may also issue various types of bonds, including general obligation bonds, revenue bonds, and special assessment bonds. Districts may improve their lands by developing them for industrial and commercial purposes. A district may also acquire, construct, install, improve and operate sewer and water utilities.

A district may also acquire, maintain, and operate pollution control facilities (PCF), which may include, but are not limited to, facilities for the treatment and disposal of industrial wastes. The PCFs do not include air quality improvement equipment that provides emission reductions for engines, vehicles, and vessels. A district may make PCFs available to others under terms, conditions, and rates approved by the port commission. There are certain requirements and restrictions that apply to a district that makes PCFs available to others:

1. The conditions and rates must be sufficient to reimburse the district for all costs caused by or incidental to providing PCFs.
2. No part of the costs of providing PCFs to others may be paid out of port district tax revenues.
3. A district may not enter into an agreement to provide utilities or PCFs if substantially similar utilities or facilities are available from another source unless the other source consents.
4. The agreement to provide a PCF to others must bind the other user to pay for the use of the PCF for the full term of the revenue bonds issued by the district for the acquisition of the PCF, and the payments must at least fully reimburse the port for all principal and interest paid by it on the bonds and for all operating or other costs incurred by the port in connection with the PCF.

Port Districts – Gift of Public Funds.

Under the state Constitution, no county, city, town, or other municipal corporation may give money or property or loan money or credit to or in aid of any individual, association, company, or corporation, except for the necessary support of the poor and infirm. The state Constitution provides an exception to this provision for use of public funds by port districts: the use of public funds by port districts, in a manner prescribed by the Legislature for industrial development or trade promotion and promotional hosting, is deemed a public use for a public purpose, and is not deemed an unconstitutional gift of public funds.

A statute provides that all actions taken by port districts relating to PCFs or other industrial development, including, but not limited to, all bonds issued for those purposes, are deemed compliant with the constitutional exception for port districts regarding use of port district funds. The statute provides that all such actions are valid, legal, and binding in all respects.

Summary of Bill:

The definition of pollution control facility (PCF) is modified as follows:

1. The definition is expanded to include programs and activities that are intended to reduce air pollution from vehicles used in cargo transport to, from, and within the district and cargo vessels within the district.
2. The use of district funds for these purposes is deemed a governmental and public function exercised for a public purpose and public necessity for promoting cleaner air.
3. A subset of PCFs is exempted from the following requirements and restrictions that would otherwise apply to a district that makes PCFs available to others:
 - a. The conditions and rates must be sufficient to reimburse the district for all costs caused by or incidental to providing PCFs.
 - b. No part of the costs of providing PCFs to others may be paid out of port district tax revenues.
 - c. A district may not enter into an agreement to provide utilities or PCFs if substantially similar utilities or facilities are available from another source unless the other source consents.
 - d. The agreement to provide a PCF to others must bind the other user to pay for the use of the PCF for the full term of the revenue bonds issued by the district for the acquisition of the PCF, and the payments must at least fully reimburse the port for all principal and interest paid by it on the bonds and for all operating or other costs incurred by the port in connection with the PCF.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 bill provides a technical correction to 2007 legislation that was intended to give authority to ports to invest in air quality equipment. This will help with air quality control by allowing ports to purchase air quality equipment.

Ports are cooperating on strategies to reduce air emissions. Significant progress has been made by these efforts. Part of this effort included collaborating with private industry to invest in cleaner technology for trucking vehicles. The current statute may not allow

extension of these programs. The language needs to be clarified to ensure these programs are safe from legal challenges.

(Opposed) None.

Persons Testifying: Representative McBride, prime sponsor; and Sean Eagan, Northwest Seaport Alliance.

Persons Signed In To Testify But Not Testifying: None.