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HOUSE BILL 2540

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State of Washington

65th Legislature

2018 Regular Session

By Representatives McBride, Griffey, Ryu, Fitzgibbon, Ortiz-Self, Gregerson, Wylie, Slatter, Stanford, and Doglio

Read first time 01/10/18. Referred to Committee on Local Government.

1 AN ACT Relating to clarifying the authority of port districts to  
2 offer programs relating to air quality improvement equipment and fuel  
3 programs that provide emission reductions for engines, vehicles, and  
4 vessels; amending RCW 53.08.040; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that while the  
7 state, in 2007, sought to allow port districts to use tax revenue to  
8 support programs and activities to reduce air pollution from engines,  
9 vehicles, and vessels, the statute is confusing and further  
10 clarification is needed for port districts to avoid litigation and  
11 audit risk.

12 **Sec. 2.** RCW 53.08.040 and 2007 c 348 s 103 are each amended to  
13 read as follows:

14 (1) A district may improve its lands by dredging, filling,  
15 bulkheading, providing waterways or otherwise developing such lands  
16 for industrial and commercial purposes. A district may also acquire,  
17 construct, install, improve, and operate sewer and water utilities to  
18 serve its own property and other property owners under terms,  
19 conditions, and rates to be fixed and approved by the port  
20 commission. A district may also acquire, by purchase, construction,

1 lease, or in any other manner, and may maintain and operate other  
2 facilities for the control or elimination of air, water, or other  
3 pollution, including, but not limited to, facilities for the  
4 treatment and/or disposal of industrial wastes, and may make such  
5 facilities available to others under terms, conditions and rates to  
6 be fixed and approved by the port commission.

7 (2) Such conditions and rates shall be sufficient to reimburse  
8 the port for all costs, including reasonable amortization of capital  
9 outlays caused by or incidental to providing such other pollution  
10 control facilities. ~~((However,))~~

11 (3) No part of such costs of providing any pollution control  
12 facility to others shall be paid out of any tax revenues of the port,  
13 ~~((and))~~

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

20 ~~((+2))~~ (5) In the event that a port elects to make such other  
21 pollution control facilities available to others, it shall do so by  
22 lease, lease purchase agreement, or other agreement binding such user  
23 to pay for the use of said facilities for the full term of the  
24 revenue bonds issued by the port for the acquisition of said  
25 facilities, and said payments shall at least fully reimburse the port  
26 for all principal and interest paid by it on said bonds and for all  
27 operating or other costs, if any, incurred by the port in connection  
28 with said facilities. However, where there is more than one user of  
29 any such facilities, each user shall be responsible for its pro rata  
30 share of such costs and payment of principal and interest. Any port  
31 intending to provide pollution control facilities to others shall  
32 first survey the port district to ascertain the potential users of  
33 such facilities and the extent of their needs. The port shall conduct  
34 a public hearing upon the proposal and shall give each potential user  
35 an opportunity to participate in the use of such facilities upon  
36 equal terms and conditions.

37 ~~((+3))~~ (6) "Pollution control facility," as used in this section  
38 and RCW 53.08.041, ~~((does not include air quality improvement  
39 equipment that provides emission reductions for engines, vehicles,  
40 and vessels))~~ includes programs and activities that are intended to

1 reduce air pollution from vehicles used in cargo transport to, from,  
2 and within district facilities; and programs and activities that are  
3 intended to reduce air pollution from cargo vessels within the  
4 district. Use of district funds for these purposes are deemed a  
5 governmental and public function, exercised for a public purpose and  
6 as a public necessity for promoting cleaner air; provided however,  
7 the provisions of subsections (2), (3), (4), and (5) of this section  
8 relating to condition, rates, other providers, and cost recovery do  
9 not apply to this subsection's subset of port pollution control  
10 facilities.

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