
Local Government Committee

HB 1372

Brief Description: Authorizing the acquisition and operation of tourism-related facilities by port districts.

Sponsors: Representatives Rolfes, Appleton, Simpson, Haigh, Seaquist and Darneille.

Brief Summary of Bill

- Authorizes a port district to acquire and operate tourism-related facilities either individually or in conjunction with a municipality.
- Grants specified powers to a port district pertaining to land use, eminent domain, bond issuance, and leasing, related to the acquisition and operation of tourism-related facilities.

Hearing Date: 1/25/07

Staff: Thamas Osborn (786-7129).

Background:

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.

In addition, state law explicitly authorizes a port to promote *tourism* by granting it the authority to "expend moneys and conduct promotion of resources and facilities in the district or general area by advertising, publicizing, or otherwise distributing information to attract visitors and encourage tourist expansion."

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;

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.

- 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.

Constitutional Provisions Providing Special Treatment to Port Districts

Article VII, Section 8, of the state constitution explicitly allows the legislature to grant authority to port districts to use public funds for "industrial development or trade promotion and promotional hosting." This constitutional provision also states that such use of state funds by a port is deemed a "public use for a public purpose" and is therefore not subject to the constitutional prohibition against making a gift of public funds to a private party. (See Article VIII, Section 7.)

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.

Acquisition, Operation, and Maintenance, of Tourism-Related Facilities by Municipalities

State law provides municipalities with the following powers and authority with respect to the acquisition, operation, and maintenance of tourism-related facilities:

- To acquire and operate tourism-related facilities either individually or jointly with any other municipality;
- To convey or lease any lands, properties, or facilities to any other municipality for the development by such other municipality of tourism-related facilities, to engage in joint tourism-related projects with other municipalities, and to participate in joint financing arrangements for such projects;
- To exercise the right of eminent domain;
- To issue general obligation bonds in accordance with applicable statutory requirements;
- To issue revenue bonds without submitting the matter to the voters provided specified requirements are met; and
- To lease all or part of all tourism-related facilities or enter into contracts pertaining to the operation of such facilities.

In the statutory scheme set forth in chapter 67.28 RCW, conferring the authority to municipalities to acquire, operate, and maintain tourist-related facilities, the following definitions apply:

- "Municipality" means any county, city or town in the state of Washington;
- "Acquisition" includes, but is not limited to, siting, acquisition, design, construction, refurbishing, expansion, repair, improvement, and the payment of related financial obligations;
- "Operation" includes, but is not limited to, operation, management, and marketing;
- "Person" means the federal government or any agency thereof, the state or any agency, subdivision, taxing district or municipal corporation thereof other than county, city or town, any private corporation, partnership, association, or individual;
- "Tourism" means economic activity resulting from tourists, which may include sales of overnight lodging, meals, tours, gifts, or souvenirs;

- "Tourism promotion" means activities and expenditures designed to increase tourism, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists; developing strategies to expand tourism; operating tourism promotion agencies; and funding marketing of special events and festivals designed to attract tourists: and
- "Tourism-related facility" means real or tangible personal property with a usable life of three or more years, or constructed with volunteer labor, and used to support tourism, performing arts, or to accommodate tourist activities.

Summary of Bill:

Port districts are included within the definition of "municipality" as part of the statutory scheme regulating the activities of municipalities under chapter 67.28 RCW with respect to the operation of tourism-related facilities. In addition, the entire definitions section of chapter 67.28 RCW is made applicable to the exercise of authority by a port district under the act.

A port district is granted the authority to acquire and operate tourism-related facilities either individually or in conjunction with a municipality or person. Though subject to specified limitations, this grant of authority includes the following powers:

- To acquire and operate tourism-related facilities either individually or jointly with any other municipality;
- To convey or lease any lands, properties, or facilities to any other municipality for the development by such other municipality of tourism-related facilities, to engage in joint tourism-related projects with other municipalities, and to participate in joint financing arrangements for such projects;
- To exercise the right of eminent domain;
- To issue general obligation bonds in accordance with applicable statutory requirements;
- To issue revenue bonds without submitting the matter to the voters provided specified requirements are met; and
- To lease all or part of all tourism-related facilities or enter into contracts pertaining to the operation of such facilities.

The authority of ports to engage in tourism-related activities is not coextensive with that granted to the other types of municipalities. Specifically, unlike other municipalities, a port district is not authorized to levy any lodging or special excise taxes related to its tourism-related activities.

Appropriation: None.

Fiscal Note: Requested on 1/22/2007.

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