

# HOUSE BILL REPORT

## HB 3031

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

**Title:** An act relating to port districts providing sewer and water utilities to district property and other property owners.

**Brief Description:** Addressing the provision of sewer and water utilities to district property and other property owners by port districts.

**Sponsors:** Representatives Simpson, Schindler, Upthegrove and Schual-Berke.

**Brief History:**

**Committee Activity:**

Local Government: 2/1/08, 2/5/08 [DPS].

### Brief Summary of Substitute Bill

- Prohibits port districts in counties with populations exceeding 1.5 million from acquiring, constructing, installing, improving or operating water-sewer or pollution control facilities, under specified circumstances, absent the consent of other specified alternative providers of such services.

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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 7 members: Representatives Simpson, Chair; Takko, Vice Chair; Warnick, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Eddy, Nelson and Schmick.

**Staff:** Thamas Osborn (786-7129).

**Background:**

### General Powers and Authorities of Port Districts

Port districts (districts) are authorized for the purpose of acquisition, construction, maintenance, operation, development, and regulation within the district of harbor improvements, rail or motor vehicle transfer and terminal facilities, water and air transfer and

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terminal facilities, or any combination of these facilities. A district may also, through its commission, spend money and conduct promotions of resources and facilities within the district or general area through advertising, publicizing, or marketing.

Among the general powers granted to districts 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.

#### **Port Districts: Authority Related to Water-Sewer and Pollution Control Services**

State law explicitly authorizes a district to acquire, construct, install, improve, and operate sewer and water utilities to serve its own property and other property owners. A port commission, in turn, is authorized to determine the terms and rates for the provision of water-sewer services to other properties. In addition, a district may also acquire, construct, lease, operate and maintain specified pollution control facilities and may make such facilities available to others under terms and conditions to be determined by the port commission. However, a district is prohibited from providing water-sewer services or pollution control services to other property owners if substantially similar services are available from another source on a "reasonable and nondiscriminatory" basis, unless this other source consents to the district providing such services.

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

The act prohibits port districts in counties with populations exceeding one million five hundred thousand from acquiring, constructing, installing, improving or operating water-sewer or pollution control facilities to serve its own property or other property owners if:

- substantially similar services are available from another source on a reasonable and nondiscriminatory basis; or
- the property to be served is located within an area in which another water or sewer utility is planned to be made available under an effective comprehensive plan of another county, city, town, water-sewer district, or public utility district; or
- the property to be served is located within the present and future service area boundaries of another public water system included in a coordinated water system regulated under the Public Health and Safety Code.

This prohibition does not apply if the pertinent alternative service provider, public agency, or public water system consents to the district providing water-sewer and/or pollution control services.

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

All of the amendatory provisions of the original bill are made applicable only to those port districts located in counties with populations exceeding one million five hundred thousand. Port districts in counties with smaller populations are not subject to the provisions of the original bill restricting a port district's authority to acquire, construct, install, improve, and operate sewer and/or water utilities or pollution control facilities to serve its own property and other property owners.

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**Appropriation:** None.

**Fiscal Note:** Available.

**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 bill is needed in order to address current problems between the Port of Seattle and the Highline Water District (Highline). At SeaTac Airport, the Port of Seattle acquired property that Highline has served for 30 years and has forced it to stop providing service to the property. The airport is in the center of the Highline district and the ports actions have caused considerable conflict and presented problems for Highline. Highline has already created the infrastructure to serve the area in question and needs the income to pay for such infrastructure and service bonds. The provisions of the bill would resolve the situation and prohibit ports from engaging in aggressive behavior that harms the ratepayers in water districts.

(Opposed) The bill is ill-conceived, since it would have broad impacts going far beyond the Highline/Port of Seattle conflict. The bill would apply to all port districts, many of which own and operate their own water-sewer and pollution control facilities. It simply makes economic sense for ports, where possible, to provide their own utility services since this can greatly reduce operating costs. The bill would have adverse impacts on many ports and for this reason alone it makes no sense. The Highline/SeaTac issue is an unusual, isolated case that should not be used as a pretext for making sweeping changes to laws of general applicability. Furthermore, the Highline/SeaTac issue is currently being negotiated and may well be resolved in the near future.

**Persons Testifying:** (In support) Joe Daniels, Washington Association of Sewer/Water Districts; Matt Everett, Highline Water District; and John Milne, Inslee Best.

(Opposed) Eric Johnson, Washington Public Ports Association; Rick Wickman, Port of Vancouver; and Tay Yoshitani, Port of Seattle.

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