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HOUSE BILL 2738

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State of Washington                      58th Legislature                      2004 Regular Session

By Representative Anderson

Read first time 01/20/2004. Referred to Committee on Local Government.

1            AN ACT Relating to port districts; amending RCW 53.36.020; adding  
2 a new section to chapter 53.36 RCW; adding a new section to chapter  
3 77.55 RCW; adding a new section to chapter 82.04 RCW; adding new  
4 sections to chapter 82.08 RCW; adding new sections to chapter 82.12  
5 RCW; adding a new section to chapter 82.16 RCW; adding a new section to  
6 chapter 35.21 RCW; adding a new section to chapter 82.29A RCW; adding  
7 a new section to chapter 84.36 RCW; adding a new section to chapter  
8 43.33A RCW; and adding a new chapter to Title 53 RCW.

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

10            NEW SECTION.    **Sec. 1.** A new section is added to chapter 53.36 RCW  
11 to read as follows:

12            (1)(a) Each port district with annual property tax collections of  
13 one million dollars or greater shall annually transfer seven percent of  
14 its gross operating revenues, excluding revenues derived from any  
15 property tax levy, to school districts as provided by this section.

16            (b) For the purposes of this section, "gross operating revenues"  
17 has the same meaning as defined by RCW 53.12.005.

18            (2)(a) A school district is eligible to receive the transferred

1 funds as provided by this section if the school district includes  
2 within its jurisdiction, territory that is also within the jurisdiction  
3 of the port district.

4 (b) The amount of funds an eligible school district may receive  
5 from a port district shall be proportionate and shall be determined by:

6 (i) The total number of school district pupils that reside within  
7 the jurisdiction of the port district; and

8 (ii) The total number of school district pupils that reside within  
9 the jurisdiction of the port district from each school district.

10 NEW SECTION. **Sec. 2.** (1) The department of ecology and the  
11 department of fish and wildlife shall, for port district property and  
12 railway corridors as provided by section 5 of this act, delegate, to  
13 the maximum extent consistent with federal law, all environmental  
14 permitting authority currently exercised by these agencies, including,  
15 but not limited to, chapters 90.48, 90.58, and 77.55 RCW, to each port  
16 district. The department of ecology and the department of fish and  
17 wildlife shall delegate authority by certifying port commissions to  
18 self-permit with regard to all state environmental permits currently  
19 issued, approved, or consulted upon by the department of ecology and  
20 the department of fish and wildlife.

21 (2) As part of a port district's self-permitting process, a port  
22 commission shall, before issuing the final permit for a project on port  
23 district property or a railway corridor as provided by section 5 of  
24 this act, send a draft copy of the permit to both the department of  
25 ecology and the department of fish and wildlife for review and comment.  
26 The departments of ecology and fish and wildlife shall limit their  
27 comments to whether the port commission has complied with the  
28 environmental standards the departments are otherwise required to  
29 enforce when exercising permitting authority for projects not on port  
30 district property or a railway corridor as provided by section 5 of  
31 this act. The departments of ecology and fish and wildlife have thirty  
32 days to review and comment on the draft permit.

33 NEW SECTION. **Sec. 3.** (1) Upon the certification provided for by  
34 section 2 of this act, port districts are exempt from obtaining any  
35 permit issued by a county, city, or town, regarding projects conducted  
36 on port district property or a railway corridor as provided by section

1 5 of this act, but not limited to, any permit issued under chapter  
2 90.58 RCW, any permit related to regulation of critical areas under  
3 chapter 36.70A RCW, and any permit required for filling, grading,  
4 building, or construction, or any other permit required for a project  
5 that would otherwise be issued under a local ordinance meeting the  
6 definition of a development regulation under chapter 35.63, 35A.63,  
7 36.70, 36.70A, or 36.70B RCW. Nothing in this section may be construed  
8 as discouraging full and appropriate cooperation and consultation  
9 between port districts and local governments for projects conducted on  
10 port district property or a railway corridor as provided by section 5  
11 of this act.

12 (2) For projects subject to the provisions of chapter 43.21C RCW,  
13 the port district shall serve as the lead entity for all review  
14 required under chapter 43.21C RCW. Nothing in this section may be  
15 construed as limiting the ability of local governments to participate  
16 in the process as provided for in chapter 43.21C RCW.

17 (3) In addition to local government participation in the process  
18 provided for in chapter 43.21C RCW, and as part of the self-permitting  
19 process set forth in this chapter, the port district shall, before  
20 issuing the final permit for a project on port district property or a  
21 railway corridor as provided by section 5 of this act, send a draft  
22 copy of the permit to each local government in whose jurisdiction the  
23 project is being constructed for review and comment. Each local  
24 government will have thirty days to review and comment on the draft  
25 permit.

26 NEW SECTION. **Sec. 4.** The department of ecology and the department  
27 of fish and wildlife may conduct inspections of projects conducted on  
28 port district property or a railway corridor as provided by section 5  
29 of this act where a port district has issued permits under authority  
30 delegated by the department of ecology or the department of fish and  
31 wildlife. If an inspector from the department of ecology or the  
32 department of fish and wildlife discovers an example of substantial  
33 noncompliance with the environmental standards the departments are  
34 otherwise required to enforce when exercising permitting authority for  
35 projects not on port district property or a railway corridor as  
36 provided by section 5 of this act, the inspector shall document that  
37 example and issue a detailed report of that example, which shall be

1 transmitted to the port district that issued the permits. The port  
2 district may issue a formal response to the report addressing whether  
3 it believes that the port district, its tenants, or a railway company  
4 as provided by section 5 of this act failed to substantially comply  
5 with the environmental standards the departments are otherwise required  
6 to enforce when exercising permitting authority for projects not on  
7 port district property.

8 NEW SECTION. **Sec. 5.** (1) Any port district may, at the request of  
9 a railroad company operating a class I railroad in the state of  
10 Washington, serve as the permitting authority for any mainline railway  
11 infrastructure project conducted in a railway corridor.

12 (2) Any port district acting as a permitting authority for any  
13 qualifying project in a railway corridor shall comply with the  
14 requirements of sections 2 through 4 of this act that are otherwise  
15 required for projects conducted on port district property.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 77.55 RCW  
17 to read as follows:

18 Where the department of fish and wildlife has delegated hydraulic  
19 project permit approval authority contained in this chapter to port  
20 districts under chapter 53.-- RCW (sections 2 through 5 of this act),  
21 port districts will be substituted for the department of fish and  
22 wildlife in an appeal of the approval of a permit concerning a  
23 hydraulic project that is on port district property or a railway  
24 corridor as provided by section 5 of this act. The appeal process for  
25 the permits issued by a port district under authority delegated by the  
26 department of fish and wildlife will operate in the same manner as for  
27 permits granted by the department of fish and wildlife under this  
28 chapter.

29 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.04 RCW  
30 to read as follows:

31 (1) This chapter does not apply to a port located business.

32 (2) Any person maintaining places of business both on and off port  
33 district property which contribute to the business activity shall, for  
34 the purpose of computing this tax exemption, apportion to this

1 exemption that portion of gross income which is derived from activities  
2 rendered from the business location located on port district property.

3 (3) Where the apportionment cannot be accurately made by separate  
4 accounting methods, the taxpayer shall apportion to this exemption that  
5 proportion of total income which the cost of doing business on the port  
6 property bears to the total cost of doing business within the state.

7 (4) For the purposes of this section, "port located business" means  
8 a business whose place of business is located on property owned by a  
9 port district and rented or leased to the business. A port located  
10 business includes a port district.

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.08 RCW  
12 to read as follows:

13 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
14 tangible personal property or services to a port located business when  
15 the tangible personal property or services are used exclusively at the  
16 business's location on port owned property.

17 (2) For the purposes of this section, "port located business" has  
18 the same meaning as provided in section 7 of this act.

19 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.12 RCW  
20 to read as follows:

21 (1) The provisions of this chapter do not apply to the use of  
22 tangible personal property or services by a port located business when  
23 the tangible personal property or services are used exclusively at the  
24 business's location on port owned property.

25 (2) For the purposes of this section, "port located business" has  
26 the same meaning as provided in section 7 of this act.

27 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.16 RCW  
28 to read as follows:

29 (1) The provisions of this chapter do not apply to amounts received  
30 from sales to port located businesses.

31 (2) For the purposes of this section, "port located business" has  
32 the same meaning as provided in section 7 of this act.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 35.21 RCW  
34 to read as follows:

1 (1) A city or town may not impose a tax on amounts received by a  
2 port located business.

3 (2) For the purposes of this section, "port located business" has  
4 the same meaning as provided in section 7 of this act.

5 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.29A  
6 RCW to read as follows:

7 All leasehold interests in property of port districts are exempt  
8 from tax under this chapter.

9 NEW SECTION. **Sec. 13.** A new section is added to chapter 84.36 RCW  
10 to read as follows:

11 (1) The personal property of a port located business which is used  
12 by the business exclusively at the business's location on port owned  
13 property is exempt from taxation.

14 (2) For the purposes of this section, "port located business" has  
15 the same meaning as provided in section 7 of this act.

16 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.08 RCW  
17 to read as follows:

18 The tax levied by RCW 82.08.020 does not apply to sales of tangible  
19 personal property or services used for the expansion of capacity on a  
20 mainline rail line. A mainline rail line is a rail line that carried  
21 more than five million gross ton-miles per mile in the prior year.

22 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.12 RCW  
23 to read as follows:

24 The provisions of this chapter do not apply to the use of tangible  
25 personal property or services used for the expansion of capacity on a  
26 mainline railway.

27 NEW SECTION. **Sec. 16.** A new section is added to chapter 43.33A  
28 RCW to read as follows:

29 (1) The board is authorized to make direct loans from the  
30 commingled trust fund to port districts with less than one million  
31 dollars in annual tax receipts. In the aggregate, loans to all  
32 eligible port districts made pursuant to this section shall not exceed  
33 five percent of the portion of the commingled trust fund allocated by

1 the board to fixed income investments. No loan to a port district  
2 under this section shall be made by the board from the commingled trust  
3 fund at less than the market rate for a comparable investment.

4 (2) The pledge of a port district of any revenues, income, profits,  
5 charges, fees, or other moneys for the repayment of a loan from the  
6 board shall be valid and binding from the time of the adoption of any  
7 resolution or the execution of any agreement making such pledge  
8 notwithstanding the fact that there may not then be any simultaneous  
9 delivery thereof, that the revenues, income, receipts, profits,  
10 charges, fees, and other moneys so pledged shall as soon as received by  
11 the district immediately be subject to the lien of such pledge without  
12 the physical delivery thereof and without further act, and that the  
13 lien of any such pledge shall be valid and binding as against all  
14 parties having claims of any kind in tort, contract, or otherwise  
15 against the district irrespective of whether such parties have notice  
16 thereof. Neither the resolutions or loan agreement or any other  
17 instrument by which the loan is created need be recorded to be  
18 effective.

19 (3) Any port district accepting a loan from the board shall agree  
20 that, in the event of any shortfall in revenues affecting the ability  
21 of the port district to repay the loan, the port district shall  
22 increase the levy made under RCW 53.36.020 by an amount sufficient to  
23 repay the loan made by the board over a period no greater than the  
24 original duration of the loan.

25 (4) Loans made under this section must be made in a manner  
26 consistent with investment or management criteria established by the  
27 board. In making loans to port districts under this section, the  
28 board's primary objectives are to maximize return at a prudent level of  
29 risk, as required by RCW 43.33A.110, and to maintain the diversity of  
30 investment as required by RCW 43.33A.140.

31 (5) Application for loans shall be made by eligible port districts  
32 to the board in the form and manner as the board may prescribe.

33 **Sec. 17.** RCW 53.36.020 and 1973 1st ex.s. c 195 s 56 are each  
34 amended to read as follows:

35 A district may raise revenue by levy of an annual tax not to exceed  
36 forty-five cents per thousand dollars of assessed value against the  
37 assessed valuation of the taxable property in such port district for

1 general port purposes, including the establishment of a capital  
2 improvement fund for future capital improvements, except that any levy  
3 for the payment of the principal and interest of the general bonded  
4 indebtedness, or any indebtedness for a loan made to the district by  
5 the state investment board, of the port district shall be in excess of  
6 any levy made by the port district under the forty-five cents per  
7 thousand dollars of assessed value limitation. The levy shall be made  
8 and taxes collected in the manner provided for the levy and collection  
9 of taxes in school districts of the first class.

10 NEW SECTION. **Sec. 18.** Sections 2 through 5 of this act constitute  
11 a new chapter in Title 53 RCW.

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