

# HOUSE BILL REPORT

## ESSB 5339

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

**Title:** An act relating to authorizing the acquisition and operation of tourism-related facilities by port districts.

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

**Sponsors:** Senate Committee on Economic Development, Trade & Management (originally sponsored by Senators Kilmer, Kastama, Rockefeller and Rasmussen).

#### **Brief History:**

##### **Committee Activity:**

Local Government: 3/29/07 [DPA].

#### **Brief Summary of Engrossed Substitute Bill (As Amended by House Committee)**

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

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass as amended. Signed by 6 members: Representatives Simpson, Chair; Eddy, Vice Chair; Curtis, Ranking Minority Member; Ross, B. Sullivan and Takko.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Schindler, Assistant Ranking Minority Member.

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

#### **Background:**

##### **General Powers and Authority of Port Districts**

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*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.*

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;
- 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.)

#### **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 or person;
- 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 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.

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**Summary of Amended 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 development, acquisition, and operation of tourism-related facilities.

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, port district, or person;
- 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 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.

The provisions of the act do not expand a port district's eminent domain powers with respect to activities related to the development or acquisition of tourism-related facilities.

A port, and any entity involved in a joint venture with port, must comply with "prevailing wage" requirements under Chapter 39.12 RCW.

**Amended Bill Compared to Engrossed Substitute Bill:**

The amendment makes the following changes to the original bill:

- reorganizes the bill so as to directly amend Chapter 67.28 RCW, which authorizes tourism-related activities and development on the part of municipalities, and omits the amendment of RCW 53.08.255;
- amends the definition of "municipality" under chapter 67.28 RCW so as to explicitly include port districts; and
- authorizes a port to acquire or operate tourism-related facilities either individually or jointly with any other port district, municipality, or person.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The expansion of the tourism industry is a key goal for the State of Washington insofar as it is important for economic development. Ports could play a vital role in fostering the development of the tourism industry. However, this bill is needed in order to clarify port district authority with respect to port involvement in tourism-related activities and development. The bill does not expand the existing powers and authority of port districts, except that it explicitly authorizes port involvement in tourism-related projects. Smaller ports across the state will greatly benefit from the passage of this bill.

Bremerton is currently undertaking a downtown revitalization program involving the city, county, state, and federal government. In order to complete the various projects encompassed by the program, the Port of Bremerton must become involved. In order to do so, the port requires the legal authority to complete its marina and develop nearby property for tourism-related purposes. This bill would provide the needed authority. Without this legislation, the port would not have the authority to participate in the city's redevelopment project.

(With concerns) The bill does not explicitly make prevailing wage requirements applicable to leased projects that involve tourism-related activities. The bill should be amended to include leased projects within the prevailing wage provisions.

(Opposed) None.

**Persons Testifying:** (In support) Senator Kilmer, prime sponsor; Gary Tusberg, Bremerton Community Renewal Agency and Kitsap County Consolidated Housing Authority; and Bill Mahan and Ken Attebery, Port of Bremerton.

(With concerns) Kirk Deal, Carpenters Union.

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