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HOUSE BILL 2237

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Hudgins and Hasegawa

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1 AN ACT Relating to the compensation of port district employees; and  
2 amending RCW 53.08.170.

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

4 **Sec. 1.** RCW 53.08.170 and 2002 c 362 s 1 are each amended to read  
5 as follows:

6 ((The)) (1) Subject to the conditions stated in subsections (5) and  
7 (6) of this section, a port commission ((shall have)) has authority to  
8 create and fill positions, to fix wages, salaries and bonds thereof, to  
9 pay costs and assessments involved in securing or arranging to secure  
10 employees, and to establish such benefits for employees, including  
11 holiday pay, vacations or vacation pay, retirement and pension  
12 benefits, medical, surgical or hospital care, life, accident, or health  
13 disability insurance, and similar benefits, already established by  
14 other employers of similar employees, as the port commissioner shall by  
15 resolution provide(~~(+—PROVIDED, That)~~). However, any district  
16 providing insurance benefits for its employees in any manner whatsoever  
17 may provide health and accident insurance, life insurance with coverage  
18 not to exceed that provided district employees, and business related

1 travel, liability, and errors and omissions insurance, for its  
2 commissioners, which insurance (~~shall~~) is not (~~be~~) considered to be  
3 compensation.

4 (2) Subject to chapter 48.62 RCW, the port commission (~~shall~~  
5 ~~have~~) has authority to provide or pay such benefits directly, or to  
6 provide for such benefits by the purchase of insurance policies or  
7 entering into contracts with and compensating any person, firm, agency  
8 or organization furnishing such benefits, or by making contributions to  
9 vacation plans or funds, or health and welfare plans and funds, or  
10 pension plans or funds, or similar plans or funds, already established  
11 by other employers of similar employees and in which the port district  
12 is permitted to participate for particular classifications of its  
13 employees by the trustees or other persons responsible for the  
14 administration of such established plans or funds(~~PROVIDED FURTHER,~~  
15 ~~That~~). However, no port district employee (~~shall be~~) is allowed to  
16 apply for admission to or be accepted as a member of the state  
17 employees' retirement system after January 1, 1965, if admission to  
18 such system would result in coverage under both a private pension  
19 system and the state employees' retirement system, it being the purpose  
20 of this (~~provision~~) provision that port districts (~~shall~~) may not at  
21 the same time contribute for any employee to both a private pension or  
22 retirement plan and to the state employees' retirement system. The  
23 port commission (~~shall have~~) has authority by resolution to utilize  
24 and compensate agents for the purpose of paying, in the name and by the  
25 check of such agent or agents or otherwise, wages, salaries and other  
26 benefits to employees, or particular classifications thereof, and for  
27 the purpose of withholding payroll taxes and paying over tax moneys so  
28 withheld to appropriate government agencies, on a combined basis with  
29 the wages, salaries, benefits, or taxes of other employers or  
30 otherwise; to enter into such contracts and arrangements with and to  
31 transfer by warrant such funds from time to time to any such agent or  
32 agents so appointed as are necessary to accomplish such salary, wage,  
33 benefit, or tax payments as though the port district were a private  
34 employer, notwithstanding any other provision of the law to the  
35 contrary. The funds of a port district transferred to such an agent or  
36 agents for the payment of wages or salaries of its employees in the  
37 name or by the check of such agent or agents (~~shall be~~) are subject

1 to garnishment with respect to salaries or wages so paid,  
2 notwithstanding any provision of the law relating to municipal  
3 corporations to the contrary.

4 (3) Notwithstanding any provision in this section, the governing  
5 body of a port district may enter into an agreement in writing with one  
6 or more of its officers or employees or a group of such officers and  
7 employees, authorizing deductions from the officer's or employee's  
8 salary or wages of the amount of any premium specified in writing by  
9 the officer or employee, for contribution to any private pension plan,  
10 without loss of eligibility for membership in the state employees'  
11 retirement system, and may agree to remit that amount to the management  
12 of such private pension plan. However, no port district funds shall be  
13 contributed or paid to such private plan. When such authorized  
14 deductions are certified by the port commission to the port district's  
15 auditor, the auditor (~~shall~~) must draw and issue a proper warrant or  
16 warrants, or check or checks if that method of payment is authorized by  
17 statute, directly to and in favor of the person, firm, corporation, or  
18 organization named in the authorization, for the total amount  
19 authorized to be deducted from the payroll, together with a list  
20 identifying the officers and employees for whom the payment is made.

21 (4) Nothing in this section may be invoked to invalidate any  
22 private pension plan or any public or private contributions or payments  
23 thereto, or exclude members of any such private pension plan from  
24 membership in the state employees' retirement system, if such private  
25 plan was in operation on December 31, 2001.

26 (5) Prior to providing any existing or prospective employee with a  
27 salary or other compensation that equals or exceeds that of the  
28 governor of the state of Washington, a port commission must comply with  
29 the conditions provided in subsection (6) of this section.

30 (6) If the circumstances in subsection (5) of this section apply,  
31 a port commission must comply with the following conditions:

32 (a) The public must be provided with at least three months' advance  
33 notice of any such action through means reasonably calculated to  
34 provide actual notice of, and access to, detailed information regarding  
35 the compensation being offered and the circumstances leading to such an  
36 offer. At minimum, such notice must include:

37 (i) The issuance by the port commission of official, written public

1 notice to all local and regional newspapers of general circulation  
2 within the port district, and to local and regional television and  
3 radio stations broadcasting into the port district;

4 (ii) The publication of a legal notice in each local or regional  
5 newspaper of general circulation within the port district. Such notice  
6 must be reasonably calculated to provide actual notice of, and access  
7 to, detailed information regarding the compensation being offered and  
8 the circumstances leading to the compensation offered, as well as  
9 notice of the public meetings required to be held under (b) of this  
10 subsection; and

11 (iii) The conspicuous posting on the port district's official  
12 internet web site of detailed information regarding the compensation  
13 being offered, the circumstances leading to the compensation offered,  
14 and the notice of public meetings required under (b) of this  
15 subsection;

16 (b) The holding of at least three public meetings of the port  
17 commission regarding the compensation offer, during which members of  
18 the public must be given a reasonable opportunity to be heard. The  
19 port commission must provide the public with at least three weeks'  
20 advance notice of each meeting in accordance with the requirements of  
21 this subsection (6). Such notice must include detailed information  
22 regarding the compensation being offered and the circumstances leading  
23 to such an offer. The meeting notice must also include the date, time,  
24 and location of all such meetings;

25 (c) Any additional procedural and public notice requirements set  
26 forth in chapter 42.30 RCW and Title 53 RCW also apply to port  
27 commission decisions subject to subsection (5) of this section to the  
28 extent such requirements are not inconsistent with the requirements of  
29 this subsection (6); and

30 (d) The port commission must provide a written report to the  
31 appropriate committees of the senate and the house of representatives  
32 no later than December 31st of the year in which the compensation was  
33 first offered or provided. The report to the legislature must include  
34 the following:

35 (i) A complete, detailed description of both the compensation being  
36 offered or provided to the current or prospective employee and the  
37 circumstances leading to the offer or provision of such compensation;

1       (ii) A description of the criteria used in evaluating  
2 qualifications and experience of the current or prospective employee  
3 and in determining the appropriate compensation for the employee's  
4 services;

5       (iii) A comprehensive explanation of why the compensation is  
6 warranted; and

7       (iv) A description of the performance measures that have been, or  
8 will be, utilized in evaluating the performance of the current or  
9 prospective employee.

10       (7) At such time as a port commission receives either formal or  
11 constructive notice of the intended retirement or resignation of a port  
12 employee, the port commission is prohibited from taking any action to  
13 increase the value of the compensation provided to that employee.

14       (8) For the purposes of subsections (5) through (7) of this  
15 section, "compensation" must be broadly construed to mean wages,  
16 salaries, vacations or vacation pay, retirement and pension benefits,  
17 medical and other health or insurance-related benefits, and any other  
18 benefit offered or provided to the current or prospective port  
19 employee.

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