

SENATE BILL REPORT

SB 5739

As of February 14, 2017

Title: An act relating to the imposition of port district facility entry fees for certain ground transportation service providers.

Brief Description: Concerning the imposition of port district facility entry fees for certain ground transportation service providers.

Sponsors: Senators Palumbo, Hobbs and Rolfes.

Brief History:

Committee Activity: Transportation: 2/14/17.

Brief Summary of Bill

- Authorizes port districts to limit entry and charge an entry fee to its facilities, for the purpose of on-demand passenger service by motor vehicles licensed and regulated as for-hire vehicles, limousines, and taxicabs.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Kellee Keegan (786-7429)

Background: In 1911, the Legislature authorized the Port District Act allowing citizens to create port districts. Today, there are 75 port districts in Washington.

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. 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

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- to construct and maintain specified types of park and recreation facilities.

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.

Airport Facility Charges. Generally, commercial operators must obtain permission from an airport to engage in commercial activity on airport property. The agreements include access fees in the form of annual amounts, per-trip fees, or minimum annual guarantees or percentage of revenues. Fees are generally only assessed on commercial pick-up trips. Private owners/drivers are not required to have operating agreements and are not charged access fees.

Washington's statute requires that rates set by airports must be fair and uniform for the same class of service and established with regard to the property and improvements used and the expense of operation to the municipality.

On-demand service is generally requested by the traveler upon deplaning, with no prior transportation arrangements in place. Pre-arranged pick-up service has already been established by the customer prior to arrival. Taxi and limousine operations are typically considered on-demand types of services. The rates for on-demand pick-up services are determined through a competitive bid process associated with an exclusive contract. Other modes of transportation, such as shared ride, courtesy vehicle, charter, flat-rate-for-hire and Transportation Network Companies (TNCs), such as UberX, Lyft, and Sidecar, have primarily accommodated the pre-arranged pick-up demand.

Summary of Bill: A port district may limit entry and charge an entry fee to its facilities for the purpose of on-demand passenger service by specified vehicles. The vehicles subject to the fee include motor vehicles licensed and regulated as for-hire vehicles, limousines, and taxicabs.

The port commission must determine the entry fee. However, the entry fee must be no more than the reasonably estimated pro rata, per-trip cost of recovery of the roadways and facilities that the vehicles access, as determined by the port commission of the port district for nonaeronautical or nonmarine use. The port district may require that the vehicles, subject to the entry fee, register with the port district and have an electronic or other device affixed to it in order to efficiently assess and monitor payment of the entry fee.

The entry fee may be charged, as a per-trip fee or as a permit, issued on a weekly, monthly, or other calendar basis. The port district may recover the cost of the device from the registered owner of the vehicle.

If the port districts enter into a contract for the management of the transportation on-demand services for the entry fee, the contract must be subject to a competitive public bid for a period

of not more than five years. In addition, the entry fee, as determined by the port commission, may include the recovery cost of managing the on-demand services.

The act applies retroactively to any existing contract of the port district that imposes an entry fee. Within 60 days after the effective date of the act, such contracts must be amended to comply with the registration and fee requirements under this act unless revenue from the contract has been pledged to support payment of a port district bond issue or debt obligation.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There is a structural problem and unintended consequence with the port's contract with on-demand services. The Port of Seattle put out a contract for on-demand service at the airport for public bidding. The cost of recovery for the Port is \$2 per trip and yet the most recent bid was \$7 per trip. The bidder is not the one who pays the fee to the Port. The contract operator does not pay the fee and so there is no fiscal restraint for them in the bidding process. This is not taking money from the Port but trying to make it manageable for the drivers. Please reduce the cost for the driver because it is unaffordable for the driver. As a driver, we may stay at the airport for over an hour and then receive a trip to SeaTac for \$8 but then the \$7 is debited and it is impossible to make a living off that. The minimum for a single trip is \$7. As a driver, you may only make \$20 in 10 hours.

CON: The Port contracts with on-demand services. This is a critical tool as it guarantees access to vehicles at all hours of the day. In exchange for the ability to be on site, they pay a per trip fee. The bidding process occurred in October. The price of \$7 was a result of the winning bid. The open competitive bid process wouldn't mean anything with the retroactivity in this bill. Last year, the lowest average per trip was \$43. The TNCs are having an impact, and the bidders were offered an opportunity to lower their bid. There is concern with section 2 of this bill and the retroactivity. It sets a precedent because ports sign contracts with companies all the time and those need to be honored.

OTHER: Our company bids competitively for the \$7 per trip contract. The company will honor the contract. The company is working with the drivers to navigate the issues they are running into. The market is changing rapidly both inside and outside of the airport. Some companies for on-demand services bid as high as \$11 per trip.

Persons Testifying: PRO: Chris Van Dyk, Bainbridge Media Group; Mohamed Robele, East Side For Hire; Abdigafar Hassan; Abdi Mohamed.

CON: Trent House, Port of Seattle; Eric Johnson, WA Public Ports Association.

OTHER: Abdul Yusuf, East Side For Hire.

Persons Signed In To Testify But Not Testifying: No one.