

HOUSE BILL REPORT

EHB 1663

As Passed House:

March 6, 2023

Title: An act relating to allowing port districts that have been functionally consolidated to adopt a unified levy.

Brief Description: Allowing functionally consolidated port districts to adopt a unified levy.

Sponsors: Representatives Goehner and Steele.

Brief History:

Committee Activity:

Local Government: 2/14/23, 2/17/23 [DP];

Finance: 2/21/23, 2/22/23 [DP].

Floor Activity:

Passed House: 3/6/23, 95-0.

Brief Summary of Engrossed Bill

- Allows two or more port districts that are jointly operating under a mutual agreement to conduct a joint property tax levy under certain circumstances, and provides conditions for the conduct of the joint levy.
- Provides for the division of the assets and liabilities of jointly operating port districts that cease to operate together, and for the conduct of an initial individual port district property tax levy occurring after the cessation of a joint levy.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 6 members: Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg and Riccelli.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Kellen Wright (786-7134).

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 13 members: Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard, Chopp, Ramel, Santos, Springer, Stokesbary, Thai, Walen and Wylie.

Staff: Kristina King (786-7190).

Background:

Port districts are special purpose districts empowered to acquire, construct, maintain, operate, develop, and regulate harbor improvements; rail or motor transfer and terminal facilities; water transfer and terminal facilities; air transfer or terminal facilities; other commercial transportation, transfer, handling, storage, and terminal facilities; and industrial improvements.

A port district can be formed if at least 10 percent of the registered voters within a county petition for the formation of the district, and the district's formation is approved by voters at an election. A port district may be coextensive with a county. Port districts are governed by commissions of either three or five commissioners.

Port districts can charge service fees for the use of their facilities, and can also raise revenue through property tax levies. A property tax is a tax levied on all real and personal property based on the value of the property, unless the property is subject to an exemption. There are two significant limitations on property tax in Washington. The first is a constitutional limitation. Article VII, section 2 of the state Constitution limits the amount of annual tax, from all sources, that may be levied upon property to 1 percent of the total value of that property. This limitation means that, without specific authorization from voters, the maximum tax that can be imposed per \$1,000 of value is \$10. The other limit is statutory. Generally, the amount of property tax levied by a taxing district cannot be increased by more than 1 percent of the amount that was levied the prior year. In other words, the maximum annual levy is 101 percent of the prior year's levy. Increases in revenue due to new construction, property improvements, and certain other factors are exempt from this limitation. There are additional limits on the aggregate amount of property tax that taxing districts can impose.

To adopt an increase to a property tax levy within the statutory limits, the governing body of the taxing district must adopt an ordinance or resolution authorizing the increase. A taxing district may increase its levy by more than the statutory limit, up to its statutory maximum tax rate, with voter approval.

A port district can impose a regular annual levy of up to 45 cents per \$1,000 of assessed

value of the taxable property within the district for general port purposes. A levy for the payment of principal and interest on the general bonded indebtedness of the port district may be made in addition to the regular annual levy rate. An additional levy, with voter approval, can be imposed for dredging, canal construction, and land leveling or filling at a rate of up to 45 cents per \$1,000 of assessed value. If a port has created an industrial development district within the port, it may also impose a levy for six years at up to the same 45 cents per \$1,000 of assessed value to be used for harbor improvements and industrial development. This levy can be reimposed for a subsequent six years with voter approval, and port districts in counties bordering the Pacific Ocean can reimpose the levy for a third and final six-year period with voter approval.

Port districts are authorized to enter into a mutual agreement to jointly exercise the powers granted to each individual district.

In addition to operating jointly, port districts can consolidate. Consolidation can be initiated in two ways. First, the commissioners of the districts to be consolidated can agree to present a joint consolidation resolution to the voters for approval. Alternatively, at least 10 percent of the voters in each district can petition for consolidation. In either case, the petition or resolution must identify, among other things, the assets and liabilities of the districts, the proposed number of commissioners, and the proposed name of the consolidated district. If a majority of voters in both districts approve consolidation, then the districts are consolidated. The consolidated district has all the powers, including the power to levy and collect taxes, that each of the districts possessed.

If the consolidated port district includes areas from two or more counties, then the principal county auditor and county treasurer of the district are those of the county which has the largest assessed taxable property valuation. When levying taxes within the consolidated district, the ratio of tax imposed within each county must be the same as the ratio of the value of the property in each county.

When two taxing districts consolidate, the first property tax levy for the consolidated taxing district must be set so that the taxes do not exceed the statutory limit on property tax increases based on the sum of the taxes levied across the taxing districts that consolidated in the highest of the three most recent years in which such taxes were levied.

Summary of Engrossed Bill:

Two or more port districts that are jointly operating under a mutual agreement may jointly levy and collect the regular port district property tax levy if:

- the port districts are adjacent, and the districts' boundaries are coextensive with county boundaries;
- the commissioners of each port district have voted by at least a two-thirds majority to conduct a joint levy by July 1 for collection in the following year and for subsequent years, until such time as the commissioners vote to discontinue the levy;

- the joint property tax levy is approved by a majority of the total number of votes cast among all of the participating port districts at a special election called for the purpose, with the election in each port district being held on the same day; and
- the rate of the levy is the same in both port districts.

Once the initial joint property tax levy has been approved by voters, a joint levy occurring in subsequent consecutive years does not require voter approval.

Two or more port districts conducting a joint levy are considered a taxing district for the purposes of property taxation, and the commissioners of the port districts are considered the governing body.

The initial levy for two or more port districts conducting a joint levy must be set as if the port districts had consolidated. Subsequent joint levies are subject to the statutory 1 percent increase limit. Any increase in the initial levy must be approved by at least two-thirds of the commissioners of each of the port districts participating in the joint levy. An increase above this limit may be authorized if a majority of voters in each of the port districts approve the increase.

The obligations of each of the participating port district are not affected by the conduct of the joint levy, and remain the responsibility of the individual port district. While there are any outstanding obligations, the funds subject to those obligations must be kept separate.

Port districts conducting a joint regular property tax levy may not independently approve a regular property tax levy, except that the levy must continue to be made to the extent needed to pay principal and interest costs on general bonded indebtedness.

If port districts that were operating together cease to operate jointly, any debts and assets must be divided between the districts as provided for in the agreement for joint operation. If no provision was made in the agreement, then the debts and assets must be divided in the same proportion as the property tax assessments were divided among the districts.

The first property tax levy conducted by a port district after a joint levy ceases must be set so that the levy does not exceed the district's proportional share of the last joint levy, plus the additional increases that are allowed outside of the statutory limitation.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Local Government):

(In support) This bill is important for a specific set of counties that have joined into a regional port authority. The bill is written generally, but it is unlikely to be widely applied as most port districts are not countywide. The functional consolidation of the regional port authority was recommended by a citizen panel. It allowed a merger of management and made the ports' operations more efficient. The ports did not fully consolidate so they could keep the same number of commissioners. Instead, they have agreed to manage ports together, using a joint operating agreement, and with a required supermajority of commissioners to take action. This bill allows tax assessments to be made in both counties equally and equitably. This bill does not allow the ports to go beyond what is currently collected, and the ports would still be constrained by the 1 percent annual levy increase limitation. The taxes would still be levied separately, but this bill would allow for the rates to be fair and unified. The current rates levied are lower than the total legal authority. This bill would require a joint levy to be approved by two-thirds of both boards. These commissioners are directly accountable to voters. This allows for improved management of the ports, would strengthen regional port operations, and lets both counties feel that they have the same stake in the process. This would benefit taxpayers in both counties. There is new development occurring within these communities that will drive rates down. This bill would allow the ports to continue investing in development and the airport going forward. Functional consolidation is a boost to the creditworthiness and credit of both ports. The ports plan together, manage together, and a single approved budget is an advantage if they choose to enter into financial markets. Labor has benefited from functional consolidation, and new investments are being made in the county because of the ports. This investment creates family wage careers.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) The two counties of Douglas and Chelan have a history of cooperation and consolidation, especially their ports. The ports share staff and resources and are functionally consolidated. However, the counties levy two different property tax rates which makes the port situation unequal. This bill will balance the two counties by giving the commissioners the authority to adopt a shared rate. This will bring fairness to both counties, as both will be paying their fair share of taxes to support the work of the port district. There are very few consolidated port districts, so this is a unique situation. The ports plan, budget, and work on unified projects and are twice as strong as they have been in the past. The passage of this bill will also make the district more attractive for investment in capital markets.

(Opposed) None.

Persons Testifying (Local Government): Representative Keith Goehner, prime sponsor; Monica Lough, Richard DeRock and Cynthia Weed, Chelan Douglas Regional Port Authority; and Matthew Hepner, International Brotherhood of Electrical Workers and

Certified Electrical Workers of Washington.

Persons Testifying (Finance): Representative Keith Goehner, prime sponsor; Jim Kuntz and JC Baldwin Chelan Douglas Regional Port Authority; and Cynthia Weed, Kirkpatrick and Lockhart Gates.

Persons Signed In To Testify But Not Testifying (Local Government): None.

Persons Signed In To Testify But Not Testifying (Finance): None.