

SENATE BILL REPORT

EHB 1663

As of March 19, 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: Passed House: 3/6/23, 95-0.

Committee Activity: Local Government, Land Use & Tribal Affairs: 3/21/23.

Brief Summary of Bill

- Allows two or more port districts that jointly operate 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.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

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Background: Port Districts. Port districts are special purpose districts authorized to acquire, construct, maintain, operate, develop, and regulate the following: harbor improvements, rail, motor vehicle, water, and air transfer and terminal facilities, or any combination of these facilities.

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Among the general powers granted to ports are the power to acquire land, property, leases, and easements; condemn property and exercise the power of eminent domain; develop lands for industrial and commercial purposes; impose taxes, rates, and charges; sell or otherwise convey rights to property; and construct and maintain specified types of park and recreation facilities.

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. Port districts may take up an entire single county or may be less than countywide. A port district is governed by a board of commissioners elected to staggered six or four-year terms of office. The port commissioners have the authority to hire employees and set wages, salaries, and benefits.

Port District Revenue. 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. The Washington Constitution limits regular property tax levies to a maximum of 1 percent of the property's value. Excess levies are not subject to this constitutional limit and require voter approval. There are statutory rate maximums for individual taxing districts and aggregate rate maximums to keep the total tax rate of regular property taxes within the constitutional limit. All regular levies, except the state levies, are subject to a statutory revenue growth limit. If the taxing authority has a population of 10,000 or more, the revenue growth limit is the lesser of inflation or 1 percent plus the valuation of new construction. If the taxing authority has a population of less than 10,000, the revenue growth limit is 1 percent plus the value of new construction.

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 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 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 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 District Joint Operations. The Interlocal Cooperation Act (ICA) allows public agencies

to enter into agreements with one another for joint or cooperative action. Any power, privilege, or authority held by a public agency may be exercised jointly with one or more other public agencies having the same power, privilege, or authority. Port districts may jointly exercise powers with any other port district to jointly acquire lands, property, property rights, leases, or easements necessary for port district purposes.

Port District Consolidation. In addition to operating jointly, port districts can consolidate. The commissioners of the districts to be consolidated can agree to present a joint consolidation resolution to the voters for approval or at least 10 percent of the voters in each district can petition for consolidation. The petition or resolution must include certain information, such as 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 that each of the districts possessed, including the power to levy and collect taxes.

If the consolidated port district includes areas from two or more counties, then the principal county auditor and county treasurer of the district are from the county that 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 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 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 1st 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 at a special election by a majority of the total votes cast among all of the participating port districts, 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.

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. 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.

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 separate obligations of each of the participating port districts 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 were operating jointly under a mutual agreement, any debts and assets must be divided between the districts as provided for in the agreement. 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 additional increases that are allowed outside of the statutory limitation.

Appropriation: None.

Fiscal Note: Available.

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

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