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SENATE BILL 6207

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State of Washington

65th Legislature

2018 Regular Session

By Senators Palumbo and Short

1 AN ACT Relating to clarifying the authority of port districts to  
2 offer programs relating to air quality improvement equipment and fuel  
3 programs that provide emission reductions for engines, vehicles, and  
4 vessels; amending RCW 53.08.040; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that clean fuels  
7 and vehicles protect public health by reducing toxic air and climate  
8 change emissions.

9 (2) The legislature also finds that to encourage clean fuels and  
10 vehicles, the state should develop policies and incentives that help  
11 businesses gain greater access to affordable clean fuels and  
12 vehicles. These policies and incentives should include incentives for  
13 replacement of the most polluting diesel engines, especially in  
14 trucks calling on the state's largest seaports.

15 (3) The legislature also finds that while the state, in 2007,  
16 sought to allow port districts to use tax revenue to support this  
17 type of equipment, the statute is confusing and further clarification  
18 is needed for port districts to avoid litigation and audit risk.

19 **Sec. 2.** RCW 53.08.040 and 2007 c 348 s 103 are each amended to  
20 read as follows:

1           (1) A district may improve its lands by dredging, filling,  
2 bulkheading, providing waterways or otherwise developing such lands  
3 for industrial and commercial purposes. A district may also acquire,  
4 construct, install, improve, and operate sewer and water utilities to  
5 serve its own property and other property owners under terms,  
6 conditions, and rates to be fixed and approved by the port  
7 commission. A district may also acquire, by purchase, construction,  
8 lease, or in any other manner, and may maintain and operate other  
9 facilities for the control or elimination of air, water, or other  
10 pollution, including, but not limited to, facilities for the  
11 treatment and/or disposal of industrial wastes, and may make such  
12 facilities available to others under terms, conditions and rates to  
13 be fixed and approved by the port commission.

14           (2) Such conditions and rates shall be sufficient to reimburse  
15 the port for all costs, including reasonable amortization of capital  
16 outlays caused by or incidental to providing such other pollution  
17 control facilities. ~~((However,))~~

18           (3) No part of such costs of providing any pollution control  
19 facility to others shall be paid out of any tax revenues of the port,  
20 ~~((and))~~

21           (4) No port shall enter into an agreement or contract to provide  
22 sewer and/or water utilities or pollution control facilities if  
23 substantially similar utilities or facilities are available from  
24 another source (or sources) which is able and willing to provide such  
25 utilities or facilities on a reasonable and nondiscriminatory basis  
26 unless such other source (or sources) consents thereto.

27           ~~((+2))~~ (5) In the event that a port elects to make such other  
28 pollution control facilities available to others, it shall do so by  
29 lease, lease purchase agreement, or other agreement binding such user  
30 to pay for the use of said facilities for the full term of the  
31 revenue bonds issued by the port for the acquisition of said  
32 facilities, and said payments shall at least fully reimburse the port  
33 for all principal and interest paid by it on said bonds and for all  
34 operating or other costs, if any, incurred by the port in connection  
35 with said facilities. However, where there is more than one user of  
36 any such facilities, each user shall be responsible for its pro rata  
37 share of such costs and payment of principal and interest. Any port  
38 intending to provide pollution control facilities to others shall  
39 first survey the port district to ascertain the potential users of  
40 such facilities and the extent of their needs. The port shall conduct

1 a public hearing upon the proposal and shall give each potential user  
2 an opportunity to participate in the use of such facilities upon  
3 equal terms and conditions.

4 ~~((3))~~ (6) "Pollution control facility," as used in this section  
5 and RCW 53.08.041, ~~((does not include air quality improvement  
6 equipment that provides emission reductions for engines, vehicles,  
7 and vessels))~~ includes programs and activities that are intended to  
8 reduce air pollution from vehicles used in cargo transport to, from,  
9 and within district facilities; and programs and activities that are  
10 intended to reduce air pollution from cargo vessels within the  
11 district. Use of district funds for these purposes are deemed a  
12 governmental and public function, exercised for a public purpose and  
13 as a public necessity for promoting cleaner air; provided however,  
14 the provisions of subsections (2), (3), (4), and (5) of this section  
15 relating to condition, rates, other providers, and cost recovery do  
16 not apply to this subsection's subset of port pollution control  
17 facilities.

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