

Legal Option for Ports When Partnering With Other Entities

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How to Dance Together Without Stepping on Toes Carolyn Lake, Goodstein Law Group

TYPE OF AGREEMENT	PURPOSE	SPECIAL REQUIREMENTS?
<p>RCW 39.34.010 (Interlocal Agreements)¹ or</p>	<p>Any two or more public agencies may enter into agreements with one another for joint or cooperative action;</p> <p>"Public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state.</p>	<ul style="list-style-type: none"> • The Agreement must be approved by Resolutions of each Port Commission • The Agreement must set forth: <ul style="list-style-type: none"> • Duration, • The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto • Its purpose or purposes; • How the joint or cooperative undertaking is to be financed, and how its budget is established and maintained; • How the Agreement is to be terminated, in part or completely and • How to dispose of property upon such partial or complete termination; and • Any other necessary and proper matters. • Financing of joint projects by agreement shall be as provided by law. ▪ meaning: The funds of such joint operation shall be deposited in the public treasury of the Port which has the largest population or of any other public treasury agreed upon by the parties; and funds shall be subject to the audit and fiscal controls as the public treasury where the funds are so deposited: RCW 43.09.285 <p>The Agreement may establish a separate legal entity or a Joint Board to carry out the intended purpose</p>

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		<p>If a Joint Board is created, the Agreement must also specify:</p> <ul style="list-style-type: none"> • An administrator or a joint board who is responsible for administering the joint or cooperative undertaking. ▪ In the case of a joint board, the public agencies that are party to the agreement shall be represented; and • The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. • The joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of joint board".
<p>Port Joint Powers authority, RCW 53.08.240ⁱⁱ</p>	<p>Any two or more port districts shall have the power, by mutual agreement, to <u>exercise jointly all powers</u> granted to each individual district,</p>	<p>Ports may exercise such Joint powers to have the right and power to acquire jointly all lands, property, property rights, leases, or easements necessary for their purposes, either entirely within or partly within or partly without or entirely without such districts</p> <p>Property purchase requires Port district's consent. Two or more districts so acting jointly, by mutual agreement, shall not acquire any real property or real property rights in any other port district without the consent of such district</p> <p>May rely on another's bid/contract if contracting Port correctly took steps (5) (b) With respect to one or more public agencies purchasing or otherwise contracting through a bid, proposal, or contract awarded by another public agency or by a group of public agencies, any statutory obligation to provide notice for bids or proposals that applies to the public agencies involved is satisfied if the public agency or group of public agencies that awarded the bid, proposal, or contract complied with its own statutory requirements and either (i) posted the bid or solicitation notice on</p>

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		<p>a web site established and maintained by a public agency, purchasing cooperative, or similar service provider, for purposes of posting public notice of bid or proposal solicitations, or (ii) provided an access link on the state's web portal to the notice.</p> <p>And see: RCW 43.09.285 ...the funds of such joint operation shall be deposited in the public treasury of the municipal corporation or political subdivision embracing the largest population or the public treasury of any other as so agreed upon by the parties... such deposit shall be subject to the same audit and fiscal controls as the public treasury where the funds are so deposited.</p>
<p>RCW 53.04.010 -Port districts authorized — Purposes — Powers — Public hearing.</p> <p>Port Joint Powers authority, RCW 53.08.240(3)(a)</p>	<p>Powers of certain port districts that is located in a county that has a contiguous border with another state, and a population between fifty and seventy thousand, shall be exercised within the district and may be <u>operated outside the boundaries of the state of Washington</u> in whole or in part on certain conditions,</p> <p>Background: This Bill was supported, if not sponsored, by Jim Kuntz of the Port of Walla Walla. Mr. Kuntz testified in favor: "This bill will allow local port districts to work across state lines. This will help promote jobs and industry. Great bill for smaller, struggling communities." Washington Senate Bill Report, 1999 Reg. Sess. H.B. 1848. Legislative materials describe the specific project that spurred this bill: Testimony For: (Original bill) This bill will create job opportunities for residents of port districts. A call center was going to move in to Milton-Freewater, Oregon, 10 miles southwest of Walla Walla, and the city of Milton-Freewater asked for the assistance of the Port of Walla Walla. The economies of the two cities are intertwined, as 60 percent of the new business's employees would come</p>	<p>Requires resolution of the port district commission exercising such authority, to find the powers are reasonably necessary for the effective exercise of the port district's statutory powers and for the benefit of the inhabitants of the district and the state of Washington.</p> <p>The resolution may be adopted only after a public hearing of which notice has been published in a newspaper of general circulation within the district at least ten days in advance.</p> <p><i>See also RCW 53.08.240(3)(a)- which adds an additional requirement:</i> Such powers may be exercised outside the boundaries of this state only after a public hearing With notice published in a newspaper of general circulation within the district at least ten days in advance, And pursuant to findings and a resolution by the port district's commission that:</p> <ul style="list-style-type: none"> (i) The undertaking and the district's participation in it will substantially benefit the district and the state of Washington; and (ii) the districts' share of the cost will not exceed an

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	<p>from the Walla Walla community. This is an important tool for economic development in rural communities, as 14 businesses have recently either shut down or downsized in the Walla Walla area. The port lacked the statutory authority to enter into an agreement with Milton-Freewater. As a result, the port had to finance the project with private funding. This authority would be used only as a rare occurrence.</p> <p>Washington House Bill Report, 1999 Reg. Sess. H.B. 1848.</p>	<p>amount calculated by dividing the total cost of the undertaking by the number of participants.</p>
<p>RCW 53.08.450 - Property outside jurisdiction — Future property development — Communication plan. [2008 c 130 § 4.]</p>	<p>If a port district purchases property for a facility outside the port's jurisdiction, the port district or districts with responsibility for the future property development and use must prepare and implement a communication plan within sixty days after contracting with a site planning consultant.</p>	<ul style="list-style-type: none"> • The communication plan must be reasonably calculated to provide property owners and other affected and interested individuals information for review and comment. • The plan shall be made available through the planning and pre-design phase. <p>The communication plan shall include information about:</p> <ul style="list-style-type: none"> (a) The type and scale of proposed uses on the site; (b) The type and scale of business and industrial activities that the development is likely to later attract to the site and to the nearby area; (c) The general character and scope of potential impacts on air and water quality, noise, and local and state transportation infrastructure, including state highways, local roads, rail, and shipping. <ul style="list-style-type: none"> • Information included in the communication plan under subsection (1) of this section may be made available by means of web pages, office inspection and copying of materials, one or more property tours, and public meetings that allow interested citizens to comment to port officials on several occasions over time as the development plans evolve. • Environmental mitigation, habitat restoration, and dredged material disposal projects are exempt from the requirements of this section.

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RCW 53.08.080 - Lease of property — Authorized — Duration	<p>A district may lease all lands, wharves, docks and real and personal property owned and controlled by it, for such purposes and upon such terms as the port commission deems proper</p>	<ul style="list-style-type: none"> • No lease shall be for a period longer than fifty years with option for extensions for up to an additional thirty years, <ul style="list-style-type: none"> ○ except where the property involved is or is to be devoted to airport purposes the port commission may lease said property for such period as may equal the estimated useful life of such work or facilities, but not to exceed seventy-five years: ○ & except: That where the property is held by the district under lease from the United States government or the state of Washington, or any agency or department thereof, the port commission may sublease said property, with option for extensions, up to the total term and extensions thereof permitted by such lease, but in any event not to exceed ninety years. • Ports shall have the rent secured by rental insurance, bond, or other security satisfactory to the port commission, in an amount equal to one-sixth the total rent, but in no case shall such security be less than an amount equal to one year's rent or more than an amount equal to three years' rent. • Evidence of the existence of such insurance, bonds, or security shall be on file with the commission at all times during the term of the lease • If the security as required herein is not maintained throughout the full term of the lease, said lease shall be considered in default •
RCW 53.08.090 - Sale of property.	<p>A port commission may, by resolution, authorize the managing official of a port district to sell and convey port district [personal] <u>property of ten thousand dollars or less</u> in value. (The ten thousand dollar shall be adjusted annually based upon the governmental price index established by the department of</p>	<ul style="list-style-type: none"> • The authority shall be in force for not more than one calendar year from the date of resolution <ul style="list-style-type: none"> ○ may be renewed from year to year. ○ Prior to any such sale or conveyance the managing official shall itemize and list the property to be sold and ○ make written certification to the commission that the listed

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	<p>revenue under *RCW <u>82.14.200.</u>)</p> <p>A port district may sell and convey any of its <u>real or personal property valued at more than ten thousand dollars</u> when the port commission has, by resolution, declared the property to be no longer needed for district purposes</p>	<p>property is no longer needed for district purposes. Any large block of the property having a value in excess of ten thousand dollars shall not be broken down into components of ten thousand dollars or less value and sold in the smaller components unless the smaller components be sold by public competitive bid.</p> <ul style="list-style-type: none"> • <u>No real property</u> which is a part of the comprehensive plan of improvement or modification thereof shall be disposed of until the comprehensive plan has been modified to find the property surplus to port needs. • The comprehensive plan shall be modified only after public notice and hearing provided by RCW <u>53.20.010.</u>
<p>RCW 53.08.091 - Sale of property — Contract sales — Terms and conditions.</p>	<p>Except in cases where the full purchase price is paid at the time of the purchase, every sale of real property or personal property under authority of RCW <u>53.08.090</u> or <u>53.25.110</u> shall be subject to the terms and conditions:</p>	<ul style="list-style-type: none"> • The purchaser shall enter into a contract with the district in which the purchaser shall covenant that he or she will make the payments of principal and interest when due, and that he or she will pay all taxes and assessments on such property. • Upon failure to make payments of principal, interest, assessments, or taxes when due all rights of the purchaser under said contract may, at the election of the district, after notice to said purchaser, be declared to be forfeited. • When the rights of the purchaser are declared forfeited, the district shall be released from all obligation to convey land covered by the contract, and in the case of personal property, the district shall have all rights granted to a secured party under *chapter <u>62A.9</u> RCW; • The district may, as it deems advisable, extend the time for payment of principal and interest due or to become due; • The district shall notify the purchaser in each instance when payment is overdue, and that the purchaser is liable to forfeiture if payment is not made within thirty days from the time the same became due, unless the time be extended by the district;

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		<ul style="list-style-type: none"> • Not less than four percent of the total purchase price shall be paid on the date of execution of the contract for sale • Not less than four percent shall be paid annually thereafter until the full purchase price has been paid, but any purchaser may make full payment at any time. • All unpaid deferred payments shall draw interest at a rate not less than six percent per annum. • Nothing in this section shall be deemed to supersede other provisions of law more specifically governing sales of port district property. • It is the purpose of this section to provide additional authority and procedures for sale of port district property no longer needed for port purposes. • A copy of all contract sales of port district property shall be filed with the county assessor within thirty days after the first payment is received by the port. • The assessor shall place such property on the tax rolls of the county and the purchaser of such property shall become liable for all levies and assessments against such property. • The port shall not be liable for any taxes or assessments, but if any outstanding taxes are not paid the property may be sold by the county as with other property with delinquent taxes due. • Any amounts accruing from such a sale by the county, not required to pay outstanding and delinquent taxes or assessments and foreclosure costs, shall be paid to the port district.

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<p>RCW 53.08.070 - Rates and charges — Government contracts.</p>	<p>A district may fix, without right of appeal therefrom the rates of wharfage, dockage, warehousing, and port and terminal charges upon all improvements owned and operated by it, and the charges of ferries operated by it.</p> <p>It may fix, subject to state regulation, rates of wharfage, dockage, warehousing, and all necessary port and terminal charges upon all docks, wharves, warehouses, quays, and piers owned by it and operated under lease from it.</p>	<p>A port district may enter into any contract for wharfage, dockage, warehousing, or port or terminal charges, with the United States or any governmental agency thereof or with the state of Washington or any political subdivision thereof under such terms as the commission may, in its discretion, negotiate.</p>
<p>RCW 53.08.160 - Studies, investigations, surveys — Promotion of facilities.</p>	<p>All port districts organized under the provisions of this act shall be, and they are hereby, authorized and empowered to initiate and carry on the necessary studies, investigations and surveys required for the proper development, improvement and utilization of all port properties, utilities and facilities, and for industrial development within the district when such agricultural and industrial development is carried out by a public agency, institution, or body for a public purpose, and to assemble and analyze the data thus obtained and to cooperate with the state of Washington, other port districts and other operators of terminal and transportation facilities for these purposes, and to make such expenditures as are necessary for said purposes, and for the proper promotion, advertising, improvement and development of such port properties, utilities and facilities</p>	<p>That nothing in this section shall authorize a port district to develop its properties as an agricultural or dairy farm</p>

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<p>RCW 53.08.290 Intermodal movement of interstate and foreign cargo — Restrictions. [1981 c 47 § 1; 1980 c 110 § 2.]</p>	<p>A port district, in connection with the operation of facilities and improvements of the district, may perform all necessary activities related to the intermodal movement of interstate and foreign cargo:</p> <p>(1) Clarify existing law as to the authority of port districts to perform certain cargo movement activities and to contract for or otherwise provide facilities for rail service for the movement of such cargo; and</p> <p>(2) Provide authority for port districts to assist in development of the recreation-tourism industry by acquiring and operating certain watercraft in limited areas."</p>	<ul style="list-style-type: none"> • That nothing contained herein shall authorize a port district to engage in the transportation of commodities by motor vehicle for compensation outside the boundaries of the port district. • A port district may, by itself or in conjunction with public or private entities, acquire, construct, purchase, lease, contract for, provide, and operate rail services, equipment, and facilities inside or outside the port district: • This authority may only be exercised outside the boundaries of the port district if such extraterritorial rail services, equipment, or facilities are found, by resolution of the commission of the port district exercising such authority, to be reasonably necessary to link the rail services, equipment, and facilities within the port district to an interstate railroad system; • However, if such extraterritorial rail services, equipment, or facilities are in or are to be located in one or more other port districts, the commission of such other port district or districts must consent by resolution to the proposed plan of the originating port district which consent shall not be unreasonably withheld: • And: no port district shall engage in the manufacture of rail cars for use off port property.
<p>RCW 53.08.460 Transfer of ownership of port district-owned vessel — Review of vessel's physical condition. [2013 c 291 § 21.] [2013 c 291 § 22.]</p>	<p>Allows transferring ownership of a vessel owned by a port district and used primarily to conduct port business, and sets conditions</p>	<ul style="list-style-type: none"> • Prior to transferring ownership of a vessel owned by a port district and used primarily to conduct port business, the port district shall conduct a thorough review of the physical condition of the vessel, the vessel's operating capability, and any containers and other materials that are not fixed to the vessel. • If the port district determines that the vessel is in a state of advanced deterioration or poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination, the port district may:

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		<ul style="list-style-type: none"> ○ (a) Not transfer the vessel until the conditions identified under this subsection have been corrected; or ○ (b) permanently dispose of the vessel by landfill, deconstruction, or other related method. • (3) Vessels taken into custody under chapter <u>79.100</u> RCW are not subject to this section or RCW <u>53.08.470</u>. <p>Transfer of ownership of port district-owned vessel — Further requirements.</p> <ul style="list-style-type: none"> • (1) Following the inspection required under RCW <u>53.08.460</u> and prior to transferring ownership of a port district-owned vessel, a port district shall obtain the following from the transferee: <ul style="list-style-type: none"> ○ (a) The purposes for which the transferee intends to use the vessel; and ○ (b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the port district. • (2)(a) The port district shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW <u>70.105D.020</u>. <ul style="list-style-type: none"> (b) However, the port district may transfer a vessel with: <ul style="list-style-type: none"> (i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the port district's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and (ii) A reasonable amount of fuel as determined by the port district, based on factors including the vessel's size, condition, and anticipated use of the vessel including initial destination following transfer. (c) The port district may consult with the department of ecology in carrying out the requirements of this subsection

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		<ul style="list-style-type: none"> • (3) Prior to sale, and unless the vessel has a title or valid marine document, the port district is required to apply for a certificate of title for the vessel under RCW <u>88.02.510</u> and register the vessel under RCW <u>88.02.550</u>.
RCW 53.06.070- Federation of Washington ports authorized — Purposes.	<p>The Washington public ports association is authorized to create a federation of Washington ports to enable member ports to strengthen their international trading capabilities and market the region's products worldwide.</p>	<p>Such a federation shall maintain the authority of individual ports and have the following purposes:</p> <ul style="list-style-type: none"> (1) To operate as an export trading company under the provisions enumerated in chapter <u>53.31</u> RCW; (2) To provide a network to market the services of the members of the Washington public ports association; (3) To provide expertise and assistance to businesses interested in export markets; (4) To promote cooperative efforts between ports and local associate development organizations to assist local economic development efforts and build local capacity; and (5) To assist in the efficient marketing of the state's trade, tourism, and travel resources. <p>[1994 c 75 § 2; 1989 c 425 § 2.]</p>
RCW 53.31.030 - Export Trading Companies — Authorized — Adoption Of Business Plan. Agreement To Create RCW 53.31.040 [1989 c 11 § 23; 1986 c 276 § 4.]	<p>Public port districts, formed under chapter <u>53.04</u> RCW are authorized to establish export trading companies and a company so formed may contract with other public ports, financial institutions, freight forwarders, and public or private concerns within or outside the state to carry out the purposes of this chapter.</p>	<ul style="list-style-type: none"> • Applies only to port district other than a countywide port district in a county with a population of two hundred ten thousand or more, established under Title <u>53</u> RCW. See RCW <u>53.31.020</u> - <i>Definitions</i>. • A port district may participate financially in only one export trading company. • (4) A port district may contract with an export trading company to provide services on a reimbursement basis at current business rates to the export trading company, including but not limited to accounting, legal, clerical, technical, and other administrative services. • Separate accounting records prepared according to generally accepted accounting principles shall be maintained by the

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		<p>export trading company</p> <ul style="list-style-type: none"> • (5) Any obligation of an export trading company shall not in any manner be an obligation of the port district nor a charge upon any revenues or property of the port district. • (6) An export trading company may borrow money or contract indebtedness and pledge, in whole or in part, any of its revenues or assets not subject to prior liens or pledges. • An export trading company may not pledge any revenue or property of a port district or other municipal corporation and no port district or other municipal corporation may pledge its revenues or property to the payment thereof. • An export trading company has no power to issue general obligation bonds, levy taxes, or exercise power of eminent domain. • Forming a public corporation designated as an export trading company shall be initiated by a resolution of the board of commissioners of a port district adopting a charter for the corporation. • The charter shall contain: <ul style="list-style-type: none"> ○ such provisions as are authorized by law and ○ include provisions for a board of directors which shall conduct the affairs of the export trading company. • The board of directors shall include no fewer than three nor more than five members, all appointed by the port district board of commissioners. • Commissioners of the port shall be eligible to serve as members of the board and shall constitute a majority of the board of directors at all times. • Unless a later date is specified, the resolution shall take effect on the thirtieth day after adoption. • The corporation shall be deemed formed for all purposes upon filing in the office of the secretary of state a certified copy of the effective resolution and the charter adopted by

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		<p>the resolution.</p> <ul style="list-style-type: none"> • A port district proposing to establish an export trading company shall adopt a business plan with safeguards and limitations to ensure that any private benefit to be realized from the use of funds of the export trading company are incidental to the purposes of this chapter. • The business plan shall be adopted only after public hearing and shall be reviewed at least once every two years. <p>Amendments to the plan shall be adopted only after public hearing. The business plan shall include:</p> <ul style="list-style-type: none"> (a) A description of export promotion activities to be conducted during the period of the plan; (b) A proposed budget of operations which shall include an itemized list of estimated revenues and expenditures; (c) A description of the safeguards and limitations which ensure that the export trading company will best be used to enhance international trade and produce public benefit in the form of employment, capital investment, and tax revenues; (d) A description of private competitors which may be capable of providing the functions in the business plan; and (e) Such other matters as may be determined by the port district. <ul style="list-style-type: none"> • A port district, for the purpose of establishing or promoting an export trading company under this chapter, may provide financial assistance to the export trading company. • A port district may <u>not</u> provide such assistance or services for more than five years or in an amount greater than five hundred thousand dollars.

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<p>RCW 53.06.080- Implementation of economic development programs — Use of nonprofit corporations — Transfer of funds. [2000 c 198 § 1.]</p>	<p>Port districts are authorized to utilize the services of a nonprofit corporation for the purposes of providing training, education, and general improvement to the public sector management skills necessary to implement the economic development programs of port districts.</p>	<ul style="list-style-type: none"> • Any nonprofit corporation utilized pursuant to this section: <ul style="list-style-type: none"> ○ <u>must</u> be a tax exempt nonprofit corporation, ○ <u>may</u> be a nonprofit corporation created by the Washington public ports association, and ○ <u>must be</u> created for the sole purposes of education and training for port district officials and employees. • Port districts are authorized to transfer to a qualified nonprofit corporation utilized pursuant to this section any funds received from an industrial development corporation created by a port district under RCW <u>39.84.130</u>. Nothing in this section shall be construed to prohibit the receipt of additional public or private funds by a nonprofit corporation established under this section. • The coordination of these programs and the transfers and expenditures of funds shall be deemed to be for industrial development and trade promotion as provided for in Article VIII, section 8 of the Washington state Constitution. • Actions taken under this section must be implemented pursuant to the powers granted in chapter <u>39.84</u> RCW - INDUSTRIAL DEVELOPMENT REVENUE BONDS
<p>SEE also: RCW 53.08.245 - Economic development programs authorized — Job training and education. [2010 c 195 § 1; 1985 c 125 § 1.]</p>	<p>Port districts may contract with nonprofit corporations in furtherance of this and other acts relating to economic development. (2)(a) Economic development programs may include those programs for job training and placement, pre-apprenticeship training or educational programs associated with port tenants, customers, and local economic development related to port activities that are sponsored by a port, operated by a nonprofit entity and are in existence on June 10, 2010.</p>	<ul style="list-style-type: none"> • As a contract condition, a sponsoring port must require any nonprofit entity that operates programs such as those described in (2a) to submit annually quantitative information on program outcomes including: <ul style="list-style-type: none"> ○ The number of workers trained, recruited, and placed in jobs; ○ the types of jobs and range of compensation; ○ the number and types of businesses that are served; and ○ any other tangible benefits realized by the port, the workers, businesses, and the public.

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<p>RCW 53.08.030 - Operation of foreign trade zones.</p>	<p>A Port district may apply to the United States for permission to establish, operate, and maintain foreign trade zones: (1) Within the district; and (2) on property adjacent to but outside the district if the property is beyond the boundaries of any existing foreign trade zone grantee and is not currently designated as a foreign trade zone</p>	<ul style="list-style-type: none"> • That nothing herein shall be construed to prevent such zones from being operated and financed by a private corporation(s) on behalf of such district acting as zone sponsor • That when the money so raised is to be used exclusively for the purpose of acquiring land for sites and constructing warehouses, storage plants, and other facilities to be constructed within the zone for use in the operation and maintenance of the zones, • The district may contract indebtedness and issue general bonds therefor in an amount, in addition to the three-fourths of one percent hereinafter fixed, of one percent of the value of the taxable property in the district, as the term "value of the taxable property" is defined in RCW <u>39.36.015</u>, • such additional indebtedness only to be incurred with the assent of three-fifths of the voters of the district voting thereon.
<p>RCW 53.08.040-Improvement of lands for industrial and commercial purposes — Providing sewer and water utilities — Providing pollution control facilities. [2007 c 348 § 103; 1989 c 298 § 1; 1972 ex.s. c 54 § 1; 1967 c 131 § 1; 1955 c 65 § 5. Prior: 1943 c 166 § 2,</p>	<p>A Port district may improve its lands by dredging, filling, bulk heading, providing waterways or otherwise developing such lands for industrial and commercial purposes. A district may also acquire, construct, install, improve, and operate sewer and water utilities to serve its own property and other property owners under terms, conditions, and rates to be fixed and approved by the port commission. A district may also acquire, by purchase, construction, lease, or in any other manner, and may maintain and operate other facilities for the control or elimination of air, water, or other pollution, including, but not limited to, facilities for the treatment and/or disposal of industrial wastes, <u>and may make such facilities available to others</u> under</p>	<ul style="list-style-type: none"> • If Port utilities are made available to others : Such conditions and rates shall be sufficient to reimburse the port for all costs, including reasonable amortization of capital outlays caused by or incidental to providing such other pollution control facilities. • No part of such costs of providing any pollution control facility to others shall be paid out of any tax revenues of the port and • no port shall enter into an agreement or contract to provide sewer and/or water utilities or pollution control facilities if substantially similar utilities or facilities are available from another source (or sources) which is able and willing to provide such utilities or facilities on a reasonable and nondiscriminatory basis unless such other source (or sources) consents thereto. • If a port elects to make such other pollution control facilities available to others, it shall do so by lease, lease purchase

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<p>part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]</p>	<p>terms, conditions and rates to be fixed and approved by the port commission.</p> <p>(3) "Pollution control facility," as used in this section and RCW <u>53.08.041</u>, does not include air quality improvement equipment that provides emission reductions for engines, vehicles, and vessels.</p>	<p>agreement, or other agreement binding such user to pay for the use of said facilities for the full term of the revenue bonds issued by the port for the acquisition of said facilities, and said payments shall at least fully reimburse the port for all principal and interest paid by it on said bonds and for all operating or other costs, if any, incurred by the port in connection with said facilities.</p> <ul style="list-style-type: none"> • Where there is more than one user of any such facilities, each user shall be responsible for its pro rata share of such costs and payment of principal and interest. • Any port intending to provide pollution control facilities to others shall first survey the port district to ascertain the potential users of such facilities and the extent of their needs. • The port shall conduct a public hearing upon the proposal and shall give each potential user an opportunity to participate in the use of such facilities upon equal terms and conditions.
<p>RCW 53.08.049 - Community revitalization financing — Public improvements.</p>	<p>A port district may provide any public improvement as defined under RCW <u>39.89.020</u>, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW <u>39.89.050</u>.</p>	<p>(4) "Public improvements" means:</p> <p>(a) Infrastructure improvements within the increment area that include:</p> <ul style="list-style-type: none"> (i) Street and road construction and maintenance; (ii) Water and sewer system construction and improvements; (iii) Sidewalks and streetlights; (iv) Parking, terminal, and dock facilities; (v) Park and ride facilities of a transit authority; (vi) Park facilities and recreational areas; and (vii) Storm water and drainage management systems; and <p>(b) Expenditures for any of the following purposes:</p> <ul style="list-style-type: none"> (i) Providing environmental analysis, professional management, planning, and promotion within the increment area, including the management and promotion of retail trade activities in the increment area; (ii) Providing maintenance and security for common or public

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		areas in the increment area; or (iii) Historic preservation activities authorized under RCW <u>35.21.395</u> .
RCW 53.08.050 - Local improvement districts — Assessments — Bonds.	A district may establish local improvement districts within the district, and levy special assessments,	<ul style="list-style-type: none"> • LIDs shall be levied in annual installments extending over a period not exceeding ten years on all property specially benefited by the local improvement, on the basis of special benefits, to pay in whole or in part the damages or costs of the local improvement, and issue local improvement bonds to be paid from local improvement assessments. • Follows law for the levy and collection of local improvement assessments and the issuance of local improvement bonds by cities and towns, except that the duties of the treasurers of such cities and towns in connection therewith shall be performed by the county treasurer. • Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW <u>39.46.030</u>. • such bonds may be issued and sold in accordance with chapter <u>39.46</u> RCW.
RCW 53.08.208 - Actions against officer, employee, or agent — Defense and costs provided by port district — Exception.	The commission of the district may grant a request by such person that the attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the district's funds whenever any action, claim, or proceeding is instituted against any person who is or was an officer, employee, or agent of a port district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district,	Costs of defense and/or judgment or settlement against such person shall not be paid by the port where the court has found that such person was not acting in good faith or within the scope of his or her employment with or duties for the district.

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<p>RCW 53.08.220 - Regulations authorized — Adoption as part of ordinance or resolution of city or county, procedure — Enforcement — Penalty for violation.</p>	<p>A port district may formulate all needful regulations for the use by tenants, agents, servants, licensees, invitees, suppliers, passengers, customers, shippers, business visitors, and members of the general public of any properties or facilities owned or operated by it, and request the adoption, amendment, or repeal of such regulations as part of the ordinances of the city or town in which such properties or facilities are situated, or as part of the resolutions of the county</p>	<ul style="list-style-type: none"> • The port commission shall make such request to the city town or county by resolution after holding a public hearing on the proposed regulations, of which at least ten days' notice shall be published in a legal newspaper of general circulation in the port district. • Such regulations must conform to and be consistent with federal and state law. • As to properties or facilities situated within a city or town, such regulations must conform to and be consistent with the ordinances of the city or town • As to properties or facilities situated outside any city or town, such regulations must conform to and be consistent with county resolutions. • Upon receiving such request, the governing body of the city, town, or county, as the case may be, may adopt such regulations as part of its ordinances or resolutions, or amend or repeal such regulations in accordance with the terms of the request. • Any violation of the regulations described in subsection (1) of this section is a misdemeanor which shall be redressed in the same manner as other police regulations of the city, town, or county, and it shall be the duty of all law enforcement officers to enforce such regulations accordingly. • Except violation of such a regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction. • Violation of such a regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.
<p>RCW 53.08.230 - Making motor vehicle</p>	<p>A port district may at its option file with the county auditor a plat of any of its properties or facilities, showing thereon such private streets, alleys, access</p>	<ul style="list-style-type: none"> • Such Port plat may be amended at any time by the filing of an amendatory plat, and may be vacated at any time by the filing of a resolution of vacation.

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<p>and other police regulations applicable to district property — Filing plat with county auditor — Duty of law enforcement officers.</p>	<p>roads, parking areas, parks and other places as the port district may wish to have treated as public for purposes of motor vehicle or other police regulations.</p>	<ul style="list-style-type: none"> • So long as any such plat or amendatory plat is on file and not vacated, the motor vehicle or other police regulations of the state, and the motor vehicle regulations of the city, town or county, as the case may be, in which the areas described in the plat are situated, shall apply to such areas as though they were public streets, alleys, access roads, parking areas, parks or other places, and • it shall be the duty of all state and local law enforcement officers to enforce such regulations accordingly.
<p>RCW 53.08.255 - Tourism promotion and tourism-related facilities authorized. [2007 c 476 § 1; 1984 c 122 § 10.] [1965 c 81 § 2.]</p>	<p>(1) Any port district in this state, acting through its commission, has power to expend moneys and conduct promotion of resources and facilities in the district or general area by <u>advertising, publicizing, or otherwise distributing information to attract visitors and encourage tourist expansion.</u></p> <p>(2)(a) Any port district is authorized either individually or jointly with any other municipality, or person, or any combination thereof, <u>to acquire and to operate tourism-related facilities.</u></p>	<ul style="list-style-type: none"> • (b) When exercising this authority a port district may exercise any of the powers granted to a municipality under RCW <u>67.28.120, 67.28.130 through 67.28.170</u> , and <u>67.28.220</u>, • but may not exercise powers granted to municipalities under RCW <u>67.28.180</u> and <u>67.28.181</u> or other powers granted to municipalities under chapter <u>67.28</u> RCW. • The definitions contained in RCW <u>67.28.080</u> apply to the exercise of authority by a port district under (a) of this subsection, and for that purpose the term "municipality" includes a port district. • (c) Port districts may not use this section as the authority for the exercise of the power of eminent domain. • <u>Before</u> undertaking any such plan for the acquisition and operation of any park or recreational facility, the proposed plan therefor shall be first submitted in writing to the director of the parks and recreation commission and to the governing body of any county or municipal park agency having jurisdiction in the area. • The state director and/or such county or municipal park agency shall examine the port's proposed plan, and may disapprove such proposed plan if it is found to be in conflict with state or local park and recreation plans for the same area.

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		<ul style="list-style-type: none"> • If such proposed port plan is disapproved the port district shall not proceed further with such plan. • If the state director or the governing body of the county or municipal agency does not respond in writing to the port within sixty days, it shall be deemed that approval has been granted.
RCW 53.08.260 - Park and recreation facilities. [1965 c 81 § 1.]	A port district may construct, improve, maintain, and operate public park and recreation facilities when such facilities are necessary to more fully utilize boat landings, harbors, wharves and piers, air, land, and water passenger and transfer terminals, waterways, and other port facilities authorized by law pursuant to the port's comprehensive plan of harbor improvements and industrial development.	
RCW 53.08.295 - Passenger carrying vessels. [2008 c 45 § 4; 1980 c 110 § 3.]	A port district may acquire, lease, construct, purchase, maintain, and operate passenger carrying vessels on Puget Sound, interstate navigable rivers of the state, and intrastate waters of adjoining states	<ul style="list-style-type: none"> • Service provided shall be under terms, conditions, and rates to be fixed and approved by the port commission. • Operation of such vessels shall be subject to applicable state and federal laws pertaining to such service.
RCW 53.08.340- Streets, roads, and highways — Expenditure of funds.	The funds authorized by RCW 53.08.330 may be expended by the port commission in conjunction with any plan of improvements undertaken by the state of Washington, an adjoining state, or a county or municipal government of either, in combination with any of said public entities	<u>without regard to whether expenditures are made for a road located within the state of Washington or an adjoining state.</u>

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<p>RCW 53.08.370 - Telecommunications facilities — Construct, purchase, acquire, etc. — Purposes — Limitations — Eminent domain.</p> <p>Nothing in chapter 81, Laws of 2000 limits any existing authority of a rural port district under this title. [2000 c 81 § 7.]</p> <p>Notes: Findings — 2000 c 81: See note following RCW 53.08.005. [2000 c 81 § 9.]</p>	<p>A rural port district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:</p>	<ul style="list-style-type: none"> • For the district's own use; and For the provision of wholesale telecommunications services within the district's limits. • Nothing in this subsection shall be construed to authorize rural port districts to provide telecommunications services to <u>end users</u>. A rural port district shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. • Rates, terms, and conditions are discriminatory or preferential when a rural port district offering such rates, terms, and conditions to an entity for wholesale telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services. • When a rural port district establishes a separate utility function for the provision of wholesale telecommunications services, it shall account for any and all revenues and expenditures related to its wholesale telecommunications facilities and services separately from revenues and expenditures related to its internal telecommunications operations. • Any revenues received from the provision of wholesale telecommunications services must be dedicated to the utility function that includes the provision of wholesale telecommunications services for costs incurred to build and maintain the telecommunications facilities until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance the telecommunications facilities are discharged or retired. • When a rural port district establishes a separate utility function for the provision of wholesale telecommunications services, all telecommunications services rendered by the

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		<p>separate function to the district for the district's internal telecommunications needs shall be charged at its true and full value.</p> <ul style="list-style-type: none"> • A rural port district may not charge its non-telecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale telecommunications services. • A rural port district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities. • Except as otherwise specifically provided, a rural port district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. • A person or entity that has requested wholesale telecommunications services from a rural port district may petition the commission under the procedures set forth in <u>RCW 80.04.110</u> (1) through (3) if it believes the district's rates, terms, and conditions are unduly or unreasonably discriminatory or preferential. • The person or entity shall provide the district notice of its intent to petition the commission and an opportunity to review within thirty days the rates, terms, and conditions as applied to it prior to submitting its petition. • In determining whether a district is providing discriminatory or preferential rates, terms, and conditions, the commission may consider such matters as service quality, technical feasibility of connection points on the district's telecommunications facilities, time of response to service requests, system capacity, and other matters reasonably related to the provision of wholesale telecommunications services.

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		<ul style="list-style-type: none"> • If the commission, after notice and hearing, determines that a rural port district's rates, terms, and conditions are unduly or unreasonably discriminatory or preferential, it shall issue a final order finding noncompliance with this section and setting forth the specific areas of apparent noncompliance. An order imposed under this section shall be enforceable in any court of competent jurisdiction. • The commission may order a rural port district to pay a share of the costs incurred by the commission in adjudicating or enforcing this section. • Without limiting other remedies at law or equity, the commission and prevailing party may also seek injunctive relief to compel compliance with an order. • Nothing in this section shall be construed to affect the commission's authority and jurisdiction with respect to actions, proceedings, or orders permitted or contemplated for a state commission under the federal telecommunications act of 1996, P.L. 104-104 (110 Stat. 56).
<p>RCW 53.08.390 - Grays Harbor pilotage district — Conditions on pilotage service. [2010 c 8 § 16003; 2001 2nd sp.s. c 22 § 1.]</p>	<p>A countywide port district located in part or in whole within the Grays Harbor pilotage district, as defined by RCW <u>88.16.050(2)</u>, may commence pilotage service with the following powers and subject to the conditions contained in this section.</p>	<ul style="list-style-type: none"> • Persons employed to perform the pilotage service of a port district must be licensed under chapter <u>88.16</u> RCW to provide pilotage. Before establishing pilotage service, a port district shall give at least sixty days' written notice to the chair of the board of pilotage commissioners to provide pilotage. A port district providing pilotage service under this section requiring additional pilots may petition the board of pilotage commissioners to qualify and license as a pilot a person who has passed the examination and is on the waiting list for the training program for the district. • If there are no persons on the waiting list, the board shall solicit applicants and offer the examination. • In addition to the power to employ or contract with pilots, a port district providing pilotage services under this section has

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		<p>such other powers as are reasonably necessary to accomplish the purpose of this section including, but not limited to, providing through ownership or contract pilots launches, dispatcher services, or ancillary tug services required for operations or safety.</p> <ul style="list-style-type: none"> • A port district providing pilotage services under this section may recommend to the board of pilotage commissioners rules of service, rates, and tariffs governing its pilotage services for consideration and adoption pursuant to RCW <u>88.16.035</u>. • The rules, rates, and tariffs recommended by the port district must have been approved in open meetings of the port district ten or more days after published notice in a newspaper of general circulation and after mailing a copy of the notice to the chair of the board of pilotage commissioners. • A pilot providing pilotage services under this section must comply with all requirements of the pilotage act, chapter <u>88.16</u> RCW, and all rules adopted thereunder.
<p>RCW 53.08.420 Cooperative watershed management.</p>	<p>A port district may participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under RCW <u>39.34.210</u> and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.</p>	

RCW 39.34.030- Joint powers — Agreements for joint or cooperative action, requisites, effect on responsibilities of component agencies — Financing of joint projects. Any two or more public agencies may enter into agreements with one another for joint or cooperative action;

The Agreement must be approved by Resolutions of each Port Commission

The Agreement must set forth:

- Duration,
- The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto
- Its purpose or purposes;
- How the joint or cooperative undertaking is to be financed, and how its budget is established and maintained;
- How the Agreement is to be terminated, in part or completely and
- How to dispose of property upon such partial or complete termination; and
- Any other necessary and proper matters.
- Financing of joint projects by agreement shall be as provided by law.
 - meaning: The funds of such joint operation shall be deposited in the public treasury of the Port which has the largest population or of any other public treasury agreed upon by the parties; and funds shall be subject to the audit and fiscal controls as the public treasury where the funds are so deposited: RCW 43.09.285

The Agreement may establish a separate legal entity or a Joint Board to carry out the intended purpose

If a Joint Board is created, the Agreement must also specify:

- An administrator or a joint board who is responsible for administering the joint or cooperative undertaking.
 - In the case of a joint board, the public agencies that are party to the agreement shall be represented; and
- The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.
- The joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of joint board".

RCW 53.08.240 Joint exercise of powers and joint acquisition of property — Contracts with other governmental entities (1) Any two or more port districts shall have the power, by mutual agreement, to exercise jointly all powers granted to each individual district, and in the exercise of such powers shall have the right and power to acquire jointly all lands, property, property rights, leases, or easements necessary for their purposes, either entirely within or partly within or partly without or entirely without such districts: PROVIDED, That any two or more districts so acting jointly, by mutual agreement, shall not acquire any real property or real property rights in any other port district without the consent of such district