Initiative Measure No. 1025

Filed
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SECRETARY OF STATE

Bring Accountability to the Port of Seattle

AN ACT Relating to bringing accountability to the Port of Seattle; amending RCW 53.36.020, 53.36.070, 53.36.080, 53.36.100, 84.52.069, and 84.55.005; adding a new section to chapter 53.36 RCW: creating new sections; and providing effective dates.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

POLICIES AND PURPOSES

NEW SECTION. **Sec. 1.** Despite a scathing audit and a Department of Justice criminal investigation, all the citizens heard at two public hearings from the Port of Seattle was denial, deception, and doubletalk. The Port of Seattle doesn't want to adopt the State Auditor's recommendations and even if they did, they wouldn't even scratch the surface. The Port of Seattle cannot be reformed - it is a swamp and it must be drained. This measure would transfer all port operations and responsibilities to the King County government, eliminating unnecessary bureaucracy and redundancy. The savings from this consolidation would allow the immediate elimination of the Port's property tax levy. To ensure public confidence and accountability, the measure would require the State Auditor to regularly investigate and monitor King County's new port responsibilities and regularly report to the public on its operations. The measure would also require King County to provide adequate financial resources to fulfill its new and permanent oversight responsibilities.

The benefits of this act are too numerous to list all of them, but here are a few:

(1) This is certainly not unprecedented. When Metro got into trouble, which didn't involve a Department of Justice criminal investigation, King

County government took it over. King County's delivery of Metro services is clearly superior when compared to Metro as a separate operation;

(2) The audit report said that decisions are made by entrenched port staff with port commissioners led by the nose. Each King County councilmember has his or her own independent staff;

(3) Port commissioners are paid $6000 per year, and people wonder why someone would want such a low-paying job if not for side-benefits like kick-backs or other fraudulent activity. King County councilmembers are full-time professionals paid over $100,000 per year, and again, each councilmember having their own staff;

(4) Department of Homeland Security deals with two airports, King County airport and Seatac, each with different procedures, policies, protocols, and personnel. Having both airports handled by one governmental entity means consistency and continuity in procedures and personnel;

(5) No one knows who the port commissioners are. King County council races are well-publicized and elected by district;

(6) The act ensures accountability and transparency by empowering State Auditor Brian Sonntag to birddog and watchdog King County's new port responsibilities; and

(7) Since the passage of Initiative Measure No. 747 in 2001, King County government has abided by the 1% property tax limit, the Port of Seattle has not. In 2002, the Port increased its property tax levy by 37% and in 2007 by 11%. The Port of Seattle clearly acts as if it is above the law and so the property tax levy much be discontinued.

The most devastating aspect of State Auditor Brian Sonntag's performance audit is that it highlights the fact that the Port's actions never match their words. That their public statements don't match what they wrote in response to the audit. The Port's pronouncements and testimony in Seattle do not match their pronouncements and testimony in Olympia. That their statement "We have zero tolerance for fraud," which they say repeatedly, received this response from Cotton and Company auditors in the report: "It sounds good, but the Port of Seattle's actions contradict this assertion." That they say they're eager to hear from the public but they stall a public hearing for one and one-half hours before letting citizens testify.

The Port of Seattle is a petri dish of corruption and the people demand accountability, transparency, and effective governance and

representation. This act provides for these demands and the people are rewarded with the elimination of the port's onerous property tax levy and better oversight of port operations by King County and the State Auditor.

Sec. 2. A new section is added to chapter 53.36 RCW and reads as follows:

The Port of Seattle, a port district in a county with a population of one million or more and which has been the subject of a Department of Justice criminal investigation, must have its port operations and responsibilities transferred to the county in which the district exists. To ensure public accountability and transparency, the State Auditor shall have the permanent responsibility of regularly investigating and monitoring the county's new port operations and responsibilities and shall regularly report to the public on all aspects of its operations, serving as a permanent watchdog over it on behalf of the taxpayers. To ensure adequate funding for this new mandated oversight responsibility by the State Auditor over the county's new operations mandated by this act, King County must provide the State Auditor's office with funding of no less than three million dollars per year.

NEW SECTION. **Sec. 3.** RCW 53.36.020 and 1973 1st ex.s. c 195 s 56 are each amended to read as follows:

A district may raise revenue by levy of an annual tax not to exceed forty-five cents per thousand dollars of assessed value against the assessed valuation of the taxable property in such port district for general port purposes, including the establishment of a capital improvement fund for future capital improvements, except that any levy for the payment of the principal and interest of the general bonded indebtedness of the port district shall be in excess of any levy made by the port district under the forty-five cents per thousand dollars of assessed value limitation. The levy shall be made and taxes collected in the manner provided for the levy and collection of taxes in school districts of the first class. This section does not apply to the Port of Seattle, a port district in a county with a population of one million or more and which has been the subject of a Department of Justice criminal investigation. The people find that the consolidation of operations allows for the immediate discontinuation of the port's property tax levy.

NEW SECTION. **Sec. 4.** RCW 53.36.070 and 1983 c 3 s 162 are each amended to read as follows:

Any port district organized under the laws of this state shall, in addition to the powers otherwise provided by law, have the power to raise revenue by the levy and collection of an annual tax on all taxable property within such port district of not to exceed forty-five cents per thousand dollars of assessed value against the assessed valuation of the taxable property in such port district, for dredging, canal construction, or land leveling or filling purposes, the proceeds of any such levy to be used exclusively for such dredging, canal construction, or land leveling and filling purposes: PROVIDED, That no such levy for dredging, canal construction, or land leveling or filling purposes under the provisions of this section and RCW ((~~53.36.070 and~~)) 53.36.080 shall be made unless and until the question of authorizing the making of such additional levy shall have been submitted to a vote of the electors of the district in the manner provided by law for the submission of the question of making additional levies in school districts of the first class at an election held under the provisions of RCW ((~~29.13.020~~)) 29A.04.330 and shall have been authorized by a majority of the electors voting thereon. This section does not apply to the Port of Seattle, a port district in a county with a population of one million or more and which has been the subject of a Department of Justice criminal investigation. The people find that the consolidation of operations allows for the immediate discontinuation of the port's property tax levy.

NEW SECTION. **Sec. 5.** RCW 53.36.080 and 1965 ex.s. c 22 s 2 are each amended to read as follows:

Whenever such additional levy for dredging, canal construction, or land leveling or filling purposes shall have been authorized by the electors of the district at an election, held subsequent to the time of making the levy for the district for general purposes, in any year, such levy shall be certified by the port commission in the manner provided by law for certifying levies for general purposes of the district, and shall be forthwith spread and extended upon the tax rolls for the current year, and the taxes so levied and extended shall be collected in the manner provided by law for the collection of general taxes. This section does not

apply to the Port of Seattle, a port district in a county with a population of one million or more and which has been the subject of a Department of Justice criminal investigation. The people find that the consolidation of operations allows for the immediate discontinuation of the port's property tax levy.

NEW SECTION. **Sec. 6.** RCW 53.36.100 and 1994 c 278 s 1 are each amended to read as follows:

(1) A port district having adopted a comprehensive scheme of harbor improvements and industrial developments may thereafter raise revenue, for six years only, and a second six years if the procedures are followed under subsection (2) of this section, in addition to all other revenues now authorized by law, by an annual levy not to exceed forty-five cents per thousand dollars of assessed value against the assessed valuation of the taxable property in such port district. In addition, if voters approve a ballot proposition authorizing additional levies by a simple majority vote, a port district located in a county bordering on the Pacific Ocean having adopted a comprehensive scheme of harbor improvements and industrial developments may impose these levies for a third six-year period. Said levies shall be used exclusively for the exercise of the powers granted to port districts under chapter 53.25 RCW except as provided in RCW 53.36.110. The levy of such taxes is herein authorized notwithstanding the provisions of RCW 84.52.050 and 84.52.043. The revenues derived from levies made under this section and ((~~RCW 53.36.100 and~~)) 53.36.110 not expended in the year in which the levies are made may be paid into a fund for future use in carrying out the powers granted under chapter 53.25 RCW, which fund may be accumulated and carried over from year to year, with the right to continue to levy the taxes provided for in this section and ((~~RCW 53.36.100 and~~)) 53.36.110 for the purposes herein authorized.

(2) If a port district intends to levy a tax under this section for one or more years after the first six years these levies were imposed, the port commission shall publish notice of this intention, in one or more newspapers of general circulation within the district, by June 1 of the year in which the first levy of the seventh through twelfth year period is to be made. If within ninety days of the date of publication a petition is filed with the county auditor containing the signatures of eight percent of the number of voters registered and voting in the port district for the

office of the governor at the last preceding gubernatorial election, the county auditor shall canvass the signatures in the same manner as prescribed in ((~~RCW 29.79.200~~)) RCW 29A.72.230 and certify their sufficiency to the port commission within two weeks. The proposition to make these levies in the seventh through twelfth year period shall be submitted to the voters of the port district at a special election, called for this purpose, no later than the date on which a primary election would be held under ((~~RCW 29.13.070~~)) RCW 29A.04.311. The levies may be made in the seventh through twelfth year period only if approved by a majority of the voters of the port district voting on the proposition. This section does not apply to the Port of Seattle, a port district in a county with a population of one million or more and which has been the subject of a Department of Justice criminal investigation. The people find that the consolidation of operations allows for the immediate discontinuation of the port's property tax levy.

NEW SECTION. **Sec. 7.** RCW 84.52.069 and 2004 c 129 s 23 are each amended to read as follows:

(1) As used in this section, "taxing district" means a county, emergency medical service district, city or town, public hospital district, urban emergency medical service district, regional fire protection service authority, or fire protection district.

(2) A taxing district may impose additional regular property tax levies in an amount equal to fifty cents or less per thousand dollars of the assessed value of property in the taxing district. The tax shall be imposed (a) each year for six consecutive years, (b) each year for ten consecutive years, or (c) permanently. A tax levy under this section must be specifically authorized by a majority of at least three-fifths of the registered voters thereof approving a proposition authorizing the levies submitted at a general or special election, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percent of the total number of voters voting in such taxing district at the last preceding general election when the number of registered voters voting on the proposition does not exceed forty percent of the total number of voters voting in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the registered voters thereof voting on the proposition when the number of

registered voters voting on the proposition exceeds forty percent of the total number of voters voting in such taxing district in the last preceding general election. Ballot propositions shall conform with RCW 29A.36.210. A taxing district shall not submit to the voters at the same election multiple propositions to impose a levy under this section.

(3) A taxing district imposing a permanent levy under this section shall provide for separate accounting of expenditures of the revenues generated by the levy. The taxing district shall maintain a statement of the accounting which shall be updated at least every two years and shall be available to the public upon request at no charge.

(4) A taxing district imposing a permanent levy under this section shall provide for a referendum procedure to apply to the ordinance or resolution imposing the tax. This referendum procedure shall specify that a referendum petition may be filed at any time with a filing officer, as identified in the ordinance or resolution. Within ten days, the filing officer shall confer with the petitioner concerning form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the designated local official. The petitioner shall have thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the taxing district, as of the last general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. The filing officer shall verify the sufficiency of the signatures on the petition and, if sufficient valid signatures are properly submitted, shall certify the referendum measure to the next election within the taxing district if one is to be held within one hundred eighty days from the date of filing of the referendum petition, or at a special election to be called for that purpose in accordance with RCW 29A.04.330.

The referendum procedure provided in this subsection shall be exclusive in all instances for any taxing district imposing the tax under this section and shall supersede the procedures provided under all other statutory or charter provisions for initiative or referendum which might otherwise apply.

(5) Any tax imposed under this section shall be used only for the provision of emergency medical care or emergency medical services, including related personnel costs, training for such personnel, and related equipment, supplies, vehicles and structures needed for the provision of

emergency medical care or emergency medical services.

(6) If a county levies a tax under this section, no taxing district within the county may levy a tax under this section. If a regional fire protection service authority imposes a tax under this section, no other taxing district that is a participating fire protection jurisdiction in the regional fire protection service authority may levy a tax under this section. No other taxing district may levy a tax under this section if another taxing district has levied a tax under this section within its boundaries: PROVIDED, That if a county levies less than fifty cents per thousand dollars of the assessed value of property, then any other taxing district may levy a tax under this section equal to the difference between the rate of the levy by the county and fifty cents: PROVIDED FURTHER, That if a taxing district within a county levies this tax, and the voters of the county subsequently approve a levying of this tax, then the amount of the taxing district levy within the county shall be reduced, when the combined levies exceed fifty cents. Whenever a tax is levied county-wide, the service shall, insofar as is feasible, be provided throughout the county: PROVIDED FURTHER, That no county-wide levy proposal may be placed on the ballot without the approval of the legislative authority of each city exceeding fifty thousand population within the county: AND PROVIDED FURTHER, That this section and RCW 36.32.480 shall not prohibit any city or town from levying an annual excess levy to fund emergency medical services: AND PROVIDED, FURTHER, That if a county proposes to impose tax levies under this section, no other ballot proposition authorizing tax levies under this section by another taxing district in the county may be placed before the voters at the same election at which the county ballot proposition is placed: AND PROVIDED FURTHER, That any taxing district emergency medical service levy that is limited in duration and that is authorized subsequent to a county emergency medical service levy that is limited in duration, shall expire concurrently with the county emergency medical service levy.

(7) The limitations in RCW 84.52.043 shall not apply to the tax levy authorized in this section.

(8) If a ballot proposition approved under subsection (2) of this section did not impose the maximum allowable levy amount authorized for the taxing district under this section, any future increase up to the maximum allowable levy amount must be specifically authorized by the voters in accordance with subsection (2) of this section at a general or special

election.

(9) The limitation in RCW 84.55.010 shall not apply to the first levy imposed pursuant to this section following the approval of such levy by the voters pursuant to subsection (2) of this section.

(10) For purposes of this section, the following definitions apply:

(a) "Fire protection jurisdiction" means a fire protection district, city, town, Indian tribe, or port district, except the Port of Seattle; and

(b) "Participating fire protection jurisdiction" means a fire protection district, city, town, Indian tribe, or port district, except the Port of Seattle, that is represented on the governing board of a regional fire protection service authority.

NEW SECTION. **Sec. 8.** RCW 84.55.005 and 2007 sp.s. c 1 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Inflation" means the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce in September of the year before the taxes are payable;

(2) "Limit factor" means:

(a) For taxing districts with a population of less than ten thousand in the calendar year prior to the assessment year, one hundred one percent;

(b) For taxing districts for which a limit factor is authorized under RCW 84.55.0101, the lesser of the limit factor authorized under that section or one hundred one percent;

(c) For all other districts, the lesser of one hundred one percent or one hundred percent plus inflation; and

(3) "Regular property taxes" has the meaning given it in RCW 84.04.140; and

(4) For purposes of this chapter, "taxing districts" does not include the Port of Seattle, a port district in a county with a population of one million or more and which has been the subject of a Department of Justice criminal investigation.

NEW SECTION. **Sec. 9.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 10.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. If the elimination of any tax in this act is judicially held to impair any contract in existence as of the effective date of this act, the elimination of pledged revenues shall apply to any other contract, including novation, renewal, or refunding (in the case of bond contract).

NEW SECTION. **Sec. 11.** If a taxing district continues to collect tax revenue from a tax that is reduced or eliminated by this act, for any reason, including reliance on a judicial determination that such taxes may continue to be collected, and a court rules subsequently that the continued collection of tax revenues was unlawful, taxpayers are entitled to a refund of the tax paid plus eighteen percent annualized interest, calculated from the effective date of this section to the date the refunds are sent, on the refund amount due to property owners, plus litigation costs and attorneys fees reasonably incurred in seeking refunds.

The people find that taxpayers deserve to be compensated when the government continues to collect taxes illegally.

NEW SECTION. **Sec. 12.** Subheadings used in this act are not part of the law.

NEW SECTION. **Sec. 13.** This act shall be called Bring Accountability to the Port of Seattle Act.

NEW SECTION. **Sec. 14.** This act takes effect December 4, 2008.

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