

Senate Bill 814

Sponsored by Senator SMITH DB, Representatives GOMBERG, JAVADI (at the request of Oregon Public Ports Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Declares intent of Legislative Assembly to displace competition under state action doctrine for discussions, collaborations and agreements among ports of Astoria, Columbia County and Coos Bay and with other members of Northwest Marine Terminal Association that could incur liability under state or federal antitrust laws. Requires ports to submit any agreement that results from discussion or collaboration to State Land Board for supervision and approval. Permits State Land Board to delegate duties to Director of the Department of State Lands.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to applying the state action doctrine to agreements among certain Oregon ports; and de-
3 claring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 777.**

6 **SECTION 2. (1) The Legislative Assembly finds and declares that:**

7 (a) **Oregon ports are vital links in the transportation and economic infrastructure of this**
8 **state and perform critical services that support and facilitate movement of cargo and pas-**
9 **sengers within this state and in commerce worldwide;**

10 (b) **The viability, vitality and stability of Oregon ports is a matter of statewide impor-**
11 **tance;**

12 (c) **Port boards of commissioners and other port officials must conduct discussions and**
13 **enter into collaborations and agreements with the commissioners and officials of other ports**
14 **on matters such as best practices, operations, joint exercise of powers, expense sharing,**
15 **rates and other matters related to port operations or matters of shared interest to ensure**
16 **that each port is well positioned to maintain the port's viability, vitality and stability; and**

17 (d) **Discussions and collaborations of the type described in paragraph (c) of this sub-**
18 **section might risk incurring liability under the antitrust laws of this state or the United**
19 **States.**

20 (2) **The Legislative Assembly declares that the policy of this state and the intent of this**
21 **section is, notwithstanding the applicability of the antitrust laws of this state or the United**
22 **States, to displace competition under the state action doctrine to the extent specified in**
23 **subsection (3) of this section and to subject discussions, collaborations and agreements de-**
24 **scribed in subsection (1)(c) of this section to the supervision and approval of the State Land**
25 **Board as provided in subsection (3) of this section.**

26 (3)(a) **A discussion, collaboration or agreement between or among the Port of Astoria,**
27 **Port of Columbia County or Port of Coos Bay or among these ports and other members of**
28 **the Northwest Marine Terminal Association concerning rates, charges, rules, practices and**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **procedures, planning, development, management, marketing, operation and use of port fa-**
2 **cilities or related operational matters is not subject to liability under the antitrust laws of**
3 **this state or the United States and may not affect any port's membership in the Northwest**
4 **Marine Terminal Association or a successor association.**

5 **(b) If a discussion or collaboration involving the Port of Astoria, Port of Columbia County**
6 **or Port of Coos Bay results in an agreement as to matters described in paragraph (a) of this**
7 **subsection that are or could become subject to liability under the antitrust laws of this state**
8 **or the United States, the port shall submit the agreement to the State Land Board for ap-**
9 **proval.**

10 **(c) The State Land Board shall participate in discussions and collaborations among the**
11 **ports to the extent the board determines is necessary to exercise appropriate state super-**
12 **vision and shall accept, modify or reject any resulting agreements. The board may delegate**
13 **the board's duties under this section to the Director of the Department of State Lands.**

14 **SECTION 3. This 2023 Act being necessary for the immediate preservation of the public**
15 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
16 **on its passage.**

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