

From: "Brent H. Hutchings" <[redacted]>
Subject: North River Boats - HB (2902)
Date: February 22, 2017 at 9:57:33 AM PST
To: Sen.JeffKruse@state.or.us, rep.dallasheard@state.or.us

Gentlemen,

I am the CEO and owner of North River Boats. While we have not met, I have heard good things about how you represent Douglas County and the community of Roseburg. As you likely know, North River has experienced a significant resurgence in the last 4 years. We have tripled revenue, saved 65 good jobs and created 65 new living wage jobs with full benefits in Douglas County. Many fine people suffered when North River was hit by the double whammy of the economic downturn and the former owner's misdeeds, but all of that has thankfully faded in the rear view mirror. I intend to own and grow this business forever, and it is in that spirit that I ask you to consider the following.

Jonathan Wright of the City of Reedsport recently made me aware of HB (2902) and the potential dire implications for the Douglas County marine industry. Along with Fred Wahl Marine, Giddings Boat Works, Tar Heel Aluminum and Reedsport Machine, North River stands to be negatively impacted if municipalities are allowed to directly compete with private employers. The addition of bullet point (8) would enable ports to **operate shipyards and build watercraft, directly competing with private employers**. If enacted, this will allow ports to construct any maintain any type of watercraft which has the potential to be damaging for all ship builders and ship yards in Oregon. Ports are tax exempt, subsidized by tax proceeds and able to apply for many more grant opportunities than private business. Therefore, this bill would give them unfair economic advantages over private companies that have worked hard to save and create good jobs in your districts.

I respectfully ask for your support to defeat this ill-conceived measure.

I would also like the opportunity to meet each of you at a mutually convenient time to get to know each other and to explore areas of mutual interest. I am generally free for lunch Mondays and Tuesdays in Roseburg. If you are interested, I would be happy to give you a tour of the reinvented North River Boats. It is pretty interesting as factory tours go, and would take about an hour.

Thank you for your dedication to serving Douglas County and Oregon. I appreciate your time.

Best regards,

Brent H. Hutchings
CEO
North River Boats

Dear Senator Gomberg,

My husband , Brian Skallerud, and I operate his business Skallerud Marine Inc. in Charleston Oregon. We build and repair wooden and fiberglass boats, both commercial and private.

We recently received information regarding this bill and how it would impact us as a small business and many other small businesses alike.

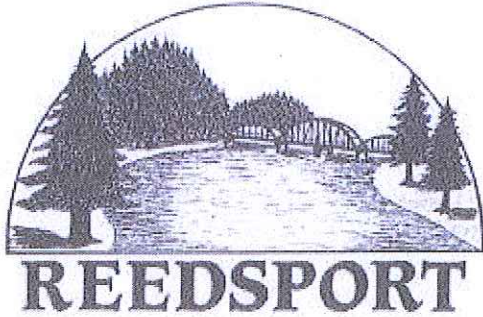
Ports are a valuable asset to our operating our business, but, if they were made able to operate and compete with small businesses it would be catastrophic to the small boat construction businesses operating along the Oregon Coast.

We oppose this House Bill 2902 for these reasons. Please keep us and our families futures in mind and represent us as you took the oath to do.

Please feel free to contact us if you have any concerns. We would like to hear your opinion on this.

Sincerely,

Carrie and Brian Skallerud



CITY of REEDSPORT

451 Winchester Avenue
Reedsport, OR 97467-1597
Phone (541) 271-3603
Fax (541) 271-2809

February 14, 2017

Dear Ports of Oregon,

I am writing regarding **House Bill 2902** as drafted by the Oregon Public Ports Association (OPPA). This bill would grant public ports the ability to compete with Oregon small businesses by operating shipyards. As you are hopefully aware, private shipyards make up a large part of the economy on the south coast of Oregon. This industry is directly responsible for the creation and maintenance of hundreds of family wage jobs and help support many other ancillary small businesses. Three such shipyards in Douglas County alone (Reedsport Machine, North River Boats and Fred Wahl Marine Construction), as well as half a dozen supporting businesses, would be directly impacted by this legislation if allowed to go forward as proposed.

Currently the language proposed by the OPPA states that ports would be allowed to:

“Acquire, construct, maintain and operate facilities for construction, repairing or maintaining any type of watercraft.”

The word, ***“operate”*** would set a precedent for Oregon Revised Statutes (ORS) 777.210 by changing the intent of this section. Currently the term is used to describe the types of facilities that can be developed and maintained in support of each port’s respective industries; however, this new provision would afford ports the ability to create businesses that will directly compete with the same. Granted no business can pick its competitors but, as special districts, ports have an advantage over private competitors with tax revenues, personal property tax exemptions and support organizations such the OPPA and Special Districts Association of Oregon (SDAO) all on their side.

There is no argument that ports play a valuable role in job creation and economic development in each respective region they serve but taking ports from supporting industries to becoming competing industries will only serve to harm existing Oregon small businesses. We respectfully request that your Port Commissioners review this matter and decide if the word “operate” should be included in this bill. If you agree that it should be removed, please contact the OPPA and your local legislative representative.

Sincerely,

(OVER)


Attachment

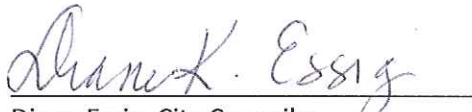
February 14, 2017


Linda McCollum, Mayor


Frank Barth Jr., City Councilor


DeeDee Murphy, City Councilor


Leslee Collier, City Councilor


Diane Essig, City Councilor


Rich Patten, City Councilor


Debby Turner, City Councilor

House Bill 2902

Sponsored by Representative GOMBERG; Representative SMITH DB, Senators JOHNSON, ROBLAN (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**.

Authorizes ports to acquire, construct, maintain and operate shipyards.

A BILL FOR AN ACT

1
2 Relating to port shipyard activities; amending ORS 777.210.

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

4 **SECTION 1.** ORS 777.210 is amended to read:

5 777.210. A port may:

6 (1) Establish, operate and maintain water transportation lines in any of the navigable waters
7 of this state and waters tributary thereto, any portion of which may touch the boundaries of the
8 port.

9 (2) Engage generally in the business of buying and selling coal, fuel oil and all kinds of fuel for
10 watercraft of all kinds.

11 (3) Acquire, construct, maintain [*or*] **and** operate sea walls, jetties, piers, wharves, docks, boat
12 landings, warehouses, storehouses, elevators, grain bins, terminal icing plants, facilities for pro-
13 cessing agricultural, fish or meat products, bunkers, oil tanks, ferries, canals, locks, tidal basins,
14 bridges, subways, tramways, cableways, conveyors, power plants, power transmission lines, adminis-
15 tration buildings and fishing terminals, and modern appliances and buildings for the economical
16 handling, packing, storing and transportation of freight and handling of passenger traffic with full
17 power to lease and sell the same, together with the lands upon which they are situated, whether
18 held by the port in its governmental capacity or not.

19 (4) For the public convenience and the convenience of its shipping and commercial interests,
20 may improve all or any portion of the waterfront of its harbors, rivers and waterways.

21 (5) Enlarge its tidal area, and construct, excavate [*or*] **and** dredge canals and channels con-
22 necting its waterways with one another or with other waterways and the sea.

23 (6) Acquire, [*or*] construct, maintain [*or*] **and** operate airports anywhere within the port.

24 (7) Acquire, construct, maintain, operate, support, promote [*or*] **and** invest in facilities and re-
25 lated activities for the propagation of fish in accordance with the commercial fishing laws.

26 (8) **Acquire, construct, maintain and operate facilities for constructing, repairing or**
27 **maintaining any type of watercraft.**

28

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.



DOUGLAS COUNTY BOARD OF COMMISSIONERS

CHRIS BOICE TIM FREEMAN GARY LEIF

1036 SE Douglas Ave., Room 217 • Roseburg, Oregon 97470

February 21, 2017

Dear Ports of Oregon,

The Douglas County Board of Commissioners writes to you today regarding **House Bill 2902** as drafted by the Oregon Public Ports Association (OPPA). This bill would grant public ports the ability to compete with Oregon small businesses by operating shipyards. Private shipyards make up a large part of the economy on the south coast of Oregon. This industry is directly responsible for the creation and maintenance of hundreds of family wage jobs and help support many other ancillary small businesses. Three such shipyards in Douglas County alone (Reedsport Machine, North River Boats and Fred Wahl Marine Construction), as well as half a dozen supporting businesses, would be directly impacted by this legislation if allowed to go forward as proposed.

Currently the language proposed by the OPPA states that ports would be allowed to:
"Acquire, construct, maintain and operate facilities for construction, repairing or maintaining any type of watercraft."

The word, "operate" would set a precedent for Oregon Revised Statutes (ORS) 777.210 by changing the intent of this section. Currently the term is used to describe the types of facilities that can be developed and maintained in support of each port's respective industries; however, this new provision would afford ports the ability to create businesses that will directly compete with the same. Granted no business can pick its competitors but, as special districts, ports have an advantage over private competitors with tax revenues, personal property tax exemptions and support organizations such the OPPA and Special Districts Association of Oregon (SDAO) all on their side.


We respectfully request that your Port Commissioners review this matter and decide if the word "operate" should be included in this bill. If you agree that it should be removed, please contact the OPPA and your local legislative representative.

Sincerely,

DOUGLAS COUNTY BOARD OF COMMISSIONERS


Chris Boice, Chair


Gary Leif, Commissioner


Tim Freeman, Commissioner

Subject: House Bill 2902

From: "Hal Hockema \ (HWA\)"

Date: 2/16/2017 9:02 PM

To: <Rep.DavidGomberg@state.or.us>, <Rep.DavidBrockSmith@oregonlegislature.gov>, <Sen.BetsyJohnson@oregonlegislature.gov>, <Sen.ArnieRoblan@oregonlegislature.gov>

CC: <Rep.KnuteBuehler@oregonlegislature.gov>

Dear Senators and Representatives:

Mr. David Gomberg

Mr. David Brock Smith

Ms. Betsy Johnson

Mr. Arnie Roblan

Mr. Knute Buehler (my local representative)

I am President of Hockema & Whalen Associates, a Naval Architecture and Marine Engineering firm with offices in Seattle WA and Bend OR (my home residence is in Bend). I grew up in Newport OR and have 37 years' experience in designing commercial fishing vessels. My firm's client base is mainly commercial vessel owners in Oregon, Washington and Alaska. Our design and engineering work is represented in numerous shipyards in these three states.

I am writing to express my concern regarding changes HB 2902 would make to authorize an expansion of public port shipyard activities. Generally I agree with the bill with one major exception. Specifically HB 2902 would modify ORS 777.210:

777.210. A port may:

(8) Acquire, construct, maintain and operate facilities for constructing, repairing or maintaining any type of watercraft.

I propose to delete "and operate" from the bill to read as follows:

777.210. A port may:

(8) Acquire, construct and maintain facilities for constructing, repairing or maintaining any type of watercraft.

My reasoning is that by allowing ports to operate shipyards we are putting public facilities in direct competition with private shipyards. For private shipyards this presents an unfair competitor in an otherwise private marketplace. I agree with allowing ports to own and maintain shipyards but the facilities should be leased or rented to private companies for performing shipyard work on vessels (watercraft). Unfortunately, other states have allowed public ports to operate shipyards in selected cases and it has put private shipyards in an awkward competitive disadvantage.

Shipyards present challenging business environments with difficult environmental and labor standards to contend with, sometimes returning less than stellar profit margins. Adding public entities operating shipyards will 1) create unfair competition for private shipyards and 2) put more pressure on taxpayers to subsidize shipyard activities.

If you would like further information, I am available to discuss this issue at most times during normal business hours, Monday thru Friday. Thank you for your service to our State of Oregon.

Hal Hockema, P.E.

President & Managing Principal Engineer

HOCKEMA & WHALEN ASSOCIATES, INC.

Naval Architects / Marine Engineers / Electrical Engineers

Washington Office: 5450 Leary Avenue NW #252, Seattle WA 98107

Oregon Office: 61299 Big Eddy Circle, Bend OR 97702

T: 206 365 0919 E: halh@hockema.com W: www.hockema.com

Jonathan Wright

From: Jim Zimmer
Sent: Wednesday, March 1, 2017 8:58 AM
To: rep.annlininger@state.or.us
Cc: rep.pammarsh@oregonlegislature.gov; Rep.DavidBrockSmith@oregonlegislature.gov; Rep.BrianClem@state.or.us; rep.davidgomberg@state.or.us; rep.kenhelm@state.or.us; rep.kenhelm@state.or.us; Rep.RickLewis@oregonlegislature.gov; rep.billpost@state.or.us; Rep.EWernerReschke@oregonlegislature.gov
Subject: HB 2902

The Honorable Ann Lininger, Chair
House Committee on Economic Development and Trade
900 Court St. NE, Rm. 140A,
Salem, Oregon 97301

Re: HB 2902 – Authorizes ports to acquire, construct, maintain and operate shipyards –

Dear Madam Chair and Members of the Committee:

We are writing to register our support for a modified version of HB 2902, authored by Oregon Public Ports Association. We don't object to allowing public ports to provide haul out facilities for use by boat owners and private contractors. We do object to allowing public ports to directly compete with private shipyards for new construction and repair work.

If a public port finds that existing private sector shipyards are insufficient to meet market needs, that port should come forward and identify such insufficiency. Otherwise, this legislation authorizes public ports to drive existing marine repair facilities out of business. Privately funded companies working on the coast already have to overcome a limited industry, with a limited clientele, lack of available skilled workers, and the high cost of getting materials to the coast. Ports have a distinct advantage with tax revenues, property tax exemptions, and support organizations on their side. Allowing public entities to operate shipyards will create unfair competition for private shipyards, resulting in job creation for a few ports at the expense of the existing shipyards. As the fisheries become more regulated even fewer boats are likely to be operating in the future further shrinking the market share for each shipyard.

As previously stated we acknowledge that there can be a need for port districts to develop properties to support the requirements of the commercial and recreational boating public, we feel that those facilities should be for the use of boat owners and private contractors to perform the shipyard work. Therefore we do not support a port being allowed to *"....operate facilities for constructing, repairing or maintaining any type of watercraft."*

We propose to delete the wording "and operate" from paragraph 8 of the bill so it reads as follows:

(8) *Acquire, construct, maintain facilities for constructing, repairing or maintaining any type of watercraft."*

Please support amending HB 2902 to remove the word operate.

If you have any questions or require anything additional from us, please do not hesitate to contact us.

Fred Wahl Marine Construction

www.fredwahlmarine.com

2017 HOUSE BILL 2902

Reedsport City Manager

Jonathan Wright

Charleston 100 Ton Travel Lift

- Adds capacity to the Charleston Facility.
- Replaced two privately owned travel lifts in the area
 - Owners stated that they cannot offer services for the same price.



PUBLIC VS PRIVATE

Public Kite Company = \$2.50 Per Kite			Private Kite Company = \$5.40		
Inventory	10,000 Kites	-\$10,000	Inventory	10,000 Kites	-\$10,000
Operational Cost	Rent, Electric, Etc.	-\$15,000	Operational Cost	Rent, Electric, Etc.	-\$15,000
Sales	\$2.50 Per Kite	\$25,000	Sales	\$5.40 Per Kite	\$54,000
Subtotal		\$0	Subtotal		\$29,000
Property Tax	\$200,000	\$0	Property Tax	\$200,000	\$2,000
Personal Property Tax	\$20,000	\$0	Personal Property Tax	\$20,000	\$750
Income Tax	\$25,000	\$0	Income tax	\$22,250	\$1,250
Total		\$0	Total		\$25,000

FRED WAHL MARINE EXPANSION PROJECT

38 Acre Bolon Island



7 Acre Reedsport Site



WHERE DOES THE INDUSTRY STAND?

Supporters

- OPPA
- Some Ports
- Some State Representatives
- Some State Senator's

Against

- Reedsport Machine
- Tarheel Aluminum
- Fred Wahl Marine Construction
- North River Boats
- Western Machine
- Hockema & Associates
- West Coast Trades Association
- Some Ports
- Some Local Governments

Boat Construction

Oregon produces more fishing vessels than any other state in the nation.

- Last 10 years

KAIKOA	PACIFIC COD PRODUCERS LLC	2013	STEEL	58.00	26.00	8.00	BOARDMAN	OR
MISS EMILY	GIDDINGS BOAT WORKS INC	2013	STEEL	71.00	28.00	13.00	CHARLESTON	OR
PATRIOT	GIDDINGS BOAT WORKS INC	2013	STEEL	66.20	25.10	11.20	CHARLSTON	OR
AFOGNAK STRAIT	FRED WAHL MARINE CONSTRUCTION INC	2012	STEEL	58.00	26.00	13.00	REEDSPORT	OR
ALASKAN DREAM	FRED WAHL MARINE CONSTRUCTION INC	2007	STEEL	58.00	26.00	13.00	REEDSPORT	OR
ALASKAN STAR	FRED WAHL MARINE CONSTRUCTION INC	2011	STEEL	58.00	26.00	13.00	REEDSPORT	OR
APRIL LANE	FRED WAHL MARINE CONSTRUCTION INC	2014	STEEL	50.50	22.50	10.20	REEDSPORT	OR
ARCTIC FOX	FRED WAHL MARINE CONSTRUCTION INC	2006	STEEL	57.30	26.00	12.60	REEDSPORT	OR
CAPT N ANDREW	FRED WAHL MARINE CONSTRUCTION INC	2008	STEEL	58.00	26.00	12.70	REEDSPORT	OR
F/V SAINT PAUL	FRED WAHL MARINE CONSTRUCTION INC	2008	STEEL	58.00	26.00	13.00	REEDSPORT	OR
ICY MIST	FRED WAHL MARINE CONSTRUCTION INC	2009	STEEL	58.00	26.00	12.70	REEDSPORT	OR
INTREPID	FRED WAHL MARINE CONSTRUCTION INC	2009	STEEL	58.00	26.00	10.70	REEDSPORT	OR
ISLE DOMINATOR	FRED WAHL MARINE CONSTRUCTION INC	2013	STEEL	58.00	26.00	13.00	REEDSPORT	OR
MAGNUS MARTENS	FRED WAHL MARINE CONSTRUCTION INC	2013	STEEL	58.00	26.00	13.00	REEDSPORT	OR
ORACLE	FRED WAHL MARINE CONSTRUCTION INC	2015	STEEL	57.80	28.50	12.70	REEDSPORT	OR
ROBERT MAGNUS	FRED WAHL MARINE CONSTRUCTION INC	2011	STEEL	58.00	26.00	13.00	REEDSPORT	OR
SAINT PETER	FRED WAHL MARINE CONSTRUCTION INC	2011	STEEL	58.00	26.00	13.00	REEDSPORT	OR
VIGILANT	FRED WAHL MARINE CONSTRUCTION INC	2014	STEEL	58.00	22.50	10.60	REEDSPORT	OR
NORTHERN ENDURANCE	FRED WAHL MARINE CONSTRUCTION INC	2006	STEEL	78.00	27.00	11.40	REEDSPORT	OR
VICTORY	FRED WAHL MARINE CONSTRUCTION INC	2013	STEEL	113.00	31.00	11.00	REEDSPORT	OR
KAIA	FRED WAHL MARINE CONSTRUCTION INC	2011	STEEL	58.00	26.00	13.00	REEDSPORT	OR
KAREN SUE	FRED WAHL MARINE CONSTRUCTION INC	2008	STEEL	68.00	23.20	11.00	REEDSPORT	OR

BUSINESS ACTIVITIES

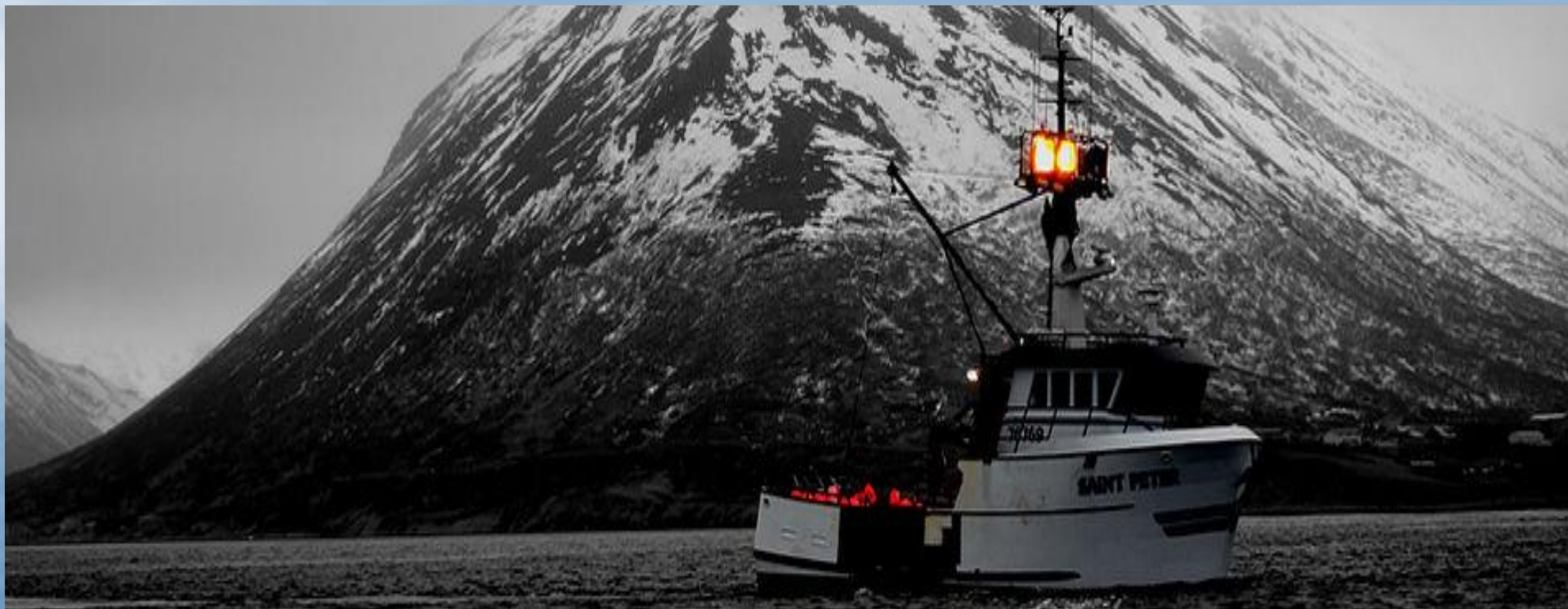


- RV Parks
- Harbors
- Ice Plants

SHIPYARD ACTIVITIES

- Vessel design
- Classing
- Engineering
- Sourcing Parts and Materials
- Contracting
- Sales
- Construction
- Fabrication
- Logistics
- Welders
- Fabricator
- Pipefitters
- Electricians
- Cabinet Makers
- Mechanics
- Painters
- Administrators
- Clerical
- Office manager
- Parts room Manager
- Engineer
- Architect
- Auto Cad
- General Laborers
- Etc..

QUESTIONS



The Honorable Ann Lininger, Chair
House Committee on Economic Development and Trade
900 Court St. NE, Rm. 140A,

Salem, Oregon 97301

Re: HB 2902 – Authorizes ports to acquire, construct, maintain and operate shipyards –

Dear Madam Chair and Members of the Committee:

We are writing to register our support for a modified version of HB 2902, authored by Oregon Public Ports Association. We don't object to allowing public ports to provide haul out facilities for use by boat owners and private contractors. We do object to allowing public ports to directly compete with private shipyards for new construction and repair work

In many instances, Oregon ports traditionally have provided facilities for shipyards but have leased these facilities to private sector businesses for operation of the facilities. Such operations fit in with the competitive nature of private sector businesses. In addition some ports may make their facilities available to boat owners to haul out boats so owners themselves can conduct repairs and maintenance or hire out such activity to private sector contractors.

State statutes are detailed about these specific authorizations for public port facilities in order to clearly delineate the authority of port districts and to encourage private entrepreneurs to provide services wherever necessary. This is because ports can unfairly compete with private sector businesses for the following reasons:

Public ports do not pay Oregon real property taxes.

Public ports do not pay personal property tax on equipment.

Public ports do not pay incomes taxes

Public ports enjoy limited liability under the Oregon Tort Claims Act, lowering insurance costs.

Public ports have access to special pooled, lower-cost insurance through the Special Districts Association.

Public ports have special access to capital through bonding, property tax assessments, and much greater access to public funding sources.

We do not object to allowing public ports to provide haul out facilities for use by boat owners and private contractors. We do object to allowing public ports to directly compete with private shipyards for new construction and repair work.

If a specific public port finds that existing private sector shipyards are insufficient to meet market needs, that port should come forward and identify such insufficiency. Otherwise, this legislation authorizes public ports to drive existing private shipyards and small marine repair companies out of business.

--

Julie Miles

Office Manager

Giddings Boat Works Inc

www.giddingsboatworks.com

PO Box 5011

Charleston, OR 97420

Work: [\(541\) 888-4712](tel:5418884712)

Date: February 28, 2017

Committee: House Committee on Economic Development and Trade

Bill Number/topic title: HB 2902 – Authorizes ports to acquire, construct, maintain and operate shipyards.

Submitted by: Jonathan Wright, City Manager, City of Reedsport (news story from KCBY TV Coos Bay, Oregon)

Video title: Shipyard owners speak out against bill that would allow public ports to operate shipyards.

Video link: <http://kcbymedia.com/news/local/shipyard-owners-speak-out-against-bill-that-would-allow-public-ports-to-operate-shipyards>

From: Kevin Mannix
Sent: Tuesday, March 7, 2017 2:25 PM
To: HECDT Exhibits
Subject: Fwd: HB 2902

Please enter the following letter as part of the record on this bill.

Dear Members of the House Economic Development and Trade Committee:

I am writing to share concerns about HB 2902, which is set for a hearing before the House Economic Development and Trade Committee on March 8, 2017.

HB 2902 gives specific authorization for public ports to operate shipyards. Current law does not include such specific authorization, for good reason. Public ports are able to provide boat lift facilities and to lease facilities to private sector businesses which construct and repair boats and ships. But it is a step beyond such capacity for ports to compete with private sector businesses in a system where the ports themselves operate ship and boat construction and repair businesses

State statutes are detailed about these specific authorizations for public port facilities in order to clearly delineate the authority of port districts and to encourage private entrepreneurs to provide services wherever possible. This is because ports can unfairly compete with private sector businesses for the following reasons:

- Public ports do not pay Oregon real property taxes.
- Public ports do not pay personal property tax on equipment.
- Public ports do not pay incomes taxes
- Public ports enjoy limited liability under the Oregon Tort Claims Act, lowering insurance costs.
- Public ports have access to special pooled, lower-cost insurance through the Special Districts Association.
- Public ports have special access to capital through bonding, property tax assessments, and much greater access to public funding sources such as ConnectOregon and the United States Maritime Administration (MARAD).

The West Coast Marine Trades Association does not object to allowing public ports to provide haul out facilities for use by boat owners and private contractors.

We **DO** object to allowing public ports to directly compete with private shipyards for new construction and repair work.

If a specific public port finds that existing private sector shipyards are insufficient to meet market needs, that port should come forward and identify such insufficiency. Otherwise, this legislation authorizes public ports to drive existing private shipyards out of business.

I encourage the state to support the enhancement of private sector businesses and related jobs by avoiding authorizing public ports to compete with private businesses where the private sector is ready, willing, and able to carry on the work.

Thank you for your consideration.

Sincerely,
Kevin L. Mannix
Director
West Coast Marine Trades Association

From: Kevin Mannix <kevin@mannixlawfirm.com>
Sent: Tuesday, March 7, 2017 2:30 PM
To: HECDT Exhibits
Subject: HB 2902 Amendment

Dear Members of the House Economic Development and Trade Committee:

On March 8 your House Committee on Economic Development and Trade will hold a hearing on HB 2902. I will appear, with others, in opposition to the bill as written.

However, there may be compromise language which would assuage concerns about the language of the bill, while fulfilling most of the bill's purpose. Here is the proposed language:

Replace lines 28 and 29 on page one to read:

“(8) Acquire, construct, maintain and operate boat haul-out facilities for the purpose of providing Oregon businesses and vessel owners with the infrastructure needed to construct, repair, or maintain any type of watercraft.”

Thank you for your consideration.

Sincerely,
Kevin L. Mannix

Kevin L. Mannix ~ KEVIN L. MANNIX, P.C.
2009 State Street ~ Salem, OR 97301
503-364-1913 ofc ~ 503-362-0513 fax ~ 503-949-0422 cell
Email: kevin@mannixlawfirm.com

This message and any attachments are confidential, and may be covered by an attorney-client privilege. Additionally, this message and any attachments may contain privileged attorney work-product information. If you are not the intended recipient and/or you received this message in error, please contact the sender immediately at [503-364-1913](tel:503-364-1913) and delete the message, as well as any attachments.

March 2, 2017

Western Machine
P O Box 52
401 Stables Road
Gardiner, OR 97467

To Whom It May Concern:

I am the CEO and owner of Western Machine. I have just recently purchased this company which has been in business for the last 15 years...successfully. I have plans to continue and expand my 4 person shop in the coming months. We provide services to the fishing, farming and timber industry to name just a few.

The Reedsport city manager, Jonathan Wright, recently made me aware of HB (2902) and the potential dire forecast for the Douglas County marine industry. Along with North River Boat, Fred Wahl Marine, Giddings Boat Works, Reedsport Machine and Tar Heel Aluminum, Western Machine could be negatively impacted by the ability of municipalities being able to directly compete with private employers, as laid out in bullet point (8). As ports are tax exempt, subsidized by tax proceeds and able to apply for many more grant opportunities than any private business, this would constitute an extremely unfair advantage by allowing ports to operate shipyards and build watercraft in direct competition with the private sector. Giving them an extremely unfair advantage over the private sector, which has worked diligently to create and maintain jobs in your district.

This measure, therefore, is ill conceived and harmful to our local economy. I respectfully ask for your support in defeating this measure.

Thank you for your time and dedication in serving Douglas County and the State of Oregon, it is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Neal Reiser', written over a horizontal line.

Neal Reiser
CEO
Western Machine

February 2017

Jonathan Wright

Fellow Oregon Ports,

The Port of Umpqua Board of Commissioners directed me to compose a letter to OPPA and all of the Oregon Ports requesting the removal of the word 'operate' from HB 2902 which I have attached here.

Respectfully,

*Charmaine Vitek, District Manager
Port of Umpqua
PO Box 388
Reedsport OR 97467*

At our board meeting Thursday afternoon, the Port of Alsea commissioners declined the request of the City of Reedsport to recommend the removal of the word "operate" from the proposed amended language. Respectfully, Roxie Cuellar

Roxie Cuellar
Port of Alsea Manager
P. O. Box 1060

1

At the Port of Bandon commission meeting last night, Feb. 23, 2017, commissioners voted 3-2 to recommend the request of the City of Reedsport to remove the word "operate" from HB 2902.

Gina Dearth, manager
Port of Bandon
P.O. Box 206
Bandon, Oregon 97411
admin@portofbandon.com



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

January 31, 2017

Representative Caddy McKeown
900 Court Street NE H476
Salem OR 97301

Re: Authority of ports to operate shipyards

Dear Representative McKeown:

You asked whether, under current law, a port is authorized to own and operate a shipyard in direct competition with a local private enterprise. The answer is probably yes, although our conclusion is not free from doubt.

Ports are governed by, and derive their powers from, ORS chapter 777. Nothing in that chapter explicitly authorizes the ownership and operation of a shipyard. However, ORS 777.258, a catchall provision, broadly authorizes a port to, in relevant part, "do such other acts and things . . . as tend to promote the maritime shipping . . . and commercial interests of the port," even if not explicitly authorized by other law. There is no textual limitation on the scope of maritime shipping or commercial interests contemplated by this section, and we think a court would be likely to find that the operation of a shipyard advances a port's maritime and commercial interests.

The authority granted by ORS 777.258, however, is not unlimited. Courts have held that a port's authority may only be exercised to carry out "a legitimate Port activity or purpose authorized by law." *Harrison v. Port of Cascade Locks*, 27 Or. App. 377, 381 (1976) (stating in dicta that explicit statutory authorization to build cableways would not legitimize port's construction of a ski lift). After a remand and second appeal of *Harrison*, the Oregon Court of Appeals held that building and operating a recreational tramway was not a legitimate port activity and was thus outside of a port's authority, even though ports are explicitly authorized to build tramways. 37 Or. App. 391, 394-395 (1978).

Despite this limitation, we think it is likely that a court would determine that the operation of a shipyard is permissible. Although the *Harrison* court did not provide detailed guidance on the parameters of "legitimate" port activities, it noted that the "primary function" of a port is to "aid[] the movement of goods and services in commerce." *Id.* at 395. Operating a facility to service, repair and build ships can easily be argued to be in aid of the movement of goods in commerce. We also think it is relevant that Oregon ports appear to have operated shipyards for many decades. If ports have historically operated shipyards, a court would be more likely to find that shipbuilding and ship repair are legitimate port functions.

We caution, however, that there is little case law or other authority on this issue, and we cannot be certain how a court would rule.

Finally, nothing in chapter 777 explicitly or implicitly prohibits a port from competing with private enterprise. In fact, ports are explicitly authorized to engage in activities that are almost certain to compete with private enterprise, such as operating watercraft "for the transportation of all kinds of merchandise, freight and commercial or recreation passengers," constructing industrial buildings for sale or lease to private entities and operating "sports, recreation, convention and trade show facilities." ORS 777.195 (1), ORS 777.250 (1), ORS 777.250 (3).

The opinions written by the Legislative Counsel and the staff of the Legislative Counsel's office are prepared solely for the purpose of assisting members of the Legislative Assembly in the development and consideration of legislative matters. In performing their duties, the Legislative Counsel and the members of the staff of the Legislative Counsel's office have no authority to provide legal advice to any other person, group or entity. For this reason, this opinion should not be considered or used as legal advice by any person other than legislators in the conduct of legislative business. Public bodies and their officers and employees should seek and rely upon the advice and opinion of the Attorney General, district attorney, county counsel, city attorney or other retained counsel. Constituents and other private persons and entities should seek and rely upon the advice and opinion of private counsel.

Very truly yours,

DEXTER A. JOHNSON
Legislative Counsel

A handwritten signature in black ink, appearing to read "David Fang-Yen", with a long horizontal flourish extending to the right.

By
David Fang-Yen
Deputy Legislative Counsel



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Reedsport OR 97467

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Fax: 541.271.2747
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February 17, 2017

Dear Fellow Oregon Public Ports Association Members,

As members of the Oregon Public Ports Association (OPPA) we have committed ourselves to collaboratively focusing on ways to sustain the Oregon economy and grow jobs in each of our respective regions. Despite the good intentions of the association, not all things developed by our organization are beneficial for all involved. The Port of Umpqua has spent years working with its local shipyards as part of a strategic small business development effort here on the south coast. For more than two decades, the Port of Umpqua has purchased land and developed infrastructure that it leased back to this industry resulting in significant regional economic gains. While this long term effort is finally beginning to pay economic dividends, in a meeting on February 16, 2017, it was made clear to this Commission that our proposal (OPPA) for amendment to Oregon Revised Statutes (ORS) 777.210, proposed in House Bill (HB) 2902, will have unintended consequences for these small businesses.

The owners and workers of Gidding's Boat Works, Fred Wahl Marine Construction, Tar Heel Aluminum and Fabrication and Reedsport Machine made it clear that they cannot afford to compete with publically owned shipyards. In support of this conclusion they cite such factors as the high cost associated with operating a small business on the coast, the limited amount of clientele in this industry and the distinct economic advantage of a governmental entity. They stated that they have no issue with port's owning and developing shipyards that they lease back to private business due to the fact that the lessee would be required to pay taxes and operate off of their business activities the same as any other business in Oregon. They requested that the ports (i.e., OPPA) keep ports in a supporting role and not allow them to unfairly compete with the private shipyards of the state.

The Port of Umpqua understands the desire of ports to diversify their business activities and operating shipyards may be an appealing option; however, we find that the negative consequences of this action for some parts of the state outweigh the gains for others. Despite the impact to the years of our efforts to develop our shipyard industry on the south coast, the cost to the men and women who own or work for our small businesses, and who call the south coast home, would be even greater. Our private shipyard operators collectively contribute to hundreds of family wage jobs and are a large piece of the economic puzzle on the south coast and without them areas such as Coastal Douglas County might never achieve economic recovery.

It has been our experience that by playing a supporting role to this industry you can meet the goal of the OPPA of sustaining the Oregon economy and growing jobs without the need to directly interject ourselves into the industry. We hope that you will consider this model paramount to the issues and amend the language of House Bill 2902 to reflect the need of Ports to maintain and develop shipyards as part of a business development and expansion efforts but strike the ability of ports to "operate" such uses. Again, while this bill will benefit a few of our members it will undermine the years of effort by others.

Sincerely,

Steve Reese, President
Port of Umpqua Board of Commissioners

As part of public policy, the Port of Umpqua will attempt to provide public accessibility to services, programs and activities. If accommodation is needed at this meeting please contact the Port office at 271-2232 at least 48 hours prior to the scheduled meeting time.

March 2, 2017

Western Machine
P O Box 52
401 Stables Road
Gardiner, OR 97467

To Whom It May Concern:

I am the CEO and owner of Western Machine. I have just recently purchased this company which has been in business for the last 15 years...successfully. I have plans to continue and expand my 4 person shop in the coming months. We provide services to the fishing, farming and timber industry to name just a few.

The Reedsport city manager, Jonathan Wright, recently made me aware of HB (2902) and the potential dire forecast for the Douglas County marine industry. Along with North River Boat, Fred Wahl Marine, Giddings Boat Works, Reedsport Machine and Tar Heel Aluminum, Western Machine could be negatively impacted by the ability of municipalities being able to directly compete with private employers, as laid out in bullet point (8). As ports are tax exempt, subsidized by tax proceeds and able to apply for many more grant opportunities than any private business, this would constitute an extremely unfair advantage by allowing ports to operate shipyards and build watercraft in direct competition with the private sector. Giving them an extremely unfair advantage over the private sector, which has worked diligently to create and maintain jobs in your district.

This measure, therefore, is ill conceived and harmful to our local economy. I respectfully ask for your support in defeating this measure.

Thank you for your time and dedication in serving Douglas County and the State of Oregon, it is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Neal Reiser', written over a horizontal line.

Neal Reiser
CEO
Western Machine