

SB 814 A STAFF MEASURE SUMMARY

Carrier: Sen. Smith DB

Senate Committee On Veterans, Emergency Management, Federal and World Affairs

Action Date: 03/21/23
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 4-0-1-0
Yeas: 4 - Linthicum, Manning Jr, Thatcher, Woods
Exc: 1 - Gorsek
Fiscal: No fiscal impact
Revenue: No revenue impact
Prepared By: Beverly Schoonover, LPRO Analyst
Meeting Dates: 3/9, 3/21

WHAT THE MEASURE DOES:

Declares legislative intent that it is the policy of the state and intent of the measure, notwithstanding the applicability of antitrust laws of the state or the United States, to displace competition under state action doctrine as specified. Authorizes a public cargo or passenger port located in Oregon and any other public port to coordinate, reach agreements on and implement any action within the public port's authority, including specified actions. Declares emergency, effect on passage.

ISSUES DISCUSSED:

- Economic impact of public ports
- Current communications between ports
- Business best practices between ports

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

The Shipping Act of 1937 grants marine terminal operators the ability to discuss rates and expenses regarding carriers providing services at their ports. Under the Shipping Act, ports may act collectively to file a discussion agreement for approval by the Federal Maritime Commission (FMC). Once the agreement is approved by the FMC, the ports are immune from claims arising from federal antitrust laws.

The FMC recently alerted the Northwest Marine Terminal Association (a voluntary association of deepwater ports and marine terminal operators in Oregon and Washington) that certain domestic public ports in Oregon are not serving "common carriers," defined as a commercial enterprise that moves passengers or goods for a fee. The FMC deemed some ports ineligible for antitrust immunity under the Shipping Act, including the Port of Astoria, Port of Columbia County, and the Port of Coos Bay.

Notwithstanding the applicability of state and federal antitrust laws, Senate Bill 814 A declares it to be state policy to displace competition under state action doctrine that public ports in Oregon and other members of the Northwest Marine Terminal Association, can coordinate, make agreements, and implement action that is within the public port's authority. This includes discussions and agreements on rates and charges rules, practices and procedures; planning, management, marketing, operations, uses of public port facilities; and other matters related to cargo and passenger service operations.