

SB 814 A STAFF MEASURE SUMMARY

Carrier: Rep. Javadi

House Committee On Economic Development and Small Business

Action Date: 05/09/23

Action: Do Pass the A-Eng bill.

Vote: 10-0-1-0

Yeas: 10 - Diehl, Elmer, Javadi, Lively, Morgan, Nguyen D, Osborne, Pham H, Ruiz, Walters

Exc: 1 - Bynum

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Andrew Hendrie, LPRO Analyst

Meeting Dates: 4/18, 4/25, 5/9

WHAT THE MEASURE DOES:

Allows a public cargo or passenger port in Oregon to coordinate, reach agreement, and implement any action within port’s authority with another port, including members of Northwest Marine Terminal Association. Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Volume of shipped goods through Oregon ports
- Value of antitrust immunity
- Economic pressures on communities with a port

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon ports are regulated by the Shipping act of 1937 (Shipping Act). The Shipping Act grants marine terminal operators the ability to discuss rates and expenses regarding carriers providing services at their ports. It allows ports to file a discussion agreement with the Federal Maritime Commission (FMC) so that they may act collectively without violating 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.