

PORT DISTRICTS' DELEGATION OF AUTHORITY

**WPPA ANNUAL MEETING – LEGAL
COMMITTEE
DECEMBER 7, 2022**



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RCW 53.12.270

- ▶ *The commission may delegate to the managing official of a port district such administrative powers and duties of the commission as it may deem proper for the efficient and proper management of port district operations.*
- ▶ Any such delegation shall be authorized by appropriate resolution of the commission, which resolution must also establish guidelines and procedures for the managing official to follow.



**THE GOVERNANCE
ELEMENT**

BOARD OF COMMISSIONERS

EXECUTIVE DIRECTOR

THE SENIOR STAFF

**THE MANAGEMENT
ELEMENT**

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WHY DELEGATE - Commissioners are a precious resource

- A very limited resource which cannot be increased.
 - 10-15 hours a month.
 - Decisions and discussions can only occur in Open Public Meetings.
- “Best Practice” is to steer commissioners to strategic thinking.
 - Why, What How
- Delegation deals with the “how” and makes room for the commission to focus on “why” and “what”.

AND A Very Valuable Asset

- ▶ The Commissioner role should be focused on governance

governance



management





AND It Makes For Smooth Operations

- Allows the Port to respond quickly to customer and tenant needs.
- Efficiency of Port operations between commission meetings.
- Uniformity of Port administration over time and over changes in commission.
- Allows for “budget based” governance by the commission.



BUT the correct balance is critical

- The commission is ultimately responsible for the Port.
- Too little delegation and the commission is bogged down.
- Too much delegation and the commission may lose touch with day-to-day operations.
- Too much delegation can be career ending for an Executive Director.




BUDGET and delegation

- “Best Practice” is a delegation based upon a budget and the delegated powers are tied to the budget.
 - Percentage of revenue vs. specific dollar limits.
 - Actions within budget line items
 - Actions consistent with an overall budget

WHAT is typically delegated – budget-based delegation

- Express authority as a percentage of budget or by budget line item.
- Management of staff – hiring, firing and reorganizing.
 - Wages and benefits within overall budgetary guidelines.
- Standard lease of a certain term and meeting commission directed financial guidelines.
- Settlement of claims for and against the Port of a certain dollar volume or percentage of revenue.
- Public work change orders within a budget.
- Contract approval for consultants with a certain dollar volume or percentage of revenue.
- Purchasing equipment and supplies of a certain dollar volume or percentage of revenue.

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- Management of lawyers and litigation
 - Hire experts and special counsel
 - Interface with insurance defense counsel
 - Settlement of small claims
 - Again, budget based
 - Concurrence of lawyer



THE delegation is an active document

- Should be reviewed annually by staff for effectiveness.
- Changes to delegation to accomplish goal of allowing commission to govern.
- Should be presented to commission annually for review and approval.
- First meeting of the year along with other ministerial tasks.
- Concepts in delegation should not be part of an employment agreement for the executive director.

PRACTICAL considerations in delegations of power

- Delegation should be undertaken to make the organization more efficient or to provide more time for the Commissioners to govern.
 - When in doubt – “take it to the commission”.
- Just because the Executive Director has the delegated power, does not mean he/she is duty bound to use it.
 - Consider a discussion with the Commissioners about a proposed action.
- Always include a notification loop concerning significant use of the Delegation of Powers Resolution.

DRAFTING a Delegation of Powers

- Don't reinvent the wheel – plenty of examples out there
 - Varies with the tenure of the ED and the Commission.
 - Nothing personal here.
 - Allow for “double delegation”.
- Cannot delegate certain tasks where statutes provide that a commission must approve - for example:
 - Comprehensive Schemes of Harbor Improvements (RCW 53.20.010).
 - Sale of property in excess of \$10,000 (RCW 53.08.090).
 - Personal service contracting policies (RCW 53.19.090).



QUESTIONS?

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