

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA
ACTION ITEM

Item No.	<u>6f</u>
Date of Meeting	<u>February 9, 2016</u>

DATE: February 4, 2016
TO: Ted Fick, Chief Executive Officer
FROM: Julie Collins, Director of Public Affairs
Eric Ffitch, State Government Relations Manager
SUBJECT: Motion to Support the Repeal of Initiative 200

ACTION REQUESTED

Request the Commission adopt the following motion: Consistent with the Port Commission's commitment to small businesses, including disadvantaged, minority, and women-owned businesses, as expressed in Resolution No. 3274, adopted in 1998, the Port of Seattle supports policy proposals at the state level, including House Bill 2822 in the current legislative session, that would repeal existing state law, RCW 49.60.400, which currently prohibits public entities from granting preferential treatment to individuals or groups based on race, sex, color, ethnicity, or national origin in public contracting. The repeal of these restrictions will allow the Port greater flexibility in fulfilling its mission of supporting the economic vibrancy of the region and will contribute to the fulfillment of the Port's Century Agenda, which calls for the creation of 100,000 new jobs in the region through economic development efforts.

SYNOPSIS

On January 21, 2016, State Representatives Sharon Tomiko Santos and Eric Pettigrew of the 37th Legislative District, along with a group of Democratic House members, introduced House Bill 2822. HB 2822 would repeal Initiative 200, a ballot measure passed by Washington voters in 1998 that prohibits the state, cities, counties, public education institutions, or other political subdivisions from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

HB 2822 was the subject of a public hearing in front of the House Capital Budget Committee on February 2, 2016. It will be considered in an executive session on February 8, 2016.

BACKGROUND

The Port of Seattle is committed to the increased participation of small businesses, quality jobs and the development of a skilled workforce that can support regional economic vitality and reflect the diversity of our community. The Port takes seriously its role as an economic engine for King County and the Puget Sound region, and supports initiatives at all levels of government that contribute to, and strengthen, the Port's fulfillment of that role. The Port has a long history

COMMISSION AGENDA

Ted Fick, Chief Executive Officer

February 4, 2016

Page 2 of 4

of working with all communities in King County, including underserved and disadvantaged groups, to support programs that provide small business opportunities, quality job training, job placement, pre-apprenticeship, and other education and career development services that connect to port tenants, customers, and associated industries. The Port of Seattle in 1998, adopted a resolution opposing Initiative 200 and supporting the use of policies designed to increase the representation of minorities and women in employment, application for employment, and employment-related training programs. Initiative 200 was approved by voters in 1998 and codified as RCW 49.60.400.

In the last decade, the Port of Seattle has developed a model for its Airport Dining and Retail (ADR) offering at Seattle-Tacoma International Airport which is characterized by a combination of “prime” lessee operators and direct leases with local, small, and disadvantaged operators. In January 2014, the Commission announced its intention to develop employment policies that support the Port’s mission as an economic development agency. The Commission, along with other regional and national policy makers, recognizes the economic and societal impacts of income inequality and the decline of the middle class.

Through its Disadvantaged Business Enterprise (DBE) and the Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs, established in accordance with U.S. Department of Transportation regulations, the Port has taken the following actions to support disadvantaged businesses:

- Ensuring nondiscrimination in the award of U.S. Department of Transportation assisted contracts
- Creating a level playing field on which DBEs and ACDBEs can compete fairly for U.S. Department of Transportation assisted contracts and in the airport dining and retail opportunities.
- Assisting in the identifying and removing barriers to participation for DBEs in federally assisted contracts
- Assisting in the development of Disadvantaged Business Enterprises, in order to increase their competitiveness in the marketplace

The Port of Seattle has a three-year race-conscious goal of 4.76 percent Disadvantage Business Enterprise utilization for its federally assisted contracts. The Port also has a 21.2 percent utilization goal for its ACDBE.

In addition, the Port of Seattle has focused on promoting contracting competitiveness for small businesses in the region. Through a partnership with King County, a small business participating in the Small Contracts and Suppliers Program (SCS) can fill out one application to be certified as an SCS firm for all government agencies involved.

COMMISSION AGENDA

Ted Fick, Chief Executive Officer

February 4, 2016

Page 3 of 4

The SCS was authorized in 2012 by Resolution 3618, which identified the following goals for the program:

- Increase opportunity and utilization of SCS firms in Port procurements;
- Identify and reduce barriers to equal opportunity and participation by SCS firms in Port procurements and contracts;
- Develop comprehensive outreach and communication strategies to provide SCS firms an opportunity to participate in Port procurements and contracts;
- Engage and partner with other public and private entities to enhance resources and gather best practices; and
- Develop, implement, and operate a system of data collection for the Program.

During 2014, SCS certified firms received more than \$31 million through port contract and subcontracting opportunities.

Even with those efforts, however, strong evidence points to many obstacles that minority- and women-owned businesses face in competing for contracts in the public sector.

In 2014, the Port of Seattle completed a disparity study to learn more about its successes and challenges as an organization in the area of minority- and women-owned business contracting.

The study sought to identify race and gender disparities in the awards of construction-related contracts between January 2010 and September 2013.

The study found that:

- Port utilization of minority-owned and women-owned business enterprises for construction and construction-related contracts was substantially below what might be expected based on the availability of those contractors
- All categories of minority-owned businesses displayed utilization rates that were below parity
- The Port should continue to track the participation of disadvantaged business enterprises, and should make efforts to ensure that mechanisms for monitoring the performance of these enterprises are enforced.

State law (RCW 49.60.400) prohibits public entities from granting preferential treatment to individuals or groups based on race, sex, color, ethnicity, or national origin in public contracting. This law constrains the Port in its ability to implement the findings of the disparity study by restricting programs designed to ensure that all qualified persons have fair and equal access to participation in public-funded contracts, and to engage in employment policies that support regional economic growth and prosperity.

The repeal of RCW 49.60.400, associated with future potential actions that seek to further open public contracting to all disadvantaged businesses, will allow the Port to continue to advance its

COMMISSION AGENDA

Ted Fick, Chief Executive Officer

February 4, 2016

Page 4 of 4

mission of supporting family-wage job growth and ensuring that growing prosperity in the Puget Sound region is shared by all communities equally.

STRATEGIES AND OBJECTIVES

By agreeing to this action request and adopting a motion that supports HB 2822, to repeal Initiative 200, the Port will be better able to support its Century Agenda and its mission of creating 100,000 family-wage jobs across the Puget Sound region.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Support of this requested action is consistent with the Port's commitment to creating family-wage jobs across all communities in the Puget Sound region, as expressed in the Century Agenda, and is also consistent with a position previously taken by the Port Commission in opposition to Initiative 200, adopted through Resolution No. 3274 in 1998.

ATTACHMENTS TO THIS REQUEST

- Text of motion
- Resolution 3274, adopted by the Commission in 1998, expressing opposition to Initiative 200

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

- April 1, 1998 – The Port Commission adopted Resolution No. 3274, expressing opposition to Initiative 200 and reaffirming the programs that the Port of Seattle has adopted pursuant to Resolution Nos. 3166 and 3167, as amended.
- June 16, 1994 – The Port Commission adopted Resolution No. 3166, restating Port policy relating to discrimination and affirmative action by Port of Seattle contractors and subcontractors.