

MRSC

A VALUABLE ASSET TO YOUR PORT

WPPA Small Port Districts Seminar – October 18, 2018



MRSC Presenter



Linda Gallagher

Legal Consultant

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Agenda – OCTOBER 18, 2018

- **MRSC: Who are we?**
- **Ask MRSC Services**
- **MRSC News and Training**
- **MRSC Website Overview**
- **Specialized Research Tools**
- **Sample Inquiries - Ports**
- **Questions and Answers**

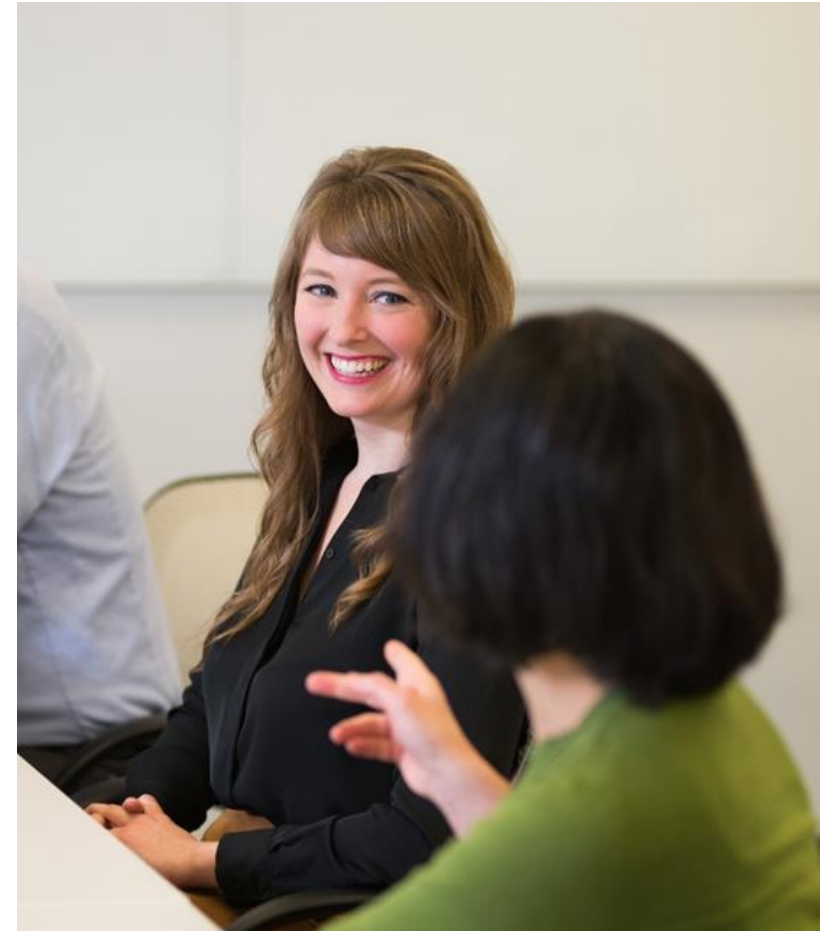


Overview



Our Mission.

Support local government success through research, consultation, training, and collaboration.



MRSC Consultant Staff



Legal Consultants (Attorneys)



Flannary Collins



Sarah Doar



Jill Dvorkin



Linda Gallagher



Moses Garcia



Oskar Rey



Paul Sullivan

Policy/Finance Consultants



Steve Butler,
Planning



Judy Isaac,
Public Works



Byron Katsuyama, Public
Policy/Management



Laura Crandall, Public
Policy/Finance



Toni Nelson,
Finance



Mike Bailey,
Finance

Behind the Scenes: Admin, Communications, IT



MRSC by the Numbers

In 2017:

- **6,033 people** asked us for one-on-one guidance
- **7,060 people** attended MRSC trainings
- **20,000 people** subscribed to our e-newsletters
- **1.8 million people** visited our website resources

Ports Eligible for MRSC Services



Grant County Port District
#5 (Port of Hartline)
Port of Allyn
Port of Benton
Port of Brownsville
Port of Camas-Washougal



Port Districts **Enduris** members

Port of Centralia
Port of Chehalis
Port of Chelan County
Port of Chinook
Port of Clarkston
Port of Columbia
Port of Coupeville
Port of Dewatto
Port of Douglas County



Enduris is a risk sharing pool for Special Purpose District local governments in Washington state.

Port of Edmonds
Port of Eglon
Port of Friday Harbor
Port of Garfield
Port of Grandview
Port of Grapeview
Port of Grays Harbor
Port of Hoodspout
Port of Illahee
Port of Ilwaco

Port of Othello
Port of Pasco
Port of Pend Oreille
Port of Peninsula
Port of Port Townsend
Port of Poulsbo
Port of Ridgefield
Port of Royal Slope
Port of Shelton
Port of Silverdale
Port of Skagit County
Port of Skamania County
Port of Tracyton
Port of Walla Walla
Port of Waterman
Port of Whitman County
Port of Willapa Harbor
Port of Woodland

Port of Indianola
Port of Kahlotus
Port of Keyport
Port of Kingston
Port of Lopez
Port of Manchester
Port of Mattawa
Port of Olympia
Port of Orcas

Port Districts **WPPA**
members who have opted
in to use MRSC Services.



Port of Anacortes
Port of Bremerton
Port of Everett
Port of Kalama
Port of Kennewick
Port of Moses Lake
Port of Port Angeles
Port of Quincy
Port of Sunnyside
Port of Vancouver USA

Ask MRSC - Overview



Click the **Ask MRSC** button or call us directly at
(206) 625-1300 or
(800) 933-6772

The screenshot shows the MRSC website interface. At the top left is the MRSC logo with the tagline 'Local Government Success'. To the right of the logo are links for 'Blog', 'Contact Us', and 'Funding Partners'. Below these is a search bar with the text 'Search...'. To the right of the search bar is a dropdown menu labeled 'All Sections' and a green button labeled 'Ask MRSC', which is circled in red. Above the 'Ask MRSC' button is the text 'Have a Research Question?'. Below the navigation bar are several menu items: 'RESEARCH TOOLS', 'EXPLORE TOPICS', 'STAY INFORMED', 'TRAINING', 'PUBLICATIONS', and 'ABOUT MRSC'. The main content area features a large image of a diverse group of professionals in business attire, with a woman in the foreground giving a high-five to a man. Below this image is the text: 'MRSC's Quick Guides for Newly Elected Officials. January is the month newly elected officials take office across Washington State. MRSC offers a Quick Guide for County and a Quick Guide for City officials to help prepare them for the challenges of governing.' To the right of this image is a blue box for the 'MRSC Insight Blog' with a RSS icon and a 'WELCOME ABOARD!' graphic. Below the graphic is the text: 'Introducing Linda Gallagher, MRSC's Newest Legal Consultant' and a 'VIEW MORE BLOG POSTS' link. At the bottom of the page are three sections: 'In Focus' with a gear icon and a headline 'Tiny Houses for Homeless Projects Fail Under Neighborhood Opposition', 'Upcoming Training' with a photo of a woman at a desk, and 'Ask MRSC' with a speech bubble icon and a question: 'Does an interfund loan need to be approved by ordinance or resolution? What if the loan is from an enterprise fund to a governmental fund?'

Ask MRSC – One on One Consulting



How are the five business days calculated in responding to public record requests?

What is the process to fill a port commissioner vacancy?

Does the Open Public Meetings Act apply to a port's annual holiday party?

How does the new paid family sick leave law apply to port districts?

MRSC Training



Monthly webinars

Regional trainings

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To the right of the main image is a blue sidebar for the "MRSC Insight Blog" with a RSS icon. It features a graphic that says "WELCOME ABOARD!" and a post titled "Introducing Linda Gallagher, MRSC's Newest Legal Consultant" with a "VIEW MORE BLOG POSTS" link.

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MRSC Training



One-Day Workshops:

- Purchasing & Contracting Essentials (Fall 2018-Spring 2019)
- Public Records Act Essentials (Early 2019)

Webinars:

- Better Management Through Values-Based Leadership
- Public Records Act Case Law Update

Visit mrsc.org/training

ELECTED OFFICIALS ESSENTIALS

OCT
11

Effective Local Leadership: How to Move Initiatives Forward and Get Things Done
October 11, 2018 | 11:30 AM - 12:30 PM

webinar

Part 4 of a 4-part webinar series produced in partnership with the Association of Washington Cities. This webinar is one of the four core requirements for AWC's Certificate of Municipal Leadership (CML) program. Attend all four webinars.

PURCHASING & CONTRACTING - REGIONAL TRAININGS

OCT
17

Purchasing & Contracting Essentials - Kelso - WAITLIST ONLY
October 17, 2018 | 8 AM - 5 PM | Kelso, WA

in-person

All-day workshop focusing on purchasing in the morning and public works contracting in the afternoon. Topics include statutory requirements, recent legislative changes, and how to align those requirements with local government needs.

CYBERSECURITY

OCT
18

Cybersecurity Essentials for Local Government Leaders
October 18, 2018 | 11 AM - 12 PM

webinar

This FREE webinar will help public sector leaders understand where their organization's greatest cybersecurity risks are and the important investments necessary to reduce risk. The State Auditor's Office Performance Center has compiled a list of free cybersecurity-preparedness resources available to local governments in Washington.

MRSC E-Newsletters

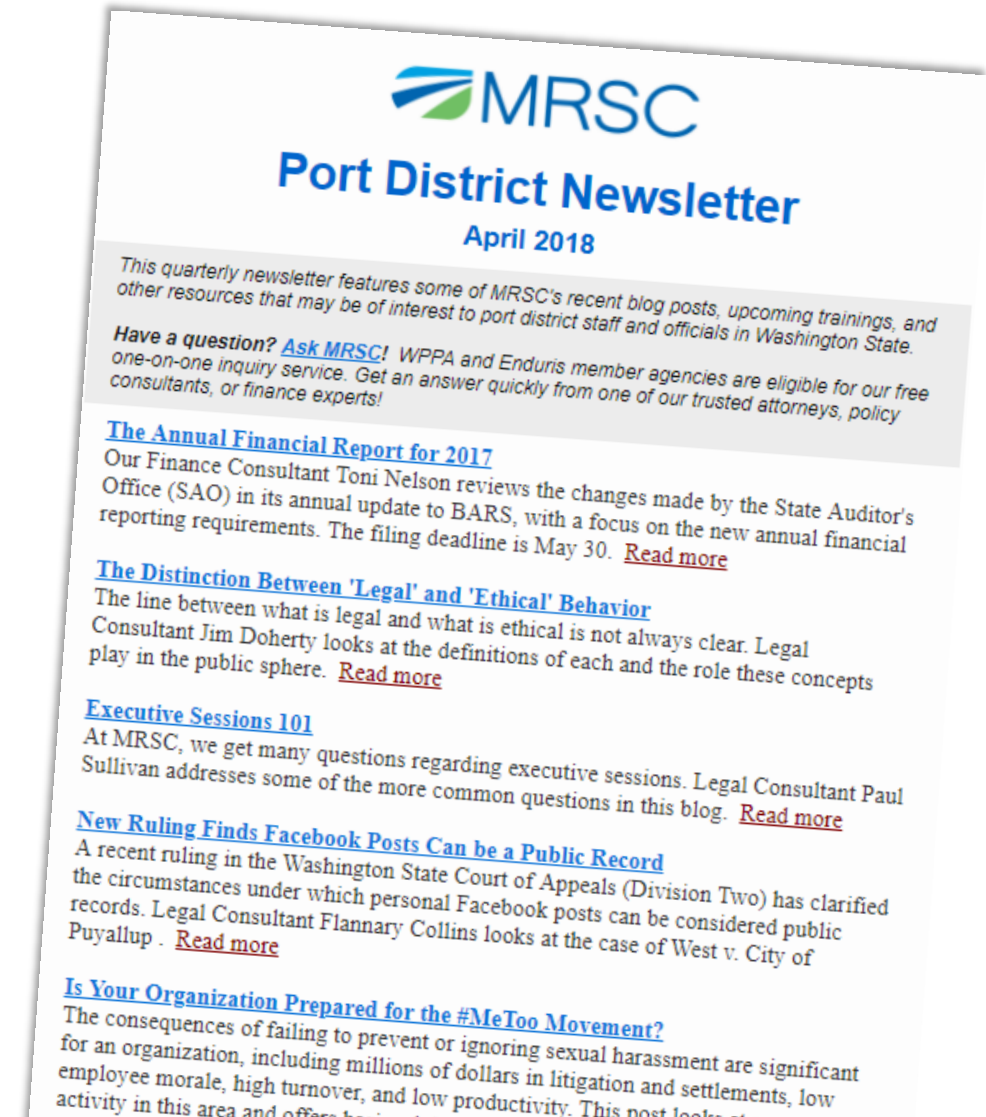


We distribute a quarterly **e- newsletter for ports**, plus other e-newsletters, that cover a wide variety of local government topics.

Sign up and get:

- Blog posts / analysis
- News headlines / links
- Upcoming trainings
- Announcements

Mobile-friendly – read on the go!





MRSC Website Overview

Our website contains:

- Databases – City/County Profiles, Local Ballot Measures
- ~430 “topic pages” with legal/policy guidance
- Over 3,000 sample documents
- 2-3 new blog posts per week
- Webinars & trainings
- Publications

...just to name a few!

Website Search



Good place to start if you're looking for info but don't know where to find it

Simple search terms (*prevailing wages*) are better than complex terms (*what if prevailing wage rates change halfway through a contract?*)

The screenshot shows the MRSC website header. The MRSC logo is on the left, with the tagline "Local Government Success". To the right of the logo is a search bar containing the text "prevailing wages". The search bar is highlighted with a red oval. To the right of the search bar is a dropdown menu labeled "All Sections" and a green "GO" button. Further right is a green button labeled "Ask MRSC". Above the search bar are links for "Blog", "Contact Us", and "Funding Partners". To the far right is the text "Have a Research Question?". Below the search bar is a navigation menu with the following items: "RESEARCH TOOLS", "EXPLORE TOPICS", "STAY INFORMED", "TRAINING", "PUBLICATIONS", and "ABOUT MRSC".

MRSC's Quick Guides for Newly Elected Officials
January is the month newly elected officials take office across Washington State. MRSC offers a Quick Guide for County and a Quick Guide for City officials to help prepare them for the challenges of governing.

MRSC Insight Blog
Introducing Linda Gallagher, MRSC's Newest Legal Consultant
[VIEW MORE BLOG POSTS](#)

In Focus
Tiny Houses for Homeless Projects Fail Under Neighborhood Opposition
From California to Florida to Iowa, tiny houses for homeless projects never...

Upcoming Training

Ask MRSC
Does an interfund loan need to be approved by ordinance or resolution? What if the loan is from an enterprise fund to a governmental fund?

Website Search



“All Sections” (default) will give you all search results in our entire website

But, it prioritizes webpages and blog posts

For other types of content (documents, inquiries, research tools), you may want to use different search options

Search Results

Results for "prevailing wage" within All Sections

Displaying 1 - 20 of about 37 results.

Prevailing Wages

General overview of **prevailing wage** requirements for public works and building service maintenance contracts, including types of projects, rates, and required forms.

Topic Pages

Suggested Guidelines for Purchasing, Bidding, and Contracting for Washington State Conservation Districts

Conservation districts are formed under the aegis of Ch. 89.08 RCW, which establishes a framework for how districts are formed and their general powers.

Topic Pages

Purchasing and Contracting

This page lists all of MRSC's topic pages related to purchasing, bidding, and contracting.

Topic Pages

Public Works Contracts

Brief overview of traditional design-bid-build contracting, including links to a wide range of public works topics.

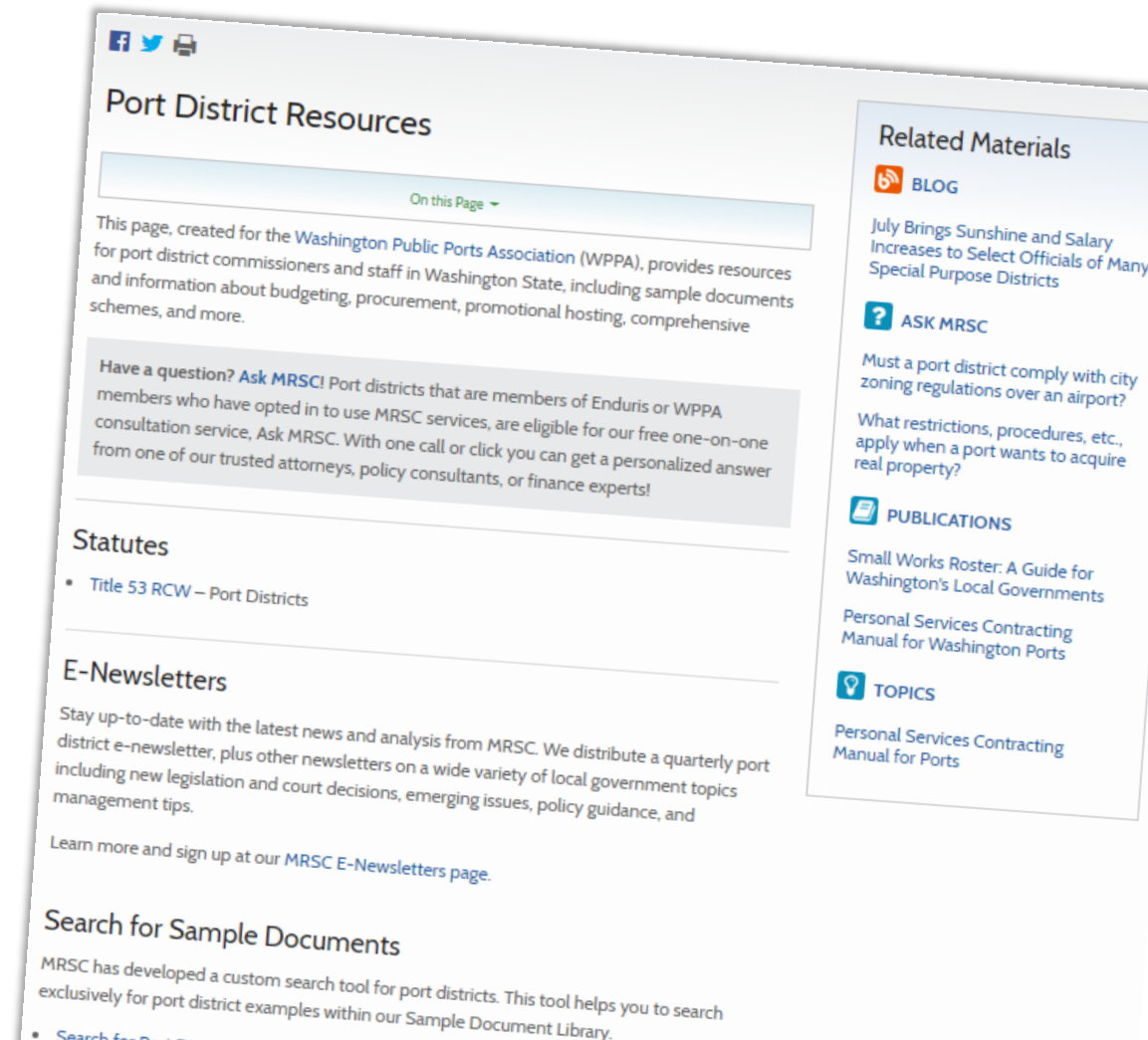
Port District Resources Page



We provide information on a variety of topics of interest to port district staff and commissioners.

- Commissioners and transaction of business
- Promotional Hosting
- Competitive bidding
- Budgeting
- Public Records
- And more!

Learn more at [mrsc.org/ports](https://www.mrsc.org/ports)





Explore Topics

Get legal analysis,
policy guidance,
sample documents,
and more

Over 400 topics

RESEARCH TOOLS	EXPLORE TOPICS	STAY INFORMED	TRAINING	PUBLICATIONS	ABOUT MRSC
	<ul style="list-style-type: none">Explore MRSC TopicsEconomic DevelopmentEnvironmentFinanceGovernance	<ul style="list-style-type: none">LegalManagementParks and RecreationPersonnel		<ul style="list-style-type: none">PlanningPublic SafetyPublic Works and UtilitiesTransportation	



Explore Topics – Financial Policies

“Key questions to consider” for

- Asset management
- Cost allocation
- Debt management
- Fund balances / reserves
- Investments

Partnership with SAO
Performance Center

Appropriate Fund Balance Level

The question of an appropriate level of fund balance is always a difficult one to answer. Each government has its own unique set of circumstances. Establishing an appropriate level of fund balance to meet the demands of the fund during periods of the year when revenues are not available is vitally important to the fiscal health of the fund.

Key questions to consider:

- **Is your jurisdiction dependent on cyclical or volatile revenue sources?** For instance, are you heavily dependent on property tax revenues, which are due April 30 and October 31? Is your utility dependent upon seasonal consumption? Do state shared revenues, which can be unpredictable and are not guaranteed in the future, contribute significantly to a program or service? Is your tax base heavily dependent upon one industry or one or two major employers?
- **Do your enterprise funds (utilities) have debt service requirements?** Do the debt service payments have a significant impact on the cash flow needs of the utility? Are all of the debt payments due at the same time of the year? Should the utility increase its reserve or fund balance to minimize the impacts of debt payments?
- **Are your enterprise funds (utilities) dependent upon a small number of customers that represent a large portion of the cash flow?** For instance, if one of your customers represents a significant portion of the income and then goes out of business, it will create a problem with cash flow, especially if there is a heavy debt load.
- **Do your utility billing cycles create cash flow concerns?** For example, if your utilities



Website Resources - Publications

Get a detailed overview of important topics such as:

- Bidding / Contracts
- Public Records
- Budget Suggestions
- Knowing the Territory
- Mayor & Councilmember Handbook*

**produced in partnership with Association of Washington Cities*





Website Resources for Elected Officials

Visit our **Quick Guide for Newly Elected City Officials**

Quick introduction to your core duties and responsibilities

Links to resources, such as:

- **Knowing the Territory** - Basic legal guidelines for local officials
- **Local Government Policymaking Process** - Guidelines for how to create good public policies

Oath of Office

Your term normally begins on January 1 or when you take the oath of office, whichever is later. The oath is usually administered at a formal meeting of the governing body – either first meeting after January 1 or the last meeting before January 1.

Public Records

As a public official, all of your “written” records related to city business are subject to public inspection under the state **Public Records Act (PRA)**, with very narrow exceptions. The PRA defines “writing” very broadly to include not only traditional written records, but also things like photos, maps, videos, voicemails, emails, text messages, and tweets.

State law requires every local elected official to receive **public records training** no later than 90 days after taking the oath of office or assuming their duties. The training may be completed before assuming office, and each official must take a refresher course at least every four years.

MRSC and AWC have created a **Public Records online course** to help mayors and councilmembers fulfill these training requirements.

City Administration

The mayor (in many

Website - Specialized Research Tools



- [City/County Profiles](#)
- [Sample Document Library](#)
- [Local Ballot Measure Database](#)
- [Find Your Contracting Requirements](#)

Sample Document Library



Under “Research Tools”

Search over 3,000:

- Policies/procedures
- Ordinances/resolutions
- Sample job descriptions
- Contracts
- RFPs/Bidding Documents
- And more!

The screenshot shows the MRSC Sample Document Library website. At the top, there is a navigation bar with tabs for RESEARCH TOOLS, EXPLORE TOPICS, STAY INFORMED, TRAINING, and PUBLICATIONS. Below the navigation bar, the breadcrumb trail reads "Home > Research Tools > Sample Documents". There are social media icons for Facebook, Twitter, and a printer icon. The main heading is "Sample Documents". Below the heading, there is a paragraph of text: "Search MRSC's extensive Sample Document Library for examples of local government resolutions, ordinances, policies, and thousands of samples from cities, counties, and special purpose districts across Washington State, and we are always looking for more. You can either do a keyword search to look for specific documents, or alternatively you can browse all of our sample documents by type. If you have sample documents you would like to share, please send them to MRSC Librarian Gabrielle Nicas." Below this text is a search section titled "Search Sample Documents" with a search input field containing the placeholder text "Search Sample Documents", a "Within:" label, and a dropdown menu currently set to "All Sample Documents". At the bottom, there is a section titled "Browse Sample Documents by Type" with a dropdown menu currently set to "Select" and a "GO" button.

Find Your Contracting Requirements



Get *statutory* bid limits and other competitive bidding requirements for your specific agency and project type

Partnership with SAO Performance Center

Always check your local policies first! Federal grants have stricter criteria.

Find Your Contracting Requirements

MRSC created this tool in partnership with the State Auditor's Office to help local government employees in Washington State easily identify their legal contracting requirements for any kind of project.

2. What type of agency are you?

- City or Town
- County
- Fire Protection District
- Irrigation District
- Port District
- Public Hospital District
- Public Utility District
- Reclamation District

Disclaimers

Regarding General Use of Information:

[SHOW DETAILS +](#)

Regarding Federal Funding:

[SHOW DETAILS +](#)

This tool was developed by MRSC in partnership with the State Auditor's Office (SAO) Local Government Performance Center.

Other Research Tools



Links to city/county codes

Links to RCWs, WACs, court decisions

RESEARCH TOOLS	EXPLORE TOPICS	STAY INFORMED	TRAINING	PUBLICATIONS	ABOUT MRS
<p>Ask MRSC</p> <p>Have a question? Just Ask MRSC! With one call or click you can connect with a trusted MRSC staff attorney or professional policy consultant to get answers fast.</p> <p>Ask MRSC</p>	<p>Our Tools</p> <ul style="list-style-type: none">Ask MRSC ArchivesCustom SearchesWashington City and Town ProfilesWashington County ProfilesLocal Ballot Measure DatabaseSample Document Library	<p>Legal Research</p> <ul style="list-style-type: none">Find Your Contracting RequirementsUtility Liens and Shut-offsWashington City CodesWashington County CodesRCW, WAC, and Court Decisions			

MRSC Rosters



Our Rosters service connects hundreds of local government agencies to thousands of businesses for small public works, consulting services and purchases.

Learn more and sign up at mrscrosters.org





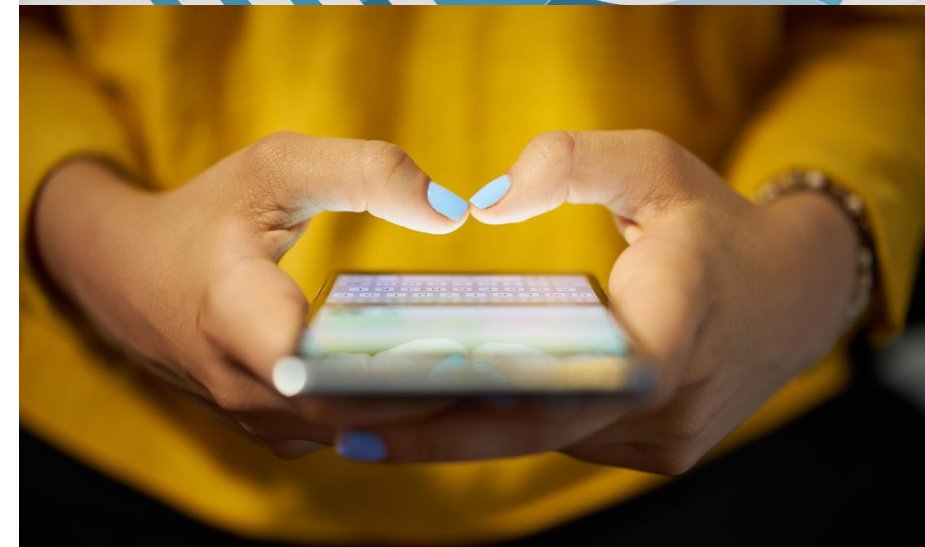
New Projects

City Revenue Guide update

- Indispensable Reference
- Completely Revised and Updated

Public Records Technology Guide

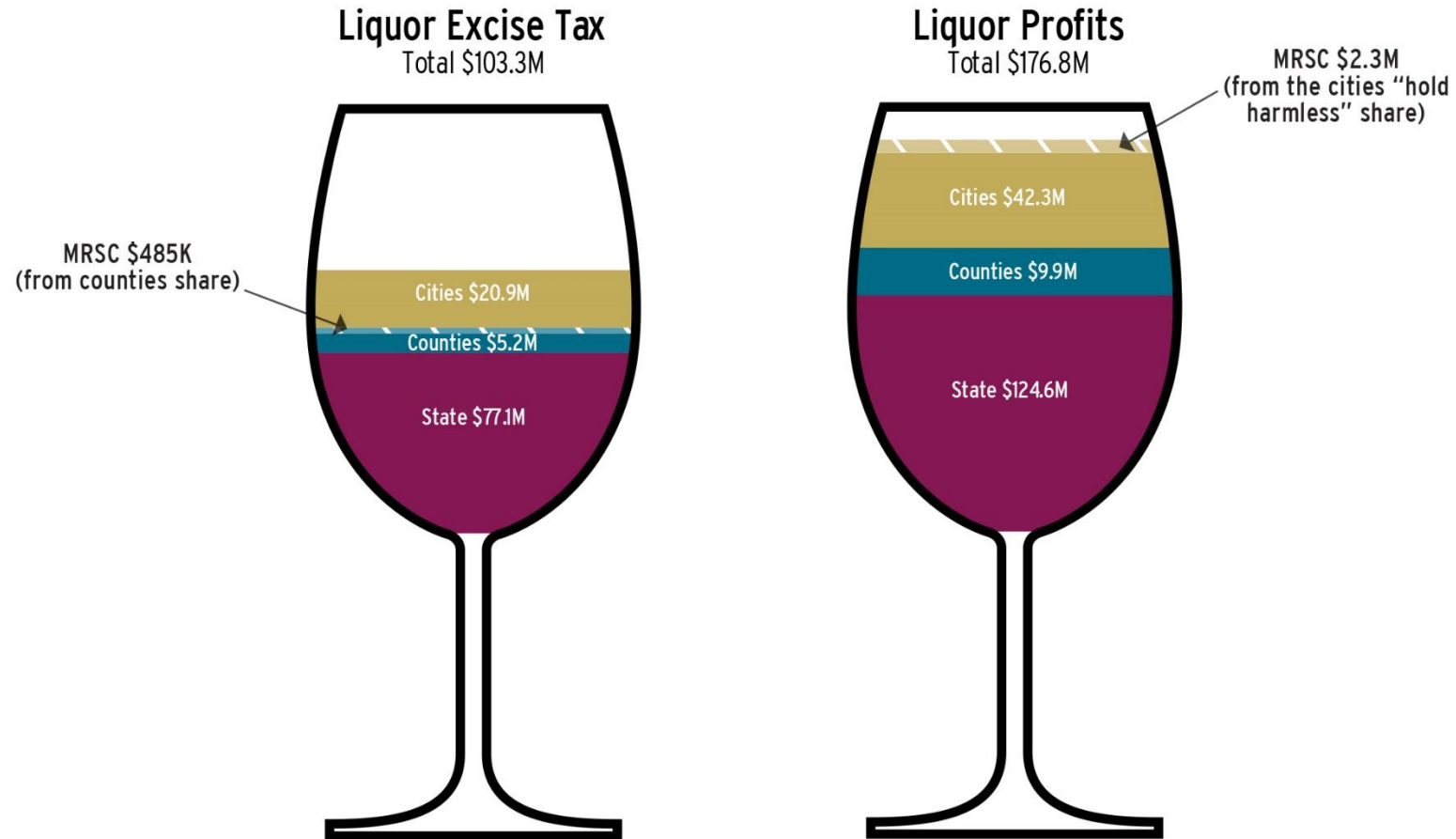
- Comprehensive
- Costs and Selection Guidance
- Includes Policy Recommendations



MRSC Funding



MRSC IS FUNDED THROUGH CITY & COUNTY LIQUOR REVENUE



State share includes Liquor and Cannabis Board funding.

Update of MRSC's Strategic Plan



Themes:

- ✓ Connect with and Stay Relevant to a New Generation of Public Servants
- ✓ Advance Our Core Services
- ✓ Ensure MRSC's Financial Sustainability

(in 2019)

ASK MRSC

**5 RECENT INQUIRIES
FROM SMALL PORTS**

Ask MRSC – Inquiry #1



Question: When filling a commissioner vacancy, is residing in the commissioner district a required "qualification" for the candidate to be appointed?



Ask MRSC – Inquiry Response #1

Answer: Yes, for a port commissioner vacancy where there is a “commissioner district,” the appointee must be a registered voter residing in the open commissioner district.

[RCW 53.12.010](#) provides:

Commissioner districts shall be used as follows: (a) *Only a registered voter who resides in a commissioner district may be a candidate for, or hold office as, a commissioner of the commissioner district;* and (b) only the voters of a commissioner district may vote at a primary to nominate candidates for a commissioner of the commissioner district. Voters of the entire port district may vote at a general election to elect a person as a commissioner of the commissioner district. [Emphasis added].

Ask MRSC – Inquiry #2



Question: What triggers re-districting within a port district as growth in the area has changed significantly over time?

Ask MRSC – Inquiry Response #2



Answer: The timing for redistricting is every ten years and is triggered by the release of population data from the most recent federal decennial census. In addition, the new Washington Voting Rights Act (chapter 29A.92 RCW) passed in 2018, has a process for redistricting sooner if in response to a potential WVRA violation.

Ask MRSC – Inquiry Response #2 (Cont.)



For redistricting every ten years, state law establishes the redistricting process. The same statute applies to counties, cities, and special purpose districts including ports.

[RCW 53.12.010](#) provides that certain port districts follow the county commissioner districts depending on population and if port boundaries are coextensive with the county districts. In that case, a port district follows the redistricting done by its county. Otherwise, ports redistrict every ten years in accordance with [RCW 29A.76.010](#).

Ask MRSC – Inquiry #3



Question: Are contracted services for snow plowing on port property a public works requiring a competitive bidding process or a purchased services contract?



Ask MRSC – Inquiry Response #3

Answer: A contract for snowplowing streets, roads, and other public property is not a “public work”. It is a purchased services contract and is not subject to competitive bid laws.

See, RCW 53.19.010(8), RCW 53.08.120, and RCW 39.04.010(4).

Ask MRSC – Inquiry Response #3 (Cont.)



Ports have statutory requirements for personal services contracts but not for purchased services. For services, an RFP is generally used and identifies the criteria for award of contract. We highly recommend that price be a major criteria. You might also have experience, qualifications, equipment and availability, safety record and references as considerations.

Follow-up Question: Are prevailing wages required for these purchased snow plowing services?

Ask MRSC – Inquiry Response #3 (Cont.)



Answer: No, contracted snow plowing would not be subject to prevailing wage law since it is not a contract for "*construction, reconstruction, maintenance or repair*" as those words are used in RCW 39.12.030.

Ask MRSC – Inquiry #4



Question: Does a port district personnel policy that caps paid sick leave at a 240 hours maximum annual carryover balance comply with the new state law requiring paid sick leave?

Ask MRSC – Inquiry Response #4



Answer: Yes, policies such as this one are consistent with, and more generous than the minimum paid sick leave now required by state law. The state law benefit mandates an accrual of at least 1 hour for every 40 hours worked. In other words, 52 hours paid sick leave per year for a full time (40 hour per week) employee.

Ask MRSC – Inquiry Response #4 (Cont.)



WAC 296-128-620, adopted pursuant to the new state law, requires employers to allow employees to carry over at least 40 hours of accrued unused paid sick leave to the following year. So, carry over balances from one year to the next year just need to be at least the minimum requirement of 40 hours.

Follow-up Question: If an employee leaves and then returns to the port within one year, does the new law require restoring a sick leave balance?

Ask MRSC – Inquiry Response #4 (Cont.)



Answer: Yes, if an employee leaves work with the port (terminated or quits) then the port must carry any accrued sick leave on the books in case the employee returns to work within 12 months. If an employee returns to the same employer within 12 months any prior unused sick leave balance needs to be restored. See, [RCW 49.46.210](#).

Ask MRSC – Inquiry #5



Question: Is it lawful for the port to guarantee a bank loan to establish a new restaurant that would be a port tenant?

Ask MRSC – Inquiry Response #5



Answer: No, acting as a surety or guarantor of a loan to a private restaurant or other business would be a case of the port lending its credit to a private “company or corporation” that is prohibited by the state constitution.

Ask MRSC – Inquiry Response #5 (Cont.)



For public agencies including ports, there are potential legal issues regarding the loaning or gifting of public funds. Under Article 8, Section 7 of the Washington State Constitution, a municipality may not directly give or loan money to private businesses for economic development. The State of Washington is one of the more restrictive in the nation in regard to how public funds may be utilized to attract private investment. Specifically, Article 8, Section 7 of the state constitution provides:

No county, city, town or other municipal corporation shall hereafter give any money, property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm.

Ask MRSC – Inquiry Response #5 (Cont.)



For port district expenditures on industrial development and promotion, the State Constitution, Article 8, Section 8, provides:

The use of public funds by port districts in such manner as may be prescribed by the legislature for industrial development or trade promotion and promotional hosting shall be deemed a public use for a public purpose, and shall not be deemed a gift within the provisions of section 7 of this Article.

[RCW Title 53](#) goes into more detail about how those funds may be used. The proposed bank loan guarantee would not fall into the allowed spending. A loan to establish a new restaurant would not be considered industrial development, trade promotion, or promotional hosting.

MRSC's Legal Guidance



MRSC's Legal Guidance is not legal advice or a substitute for the advice of your port district's legal counsel. It's often a great start.

We recommend you consult with your port district legal counsel.

We may also recommend you consult with your risk manager, insurance company, and/or risk insurance pool representatives.

Other resources: bond counsel, attorneys with expertise in intellectual property, real estate, labor and employment.

Let me know if you want to discuss this response.

Questions? Thank you!

Ask MRSC

Have a question we did not answer today?

Submit your questions online at mrsc.org

Call us at 800-933-6772 (toll free) or 206-625-1300

