



WASHINGTON PUBLIC PORTS ASSOCIATION

LEGISLATIVE REPORT

WEEK OF MARCH 7–MARCH 13, 2020

INTRODUCTION

The 2020 Legislative session closed last night and contrary to its high-energy, aggressive opening, its closing ceremony occurred early in the evening in front of a minuscule crowd in a locked-down capitol. There was no mad dash to pass as many bills as possible and no loud celebrations following the final gavel. There was simply a will to preserve nearly \$1 billion in funds for an anticipated economic downturn and to direct \$200 million to combat the impact of COVID-19 on the State's economy and health care systems. The moment that was accomplished and the budgets were passed, the Capitol Campus was uncharacteristically empty and quiet.

The early weeks of this session witnessed several "big issue" bills in a variety of subjects that ports care about. These topics included the Growth Management Act (GMA), carbon taxation, transportation funding, and the Shoreline Management Act (SMA). Appropriately, these bills did not advance as they had not received the kind of interim stakeholder work that makes it possible to garner support. Still, they indicate strong interest and define the work that the WPPA will undertake in the time until the legislature returns to Olympia next year.

The WPPA has some things to celebrate coming out of this session including \$33.7 million in additional funding for the Model Toxics Cleanup Account (MTCA), stronger tools for dealing with derelict vessels, increased funding authority for the Community Economic Development Board (CERB), well-orchestrated regulation of firefighting foam used at airports, and renewed funding for transportation projects funded through the multi modal account. Additionally, several regulatory and funding areas critical to ports received provisos pursued by WPPA including the State Environmental Policy Act (SEPA) Greenhouse Gas Emissions regulation; MTCA; GMA; SMA; and the Department of Revenue Aviation Fuel Study. Two important WPPA-favored transportation funding mechanisms also received support from the legislature, the Freight Mobility Strategic Investment Board and the Washington State Freight Advisory Council. For more detail on the matters see specific bill information below.

BUDGETS

Final supplemental budgets came together quickly this week, with all three budgets passing both chambers in the final two days of session. A wrap-up of WPPA priorities in each budget can be found below:

OPERATING BUDGET. One of the last pieces of legislation passed prior to Sine Die was the supplemental operating budget. The \$53.4B budget increased funding for homelessness and other targeted priorities. The budget was passed by both chambers on a near party line vote.

- **State Environmental Policy Act (SEPA) and greenhouse gas** – The SEPA/GHG proviso is included in the budget now awaiting approval from the Governor. Ecology will launch a rule-making process to address the regulatory uncertainty ports identified. Having identified this as a legislative priority, WPPA counts this as a significant win in the 2020 Session.
- **Net ecological gain proviso** – The NEG proviso is included in the final budget. The Department of Fish and Wildlife will make recommendations to the legislature regarding the definition and implementation of NEG. WPPA will participate in the process during the interim.
- **GMA study proviso** – The Department of Commerce is required to recommend legislation to update the growth management act in light of the Road Map to Washington's Future report produced by the Ruckelshaus center. The report is due December 1, 2020. WPPA will participate in the process.
- **Aviation fuel tax revenue proviso** – Both the operating and transportation budgets included language instructing DOR & WSDOT to determine the impact of the FAA's direction to use certain aviation fuel taxes to improve airport infrastructure. A report is due to the fiscal committees of the legislature prior to the start of the 2021 Legislative Session.
- **DNR land transfers** – The Senate Operating Budget proposal would have sharply limited the De-



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partment of Natural Resources ability to complete trust land transfers. Port districts have participated in these transfers in the past. The proviso has been rewritten and no longer includes the limiting language.

CAPITAL BUDGET. Last year the legislature authorized the state to issue \$3.2B in bonds to support projects included in the Capital Budget for the 2019-21 biennium. Of the \$3.2B, the legislature appropriated \$3.183B, leaving \$70M in remaining bond capacity available to address supplemental issues this session. In short, there is very little funding available from bond proceeds.

Increased appropriations for WPPA's two Capital Budget priorities this session was possible because they do not depend on bond proceeds.

- **The Community Economic Revitalization Board (CERB)** received appropriation authority to fund \$10M in new projects using loan repayments from existing projects.
- **Remedial Action Grants** are supported by revenue from the Hazardous Substances Tax created by the Model Toxics Control Act (MTCA). The House proposal prevailed and the final budget includes \$33.7M more for Remedial Action Grants.

TRANSPORTATION BUDGET. The chambers passed a \$10.3B supplemental transportation package (**HB 2322**) this week and it will be forwarded to the Governor for his signature in the coming weeks. Despite the passage of I-976, the legislature added no new revenue this session, instead choosing to address the \$453 million shortfall left by the initiative by targeting anticipated underspend for the current biennium alone. Underspend typically occurs when projects are delayed, resulting in the current funds allocated to the project being unnecessary freeing those dollars to be allocated elsewhere. The budget seeks to release highway, rail, local and transit projects, all which were previously paused by the Governor back in November. What remains to be seen is if the Governor will follow through on releasing these projects from hold and if the use of underspend hampers any projects from moving forward. A few other highlights from the budget:

- **WAFAC Proviso** - A proviso WPPA helped amend creates a stakeholder group designed to make recommendations to the Governor and Legislature around convening the Washington State Freight Advisory Committee.
- **FMSIB** - While the Freight Mobility Strategic Investment Board (FMSIB) took a small hit (\$2.3M) in its fund balance, the legislature added a proviso reaffirming support for the board and its role to fund strategic freight projects. WPPA will continue to work with the board to identify and adopt reforms that improve the effectiveness of the board. Solidifying the position of the future of FMSIB was one of WPPA's priorities for the session.

WPPA will pay close attention to both the implementation of this budget but also the necessity to address revenue needs for next session, when the impact of the initiative is cumulatively expected to surpass \$1.6B.

2020 SESSION CUT-OFF DATES

JANUARY 13

First Day of Session

FEBRUARY 7

Policy Committee Cutoff -
House of Origin

FEBRUARY 11

Fiscal Committee Cutoff -
House of Origin

Senate Ways & Means and
Transportation Committee
Cutoff

FEBRUARY 19

House of Origin Cutoff

FEBRUARY 28

Policy Committee Cutoff -
Opposite House

MARCH 2

Fiscal Committee Cutoff -
Opposite House

Senate Ways & Means and
Transportation Committee
Cutoff - Opposite House

MARCH 6

Opposite House Cutoff

MARCH 12

Last Day Allowed for
Regular Session under
State Constitution



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GOVERNANCE & ELECTIONS

SPECIAL PURPOSE DISTRICTS. The Senate amended and the House concurred on ESHB 2588. The bill will be sent to the Governor for his signature. The bill does the following:

- 1) Create a definition of an “unauditable” special purpose district, to be determined by the State Auditor’s office.
- 2) If a special purpose district is deemed unauditable, it requires the State Auditor to notify the impacted county(ies) and prohibits the issuance of warrants except under certain circumstances.
- 3) Prohibit the state Treasurer from distributing local sales and use taxes imposed by the special purpose district until the district has had its financial report certified by the State Auditor.

Some members of the House have stated that this bill is a good first start in making changes to special purpose districts, therefore we should anticipate more legislation next session on this subject.

ELECTION COSTS. HB 2421 has passed both chambers and on March 12 was delivered to the Governor for his signature. The bill requires the state to reimburse counties for state elections costs and a prorated share of federal election costs for primary and general elections, including prepaid postage. The bill also requires each county auditor to produce a local voter’s pamphlet before any primary, general, or special election, with information on all measures and candidates within the jurisdiction. Implementation of the bill takes effect in 2021. It is unclear what impact this legislation will have on port election costs, since counties use differing formulas for prorating election costs to local governments. For some, it is expected to be a cost increase. During the interim, WPPA staff will be communicating with the county auditors to get additional information on the impacts.

EMPLOYEE PUBLIC RECORDS. HB 1888 specifies that dates of birth and photographs of public agency employees or volunteers are protected from public records requests, as are the employee birth and photo records of criminal justice agency employees in current law. The bill also mandates that agencies will notify employees and their union, if applicable, of records requests relating to information in the employee’s personnel, payroll, supervisor, or training files. Additionally, the bill requires that employee notices declare that only information in employee records not exempt from disclosure requirements will be released. The bill has passed both chambers and has been sent to the Governor for his signature. A recent Tacoma News Tribune editorial calls for the Governor to veto this bill, so the fate of the bill may still be in question.

SB 6187 prohibits the disclosure of the last four digits of social security numbers in the notification process for data breaches of state and local agencies. This bill also passed the legislature and was delivered to the Governor for his review and signature.

COMMISSIONER COMPENSATION ADJUSTMENTS. While **SB 6046** failed to make it through the most recent cutoff deadline and died, the contents of the proposal was amended onto another bill, **HB 2449**, which did pass and is expected to be signed by the Governor. Under this bill, commissioner compensation adjustments will be moved from July 2023 until January 2024, allowing for districts to plan for future compensation adjustments in their annual budgets (in January) rather than the middle of the budget year (in July). Sometimes, the unexpected happens.

ENVIRONMENT

DERELICT VESSELS. Senator Lovelett’s derelict vessel bill (2SSB 6528) is on the Governor’s desk awaiting signature. WPPA staff are pleased to count this as a win.

CAP AND TRADE. Also known as “Cap and Invest” (SB 5981) would have created a marketplace for trading permits to emit carbon from regulated facilities. Revenue from the sale of these credits can be used by the state to fund other actions. The bill did not advance in the 2020 session. We will see it again next year,



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possibly as a source of transportation funding. WPPA needs to be prepared to participate in negotiations shaping this policy because of the link being made to transportation infrastructure by committee chairs.

ENDING USE OF FLUORINATED FIREFIGHTING FOAM AT AIRPORTS. HB 2265 is awaiting signature by the Governor. The bill prescribes a timeframe for ending the use of fluorinated foams at airports and certain other fuel facilities. The foam is currently the only allowable product to be used as prescribed by the FAA. Airports will have up to three years to switch to a non-fluorinated foam once the FAA issues guidance on an alternative.

GREENHOUSE GAS EMISSION LIMITS. E2SHB 2311 requires the state to achieve net-zero greenhouse gas emissions by 2050. The bill is on the Governor's desk awaiting signature.

AVIATION

AVIATION LEGISLATION. Neither of WPPA's aviation priorities made it out of the legislature this year. HB 1457 would have reallocated 1% of the aviation fuel tax to be spent on airport infrastructure. SB 5011 would have made the Community Aviation Revitalization Loan Program permanent. The program remains in statute through June 30, 2021, by way of the transportation budget. The board has awarded a portion of its existing \$5 million in funding secured during the 2019 legislative session.

TRANSPORTATION

RAILROAD CREW SIZE. The House concurred with the Senate's amendments to **HB 1841** and the bill has already been delivered to the Governor, awaiting his signature. The bill mandates the use of a two-person crew for Class I railroads. WPPA worked with other stakeholders that were successful in adding a pair of amendments that exempt shortline (Class III) railroads from the mandate. This is not the end of the line on this issue as a federal judge in February has ordered that train crew staffing be negotiated as part of the current collective bargaining agreement between the Class I railroads and their represented labor.

LOW CARBON FUEL STANDARD (LCFS). No action was taken on HB 1110 during the final week of the session and therefore the policy was not adopted. This bill would have established a Low Carbon Fuel Standard in the state. Currently, over 40% of greenhouse gas emissions in Washington result from transportation and this bill attempts to address this by providing incentives for the use of less carbon-intensive energy to transport people and goods in the state.

ECONOMIC DEVELOPMENT

LOCAL REVITALIZATION FINANCING. Local governments (ports, cities, counties) worked hard to pass **HB 2804**, which would have reestablished the local revitalization financing program (LRF) and permit a state sales tax credit for projects approved after January 1, 2021. The bill was in play on and off throughout the session but died in the Senate Ways & Means Committee in the final days. WPPA will work with stakeholders and legislators over the interim to construct a new strategy for tax increment financing tools.