



WASHINGTON PUBLIC PORTS ASSOCIATION LEGISLATIVE REPORT

WEEK OF MARCH 25-29, 2019

INTRODUCTION

The major news this week in Olympia is that the House released all three of its proposed budgets (Operating, Capital and Transportation), and the Senate released two (Capital and Transportation). The Senate is expected to release its Operating Budget on Monday. Overall, there is a rather large amount of 'non-alignment' in the House/Senate comparisons, which means that there is a lot of negotiating to do.

It was also a week of taxation and revenue proposals. Both chambers put forward major tax proposals, although they are completely different. The House introduced and moved out of Committee a major B&O tax increase on professional services, while the Senate heard a bill that increases portions of the hazardous substances tax, putting these revenues into cleanup and stormwater grants. Overall, the House is proposing \$1.4 Billion in new taxes, increasing the operating budget by over 18%.

Meanwhile, committees continued to hear policy bills. Next Wednesday is the deadline for those measures to be voted out of Committee, and fiscal bills have until April 9th. For a complete report, including details on the proposed budgets, keep reading.

BUDGETS AND REVENUE

The House introduced and heard **HB 2158**, which increases B&O taxes by twenty percent on professional services such as accounting, engineering, legal, insurance and medical. This raises \$390 million this biennium, and these revenues are used to pay mostly for college tuition need grants and other education services. There is also a proposal to increase Real Estate Excise taxes on properties over \$2.5M, while lowering it for properties under \$500K.

The Senate introduced a bill that increases revenues under the hazardous substances tax, and spends this money on enhanced cleanups and stormwater programs. (For details, see the Environment section). CERB grants remain constant in all three budgets, except for broadband grants, which seem to be headed to the Public Works Board.

The chart below details these numbers.

	GOVERNOR	HOUSE	SENATE
CERB	\$8.6M	\$8.6M	\$8.6M
CERB BROADBAND	\$0M	\$3.4M	\$0M
MTCA	\$32.7M	\$22M	\$150M
AVIATION	\$5M	\$2.5M	\$5M



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GOVERNANCE AND ELECTIONS

CAMPAIGN CONTRIBUTION LIMITS. HB 1375 would extend campaign contribution limits to all port races. The Senate version did not advance, but the House version was voted out of the chamber 98-0 and sent to the Senate State Government, Tribal Relations & Elections Committee where it was heard and sent to the Senate Rules Committee.

HOURS OF AVAILABILITY FOR INSPECTION AND COPYING OF PUBLIC RECORDS. SB 5787 authorizes a city, town, and special purpose district that maintains office hours for less than 30 hours per week to not maintain a greater number of office hours for the purpose of meeting the requirement under the PRA to make records available for a minimum of 30 hours per week. The bill advanced out of the Senate on a unanimous vote and is scheduled for executive action in the House Committee on State Government & Tribal Relations next week.

ECONOMIC DEVELOPMENT

PORT DISTRICT WORKER DEVELOPMENT AND OCCUPATIONAL TRAINING PROGRAMS. HB 1568, which provides clarity to ports' authority to engage private and public entities for occupational training, passed the house and was heard in the Senate Committee on Higher Education & Workforce Development and advanced to the Rules Committee. The companion bill, **SB 5570**, failed to advance.

LOCAL REVITALIZATION FINANCING. SB 5564 known as the Building Business Ecosystems Act, was amended and moved out of the Senate Financial Institutions, Economic Development & Trade now sits in the Senate Ways & Means Committee. The bill, which failed to advance from its chamber of origin, appears to have new life and will be heard next week. This legislation reintroduces an infrastructure financing tool employed widely across America and recently

SESSION CUT-OFF DATES

JANUARY 14

First Day of Session

FEBRUARY 22

Policy Committee Cutoff -
House of Origin

MARCH 1

Fiscal Committee Cutoff -
House of Origin

MARCH 13

House of Origin Cutoff

APRIL 3

Policy Committee Cutoff -
Opposite House

APRIL 9

Fiscal Committee Cutoff -
Opposite House

APRIL 17

Opposite House Cutoff

APRIL 28

Last Day Allowed for
Regular Session



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used in this state. The program allows for the retention of local sales, use and property taxes to fund public infrastructure development within predetermined revitalization zones.

BROADBAND INFRASTRUCTURE POLICY. HB 1498 and **SB 5511**, governor request bills, create a broadband office focused on facilitating state policy on broadband deployment and designate a grant and loan program within the Public Works Board designed to improve internet access throughout the state. The Senate version passed on a vote of 47-0 and the House bill passed from that chamber on a vote of 95-1. Both bills have subsequently been heard in opposite chamber committees and received executive action. **HB 1498** now sits in the Senate Ways & Means Committee.

WASHINGTON RURAL DEVELOPMENT AND OPPORTUNITY ZONE ACT. HB 1324 creates a Rural Development and Distressed Opportunity Zone Program, which provides tax credits for taxpayers who make a capital contribution to a Rural Development and Distressed Opportunity Zone Fund as well as extending a reduced business and occupation tax rate on certain timber-related activities. The bill passed out of the House on a unanimous vote, but during public hearing in the Senate Committee on Financial Institutions, Economic Development & Trade it faced a considerable amount of unfavorable testimony. This week the bill was amended, received executive action and was passed to Ways & Means.

LABOR

PREVAILING WAGE CALCULATION. Legislation passed last session created significant changes to mechanisms used to set prevailing wages for public works, causing substantial cost increases and prompting public agencies, labor, affordable housing advocates and contractors to attempt a remedy. So far, these efforts have produced a lawsuit from the Associated General Contractors seeking an injunction against implementation of the new law and a set of narrowly focused companion bills, **SB 5766** and **HB 1743**. These bills address a small set of job classes and fail to create a broad fix to a system that impacts a wide variety of work performed on projects. The House bill passed out of that chamber unanimously as was moved to Rules. The Senate bill failed to advance.

ENVIRONMENT

BUDGET PROVISIO – ESTABLISHING A WORKGROUP TO RECOMMEND A FRAMEWORK FOR EVALUATING GREENHOUSE GAS EMISSIONS UNDER CHAPTER 43.21C RCW. Senators Takko



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and Carlyle secured an agreement from Senator Rolfes, chairwoman of the Ways and Means Committee to include our proviso in her budget proposal. On the House side, the proviso is included in the budget passed by the Appropriations Committee yesterday. WPPA is well positioned to see the proviso language in the budgets proposed by both houses of the legislature.

STREAMLINING THE PERMITTING PROCESS FOR DISPOSING OF DREDGED MATERIALS. HB 1480 amends RCW 90.58.140 (Shoreline Management Act) eliminating the requirement for a substantial development permit to dispose of dredged materials at sites approved by the Puget Sound Dredged Disposal Analysis Program. The bill was passed by the Senate Energy, Environment, and Technology Committee and is now in Rules. WPPA is working with Pierce County to have the bill pulled to the floor for final passage.

IMPLEMENTING RECOMMENDATIONS OF THE SOUTHERN RESIDENT KILLER WHALE TASK FORCE RELATED TO INCREASING HABITAT AND FORAGE FISH ABUNDANCE. 2SHB 1579 primarily addresses hydraulic permitting authorities. To reduce the risk of arbitrary or capricious actions taken by junior staff, WPPA negotiated an agreement requiring stop work orders and civil penalties to be issued only by senior agency management. The bill was modified to address WPPA concerns. The bill has been held up by the committee chairman while negotiations unrelated to WPPA interests, and has been scheduled for executive action next week. WPPA is neutral on the most recent version of the bill.

CONCERNING THE PROTECTION OF SOUTHERN RESIDENT KILLER WHALES (SRKWS) FROM VESSELS. 2SHB 1580/2SSB 5577. SB 5577 is the vehicle going forward. The bill was modified in committee to address stakeholder concerns. The bill includes the following provisions:

- Increases the distance within which a vessel or other object may not approach a southern resident orca whale (orcas).
- Establishes a speed limit of 7 knots within one-half of a nautical mile of an orca.
- Establishes commercial whale watching and alternate operator licenses, sets fees for the licenses, and requires the Department of Fish and Wildlife (DFW) to report on the license program.
- Directs the DFW to convene an independent science panel to analyze the most current and best available science regarding noise impacts to orcas by small vessels and whale watching vessels.
- Requires the topic of sustainable whale watching to be included in the statewide tourism marketing plan.

The bill has moved to the Rules Committee in the House.



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NOTE ON OIL-RELATED LEGISLATION. Several bills affecting oil interests remain alive. These include bills related to a Low Carbon Fuel Standard, the Cap and Trade program included in SB 5881, oil transportation safety provisions in **HB 1578** (below), a Cap and Trade program in SB 5981 (below) volatility regulations for oil shipped by rail, train crew requirements for oil shipped by rail and an increase in the Hazardous substance tax in **SB 5993** (below). The legislature is transparently pressuring oil companies to negotiate on new greenhouse gas regulations or risk a series of consequences. In the words of a key Senator involved in the discussions, “We’ll see how this goes. Don’t assume I have a plan.” WPPA is playing a lead role in negotiations affecting **SB 5993**.

REDUCING THREATS TO SOUTHERN RESIDENT KILLER WHALES BY IMPROVING THE SAFETY OF OIL TRANSPORTATION. ESHB 1578 – Working with other interests, WPPA persuaded House members to remove from the bill rulemaking authority that would allow Ecology to require a dedicated rescue tug adjacent to the San Juan Islands. Ports were concerned about the negative competitive consequences paying for a rescue tug borne solely by the U.S. side. The bill is scheduled for a hearing in the Senate Ways and Means Committee on Thursday, April 4th. WPPA has taken no position on the bill as amended.

IMPLEMENTING A GREENHOUSE GAS CAP AND TRADE PROGRAM. SB 5981 was heard in the Senate Environment, Energy and Technology Committee. Revenue from the sale of carbon credits allows the bill to be categorized as Necessary to Implement the Budget (NTIB) and therefore exempt from cutoff dates. It was heard in the Senate Energy, Environment and Technology Committee on March 21st.

REFORMING THE FINANCIAL STRUCTURE OF THE MODEL TOXICS CONTROL PROGRAM. SB 5993 – a significant reform of the Model Toxics Control Act funding was heard in the Senate Ways and Means Committee on Wednesday. [View an excerpt of the hearing showing WPPA’s testimony.](#)

The bill makes the following changes to MTCA:

- Changes the hazardous substance tax (HST) on petroleum products to a volumetric rate of \$2.52 per 42-gallon barrel.
- Replaces the existing Model Toxics Control Act (MTCA) accounts with operating, capital and stormwater accounts; HST revenue will be allocated 43 percent for operating, 43 percent for capital and 14 percent for stormwater.
- Adjusts the volumetric rate each year by a fiscal growth factor.
- Specifies qualifying operating budget programs and capital budget projects for each account.



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- Requires the Governor's proposed and enacted budgets to be accompanied by a report documenting the MTCA expenditures.

The fiscal note on the bill states that the new law would increase state revenues by an estimated \$221.3 million in the 11 months of impacted collections in Fiscal Year 2020, and by \$268.2 million in Fiscal Year 2021, the first full year of impacted collections. During the hearing there was some dispute about the accuracy of these numbers. Nonetheless, the bill would result in significantly more funding for remedial actions. WPPA supports **SB 5993**.

AVIATION

AVIATION LEGISLATION. With the release of budgets this week WPPA is hard at work to ensure the full \$5 million in funding is retained. A policy bill must also be passed which would allow the Community Aviation Revitalization Loan Program to be launched. Currently, the House Capital Budget only reappropriates \$2.5 million for the program while the Senate's budget retains the entire \$5 million appropriation. We are also working to incorporate amendments to the policy language which are important to the Governor's office. **SB 5370** will get a hearing in the House Transportation Committee next Monday.

The bill would create the Commercial Aviation Coordinating Commission and is supported by WPPA. **HB 1917** had a hearing yesterday in the Senate Ag, Water, Natural Resources & Parks Committee. The bill would allow for the use of certain traps by airport managers advanced out of the House. It is scheduled for a committee vote next Tuesday

PUBLIC WORKS

PUBLIC WORKS CONTRACTING. Two public works bills were heard in committee this week. **HB 1295**, which would authorize the use of both Job Order Contracting and Design Build, is scheduled to be voted on in the Senate State Government, Tribal Relations & Elections committee today. **SB 5418** would expand the use of Small Works and Limited Small Works authority for port districts by increasing the allowable project costs from \$300,000 to \$500,000. **SB 5418** was scheduled to be voted on yesterday although 11 amendments were offered, delaying the committee vote until next Tuesday.



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TRANSPORTATION

CURRENT LAW TRANSPORTATION BUDGETS. Both chambers released and heard their transportation budgets this week. The House budget, under direction of Chair Fey, has focused on diverted funds not being utilized on schedule and diverting those dollars to priorities, including funding additional fish passage barrier removal projects. The Senate's budget takes a more standard approach, but provides very little funding to new initiatives, deferring to the Chair's new revenue bill as the means to fund other projects.

Of particular concern to WPPA is an elimination of \$14.5 million for the Freight Mobility Strategic Investment Board (FMSIB), nearly half of the Board's biennial appropriation in the House Transportation Budget. WPPA is working with Chair Fey and FMSIB to understand concerns the Chair may have with this important program. It serves as a reminder for ports to make sure we are including our appreciation for good programs like FMSIB when doing advocacy with our own legislators. The transportation bills will be advanced quickly to floor votes over the next few days. Then budget writers from both chambers will conference to begin negotiating one budget bill.

LOW CARBON FUEL STANDARD (LCFS). The Governor's LCFS bill is scheduled to be heard in the Senate Transportation Committee next Thursday. HB 1110 proposes to give Department of Ecology authority to implement an LCFS designed to reduce transportation greenhouse gas (GHG) emissions by 20% by 2035. This bill is one of several bills that are at the center of the Democrats' environmental agenda this session. The bill is fashioned after programs currently being implemented in both Oregon and California. In Washington, over forty percent of greenhouse gas emissions come from transportation.

Proponents of the LCFS have testified that passage of this bill would increase production of less carbon-intensive fuels in the state leading to job growth. Opponents have focused on increasing costs caused by an LCFS, particularly those being seen in California, where costs have increased between \$.10 and \$.12 and are projected to triple by 2030, when the program is fully implemented. WPPA has concerns about the impact LCFS could have on the ability to fund new transportation infrastructure in the future. Senator Hobbs, the Transportation Committee Chair, has concerns with the LCFS policy. He prefers his own bill (see Forward Washington below) which is structured as a transportation package and proposes a carbon fee be collected and used for infrastructure investment. His bill would also prohibit the adoption of an LCFS making these two policies mutually exclusive.

FORWARD WASHINGTON. With the focus on current law budgets, no action was taken on these bills this week. Forward Washington (**SB 5970/SB 5971/SB 5972**) is a \$17 billion, 10-year proposal



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that would not only provide funding to big ticket projects but also adds money to many important transportation programs important to ports, including the creation of a \$100 million port grant program. The revenue for this new package comes from a new and controversial fee placed on carbon (\$15/metric ton) as well as six cent per gallon increase in the state gas tax. There are also development impact fees assessed on new development across the state and an assortment of other smaller tax increases.

In addition to an increase of \$1 billion for highway maintenance, Forward Washington provides substantial funding for fish passage barrier removal, important construction projects such as the I-5 bridge over the Columbia, Hood River Bridge, US 2 trestle, the Apple Capital Loop in Wenatchee, completion of US 12 four-lane project in Walla Walla County and completion of SR 18 in rural King County. For more details about Forward Washington, including detailed project lists and summary documents go [here](#).

PROJECT ACCELERATION. HB 2132 proposes to accelerate the construction of the Gateway Program of projects which consist of the completion of both SR 167 & SR 509. To achieve this, the bill would allow the state to issue up to \$1.5 billion in general obligation bonds as well as implement a tolling program for both roadways. In addition to Gateway, this bill also proposes combining the existing tolling programs on 405 and the existing SR 167 hot lanes. WPPA is supportive of accelerating the Gateway Program. It is a key highway link between the Ports of Seattle and Tacoma and the significant warehousing and logistics centers in the valley.

There are concerns about other aspects of this bill, including how projects will be prioritized in the future specifically related to the combined 405 & SR 167 tolling area and how that will relate to future toll setting. WPPA is monitoring this bill closely. No action was taken on this bill this week but the bill is scheduled for executive session next Wednesday in the House Transportation Committee.

RAIL-RELATED LEGISLATION. HB 1841 requires a mandatory minimum train crew size of two. This expands up to four crew members for certain higher hazardous trains. WPPA testified with concerns to **HB 1841** this week in the Senate Labor & Commerce Committee because it does not exempt short line rail operators from the bill. Most port-owned and/or operated rail operations could be significantly impacted both operationally and from an oversight and reporting aspect. The committee has not yet scheduled a vote on this bill.



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HEARINGS OF INTEREST THIS COMING WEEK

MONDAY, APRIL 1 | 3:30P

- **SB 5370** - Creating a state commercial aviation coordinating committee, House Transportation Committee

MONDAY, APRIL 1 | 3:30P

- **SB 5153**, Making Biennial Operating Appropriations, Senate Ways & Means Committee

TUESDAY, APRIL 2 | 10:00A

- **SB 5418** - Local Government Procurement Modernization, House Local Government Committee

THURSDAY, APRIL 4 | 1:30P

- **HB1110** - Low Carbon Fuel Standards, Senate Transportation Committee