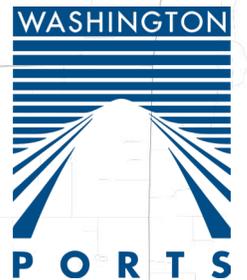


# 2023 Legislative Session

Legislation relating to Port Financial Operations

Eric fitch  
Executive Director, WPPA  
WPPA Finance and Administration Seminar  
Alderbrook Resort, June 2023



# 2023 Legislative Session Overview

- 2023 *Regular* Session lasted 105 days: January 9, 2023 - April 23, 2023
- Democrats controlled the agenda with majorities in both House & Senate; and Governor
- Passed 3 biennial budgets: Operating, Transportation, Capital
- Policy Bills:
  - 2302 introduced
  - 494 passed the legislature
- Top Themes: Housing, Public Safety, Environment
- Special Session
  - Convened by the Governor for 30 Days
  - Focused entirely on one issue: “Blake Decision”
  - Took place on May 16<sup>th</sup>, in session for one day and passed a compromise bill to address Blake fix



# WPPA 2023 Session Priorities - Policy

- Tax Increment Financing - Real Property Definition Fix (HB 1527 - passed)
- Rural Public Facilities Tax Extension, known as “.09 funding” (HB 1267 - passed)
- Clean Energy Facility Siting (HB 1216 - passed)
- Alternative Jet Fuel incentives package (SB 5447 - passed)
- Port competitiveness and antitrust bill (HB 1257 – passed)
- Short Line Rail Incentives (SB 5494/HB 1371 - failed)
- Others: tourism promotion; aviation commission; site readiness funding



# WPPA 2023 Session Priorities – Budget

- Port electrification funding - \$26.5m grant program in 23-25 Transportation Budget
  - \$14m for Terminal 18 Shorepower
  - \$5m for Port of Everett
  - \$2m for Port of Bremerton
  - \$500k for Port of Anacortes
- Additional funding opportunities:
  - \$120m for zero-emission commercial vehicle infrastructure (\$2.5m for cargo handling)
  - \$6.3m zero-emission trucking pilot at NWSA
  - \$33.7m for charging infrastructure (not specific to heavy-duty, but could support it)
- Model Toxics Control Act, remediation funding - \$115m total (\$85m for ports) in 23-25 Capital Budget
- Freight funding through FMSIB reform - \$25m released for projects in 23-25 Operating Budget
- Clean energy siting funding, ports eligible - \$10m in 23-25 Operating Budget
- Lower Snake River Dams study - \$5.5m (\$5m for WSDOT; \$500k for JTC oversight)



# 2023 Session – Port Finance Relevant Issues

- **TIF Fix (HB 1527 – passed)** – *additional detail on legislative process*
  - Initially complicated by introduction of similar property tax bills
  - Strong support in House and Senate Democratic Caucuses; initial skepticism from House Republicans
- **Periodic Adjustments (HB 1254 – passed)**
  - Identified “defunct” inflation statutes
  - Result: increased limit on value port can surplus without commission vote from \$10,000 to \$22,000
- **Unified tax levy (HB 1663 – passed)**
  - Brought forward by Chelan Douglas Regional Port Authority
  - Amended to require a vote by both counties
- **Margins Tax (SB 5482 – did not pass)** – *outcome from Tax Structure Work Group*
  - Intended as a straight B&O tax replacement
  - Ports came forward to share background on increased tax liability



# Issue Update: LET Taxable Rent Rulemaking

## WPPA ONGOING ADVOCACY (AS OF 6.6.23)

### *Issue overview*

Ports seek to manage risk by structuring leases in various ways. Department of Revenue has signaled an interest in redefining taxable rent and contract rent to include concessionaire's revenue which may be a component of leasehold revenue in some public leases.

### *Rulemaking status*

1. Draft rule (CR-102) released 4/26/23
2. Topline: DOR intends to standardize collection of revenue of sales at 8% regardless of the actual amount negotiated in each lease
3. Rule change may be considered retroactive
4. DOR has signaled an intent to establish taxable rent arbitrarily in the event leases are not capturing market value or updated regularly



# Issue Update: LET Taxable Rent Rulemaking

## WPPA ONGOING ADVOCACY (AS OF 6.6.23)

*WPPA approach:* WPPA has contracted with a tax attorney, Garry Fujita (Eisenhower & Carlson), to develop comments to be submitted to DOR (due date extended - July 10)

*General overview of potential comments:*

- 1. DOR failed to complete a small business impact statement required when such impact is present*
- 2. Taxing a concession as a component of LET is flawed*
- 3. 8% is random and not supported by the record – arbitrary & capricious*
- 4. 8% will result in taxation above market*

*Partners:* WPPA is partnering with other public owners and encourages affected tenants and their interest groups to become involved in this rulemaking, including: AWC, Washington Retail Association, Washington Hospitality Association, etc are engaging

*Next steps:*

- Coordinated effort to provide comments on the proposed will be submitted by 7/10
- WPPA will continue to push for a 90-day extension of the comment period along with a delay in rulemaking overall



# What's next?

- Begin WPPA Legislative Agenda Development
  - Will involve all committees, including Finance!
  - Agenda approved by Board of Trustees at Annual Meeting
  
- 2024 Legislative Session
  - 60 day session
  - Begins January 8, 2024
  
- Questions?

