



## Week 5 Report

February 10, 2023

The Legislative Report is distributed weekly throughout the legislative session. Each edition includes an update of legislative activities as well as a list of specific legislative meetings of interest to ports. Copies of bills can be found on this page of the Legislature's web site: [Bill Information](#).

### INTRODUCTION

Friday, February 10 marked the 33rd day of the 2023 Legislative Session, and the end of the 5th week of a 15 week sprint. Committees continue to hold hearings on new bills but the bulk of the calendar this week and next is Executive Session, the process through which bills are voted out of policy and fiscal committees. Bills are continuously being revised as they move through the legislative process which requires ongoing monitoring and review from the WPPA staff, including our contract lobbying team. One week remains until the first legislative deadline, February 17, when all policy bills must be voted out of their policy committee to remain alive. That deadline shrinks the universe of total bills under consideration, while the proposals that keep advancing have a better chance of reaching Governor Inslee's desk.

With Ports and Maritime Day in the rear view, WPPA staff and our lobby team heightened our focus on priority bills, as legislation related to the Freight Mobility Strategic Investment Board and to port antitrust authority both passed out of the House Transportation Committee on unanimous voice votes. Legislation to make technical corrections to Tax Increment Financing passed through the House Finance Committee and its Senate companion is up for a hearing this coming week. And tourism bills that port members have testified on advanced as well.

### AT A GLANCE

*Length: 105 days; Regular session began on January 9, 2023*

*For up-to-date legislative information, visit: [leg.wa.gov](http://leg.wa.gov)*

*To listen to a legislative hearing, visit: [tvw.org](http://tvw.org)*

*For current and previous copies of our report, visit our website at: [washington-ports.org](http://washington-ports.org)*

### NEXT WEEK'S HEARINGS

*If you would like to testify at any of these, please contact WPPA.*

#### **Monday, February 13th**

*1:30 pm H Enviro & Energy: (ES) HB 1192 Concerning electric power system transmission planning*

*(ES) HB 1735 Adding net ecological gain/Growth Management Act*

*4:00 pm S Ways & Means: SB 5379 Supporting innovation at associate development organizations*

*SB5539 Making technical corrections to the local tax increment financing program*

The coming week will see hearings on legislation related to aviation siting, broadband, and derelict vessels, plus more areas of port interest. Please reach out to WPPA staff if there are additional bills you're following or committee hearings where you'd like to provide testimony on a specific issue.

## **Boating and Marina**

### *Derelict Vessels*

On February 14th, the House Agriculture and Natural Resources Committee will hear [HB 1753](#), a measure that streamlines the derelict vessel removal process by allowing email notification to vessel owners and decreasing the notification timeline prior to taking custody from 20 to 10 days. WPPA supports the measure.

On February 17th, the House Agriculture and Natural Resources Committee is scheduled to take executive action on [HB 1081](#) – Derelict vessels. This bill would allow additional administrative law judges to serve in place of Pollution Control Hearings Board (PCHB) members to increase the ability of the Board to handle derelict vessel removal. The Senate companion [SB 5192](#) is already on the Senate 2nd reading calendar.

## **Broadband**

### *State Broadband Map*

To deploy broadband funding from the Federal Bipartisan Infrastructure Law, the FCC created a [national broadband map](#) to better depict where broadband is currently available around the country and determine how much funding states will get to support broadband deployment. [SB 5718](#) and [HB 1746](#) would create a similar map for WA and require the Statewide Broadband Office to develop and maintain a state broadband map. The house bill had a public hearing on February 8 and is scheduled for a vote out of committee next week. The senate bill will be heard for the first time on February 15. WPPA supports this bill. WPPA is working with stakeholders to provide input to this bill. Our goal in supporting a statewide broadband map is to inform where federal funding should be deployed and deter frivolous challenges to broadband projects through better access to data.

## **Tuesday, February 14th**

*8:00 am S Business, Fin. Svcs., Gaming & Trade:* SB 5091 Creating & Expanding tax incentives in regards to hydrogen fuel cells

*8:00 am S Local Gov., Lane Use & Tribal Affairs:* (ES) SB 5613 Concerning rural public facilities sales & use tax

*10:30 am H Ag & Natural Resources:* (ES) HB 1578 Improving Community Preparedness

HB 1789 Expanding Revenue Generation & Economic Opportunities

*10:30 am H Local Gov:* HB 1663 Allowing functionally consolidated port districts to adopt a unified levy

*4:00 pm S Transportation:* (WS) Public Private Partnerships  
(WS) Workforce development in transportation

## **Wednesday, February 15th**

*8:00 am S Enviro., Energy & Tech:* SB 5718 Concerning a state broadband map

## **Thursday, February 16th**

*1:30 pm S Ag., Water, Nat. Resources & Parks:* SB 5433 Concerning removal of derelict aquatic structures & restoration

*4:00 pm H Transportation:* HB 1791 Studying need for increased commercial aviation services

## **SESSION CUT OFF DATES**

*The cut-off dates are designed to keep legislation moving. Any bill that fails to move past a cut-off deadline is usually considered "dead."*

*January 9, 2023: First day of session*

*February 17, 2023: Last day to read in committee reports in house of origin, except House fiscal committees and Senate Ways & Means and Transportation committees.*

## Aviation

### *Aviation Fuel Excise Tax Increase*

[SB 5281](#) is scheduled for a hearing in the Senate Transportation Committee on Monday. The bill increases the Aviation Fuel Excise Tax, creates the commercial aviation mitigation account. WPPA has concerns with this legislation as it does not specify how the funds will be used, instead giving general fund budget writers discretion. FAA prescribes that all increases in fuel taxation on aviation be used for specific purposes related to aviation.

### *Commercial Aviation Coordinating Commission*

Representatives Fey and Dent have introduced [HB 1791](#), it will be heard February 16th in the House Transportation Committee. The bill decommissions the Commercial Aviation Coordinating Commission and turns it into a codified work group, specifically removing the goal of recommending one specific site for further development into a commercial service airport. WPPA supports this legislation, however, the removal of outcomes in this process is a concern. WPPA will work with the sponsors to improve the legislation should it move forward.

### *Sustainable Aviation Fuel*

[SB 5447](#) would put in place tax incentives and make other policy changes that seek to attract fuel producers who are looking to Washington state as a potential location to manufacture alternative jet fuel. Once a fuel production facility is on-line, an additional tax incentive would spur airlines to use the alternative jet fuel they develop. This is of interest to several ports around the state, both ports who want to develop the fuel and airports who want to deploy it. On February 7, the bill was amended and voted out of the Senate Environment, Energy & Technology.

[Click here to see a summary of changes made](#). Also this week, the House companion ([HB 1505](#)) had a public

hearing where WPPA joined a coalition of airlines, airports, fuel producers, and energy project developers to provide testimony in support of this bill.

### *Aviation & Aerospace Advisory Committee*

[HB 1531](#) was heard in the Innovation, Community & Economic Development & Veterans Committee on Wednesday. The bill is the second this session designed to codify the Aviation & Aerospace Advisory Committee into law. This bill specifically prohibits the committee from considering airport siting as part of its scope of work. WPPA supports this legislation. It was voted out of committee Friday.

*February 24, 2023: Last day to read in committee reports from House fiscal committees and Senate Ways & Means and Transportation committees in house of origin.*

*March 8, 2023: Last day to consider bills in house of origin (5 p.m.).*

*March 29, 2023: Last day to read in committee reports from opposite house, except House fiscal committees and Senate Ways & Means and Transportation committees.*

*April 4, 2023: Last day to read in opposite house committee reports from House fiscal committees and Senate Ways & Means and Transportation committees.*

*April 12, 2023\*: Last day to consider (pass) opposite house bills (5 p.m.) (except initiatives and alternatives to initiatives, budgets and matters necessary to implement budgets, differences between the houses, and matters incident to the interim and closing of the session).*

*April 26, 2023: Last day allowed for regular session under state constitution.*

*\* After 5:00pm on the 54th day, only initiatives, alternatives to initiatives, budgets and matters necessary to implement budgets, matters that affect state revenue, messages pertaining to amendments, differences between the houses, and matters incident to the interim and closing of the session may be considered.*

## Economic Development

### *Tax Increment Financing – Technical Corrections*

Senate and House companion bills that would make technical corrections to the Tax Increment Financing statute continue to advance through the legislative process. [SB 5539](#)/[HB 1527](#) would clarify

program intent and to ensure ports don't need to sell land in order to develop a TIF. On February 9, [HB 1527](#) was voted out of the House Finance Committee and on February 13, [SB 5539](#) will have its 2nd public hearing in the Senate – this time in Senate Ways & Means. WPPA continues to work closely with our port members to keep the bills moving in both chambers.

#### *Site Readiness*

WPPA supported Companion Bills [HB 1231](#) and [SB 5229](#), continue to move through the process. The bills would include site readiness as an eligible use for CERB planning grants and would also temporarily eliminate the cap on how much the board can award to planning grants. continue to move through the legislative process. The current cap is \$50,000. [HB 1231](#) was heard in the the Capitol Budget Committee on Thursday. [SB 5229](#) was passed out of the Senate Ways and Means Committee on Thursday and is in Rules.

#### *ADO Innovation Grants*

[SB 5379](#) creates an Innovation Grant program for Associate Development Organizations (ADO's). This would provide important new funding for these important economic development tools. WPPA supports this legislation. [SB 5379](#) will be heard February 13th in the Senate Ways & Means Committee.

#### *Tourism*

Legislation to promote Washington state tourism ([SB 5465/HB 1258](#)) continues to advance, with the House version moving through the House Finance Committee on February 8th. It was amended to reduce program funding from \$26m to \$9m per biennium. WPPA will continue to coordinate with the coalition of groups working to advance the bill, and will reach out to ports with an interest to engage them in the next steps on the advocacy effort. We continue to host a bi-weekly group conversation with other supportive entities and will share updates with members as events warrant.

#### *Economic Resiliency*

WPPA testified this week on [HB 1778](#) a bill designed to improve Washington's economic resiliency by improving access to global markets and better coordinating our efforts across different agencies and stakeholders. WPPA is working with Representative Volz, the bill sponsor, and the Department of Commerce to set actionable goals in this legislation. It is scheduled to be voted out of committee on February 14th.

## **Energy**

#### *Clean Energy Facility Siting*

On February 9th the House Committee on Environment & Energy passed [SHB 1216](#) out of committee, and on February 10th, the Senate Environment and Energy Committee passed companion [SSB 5380](#) on to Senate Ways and Means. The substitute amendment to [SHB 1216](#) reflects the extent of the stakeholder work being done by the bill sponsor along with Gov. Inslee's team and the Department of Commerce, and major changes to the bill as introduced including changes to the type of projects that would receive a "programmatically environmental review" prior to specific siting applications. WPPA staff continue to work with the bill sponsor and advocates to understand changes and their implications to our member interests.

#### *Advanced Nuclear Reactor Planning*

Two bills that would add advanced nuclear technology as a guiding principle for the development of the State Energy Strategy continue to advance through the legislative process. [SB 5129](#) is currently awaiting floor action and could be voted on by the entire Senate at any time, and [HB 1584](#) is scheduled for a vote out of committee on February 16. Ports in the Tri-Cities Area and WPPA have weighed in support of these proposals.



### *PSE Natural Gas Proposal*

As previously reported, Puget Sound Energy, the state's largest investor-owned utility, has brought forward legislation that would provide a glide-path to moving away from providing natural gas service as a response to concerns about carbon emissions. The bills, [HB 1589](#) and [SB 5562](#), do not call for discontinuing service to current natural gas customers however would eliminate new connections after June 2023. Both bills are scheduled for executive action next week.

### *Incentives for the Development of Renewable Natural Gas*

Two nearly identical bills, [HB 1619](#) and [SB 5659](#) would create a sales and use tax exemption for machinery and equipment used to generate renewable natural gas or to connect a renewable natural gas facility to an end user or existing natural gas pipeline. [HB 1619](#) was heard on Feb. 6 and [SB 5659](#) has a public hearing next week on Feb. 14.

## **Environment And Natural Resources**

### *Net Ecological Gain in Planning*

On February 8th, the House Environment and Energy Committee heard [HB 1735](#) which would add net ecological gain (NEG) as a voluntary element of comprehensive plans under the growth management act. WPPA joined PUDs and irrigation districts in seeking an amendment to allow special purpose districts to choose whether or not to include NEG on a project-by-project basis.

### *Underground Storage Tanks*

Also on the 8th, the House Appropriations Committee took executive action on [HB 1175](#). The bill would create a state financial assurance program for owners and operators of petroleum underground storage tanks. WPPA is supporting the measure to provide greater financial protection to owners and operators of underground storage tanks.

### *Plastic Pollution*

On February 9th, the House Appropriations Committee moved [SHB 1085](#) – Plastic Pollution, to the Rules Committee. The measure includes the amendatory language WPPA helped to craft. As passed, the bill allows hard-cased foam meeting the industry standard to continue to be used in over water structures. The substitute also creates a study of the effectiveness and safety of currently used products and their potential alternatives.

### *State-Managed Forest Trust Lands*

On February 10th, the Senate Environment, Energy & Technology Committee heard [SB 5688](#) providing carbon sequestration and ecosystem services in the management of public lands. The bill would allow the State Department of Natural Resources (DNR) to enter state trust lands into ecosystem contracts lasting up to 125 years. WPPA testified to our members' concerns with bill, in part due to its late introduction into the legislative process, but mainly out of a concern that it would reduce revenues coming to ports from timber sales on DNR lands. Many port districts are trust beneficiaries and a change to trust land management could have an immediate impact to their bottom line. WPPA is working with other interested parties, among them the Washington State Association of Counties and the American Forest Resource Council, to amend the bill to address the concerns of trust beneficiaries.

[HB 1789](#) is nearly identical to [SB 5688](#) and will be heard in the House Committee on Agriculture and Natural Resources at 10:30 AM on February 14th. WPPA will continue to work in that Chamber to share the perspective of our members and seek changes to the bill.

### *Derelict Aquatic Structures*

The Senate and House Agriculture and Natural Resources Committees have each scheduled their version of companion bills [SB 5433](#) and [HB 1378](#) for executive action. The House is scheduled to take action February 14th, and the Senate will take action on February 16th. These bills address the removal of

derelict aquatic structures. The bills are Department of Natural Resources request bills that create a state program to fund removal of these structures. WPPA testified on both bills, expressing a neutral position, but indicating more work needs to be done on the measures, especially in regard to the nearshore credit program. WPPA concerns have been addressed in the substitute version, but we will continue to work to ensure this legislation is complimentary to the work already done by our port members.

## **Governance**

### *Prohibiting Utility Disconnections During Extreme Heat Events*

Companion bills, [HB 1329](#) and [SB 5366](#), would prohibit utilities from disconnecting customers during high-heat events and as introduced would require reconnections of existing customers. This bill would impact all utilities who provide water and electricity in the state, including those provided by ports. As the bills passed out of committee this week, several improvements were made including the utilization of a heat map, requiring customers to contact the utility to be reconnected, and removed the civil cause of action. [Click here](#) to view the amended version of the bill.

### *Filling Vacancies on the Governing Body of Special Purpose Districts*

[SB 5437](#) intends to provide more transparency on the process of filling vacancies on the governing body for all special purpose districts, including port districts. WPPA, along with other special purposed districts reached out to the sponsor to share concerns with a provision to require a minimum of two candidates be nominated for a commission opening, something that is not always possible, particularly for our smaller districts. On February 7, [the bill was amended to address WPPAs concerns](#), changing the number of required candidates from two to at least one. The bill will now proceed to the Senate Rules Committee for further consideration.

## **Labor**

### *Concerning Privileged Communication Between Employees and the Unions that Represent Them*

[HB 1187](#), sponsored by Rep. Hackeny (D-Tukwila) would create a new legal privilege for communications between a union representative and a union member when that communication was made during union representation. WPPA received some feedback from ports that have concerns with the bill as introduced. On February 10, this bill was [significantly amended](#) and voted out of committee. Notable changes include a provision that states testimonial privilege does not apply to any record of communications that would otherwise be subject to disclosure under the Public Records Act and clarifies that the legislative intent is to protect confidential union–employee communications in the course of union representation against disclosure, except when legal claims are brought in formal proceedings against unions.

### *Leave for Railroad Workers*

For the past several years, legislation has been introduced to require standardization of unpaid time off, and medical and family leave benefits for railroad workers. [HB 1548](#), sponsored by Rep. Ormsby (D-Spokane) had a public hearing on Feb. 1 and is scheduled for a vote out of committee on Feb. 14. Opponents have argued that this bill is federally preempted by the Railway Labor Act which is a US Federal law that governs labor relations in the railroad and airline industries.

## **Public Works**

### *Prevailing Wages*

[HB 1099](#), sponsored by Rep. Berry (D-Seattle) would require public works projects to pay prevailing wage at the time the work is completed instead of the rate set during the contract bid. This is problematic for several reasons, including conflicting with port’s unit price contracting statute. WPPA

continues to work with other stakeholders to modify the bill to address WPPA member concerns. The bill is scheduled for a public hearing next week on Feb. 16 in the House Capital Budget Committee.

#### *Expansion of Public Works Definition*

On February 7, WPPA testified with concerns on [SB 5418](#), which would broadly expand the definition of public works to include work supported in part or in whole by public dollars. For example, work formerly classified as personal services, like janitorial services, would be swept into the current version of the bill. Along with WPPA, several other stakeholders shared concerns including the Association of Washington Cities, Washington Association of Counties, Building Industry Association of Washington, several housing advocates, and non-profits.

#### *Small Works*

The Senate Ways & Means Committee heard [SB 5268](#) on Thursday. WPPA supports this bill which makes significant improvements to the Small Works Process, including raising ports Small Works threshold to \$350,000. The House version, HB 1306, was also heard Thursday in the House Appropriations Committee. WPPA supports the technical amendments included in [SB 5268](#) and believes they are necessary for the policy to be adopted.

## **Transportation**

#### *Authority of Cargo and Passenger Ports*

Legislation that would extend the state's antitrust immunity to certain ports and maintain their ability to meet at the Northwest Marine Terminals Association advanced through the House Transportation Committee on Thursday, February 2nd. The bill passed on a voice vote with no opposition. The antitrust issue is complex, but the effect of the bill is clear: it would simply maintain an authority that ports have enjoyed through the federal shipping act since 1937. WPPA members came to Olympia to testify to this fact on February 1st, and they presented a compelling case to the committee. The bill now moves to the House Rules Committee, and WPPA will work with the sponsor and stakeholders to seek a floor vote. That's not an easy task, but unanimous support in committee makes the path forward clearer.

#### *Freight Rail Investment Incentives*

WPPA continues to work with bill sponsors and interested stakeholders to modify language in both [HB 1371](#) and [SB 5494](#). Currently the senate version is scheduled to be voted out of committee on February 16th.

## **Tax**

#### *Rural Public Facilities Sales Tax*

[HB 1267](#) was heard Tuesday and voted out of the House Finance Committee on Thursday. [SB 5613](#) was also heard on Tuesday and is scheduled to be voted out of committee on February 14th. Thanks to great testimony by both the Port of Anacortes and the Chelan Douglas Regional Port Authority on this important legislation. The bills would extend the sunset of the .09% Public Facilities Sales Tax until 2054.

#### *Unified Tax Levy for Port Districts*

[HB 1663](#) is being brought forward by the Chelan-Douglas Regional Port Authority (CDRPA), and the legislation would allow "functionally consolidated" port districts to adopt a unified levy. The bill is permissive, meaning the new authority would only impact port districts that have chosen to consolidate their operations and that choose to pursue a unified levy. WPPA will work with CDRPA to support the legislation, including through testimony at committee and in conversations with key legislators.

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