



Week 6 Report

February 17, 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 17 was the 40th day and first cut-off deadline of the 2023 Legislative Session! Cut-off dates play a critical role in the legislative process by shrinking the universe of total bills under consideration. For the first deadline, any bills that have not been voted out of a policy committee (as opposed to a "fiscal committee," where bills that impact the state's revenue are heard) are considered dead and no longer eligible to move forward this year unless they are considered necessary to implement the budget. This is in contrast to "fiscal committees," where bills impacting the state's tax and spending policy are heard. The cutoff deadline for those bills is this coming Friday, February 24th.

As previously noted, bills are continuously being revised as they move through the legislative process which requires ongoing monitoring and review from WPPA staff, including our contract lobbying team. Fiscal committees will be working late into the night next week to meet this deadline and continue moving bills along in the legislative process. They are also constantly updating their schedules to include bills that come from policy committees but have revenue impacts, so the document below is the current summary of issues we are following, but it may change over the next few days.

Top news this week is the [announcement](#) that Washington's Director of the Department of Commerce, Lisa Brown, will retire effective March 3. Director Brown has led Commerce since 2019 which was

AT A GLANCE

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

For up-to-date legislative information, visit: leg.wa.gov

To listen to a legislative hearing, visit: tvw.org

For current and previous copies of our report, visit our website at: washington-ports.org

NEXT WEEK'S HEARINGS

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

Monday, February 20th

8:00 am H Capitol Budget: (ES) HB 1050 Expanding apprenticeship utilization requirements

8:00 am H Finance: HB 1644 Concerning the margin tax

1:30 pm H Appropriations: HB 1306 Addressing equity & efficiencies in public works procurement including modifying small works roster requirements

1:30 pm H Transportation: HB 1395 Concerning the distribution of aircraft fuel tax revenue

preceded by a long tenure of public service including representing the 3rd Legislative District in the House and Senate for 20 years, holding the position of Senate Majority Leader, and as a chancellor at Washington State University.

Aviation

Commercial Aviation Coordinating Commission

[HB 1791](#) would decommission 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. This bill had a public hearing on February 16 and has until February 24 to advance out of the House Transportation Committee to remain under consideration this year. 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.

Ban on Low Lead Aviation Gas

On February 14, [HB 1554](#) was amended and voted out of the House Environment & Energy Committee. During the public hearing, WPPA testified opposed because the bill would ban the sale and distribution of 100 low lead av gas statewide by 2030. A ban of this magnitude would disrupt critical revenue generated by fuel sales at airports and could have impacts on entitlement funding airports receive from the FAA. While the bill no longer establishes a ban on 100 low lead, it retains onerous regulation along with punitive measures for airports that don't develop plans to curb certain behavior. The bill has a hearing scheduled in the House Transportation Committee on February 20th. [Click here to see the current version of the bill](#) and all changes made by committee.

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. The bill also features a tax break for airlines that use the fuel. 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. The bill is up for a hearing at the Senate Ways and Means Committee for Monday, February 20th, and it needs to pass that committee in the coming week to remain alive this session. WPPA will continue to support the measure.

Wednesday, February 22nd

8:00 am H Finance: HB 1729 Creating & expanding tax incentives for the research, development, production, & sale of hydrogen fuel products in Washington State

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.

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).*

Broadband

On February 14, legislation that would develop and maintain a Washington state broadband map was amended and voted out of committee. WPPA has weighed in in support of this proposal ([HB 1746](#)) and is working with stakeholders to provide input to improve the legislation. A well-developed map could be a critical tool in helping the state inform where federal funding should be deployed and deter frivolous challenges to broadband projects through better access to data. The bill will be heard in the House Capital Budget Committee on February 20th.

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

ADO Innovation Grants

On February 13, [SB 5379](#) had a public hearing in the Senate Ways & Means Committee. This bill, would create an Innovation Grant program for Associate Development Organizations (ADO's) which would provide important new funding for these important economic development tools. WPPA supports this legislation.

Site Readiness

WPPA supported Companion Bills [HB 1231](#) and [SB 5229](#), continue to move through the legislative process. The bills would include site readiness as an eligible use for CERB planning grants and would also temporarily eliminate the cap (\$50,000) on how much the board can award to planning grants. [SB 5229](#) is currently on the Senate floor calendar and could be voted on at any time; [HB 1231](#) was voted out of committee on February 16 and is in the Rules Committee.

Tax Increment Financing – Technical Corrections

WPPA Supports companion bills [HB 1527/SB 5539](#) which make technical corrections to the Tax Increment Financing statute. [HB 1527](#) is currently in the House Rules Committee and [SB 5539](#) is in the Senate Ways & Means Committee. These bills, by request of the State Treasurer, represent agreement by port districts on the necessary changes to TIF that are needed to keep existing projects, including the Port of Vancouver's Terminal 1 project, moving forward. There are additional bills that contemplate changes to the Tax Increment Financing statute, however, these bills do not include all of the changes included in [HB 1527/SB 5539](#) and therefore are not the preferred legislation of WPPA. The other bill numbers are [HB 1303](#), [HB 1585](#), and [SB 5407](#).

Tourism

Legislation to promote Washington state tourism ([SB 5465/HB 1258](#)) continues to advance, with the House version through to the Rules Committee and the Senate version expected up for a hearing in the coming week (not yet scheduled). WPPA hosts a semi-weekly lunch with tourism stakeholders in our offices, and this week the focus was ensuring robust funding for the program. Member ports undertook some outreach to their legislators (thank you!), and more engagement will be needed in the weeks ahead if we are to secure the desired level of funding. Please reach out to WPPA if you'd like to get more involved, and you might hear from staff directly if your port has legislators who can be helpful in the process.

Economic Resiliency

[HB 1778](#) was voted out of its policy committee on Friday and has been advanced to the Appropriations Committee. The bill would create a pathway for Washington State Department of Commerce to partner with port districts in establishing three foreign offices designed to market Washington produced or grown products.

Energy

PSE Phasing Out of Natural Gas

[HB 1589](#) and its companion, [SB 5562](#), are bills brought to the legislature by the state's largest investor owned utility, Puget Sound Energy. If enacted, the bill would provide a glide-path to moving away from providing natural gas service as a response to concerns about carbon emissions. As introduced, they would stop connecting new gas customers after June 30, 2023, and would begin filing a gas decarbonization plan with the Washington Utilities and Transportation Commission beginning in 2026. The bill does not call for discontinuing service to current natural gas customers however has several large industrial users concerned. Both the House and Senate versions of the bill were amended and voted out of committee this week, with all Republicans voting NO and all Democrats voting YES. Several changes were made – [Click here to see the amendment summary](#).

Tax Incentives Hydrogen

[SB 5091](#), sponsored by Senator King (R-Yakima) would establish tax incentives for research, development, production, and sales of hydrogen fuel cells. On February 16, the bill was amended and voted out of the Senate Business, Financial Services, Gaming & Trade Committee. Next, it will proceed to Ways & Means for further consideration.

Planning for Advanced Nuclear Reactor Technology

[HB 1584](#), would add advanced nuclear technology as a guiding principle for the development of the State Energy Strategy as a clean energy source. Additionally, it directs the Department of Commerce to actively seek to maximize federal and other nonstate funding and support for the management of spent nuclear fuel. The bill was voted out of the House Environment & Energy Committee on February 16 thus surviving policy cutoff. [SB 5129](#), which is almost identical to [HB 1584](#), was voted out of committee on January 27 and is currently on the Senate Floor Calendar which means it could be voted on at any time by the full Senate.

Clean Energy Facility Siting

Both the House and Senate have continued to work on clean energy siting streamlining. [SHB 1216](#) is now in House Appropriations Committee and [SSB 5380](#) is in Senate Ways. The House will hear its version on Tuesday, and WPPA will continue to express support. The current bills reflect extensive stakeholder work, with each bill having been substantially changed by amendment as it moved through committee. WPPA continues to work to ensure the measures will indeed streamline the process of siting new clean energy facilities, and to identify specific amendments that could improve the siting process for ports. The bill is expected to continue to change as it advances, and we will report on any substantial changes that impact ports here.

Environment And Natural Resources

Net Ecological Gain in Planning

On February 13th, the House Environment & Energy Committee passed [HB 1735](#) on to House Appropriations. This bill adds 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.

State-managed Forest Trust Lands

On February 17th, the Senate Environment, Energy & Technology Committee passed [SB 5688](#) out of committee unamended while, a few hours later, [SHB 1789](#) passed out of House Agriculture and Natural Resources Committee with a weighty amendment. Generally, both measures 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 the original bills, mainly out of a concern that it would reduce revenues coming to ports from timber sales on DNR lands, which could impact the

bottom life of port districts that are trust beneficiaries. The changes to [SHB 1789](#) address some concerns expressed by the Association of Counties and WPPA, but it's clear from conversations that trust beneficiaries – including ports—think more work needs to be done. WPPA will sign in CON on the bill at the House Capital Budget Committee on Monday, and will continue coordinating with other impacted entities.

Governance

Enhanced Voting Rights Act

In 2018, the state passed the Washington Voting Rights Act which aims to ensure fairness in state and local voting. This year, legislation called the Enhanced Voting Rights Act seeks to make changes to that law and go a step further in ensuring fair elections. Eric ffitch and WPPA contract lobbyist Marian Dacca have both testified to port concerns with [SB 5047/](#)[HB 1048](#), while also stating that ports support open and fair elections. As the bill has advanced through the process, one of our central concerns - regarding who could establish “standing” - has been addressed through amendment. Both measures have passed their respective committees and have been advanced to the Rules Committee in each chamber. WPPA will continue to engage with the bill sponsors and other stakeholders on this important issue.

Prejudgment Interest

On February 7, WPPA along with 50 entities and organizations signed-in and testified opposed to [SB 5059](#), which would allow interests for judgements against public agencies to start to accrue before a claim was filed and in some cases, before a port district was made aware of injury or loss. Current law provides that interest begins to accrue on the date a judgment is entered by a court. This bill is currently in the Senate Ways & Means Committee and has until February 24 to advance.

Labor

Prevailing Wage

WPPA continues to work with stakeholders on two bills which would ensure the prevailing wage rate paid to workers is linked to when the work is performed. [HB 1099](#) has heard in the House Capital Budget Committee this week. [SB 5726](#) was voted out of the Senate Labor & Commerce Committee and is in Rules. WPPA supports the underlying intent of this legislation and is working to make sure construction contractors are appropriately bidding projects including increased costs and that this policy change does not result in excessive change orders for construction contracts.

Leave for Railroad Workers

Legislation that would require standardization of unpaid time off, medical, and family leave benefits for railroad workers has survived the first legislative cutoff. [HB 1548](#) and [SB 5267](#) were voted out of their respective policy committees and are now in Rules As previously noted, 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.

Concerning Privileged Communication Between Employees and the Unions that Represent Them

[HB 1187](#), sponsored by Rep. Hackney (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. 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. WPPA members have shared that the amendments significantly improved the bill, but still have some concerns with the expansion of legal privilege. The bill is currently in the House Rules Committee.

Land Use

Climate Policy in Growth Management and Other Plans

[2SHB 1181](#) was placed in House Rules Committee on February 14th. A similar measure, [SSB 5203](#), is in Senate Ways and Means Committee but not yet scheduled for hearing. The bills vary, but both add climate policy to SEPA, GMA, and the SMA. These bills nearly passed last year, and WPPA worked on amendments to address potential impact to freight transportation. Staff continues to review the proposals this year for the same policy issues on which we engaged last year.

Marina

Derelict Aquatic Structures

The Senate and House Agriculture & Natural Resources Committees advanced [SB 5433](#) and [HB 1378](#), companion bills that address derelict structure removal by DNR. [HB 1378](#) will be heard in House Capital Budget Committee on February 20th, Senate Ways & Means has not yet scheduled [SB 5433](#). These bills address the removal of derelict aquatic structures by DNR. WPPA pulled together a group early in session to meet with DNR and share our concerns with the original bill, and those concerns have been addressed in the substitute version. We are supporting this bill as amended, and will update port members if anything changes.

Derelict Vessels

On February 14th, the House Agriculture & Natural Resources Committee passed [SHB 1753](#) out of committee. This measure streamlines the derelict vessel removal process by allowing email notification to vessel owners and decreasing the notification timeline prior to taking custody. WPPA supports the measure.

The Senate passed [SB 5192](#) on to the House on February 15th, where it was referred to House Agriculture and Natural Resources Committee. This bill would allow 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 appeals. WPPA supports this measure.

Public Works

After a month of no action, [HB 1050](#) has been scheduled for executive action next week in the House Capital Budget Committee. The bill would affect both prime contractors as well as subcontractors with contracts in excess of \$200,000. WPPA is working with the sponsors to address concerns around a limiting contractor availability as well as the policy's impact on minority and woman-owned businesses.

Transportation

Authority of Cargo and Passenger Ports

Legislation developed by WPPA and member ports to extend the state's antitrust immunity to certain ports and maintain their ability to meet at the Northwest Marine Terminals Association remains at the House Rules Committee, with its next stop the House Floor Calendar. This week WPPA staff talked with supporters in the legislature about the best path to the floor, and although the bill remains at rules, its strong support at committee means it had a good chance of a floor vote in the coming weeks. Supporting port members will work in the coming week to ensure it doesn't lose momentum, and will begin to contemplate a senate strategy to be prepared for the next steps should it move forward.

Tax

Margins Tax

Next week, the House will hear [HB 1644](#), the house version of the “margins tax,” which if adopted, would potentially take the place of the state business and occupation tax. As previously reported, this concept came out of the Tax Structure Work Group. WPPA plans to testify with concerns based on feedback from several ports.

Unified Tax Levy for Port Districts

On February 17, [HB 1663](#) was voted out of the House Local Government Committee. This bill, 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. Chelan-Douglas Regional Port Authority (CDRPA) is leading the effort and WPPA is supportive of their efforts. The bill has been referred to the House Finance Committee, where it will need to have a hearing and be voted out prior to the Friday, February 24th fiscal cutoff.

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