



Week 7 Report

February 24, 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 24th marks the 47th day and, more importantly, the second major 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. Any bill that has not made it out of a policy and/or fiscal committee by the end of Friday is now considered dead and no longer eligible to move forward this year, unless it's deemed Necessary to Implement the Budget.

After a bill is voted out of committee, its final stop prior to a vote of the full Senate or House is the Rules Committee. In Washington, this is a two-step process to determine which bills will be placed on the floor calendar for a vote and is often referred to as "The Gatekeeper." Unlike other standing committees, when a Rules Committee meeting is called, each member of the rules committee is given a predetermined number of bills to move out of Rules. This means it only takes one member to support a bill moving along, versus a majority vote. There are many more bills in Rules than can be dealt with on the floor; therefore, some bills "die" in Rules.

Over the next twelve days, the Legislature will be focused on passing bills out of their "house of origin" - the Legislative chamber in which they were introduced - and will spend a majority of their time on the House and Senate floor. At this time, any legislator may

AT A GLANCE

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

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NEXT WEEK'S HEARINGS

At this time, there is no request for member engagement at a specific hearing. However, if floor action generates any changes that require your assistance, we will be in touch.

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.

introduce amendments to bills being considered. If floor action generates any policy changes that require member engagement, we will be in touch.

The deadline to pass bills out of the house of origin is 5:00 p.m., Wednesday, March 8, 2023.

Aviation

Commercial Aviation Coordinating Commission
[HB 1791](#) made it out of the House Transportation Committee Thursday with only modest changes. The bill 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 seeks to ground the discussion of greenfield site selection for a new commercial service airport, a topic that has been red hot after the commission approved consideration of three different sites in Pierce and Thurston Counties. WPPA supports this legislation, recognizing it balances the legislative interest in slowing the process down without a complete ground stop.

Low Lead Aviation Gas

The House Transportation Committee advanced [HB 1554](#) out of committee on a party-line vote on Thursday. WPPA continues to oppose the bill as it creates undefined requirements for airport operators but also includes civil penalties if you are deemed out of compliance. The bill has been amended as it previously included an outright ban on the sale and distribution of 100 low lead. The bill as it remains could have impacts on entitlement funding airports receive from the FAA. WPPA continues to work with other airport interests in determining what steps are needed for us to be neutral on this bill.

Sustainable Aviation Fuel

[SB 5447](#), Senate Majority Leader Andy Billig's legislation that proposes tax incentives and other policy changes to attract Alternative Jet Fuel producers to Washington continues to advance in the Senate. The bill also features a tax break for airlines that use the fuel, though that tax preference won't take effect until a production facility is operational in the state. This bill remains of interest to several ports around the state, those with an interest in siting facilities to develop the fuel, and those with an airport who want to deploy the fuel. The bill was approved by the Senate Ways and Means Committee on Friday, February 24th, and now moves to the Senate Rules Committee. Given it is a priority of the Senate Leader, it is expected to keep moving. But if the bill languishes at Rules, WPPA may reach out to ports with an interest to ask their help in keeping it alive.

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.*

Aviation Legislation That Has Not Advanced

Several aviation-themed bills did not survive this week's procedural cut-off. Neither [HB 1040](#) or [HB 1531](#) advanced. Both bills would have codified the Aviation & Aerospace Working Group. Also, two bills impacting aviation fuel tax, [HB 1395](#) and [SB 5281](#) have not advanced from their respective policy committees.

Boating & Marina

Derelict Structures

DNR's request legislation streamlining derelict structure removal and creating nearshore credits to facilitate the process continues to advance. [HB 1378](#) is already in House Rules Committee and [SB 5433](#) passed out of Senate Ways and Means Committee February 24th is scheduled for Executive Session today, and at the time of writing it had not yet been moved in that committee process. The amendments that were included in the committee process in the House and Senate policy committees address early concerns raised by WPPA and our member ports, following direct dialogue with staff at the State Department of Natural Resources. WPPA supports the measure in its current form.

Derelict Vessels

On February 22nd, the House Rules Committee placed [SHB 1753](#) on the House 2nd Reading Calendar, moving it one step closer to a floor vote. 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 bill and will communicate our support to members when it is scheduled for a vote.

[SB 5192](#), legislation relating specifically to derelict vessel appeals, authorizes administrative law judges to supplement the three members of the Pollution Control Hearings Board (PCHB) in order to expedite the administrative appeal process prior to removal of derelict vessels. The bill, supported by WPPA, has already passed the Senate without opposition and now sits in the House Agriculture and Natural Resources Committee.

Boater Safety Measures

[SB 5597](#)/[HB 1781](#) related to modifying boater safety and education requirements both died in their original committee. The bill would have required users of human-powered watercraft to obtain boater safety training and a license in order to use such watercraft. WPPA was concerned about the various impacts the measures would have on Port activities, and contacted certain marina operators to gauge the bill's impact to ports. It is no longer expected to advance.

Broadband

State Broadband Map

[HB 1746](#) as introduced, would have required Washington state to develop and maintain a broadband map. On February 22, the bill was amended and voted out of Committee. Notably the bill now requires the State Broadband Office (Office) to use the most current version of the national broadband map as the basis for the states map, and requires the Office to conduct stakeholder outreach to identify data gaps between the federal map and the newly created Washington map. [Click here to see all changes made by committee.](#) 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. WPPA is working with the other broadband stakeholders to contemplate any other necessary changes.

Economic Development

Rural Public Facilities Sales and Use Tax (.09 sales tax dedicated to Economic Development)

[HB 1267](#) moved to the floor calendar this week. The bill extends the sunset on the .09 public facilities tax to December 31, 2054 instead of the current expiration date in 2034. Currently, there are 30 counties that meet the rural county eligibility definition. WPPA supports this legislation. The Senate companion has not passed cut-off.

Economic Resiliency

[HB 1778](#) was voted out of its policy committee but did not receive a hearing in the House Appropriations Committee prior to Friday's cutoff. WPPA is working with the bill sponsor on proviso language which would enable the policy to be considered for funding in the Operating Budget. The bill would have created a pathway for Washington State Department of Commerce to partner with port districts in establishing three foreign trade offices designed to market Washington produced or grown products.

Site Readiness

WPPA supported Companion Bills [HB 1231](#) and [SB 5229](#), and both bills 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](#) remains in the House Rules Committee.

Tax Increment Financing – Technical Corrections

[HB 1527](#) is a port priority bill that makes technical corrections to the Tax Increment Financing (TIF) statute. These bills, by request of the State Treasurer, represent agreement by port districts on the necessary changes to TIF statute that are needed to keep existing projects, including the Port of Vancouver's Terminal 1 project, moving forward. The Senate Bill ([SB 5539](#)) is not likely to advance. **WPPA members, please reach out to your delegation to share support for [HB 1527](#) and help move it out of the House Rules Committee.**

ADO Innovation Grants

[SB 5379](#) was placed on the floor calendar this week. Meanwhile it's companion, [HB 1717](#), was also scheduled to be voted out of the House Appropriations Committee on Friday. The bills would create an Innovation Grant program for Associate Development Organizations (ADO's) which would provide important new funding for these economic development tools. WPPA supports this legislation.

Energy

Support for Hydrogen

Two bills aimed at creating and expanding tax incentives for hydrogen fuel cells remain alive despite not advancing out of committee prior to Friday's deadline. [SB 5091](#) and [HB 1729](#) could be considered Necessary to Implement the Budget and therefore are exempt from cutoffs. WPPA supports both proposals.

Support for Nuclear

[HB 1584](#) and [SB 5129](#) have both advanced out of their respective committees and remain alive for the 2023 session. These bills 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. One change to note is a recent [amendment to HB 1584](#) which removes the references to natural gas in the guiding principle for the State Energy Strategy. This change does not affect current natural gas use; however, it does appear to be a nod to the state's direction of wanting to phase out its use over time.

Environment And Natural Resources

Clean Energy Siting

[SSHB 1216](#), Governor Inslee’s request legislation that seeks to streamline the permitting and siting of clean energy facilities, passed out of House Appropriations committee to Rules on February 23rd. WPPA has been working with sponsors and other stakeholders to ensure the processes created in the bill will expedite the siting of clean energy facilities. We support the progress to date, but are working to develop a letter to bill sponsors that highlights issues of specific interest to port districts. For ports that have been involved in siting conversations over the past few years, we may reach out to seek feedback on upcoming advocacy on this bill. The House bill is expected to be the vehicle, and it is expected to pass and be further amended in the Senate.

Net Ecological Gain

[HB 1735](#), a measure that would authorize entities planning under the GMA to adopt Net Ecological Gain (NEG) as a standard of protection, did not clear the House Appropriations Committee by the Friday, February 24th deadline. WPPA worked to amend the bill to exclude application to special purpose districts unless they choose to voluntarily apply NEG on a project-by-project basis. The bill appears dead, but since it has a fiscal impact, it could be deemed necessary to implement the budget (NTIB), and thus is still technically alive for possible future action.

Ecosystem Services and Management of State Forest Land

[SHB 1789](#) is a proposal put forward by State Rep. Kristine Reeves at the request of the State Department of Natural Resources. It would give DNR authority to enter state trust lands into ecosystem contracts lasting up to 125 years, rather than pursue sustainable harvest on those lands. WPPA testified to our members’ concerns, primarily related to (a) potential for reduced revenues coming to ports from timber sales on DNR lands, and (b) viability of mills and paper products manufacturers in Washington, some of which are port tenants and port export partners. [SHB 1789](#) has been amended to 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 continue coordinating with other impacted entities to seek greater protections, and may reach out to specific ports to suggest direct contact with your legislative delegations on this critical issue.

Governance

Authority of Cargo and Passenger Ports

Legislation brought forward by WPPA and member ports regarding antitrust immunity and our ability to meet at the Northwest Marine Terminals Association continues to advance! The bill would simply maintain an authority that ports have enjoyed through the federal shipping act since 1937, after recent federal action brought that authority into question for some ports. WPPA coordinated a testimony panel featuring Port of Kalama, Port of Bellingham, and Port of Longview in early February. [HB 1257](#) has now moved out of the House Rules Committee to the Floor Calendar and is eligible to be voted on at any time.

Unified Tax Levy for Port Districts

This week, [HB 1663](#) was heard and voted out of the House Finance Committee keeping it alive for the 2023 session. 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 on this bill and WPPA is supportive of their efforts.

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 the bill as introduced, which included 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 is now in the Senate Rules Committee.

Prejudgment Interest

On February 24th, [SB 5059](#), advanced out of the Senate Ways & Means Committee and remains alive for 2023. During the public hearing, WPPA along with 50 entities and organizations signed-in and testified opposed to the bill 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.

Periodic Adjustments

[HB 1254](#) is a technical bill that would update the current value of surplus property a port district may sell without a port commission resolution. The amount would increase from \$10,000 to \$22,000 to reflect 10 years of inflationary growth. WPPA supports this bill which is currently in the House Rules Committee.

Labor

Prevailing Wage

WPPA continues to work with stakeholders on a bill which would ensure the prevailing wage rate paid to workers is linked to when the work is performed. [SB 5726](#) 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. A similar bill, HB 1099 died in the Capital Budget Committee.

Apprenticeships

A bill designed to incentivize apprenticeships was voted out of the Capital Budget Committee this week. WPPA continues to have concerns with [HB 1050](#), which would require port public works projects over \$1 million to achieve 15% use of apprenticeships, including subcontractors with in excess of \$350,000 worth of work. Ports strongly support apprenticeship utilization as an effective way to grow the workforce but have concerns this legislation would become a barrier to all small businesses and may limit the number of bidders interested in port projects. A similar bill ([SB 5133](#)) which included punitive measures for contractors not achieving 15% apprenticeship utilization has not made it passed cutoff.

Leave for Railroad Workers

Legislation that would require standardization of unpaid time off, medical and family leave benefits for railroad workers has survived the second legislative cutoff. [HB 1548](#) and [SB 5267](#) are now in the House Rules Committee and on the Senate Floor Calendar. 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. WPPA will partner with port members who operate short line railroads and will try to seek an exemption from the proposal.

Concerning Privileged Communication Between Employees and the Unions that Represent Them

As reported last week, [HB 1187](#), would create a new legal privilege for communications between a union representative and a union member when that communication was made during union representation. This bill has been [significantly amended](#) since introduction and many WPPA members have shared that while many of our specific concerns are resolved, there remains broad concern with this expansion of legal privilege. The bill is currently in the House Rules Committee.

Public Works

Small Works

Both companion bills ([HB 1306](#) & [SB 5268](#)) modifying the small works process advanced to their respective Rules Committees with favorable amendments for port districts. WPPA supports these bills which makes significant improvements to the Small Works Process, including raising ports Small Works threshold to \$350,000. A bill that would have expanded the definition to public works to include services, [SB 5418](#), did not advance out of its policy committee prior to cutoff.

Transportation

Limiting the Length of Trains

[HB 1839](#) was introduced this past Monday and quickly heard by the House Transportation Committee on Tuesday. The bill would prohibit trains in excess of 7,500 feet from operating in Washington unless they have a third crew member placed at the rear of the train, in which the train cannot exceed 10,000 feet in length. WPPA opposes this legislation as it would directly impact the competitiveness of ports by increasing shipping cost, requiring more infrastructure to move the same amount of freight and result in more greenhouse gas emissions without any concrete evidence that safety would be increased. In testimony, committee members sought information from those testifying, including both class one railroads, on how they manage safety that would prevent an accident similar to the derailment in East Palestine, OH earlier this month. WPPA will continue to monitor and influence this legislation. The bill was voted out of committee on a near party-line vote on Thursday.

Road Usage Charge

On Thursday, February 24th, the House Transportation Committee held a hearing on this year's proposed Road Usage Charge bill. [HB 1832](#) would allow local jurisdictions to begin implementing a \$.025/mile fee on drivers beginning in 2025, intended to replace the gas tax as the primary funding source for transportation construction and maintenance. WPPA provided testimony indicating our general support for a RUC coming forward as a one-to-one replacement for the gas tax. But we emphasized to the committee that this new funding source should be only to replace – not expand – the gas tax, and that funding must be spent on road construction and maintenance. The majority of groups appearing before the committee shared a similar perspective, including our partners at the Association of Washington Cities and the Washington State Association of Counties. We will continue to reinforce that message with transportation policymakers if the bill advances.

Freight Rail investment Incentives

On February 22, [HB 1371](#) was amended and voted out of the House Finance Committee. The bill seeks to incentivize infrastructure spending on freight rail by providing tax incentives to both owners and operators. [Changes made by committee](#) includes a request from member Ports, expanding the definition of the tax exemption to also include port owned rail facilities versus the current language which is specific to port-owned railroads. [HB 1371](#) will now proceed to Rules for further consideration. The bills companion ([SB 5494](#)) did not advance.

Transportation Budget Policy Legislation

In preparation for the shift in focus from policy to budgets over the next few weeks, two bills recently introduced and passed by their respective committees were added to the conversation this week. [HB 1838](#) would shift the functions for updating and adopting the Transportation Revenue Forecast from WSDOT to the Economic Revenue Forecast Council. WPPA supports this bill as it should lead to better coordination of the legislative budgeting process. Transportation revenue continues to be under pressure, due in part to increased fuel efficiency and increased shift to alternative fuel vehicles. WPPA also supports [SB 5742](#), which would codify certain elements of the Freight Rail Investment Bank (FRIB) program and the Freight Rail Assistance program. WPPA is seeking to codify a longer repayment for loans made by the FRIB program.

Tax

Margins Tax

On February 20th, the House heard [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 testified with concerns based on feedback from several ports. It seems unlikely that this concept will advance in 2023 however we will continue to closely monitor discussions.

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