



Legislative Report

June 24, 2011
Final Report

The legislature adjourned its regular session on April 24 and started a special session on April 26. The legislature adjourned its special session on May 25.

The Legislative Report is a weekly report that is distributed each Friday 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 the Legislature's web site at www.leg.wa.gov.

INTRODUCTION

In January we projected that the state would be facing a deficit of about \$5 billion, and with the passage of tax increases almost impossible, it would be likely that many fee increases would be proposed to help offset program costs. In the end, the budget passed by the legislature late in the first special session, cut approximately \$4.5 billion, and made no tax increases. Many fee increases were considered, but none were adopted that would directly impact ports in a substantial way.

The good news, if it could be considered that, was that the legislature avoided complete raids of programs like the Local Toxics program protecting funding for most remedial action grant projects already in progress. CERB was also kept on life-support with \$5 million for the biennium. In general, the legislature did not utilize accounting gimmicks or account raids to balance the budget. Instead, serious cuts were made in higher education, some social programs, and education. State employees' salaries were reduced by 3 percent, and reductions were made to K-12 employee salaries equaling \$179 million.

WPPA policy priorities met with mixed results as you can read about further along in this report. The Port Day on the hill, celebrating the 100th anniversary of the Port Act, was well attended, very productive and culminated with a spectacular evening reception attended by over 250 port folks, elected officials, legislators and legislative staff, who heard Governor Gregoire congratulate ports on all the fine work we do.

Many Thanks to everyone who took the time to help move the WPPA agenda during this session, the WPPA Legislative Committee, particularly Chair, Gary Nelson, as well as port commissioners and staff who took the time to come to Olympia and testify or meet with legislators, or who contacted legislators on behalf of Washington Public Ports.

WPPA LEGISLATIVE PRIORITIES FOR 2011

Building Infrastructure

- CERB: The Community Economic Revitalization Board was funded to the tune of \$5 million for the 2011-13 biennium. This was far short of the traditional \$20 million that the WPPA would have liked, but at least the program did not entirely disappear. The adopted Capital Budget which directed the Department of Commerce to study the state's infrastructure programs for efficiencies and practical reform through the Public Works Board. CERB will be included in that discussion throughout the interim, and CERB Chair, Mark Urdahl, Executive Director of the Port of Chelan County, will be participating in that discussion along with WPPA staff. Our goal will be to find a permanent funding source for CERB.
- Port Infrastructure Funding Tools: The WPPA proposal to increase Port IDD levy flexibility made good progress but fell short of being enacted this session. The House Bill, SHB 1308, made it to the House Ways & Means committee where it stalled. Meanwhile the Senate bill, SSB 5222 passed out of the Senate 47 – 1, but it also was stalled in the House Ways & Means Committee. WPPA will be working through the interim to address the concerns of the W&M Chair so we can get the proposal passed into law next session.
- Transportation Infrastructure Funding: Lacking even the ability to get a small revenue package passed, the legislature did little to prepare for the project funding crisis that the state will be facing in 2013. With all the current funding committed to projects already in the works, there will be no funding for any future projects without a revenue package next year. The efforts at wholesale reform for the Ferry system couldn't get off the ground either. It continues to be funded through temporary patches, and will have to be dealt with next year as well.

Cleaning up the Environment

- Stable, Predictable Funding for Remedial Actions: The final budget included \$63.8 million for remedial action grants through the state Local Toxics Control Account. This success is the result of months of advocacy at all levels of the ports community. Ports worked with a large coalition that included municipalities and private businesses to protect the fund from sweeps. Individual ports were absolutely diligent in educating their local legislators and made multiple contacts at key points during session.

Keeping Public Agency Costs Down

- Public Records Litigation Costs: The local government association coalition proposal for providing an opportunity to meet and confer on public record request disputes received a public hearing, but moved no further through the process this session. There were multiple proposals for records act modifications, and in the end, only one was adopted by the legislature. The proposal that was passed by the legislature and signed into law by Governor Gregoire eliminates the mandatory penalties for public record violations, replacing it with a penalty range of 0 - \$100 per violation.
- Public Records Act Cost Recovery: No headway was made on the effort to allow agencies to recover the costs of complying with the Public Records Act, this session. The coalition proposal did receive a hearing and there was some interest in the proposal. A group of local government coalition and other stakeholders will be meeting through the interim to see if a consensus measure can be forwarded.

LEGISLATION PERTINENT TO PORTS

Budgets

With a late burst of bipartisan activity, the legislature finally reached agreement on several key issues and passed an Operating Budget and a Capital budget on the last day of the thirty-day Special Session. Agreement on reforms to the state's injured worker compensation program, coupled with a compromise on managing the state's debt limit, opened the way for passage of the budgets and adjournment *sine die*.

In the end, there were no surprises in either of the budgets: the funding levels and cuts had all been aired out and discussed for the past several months, and for the most part the Senate and House just split the difference between their earlier budgets. State workers and teachers took additional pay cuts, tuition will rise at colleges and universities, and social programs were pared back – though few if any were eliminated. There was no significant restructuring or reform of state government, though some administrative agencies and programs were combined.

Funding levels for key programs such as CERB and cleanup grants were kept at the levels that were reported in earlier budget proposals. While neither program is even close to fully funded, they did receive enough funding to continue a meaningful grant program next biennium. Continuing a trend that is more and more common, several difficult issues were handed off to task forces and study commissions. One of interest to ports is a directive to the Public Works Board to make recommendations to reform the local infrastructure assistance programs, including economic development. The Governor has also announced that she will once again form a blue-ribbon group to address transportation funding, and another blue-ribbon group will look at the state's debt limit. Olympia fabric stores are running low on blue ribbons.

Despite long discussions and many bill drafts, no agreement was ever reached on fee levels for either hydraulic project approvals (HPAs) or water right permits. Permittees wanted to see some program reforms accompany fees, and no agreement on those reforms ever materialized – therefore neither did the fees.

Overall, port districts fared rather well this session. We saw some policy disappointments, but also some victories. Thank you again to all of you who came to Olympia and who made calls and contacts on behalf of your port. This is a team effort, and our successes couldn't have happened without you.

General Fund Budget		
<i>Program</i>	<i>Budget Action</i>	<i>Final Budget</i>
ADO funding	Cut 9%	\$5.9 million
Economic Development Commission	Cut 5%	\$850,000
Innovation Partnership Zone Grants	Program retained	\$100,000
Tourism – website maintenance retained	Program cut	\$200,000
STARS Researcher		

Recruitment Program	Cut 3%	\$3.7 million
Dept. of Commerce Regional Business Services	Cut 25%	\$885,000
Dept. of Agriculture Int'l/Domestic Marketing Prog.	Cut domestic marketing	\$2 million
Auditor's Performance Audit Acct: 4 audit- related activities specified, incl. enhanced revenue auditor and collection function	Funding shift	\$7.4 million
Capital Budget		
CERB		\$5 million
Local Toxics Control Account Remedial Action Grants		\$63.8 million
Boating Facilities Grants		\$8 million

-

Economic Development

Expansion of Prevailing Wage Requirements: Labor interests did not put forward a proposal to expand prevailing wage requirements this session. They had many other bigger issues on their plate, including a reform of the workers compensation system which demanded much of their time.

Infrastructure Funding: There was a coalition of business and local governments working on a true TIF program for the state, however the proposal required a 2/3 majority vote for passage, and constitutional change, and ultimately proved too controversial to receive serious consideration. Other efforts included one successful proposal that creates a pilot program for King, Snohomish and Pierce Counties to allow local governments to create a Tax Increment Financing tool to incentivize use of Transfer of Development Rights from rural to urban areas.

Local Workforce Requirements: Labor interests directed their efforts to encourage use of local workers into a proposal that would provide advantages to in-state contractors during the bid process. After significant changes, a workable measure was passed. The new process will require that the state's Department of General Administration provide all public entities with a list of all states that provide a percentage advantage for their contractors, and when those contractors bid on projects in our state, we will be required to add a corresponding penalty on their bid. 2SSB 5662 requires a survey by Department of General Administration and a determination of necessary rule making along with recommendations for any necessary statutory changes to the legislature for next session prior to implementation.

Environment and Natural Resources

Endangered Species Act Agreements: Following concerns that state resource agencies may not be adequately sharing the details and substance of Habitat Conservation Plan (HCP) proposals negotiated with the federal government, state lawmakers introduced HB 1009. The bill would have required state agencies to obtain explicit legislative approval before entering into an HCP agreement with the federal government. Although an amended version overwhelmingly passed out of the House, the bill died in the Senate.

Hydraulic Project Approval Reform: Despite much discussion and marathon negotiations that lasted most of the special session, the Legislature adjourned without reforming the state's hydraulic permitting process and without passing a controversial proposal that would have attached a fee to hydraulic permits for the first time ever. Rather than implementing the controversial, first-ever fee, legislators chose to continue funding the relatively modest program through the state General Fund.

Natural Resource Agency Consolidation: The Legislature adjourned without passing SB 5669, a bill that would have consolidated administrative functions at seven state resource agencies. Although this scaled-down consolidation effort passed out of the Senate 27-19 during the special session, it stalled in the House. The bill would have allegedly created a \$2.3 million cost savings in the coming biennium, but was less ambitious than previous proposals which offered the consolidation of entire agencies. Despite much discussion in recent years about the idea of resource agency consolidation, achievement in this area has been modest.

Oil Spill Prevention: Following the *Deepwater Horizon* disaster last summer in the Gulf of Mexico, legislators once again focused on oil spill prevention. HB 1186 sought to enhance tank vessel contingency plans and create a state vessel of opportunity program as tools to help avoid and then clean up any major oil spill. Sponsors of the bill worked with the maritime community to minimize any effects this bill might have on discretionary cargo. The bill passed both chambers and was signed into law.

Governance

Commissioner Salary Clarification: Port Commissioner Salary Indexing was clarified and, going forward, commissioner base salaries and per diem salaries will be indexed by the state's Office of Financial Management every 5 years. The port gross operating revenue thresholds for determining base salaries will not be indexed. HB 1225 was signed into law by the governor on April 22 and will take effect July 22.

PRA Statute of Limitations: The Attorney General's legislation to clarify the PRA Statute of Limitations was considered, along with a host of other PRA related proposals, but failed to garner enough support to move through the process.

PRA Notice and Cure: This proposal, similar to the local government coalition proposal to allow parties an opportunity to meet and confer on Public Record Act request disputes, received a public hearing, but was not moved through the process this year.

Office of Open Records: Like the other Attorney General Office proposals, this failed to receive consideration by the legislature. In a budgetary climate where programs are being cut, the time was probably not right for a proposal to create a new agency.

Expanded Telecommunications Authority: Retail telecommunications authority for Ports and PUD's

was introduced again this session but was strongly opposed by the private telecom providers. It did not move out of the policy committee.

Marinas

Boating Facility Grants: Concerned by past budgets that swept dedicated boating facility grants into the state General Fund, a coalition of ports and recreational user groups worked this year to preserve boating facility grants. The effort was largely responsible for the preservation of \$8 million in funding that will be used to help fund boat ramps and other related facilities.

Copper Bottom Paint: Ports with boatyards could benefit from passage of SB 5436, which will phase out of the use of copper bottom paint. Following the belief that trace amounts of copper may be harmful to fish, existing state regulation imposes extremely low limits on copper effluent in boatyard stormwater. The gradual phasing out of copper in bottom paint (as described in the bill) is expected to relieve boatyard owners from the burden of singlehandedly reducing overall copper levels in the marine environment.

Derelict Vessels: Ports with marinas will benefit from passage of SB 5271, which will reduce problems associated with abandoned and derelict vessels. Specifically, the bill does the following: increases the reimbursement rate ports receive for removals from 75 to 90 percent; creates a misdemeanor charge for people who intentionally allow their vessel to sink without authorization; and, limits liability for ports and others when they remove a derelict or abandoned vessel.

Taxes

City Street Utility Authority: The proposal to allow cities to impose a city street utility tax was introduced again this year with little success. The proposal was almost identical to the previous year's proposal, with only the addition of a requirement that a city would have to allow a vote of their citizens in order to impose the tax. The proposal, HB 1929 did move out of the House Transportation Committee on a party line vote, but the bill moved no further.

Transportation

Freight Mobility Board Consolidation: Despite early discussions by the Governor's office to merge FMSB into WSDOT, no bill emerged during the session.

Water

Water Rights Certainty: Relinquishment became a key ports issue this year with introduction of a good little bill that sought to treat certain port water rights more like municipal water rights, which are exempt from relinquishment. Although HB 1314 passed unanimously out of committee and made it through Rules, tribal concerns stopped the bill in its tracks when it moved to the House floor. Other relinquishment bills suffered similar fates, but the issue remained alive in discussions of an omnibus water rights reform/fee bill which also died late in the special session. And so it goes in the ever divisive world of state water policy.