

Legislative Reports - Washington Ports Association

MAP OF WA PORTS

Port Directory

Legislative Report May 25, 2007 - FINAL

The Legislature adjourned on April 22nd

The 2007 session was a “long” session in an odd-numbered year – meaning, it was a budget year. Legislators spent a great deal of time writing capital, operating and transportation budgets for the 2007-2009 biennium. In addition to budgets, there were a record number of bills introduced: WPPA tracked over 340 bills during the legislative session.

Overall, port interests did well this year. Ports gained **new authorities in tourism and public works construction**; commissioners were given a **long-overdue increase in per diem compensation**; the budget included **funding for port district access to the Municipal Research Services Center**; and **toxics funds are now protected for long-term cleanups**. The Capital Budget contained **\$20 million per year for CERB**, and ports now have some new economic development tools.

This final 2007 Legislative Report describes bills that passed the legislature and have an effect on ports across the state. However, there were several bills debated throughout session that did not pass, and the debates were at times contentious. They include:

- Airport staff pension plans
- Eminent domain restrictions
- Prevailing wage expansions
- Container taxes to fund freight projects

While they are not discussed in this report, **these issues will likely reemerge in 2008**, and members of the port community will be working during the interim to educate legislators on how issues that affect ports affect the livelihoods of their constituents.

Thank you to all of the port commissioners and staff who contacted legislators, testified before committees, and contributed to WPPA’s efforts during this year’s legislative session.

How port issues fared this session

Ý Toxics Cleanup Trust Fund. SHB 1761, WPPA’s priority bill protecting money in the Toxics Accounts for cleanups, passed the Legislature and has been signed by the Governor. The bill creates ten-year forecasts of cleanup costs, requires capital reserves for long-term clean-ups, and provides tools to speed cleanups.

Ý CERB Economic Development Infrastructure Funding. The Capital Budget appropriated \$20 million for CERB for the coming biennium, ensuring that the program will maintain its current level of funding. Efforts to divert Real Estate Excise Tax revenues to CERB, creating a permanent funding source for the program, were not successful. Efforts will continue during the interim to develop a proposal for long term funding for CERB.

Û Increase Rail System Capacity and Establish State Leadership Role. In late 2006, the Governor directed a reorganization of WSDOT which resulted in a new Freight Systems Division. ESSB 6120, enacting other key recommendations of the Transportation Commission’s rail study, did not pass the Legislature; however, many of its elements were included in the budget. Unfortunately, the final budget did not contain funding for Governor Gregoire’s Container Ports Initiative’s improvements to Stampede Pass.

Ý Funding for Municipal Research Services Center (MRSC). The Municipal Research Council’s budget contains \$200,000 per year for the 2007-2009 biennium, funding for the first time, special purpose district access to the MRSC. Because the funding is only for the upcoming biennium, it is unclear if it will be continued into future biennia and a permanent dedicated source is still preferred.

ß Mandatory Vessel Insurance. SB 5954, requiring \$300,000 in liability insurance for boats 30 feet or more in length, was introduced and heard in the Senate. Despite support for the bill from the committee members, the chair did not schedule a vote and the bill died. WPPA staff members will meet with legislators during the interim with the intent of re-introducing the bill during the 2008 session.

Budget

The primary task of every odd-year legislature is to write and agree on a biennial budget. This year’s session was successful in that regard. Despite a few frantic moments of doubt leading up to Sine Die, the House and Senate passed a \$33.4 billion operating budget.

A proposed “rainy day fund,” known more formally as the budget stabilization account, received significant attention throughout the session. It was opposed by the chair of the House Appropriations Committee, but ultimately passed without her support. Pending voter approval, one percent of state revenues will be deposited into the account every year. Access to the accumulated funds will then require a supermajority vote of legislators.

This year’s Legislature passed a \$4.3 billion capital budget to fund construction projects throughout the state. It includes money for a few major ticket items of importance to ports, as well as for various specific port projects.

The big news for ports in the final transportation budget was the creation of the Freight Congestion Relief Account. The final budget assumes full funding of the account and divvies up its hypothetical allocation to various freight projects. At this point, however, there is no real source for the money allocated to the Freight Congestion Relief Account. So, in effect, the projects funded by the account are not funded at all, meaning very little new money to transportation projects of importance to ports.

Capital Budget Items of Interest			Economic Development
Ecology	Clean-up	\$84.5M	Authority to develop tourism facilities. SSB 5339 passed at the very end of the legislative session after significant controversy. The final version of the bill expands port districts’ ability to build tourism-related facilities and does not contain harmful prevailing wage requirements or hinder ports’ eminent
CTED	Grants	\$49.5M	
CTED	Job Development Fund	\$20M	
OFM	CERB	\$7.5M	

CTED	Graving Dock Settlement (Port Angeles)	\$5M	domain authority.
CTED	Innovation Partnership Zones	\$6.7M	.08 sales tax funds. SB 5557 passed the Legislature, increasing the sales tax credit to .09, and making some necessary technical changes. The bill clarifies the type of economic development project eligible for the funds, and strengthens reporting requirements.
	Local Project Grants Specifically for Ports		

Local Infrastructure Financing Tool (LIFT). HB 1277 increased the amount of funding available for the program by \$2.5 million; \$7.5 million total is now available for competitive grants. The bill also made helpful technical changes to the program.

Governor's "Next Washington" Economic Development Package. The Governor's economic development proposals were largely approved by the Legislature. SHB 1276 changes the make-up of the state's tourism commission and increases funding for tourism. The budget includes \$7 million for the bill and an additional \$1 million for specific earmarked activities, including efforts to host the 2010

Olympics. 2SSB 5092 creates a new funding formula for Associate Development Organizations; the bill also creates new performance measures for ADO's to meet. The budget provides \$5 million for the program. SHB 1091 creates Innovation Partnership Zones (IPZ's) to assist in promoting regional innovation, commercialization, job skill development and job creation. The measure also includes a program to enhance recruitment of academic and entrepreneurial talent. The Capital Budget includes \$5 million for competitive IPZ block grants in five different areas of the state; and the Operating Budget contains \$2.4 million to recruit researchers.

Economic Development Commission. With the passage of 2SSB 5995, the Economic Development Commission has an elevated role in determining the state's overall economic development strategies. The Commission is expanded to 11 members including a representative from Ports as well as from ADO's. The Governor appoints the chair and the Executive Director, giving the commission additional autonomy.

New Markets Tax Credits. HB 1430 authorizes local governments, including port districts, to participate in the federal New Markets Tax Credits Programs. As a result of the bill, port districts will be able to compete for tax credits allocations and use the credits to fund eligible local projects within their jurisdictional boundaries. The program was established by Congress in 2000 to promote investment in economically-distressed areas.

Environment and Land Use

Diesel Emission Reductions. SHB 1303, which addresses clean air issues, passed the Legislature, but without a funding source for the \$15 million needed to implement the measure. Within the bill, efforts to study vessel electrification have been assigned to the Governor's Climate Action Team; a ports representative serves on that team. The bill also requires all state and local governments to switch to 100 % biofuel fleets by 2015 unless the

Operating Budget Items of Interest			
Ecology	Puget Sound Partnership		\$7.9M
CTED	Associate Development Organizations		\$5M
CTED	Recruiting STAR Researchers		\$2.4M
Ecology	Wetland Mitigation		\$1.9M
MRSC	MRSC Special District Assistance		\$400K

state determines that level to be impractical.

Puget Sound Partnership. ESSB 5372, the Puget Sound Partnership bill, has been signed into law, and was one of the Governor's highest priorities. The bill creates a new Council to develop a plan to recover Puget Sound by 2020, and uses incentive-based grant and loan programs to bring a more coordinated approach to environmental protection efforts in Puget Sound.

Oil Spill prevention. Despite efforts to pass ambitious oil spill legislation that would levy a fee on all oil transfers, the legislation that passed does not impose any new fees. 2SHB 1488 mandates a study of the current oil spill program, and directs a process designed to obtain federal dollars to fund a rescue tug at Neah Bay.

Mitigating Climate Change. ESSB 6001 establishes performance standards for electrical utilities and codifies the statewide greenhouse gas emissions goals set by the Governor's recent Climate Change Challenge executive order.

Invasive Species/Ballast Water. ESSB 5923 addresses both ballast water and boat trailer issues. The bill finally provides a permanent provision allowing the discharge of unexchanged ballast water from vessels for safety reasons. It also will require enhanced signage at all boat ramps, using signs developed by the state.

Environmental Justice. Several bills were introduced relating to the impacts of industrial uses or areas on poor or underprivileged neighborhoods, and attempting to either mitigate or reduce these impacts. None of these bills passed, but this 'environmental justice' movement is likely to continue to pursue these goals.

Governance and Elections

Commissioner Compensation. SHB 1368 increased per diem compensation to \$90 per day. Under the legislation, the per diem rate will be adjusted automatically every five years, in conjunction with the Consumer Price Index. These increases go into effect automatically on July 22nd; ports do not need to take any action. The final page of this report contains a table explaining the different aspects of the per diem increase.

Property Taxes. There is increased interest in port authority to levy IDD taxes because two ports recently imposed this tax. As a result, more focus has been paid to port tax levies, and bills were introduced severely limiting ports' ability to increase tax levies. In addition, I-747 limited property tax increases to one percent overall; a superior court invalidated the initiative because of technical issues and the Legislature declined to act pending the Washington Supreme Court's ruling on the subject. Property taxes will most likely be addressed again in the 2008 session.

Eminent Domain. HB 2016, the bill proposing to prohibit public agencies – except for port districts – from condemning property for economic development purposes died in the Senate after passing the House. SHB 1458, which stipulates that entities with condemnation authority must provide 15 days notice of final action regarding condemnation to landowners via certified mail and notice in the newspaper of largest circulation in the area, was signed by the Governor.

New Port Formation. SSB 5478 would have created a four year window for less-than-countywide port district formation in counties that do not currently have a port district. The bill died because its proponents decided to take a different approach.

Pensions. As expected, legislators did not go home this year without passing a handful of pension-related bills. Most significantly, EHB 2391 repeals gain-sharing and uses the savings to fund enhanced early retirement allowances. Currently, state employees who retire early will have their benefit reduced by 3% for each year they retire before turning 65 (up to a 30% reduction if the retiree is age 55). This is replaced with a new scale that starts at a 2% reduction at age 61 and increases to 20% at age 55.

Also of note, SHB 1266 extends the state retirement system's death benefit to survivors of state employees who die from an occupational disease or infection contracted in the course of employment. SB 5014 revises the process for determining contribution rates in state retirement plans and requires more frequent review of the long-term economic assumptions of each plan. SB 5175 extends the age 66 deadline by six months so that retirees receive annual cost-of-living adjustments earlier.

Economic Development

Authority to develop tourism facilities. SSB 5339 passed at the very end of the legislative session after significant controversy. The final version of the bill expands port districts' ability to build tourism-related facilities and does not contain harmful prevailing wage requirements or hinder ports' eminent domain authority.

Labor

Airport Staff/Firefighter Benefits. HB 2134 mandated that port district employees who annually receive ARFF firefighting training be included in the Law Enforcement Officers and Fire Fighters (LEOFF) pension plan. The bill died late in the session. The ports of Bellingham, Moses Lake, Chelan County, Douglas County and Walla Walla would have been impacted. This issue is likely to continue to be discussed.

Apprenticeships. HB 1919, legislation proposing a 15 percent apprenticeship requirement on public works project of \$1 million or more at ports with gross annual revenues of over \$15 million per year, died midway through the session. However, EHB 1898 which requires that school districts meet a 15 percent apprenticeship requirement passed the Legislature.

Prevailing Wage. Language expanding prevailing wage requirements into private sector projects on public land was proposed as amendments to various bills this session. Though nothing significant passed, it appears there is a concerted effort to move in that direction and it is likely to continue.

Marinas

Boating Activities Account. SHB 1651 created a "boating activities account" funded by existing boater excise taxes. Up to \$500,000 could be available each year for grants supporting improved boater access, boating facility improvements, and boating law enforcement. The bill also directs the IAC to conduct a study of boater needs across the state and report those findings to the Legislature by December.

Derelict Vessel Removal. SSB 6044 adds a \$1 "derelict vessel removal surcharge" to all vessels registering in the state until 2014; the funds will be used to remove the backlog of derelict vessels from state waters. The bill allows public entities, including ports, to take temporary possession of a vessel when it poses an imminent danger to public health, safety, or the environment. In addition, the budget contains a \$2 million proviso to assist with removing the backlog of vessels.

Public Works

Alternative Public Works Contracting Methods. The legislature passed HB 1506 extending the sunset for use of alternative contracting processes in public works projects to 2013. The measure also expands access to these processes allowing all ports to use them for large and complex projects.

Public Works Contracting. Despite near-continual negotiations between parties involved, SHB 1765 – legislation aimed at the "Michael M. Johnson" litigation – died in the Senate. Stakeholders were unable to find compromise language regarding change order liability. The issue will likely be raised again in 2008.

Transportation

Container Tax. Funding for freight corridor improvements continued to be a key topic of debate throughout the legislative session. SSB 5207 directs the Joint Transportation Committee (JTC) to complete a study on levying a container tax or fee to fund freight corridors. The study, which must be completed by December 1, 2007, will evaluate the impact of various funding measures on the container shipping industry, and the demand for Washington State marine terminal facilities.

Columbia River Deepening. Re-appropriations for the Columbia River deepening were included in the budget. However, an amendment attached to ESSB 5108, a farmland preservation bill, endangers the deepening project. A section of the bill would have prevented governmental entities from using eminent domain to acquire farmland for use as wetland mitigation, threatening several acquisitions currently underway. After hearing from several stakeholders, the Governor vetoed that section of the bill.

Per Diem Bill (ESHB 1368): Beginning July 22, 2007, commissioner per diem compensation will increase to \$90 per day (up from \$70), not to exceed \$8,640 in a year (up from \$6,720). (For commissioners of port districts with gross operating income of \$25 million or more, total annual per diem shall not exceed \$10,800.) Those amounts will be adjusted for inflation on July 1, 2008 and every five years thereafter. The new per diem levels will automatically apply to all port districts in the state and will not affect commissioner salaries in any way.

The effective date of most bills is July 22, unless the measure specifically provides otherwise.

House Bills by Bill Number

SHB 1002	Sales & use tax on vessels	C 22 L 07
ESHB 1024	Polybrominated diphenyl	C 65 L 07
SHB 1039	Ecology department opinions	C 225 L 07
SHB 1091	Innovation partnership zones	C 227 L 07
ESHB 1092 *	Capital budget	C 520 L 07
ESHB 1094 *	Trans budget 2007-09	C 518 L 07
SHB 1128 *	Operating budget	C 522 L 07
HB 1137	Water quality capital acct	C 233 L 07
SHB 1255	Municipal officers	C 298 L 07
SHB 1262	Public employment/retirees	C 50 L 07
SHB 1264	Portability of retirement	C 207 L 07
SHB 1266	Death benefits	C 487 L 07
SHB 1276	Tourism partnership	C 228 L 07
2SHB 1277	Local infrastructure finance	C 229 L 07
E2SHB 1303 *	Cleaner energy	C 348 L 07

SHB 1328	Small works roster	C 210 L 07
ESHB 1368	Special purpose districts	C 469 L 07
HB 1370	Prevailing wages	C 169 L 07
HB 1412	Shoreline master program	C 170 L 07
HB 1430	Community & economic dev	C 230 L 07
SHB 1445	Public records act	C 197 L 07
SHB 1458	Eminent domain	C 68 L 07
2SHB 1488	Oil spill program	C 346 L 07
2SHB 1506	Alternative public works	C 494 L 07
HB 1528	Voter registration	C 157 L 07
HB 1543	Economic development officer	C 250 L 07
E2SHB 1569 *	Reforming health care system	C 260 L 07
SHB 1651	Boating activities	C 311 L 07
SHB 1761	Hazardous waste	C 446 L 07
SHB 1805	Homestead exemption	C 429 L 07
HB 1813*	Committee for outdoor rec	C 241 L 07
ESHB 1858	Transportation benefit dist	C 329 L 07
SHB 1897	Attorney invoices	C 391 L 07
EHB 1898	Apprenticeship utilization	C 437 L 07
SHB 1965	Major industrial development	C 433 L 07
SHB 2010	Bidder responsibility	C 133 L 07
SHB 2049	Marine resource committees	C 344 L 07
ESHB 2171	Crane safety	C 27 L 07
EHB 2391	Retirement system/pension	C 491 L 07

* PV = partial veto

Senate Bills by Bill Number

SB 5014	Contribution rates	C 280 L 07
SSB 5074	WRIA 29	C 245 L 07

SB 5084	Rail transit safety plans	C 422 L 07
SSB 5087	Federal REAL ID Act	C 85 L 07
SSB 5089	Streamlined sales & use tax	C 6 L 07
2SSB 5092	Associate development org	C 249 L 07
SSB 5108	* Farmland preservation office	C 352 L 07
ESSB 5112	Auctioning vessels	C 378 L 07
SSB 5174	Public retirement system	C 492 L 07
SB 5175	Retirement annual increases	C 89 L 07
SSB 5207	Freight congestion relief	C 514 L 07
SSB 5224	Salmon recovery office	C 444 L 07
SSB 5248	Agricultural lands	C 353 L 07
ESSB 5339	Port districts	C 476 L 07
ESSB 5372	Puget Sound partnership	C 341 L 07
SB 5408	Primary election ballots	C 38 L 07
SSB 5412	Transportation agencies	C 516 L 07
SB 5421	Environmental covenants	C 104 L 07
SSB 5435	Public records exemptions	C 198 L 07
SSB 5475	Underground storage tanks	C 147 L 07
ESB 5508	Economic development project	C 231 L 07
SB 5552	Discharges of oil	C 347 L 07
E2SSB 5557	Economic dev facilities	C 478 L 07
2SSB 5652	Microenterprise development	C 322 L 07
ESSB 5770	Higher edu public works	C 495 L 07
E2SSB 5923	* Aquatic invasive species	C 350 L 07
2SSB 5995	Economic development comm	C 232 L 07
ESSB 6001	* Climate change	C 307 L 07
SB 6014	Reclaimed surface coal mine	C 194 L 07
E2SSB 6044	Derelict vessels	C 342 L 07

E2SSB 6117 *	Reclaimed water	C 445 L 07
ESSJR 8206	Budget stabilization account	(C 484 L 0

Budget

ESHB 1094 *	Trans budget 2007-09	C 518 L 07
SHB 1128 *	Operating budget	C 522 L 07
HB 1137	Water quality capital acct	C 233 L 07
ESSJR 8206	Budget stabilization account	(C 484 L 07)

Capital Budget

ESHB 1092 *	Capital budget	C 520 L 07
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Economic Development

SHB 1091	Innovation partnership zones	C 227 L 07
SHB 1276	Tourism partnership	C 228 L 07
2SHB 1277	Local infrastructure finance	C 229 L 07
HB 1543	Economic development officer	C 250 L 07
2SSB 5092	Associate development org	C 249 L 07
ESB 5508	Economic development project	C 231 L 07
E2SSB 5557	Economic dev facilities	C 478 L 07
2SSB 5652	Microenterprise development	C 322 L 07
2SSB 5995	Economic development comm	C 232 L 07
SB 6014	Reclaimed surface coal mine	C 194 L 07

Environment

ESHB 1024	Polybrominated diphenyl	C 65 L 07
SHB 1039	Ecology department opinions	C 225 L 07
E2SHB 1303 *	Cleaner energy	C 348 L 07
HB 1412	Shoreline master program	C 170 L 07
2SHB 1488	Oil spill program	C 346 L 07
SHB 1761	Hazardous waste	C 446 L 07

ESSB 5372	Puget Sound partnership	C 341 L 07
SB 5421	Environmental covenants	C 104 L 07
SSB 5475	Underground storage tanks	C 147 L 07
SB 5552	Discharges of oil	C 347 L 07
ESSB 6001 *	Climate change	C 307 L 07

Governance/Elections

SHB 1255	Municipal officers	C 298 L 07
ESHB 1368	Special purpose districts	C 469 L 07
HB 1430	Community & economic dev	C 230 L 07
SHB 1445	Public records act	C 197 L 07
SHB 1458	Eminent domain	C 68 L 07
HB 1528	Voter registration	C 157 L 07
E2SHB 1569 *	Reforming health care system	C 260 L 07
SHB 1897	Attorney invoices	C 391 L 07
ESHB 2171	Crane safety	C 27 L 07
ESSB 5339	Port districts	C 476 L 07
SB 5408	Primary election ballots	C 38 L 07
SSB 5435	Public records exemptions	C 198 L 07

Land Use

SHB 1965	Major industrial development	C 433 L 07
SSB 5108 *	Farmland preservation office	C 352 L 07

Marina

SHB 1002	Sales & use tax on vessels	C 22 L 07
SHB 1651	Boating activities	C 311 L 07
HB 1813 *	Committee for outdoor rec	C 241 L 07
ESSB 5112	Auctioning vessels	C 378 L 07
E2SSB 6044	Derelict vessels	C 342 L 07

Natural Resources

SHB 2049	Marine resource committees	C 344 L 07
SSB 5224	Salmon recovery office	C 444 L 07
SSB 5248	Agricultural lands	C 353 L 07
E2SSB 5923 *	Aquatic invasive species	C 350 L 07

Pension

SHB 1262	Public employment/retirees	C 50 L 07
SHB 1264	Portability of retirement	C 207 L 07
SHB 1266	Death benefits	C 487 L 07
EHB 2391	Retirement system/pension	C 491 L 07
SB 5014	Contribution rates	C 280 L 07
SSB 5174	Public retirement system	C 492 L 07
SB 5175	Retirement annual increases	C 89 L 07

Public Works

SHB 1328	Small works roster	C 210 L 07
HB 1370	Prevailing wages	C 169 L 07
2SHB 1506	Alternative public works	C 494 L 07
EHB 1898	Apprenticeship utilization	C 437 L 07
SHB 2010	Bidder responsibility	C 133 L 07
ESSB 5770	Higher edu public works	C 495 L 07

Taxes

SHB 1805	Homestead exemption	C 429 L 07
SSB 5089	Streamlined sales & use tax	C 6 L 07

Transportation

ESHB 1858	Transportation benefit dist	C 329 L 07
SB 5084	Rail transit safety plans	C 422 L 07
SSB 5087	Federal REAL ID Act	C 85 L 07
SSB 5207	Freight congestion relief	C 514 L 07

SSB 5412 Transportation agencies C 516 L 07

Water

SSB 5074 WRIA 29 C 245 L 07

E2SSB 6117 * Reclaimed water C 445 L 07