



# Legislative Report

The Legislature adjourned on March 13  
FINAL

April 4, 2008 -

## Introduction

The 2008 Legislature convened for 60 days, standard length for a “short session,” and adjourned on time. For most lawmakers and lobbyists, especially those working on port issues, this was a very busy session (the one exception, perhaps, was members of the minority party, who were largely left out of the action). In the end, though, very few major bills reached the Governor’s desk and the supplemental budget made only modest new appropriations. Last week the Governor finished signing (or vetoing) bills passed by this year’s Legislature. There were no major surprise vetoes.

The WPPA pre-session legislative program was substantially altered due to a whirlwind of activity surrounding the Port of Seattle’s performance audit on construction management. An unprecedented number of port related bills were introduced in the early weeks of the session. Ultimately, every port bill of serious concern died before the end of session – this due in a large part to a concerted effort to reach out to legislators and listen to concerns. The one port specific bill that did pass, House Bill 3274, was drafted in cooperation with the Port of Seattle and WPPA, and passed with broad support. Overall, this session will be remembered more for what didn’t pass than what did. (Please review the box at the end of this report for more on this year’s significant legislation that didn’t make the cut.)

Short sessions do not require an entirely new budget, but rather a supplemental budget that amends and adds to last year’s biennium budget. What started out as a windfall year with a \$1.2 billion surplus soon became a gloomy one; predictions for state tax income were reduced by \$423 million, meaning less money for budget-writers to distribute. The final budget appropriated about \$300 million in new spending, leaving more than \$800 million in reserves and surplus accounts to face expected budget shortages as the economic downturn translates into diminished state coffers.

**Many thanks** this year to everyone who contributed to a successful session despite very difficult circumstances: the WPPA Legislative Committee, including chair Gary Nelson; port commissioners and staff who contacted their legislators and testified before committees; Port of Seattle staff, lobbyists, and commissioners who worked to negotiate compromise legislation; and everyone who stayed informed of legislative happenings and contributed to the joint effort.

### How Port Issues Fared This Session:

Unlike previous sessions in which the Association could assess each individual item of our legislative agenda, this year does not lend itself to an up or down rating of each issue. The success of this year’s efforts has more to do with the many bills that did not pass: nearly two dozen port-specific bills aimed at curbing authorities in Title 53 RCW, as well as number of high-profile issues aimed at local governments in general, such as requiring taped recording of executive sessions. The box at the end of this report highlights many of the important measures that failed this year but will likely return in the near future. The most significant success of the session, a measure revising port

## Budget

The House and Senate released their negotiated supplemental budgets on Wednesday: the final operating budget, ESHB 2687; capital budget, ESHB 2765; and transportation budget, ESHB 2878. Because the state operates on a two-year budget cycle, legislative sessions during even-numbered years are tasked with simply amending last year’s biennium budget.

This year's supplemental operating budget included \$306 million in new spending. It also allocated over \$100 million to the state's rainy day fund (now at \$445 million) and left a budget surplus of \$389 million.

Of interest to ports (operating budget):

- Authorizes use of the Local Toxics Control Account to fund the standby rescue tug at Neah Bay (no amount specified)
- \$135,000 for a study to review effectiveness of hydraulic project approval process
- Provides funding for infrastructure funding study
- \$110,000 to the Office of the Attorney General for implementation of **HB 3274** regarding port contracting
- \$25,000 to the Municipal Research and Services Center for implementation of **HB 3274** regarding port contracting

The supplemental transportation budget included very little new funding, mainly because the money is simply not there due to the unfortunate combination of reduced revenues and increased project construction costs.

Of interest to ports (transportation budget):

- Port of Kingston was given up to \$750,000 in "toll credits" to purchase a passenger-only ferry
- SR 519 connection from Port of Seattle to I-90 is fully funded for design/build
- Loans are extended to Ports of Moses Lake, Benton, Everett, Chehalis and various other entities for capacity improvements
- Funding is increased for completion of the required environmental documents for the Kelso Bluff 3<sup>rd</sup> Mainline and Storage Track project
- \$400,000 for Port of Chehalis track rehabilitation project

#### ***Aquatic Lands***

**SSB 6532** provides a no-cost lease to the City of Oak Harbor for its marina., for twenty years. During this time, the City is prohibited from receiving any grants from the Aquatic Lands Enhancement Account.

#### ***Economic Development***

Electronic Devices. **ESHB 1031** makes it a felony for a person to intentionally scan another person's identification device (RFID) remotely, without consent, for fraud, identity theft, or another illegal purposes. As it passed the legislature all language that would have affected RFID technologies used at our ports for tracking products or for security purposes was removed.

Rural County Definition. **SSB 6195** changes the definition in CERB, and other rural economic development revolving fund statutes are made consistent. The definition reads: "rural county" means a county with a population density of less than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles as determined by the office of financial management. The change added the two hundred twenty-five square mile language to include Island County in the rural county definition.

LIFT Definition Change. **SB 6196** made a change to the LIFT (Local Infrastructure Financing Tool) program requested by the City of Vancouver that clarified how to determine local excise tax allocation revenue.

Capital Budget Infrastructure Implementation Plan. **ESHB 2765**, the Supplemental Capital Budget requires OFM, in cooperation with CTED and other state agencies and stakeholders, to develop an infrastructure implementation plan. The plan must identify options for the organization and coordination of appropriate state infrastructure assistance programs into an improved infrastructure investment system. The plan is due December 1, 2008.

Community Economic Revitalization Board (CERB). **2SSB 6855** changes the following elements of the CERB program, effective July 1, 2009:

- Updates statute definitions to more accurately reflect current practice.
- Adds quorum language that allows a majority of the members currently appointed to constitute a quorum. This change was made effective immediately.

- Removes the specific definitions of the types of projects the Board can provide financial assistance to and requires them to be consistent with the State Economic Development Commission comprehensive plan, once a plan is adopted.
- Requires that projects must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is complete will exceed the countywide median hourly wage.
- Adds new criteria by which the Board can prioritize projects including whether the project offers health insurance to employees including an option for dependents of employees.
- Requires that CERB approve AT LEAST 75% of the first \$20 million appropriated, and AT LEAST 50% of any funds over and above \$20 million to projects in rural counties.
- Requires CERB to add elements to their biennial plan including an outcome-based evaluation of the financial assistance provided by the Board.
- Repeals the Job Development Fund (JDF) statutes.

### ***Environment, Natural Resources and Land Use***

Climate Change. The most significant environmental legislation this session related to climate change, and creating state policies to address it. One common theme of the bills that passed is directing state agencies and task forces to make recommendations to the legislature over the next few years regarding what the state should do. The following is a summary of the two primary bills.

**E2SHB 2815** aims to reduce greenhouse gas (GHG) emissions using carbon-trading, emission-reporting, and vehicle-trip reduction. The bill:

- Directs the Department of Ecology to develop a system for reporting and monitoring GHG emissions within the state, and recommend a “regional multi-sector, market-based system (i.e. a “cap and trade” system) to reduce GHG emissions statewide. Ecology is directed to work with other western states, and make this recommendation by December 1, 2008. This report is to include any necessary new resources and authorities, how local governments participate, and how forestry and agricultural sectors may participate as “offset” providers.
- Creates new emission-reporting requirements for fleets of vehicles that emit more than 2500 metric tons of GHGs annually. Reporting for commercial trucks, railroads, airplanes and vessels is deferred until either the federal government requires reporting, or until the state determines there is a generally-accepted protocol for reporting.
- Requires the state Department of Transportation to adopt broad goals for reducing the annual vehicle miles traveled (“VMTs”) by state residents. DOT is directed to work with local governments, businesses and others to explore options and tools for accomplishing specific VMT-reduction goals.
- Adopts a goal of creating new “Green Economy Jobs”. CTED and the Employment Security Department are directed to explore opportunities, incentives and workforce training opportunities in this area.

**ESSB 6580** is the other major climate change bill. This measure relates to land use planning and climate change. The bill:

- Directs CTED, in conjunction with an advisory group of affected interests, to develop a range of climate change response methodologies that cities and counties can use. These include computer modeling programs and VMT-reduction strategies.
- Creates a grant program that allows CTED to fund up to three counties and up to six cities to create local government global warming mitigation and adaptation programs. These are intended to become model programs for blending land use and transportation planning efforts with climate change goals. \$317K is provided in the budget for these grants.
- Specifies that no new appealable actions are created to the Growth Hearings Boards with the adoption of this bill

Wetland Banking. **SSB 6761** places some additional limitations on the size of service areas for wetland mitigation banks, generally limiting them to a single watershed unless a larger area is “ecologically appropriate”. The bill also includes a requirement that the local government be a final signatory to the banking agreement.

Cleanup Settlement Account. **SB 6722** authorizes the state to create dedicated accounts for collecting settlement money from specific cleanup sites, and then direct these funds solely to clean up the site where liability is being settled.

Water Supply. **E2SSB 6874** relates to creating new water supplies within the Columbia Basin. The bill authorizes payments to the affected Native American Tribes in consideration for them to not challenge a drawdown of Lake Roosevelt by 100,000 acre-feet of water per year. The water is to be used for municipal, agricultural and in-stream flow uses.

Orca Whale Protection. **2SHB 2514** creates additional protections for orca whales from boats and vessels. The bill creates penalties for intentionally approaching within 300 feet of an orca whale, or for not disengaging the vessel’s transmission if the whales approach within 300 feet of a vessel. There are exemptions for commercial fishing vessels, persons piloting a vessel under governmental authority, unintentional actions, and actions that are unavoidable due to weather, vessel design, safe navigational principles, and safety.

### ***Governance***

Industrial Insurance Orders. **E2SHB 3139** requires industrial insurance benefits to be paid starting at the time they are awarded, even if the order is set to be appealed. If the order is appealed to the Board of Industrial Insurance Appeals, the benefits must be paid up to the point that the Board issues a decision. The measure also establishes a process whereby self-insuring employers can retain a set amount from their employees’ earnings to be deposited into a fund to reimburse the employer if benefits are overpaid during the appeal process.

Public Financing of Local Elections. **E2SSB 5278** partially removes the ban on public funding of political campaigns, and allows local jurisdictions to establish programs for public financing of candidates’ campaigns for local office. Under the measure, a city, county, or special district (state and school district races are excluded) may establish a program to publicly finance local campaigns using funds derived from local sources. Voters within the local jurisdiction must approve a proposed program before it can be implemented.

### ***Public Works***

The session resulted in no legislation relating to either claim notice provisions or prevailing wage requirements although both those issues are likely to return next year. The only legislation related to public works that potentially impact our ports are **E2SHB 2624** regarding human remains, and **2SHB 3274** the port district contracting bill resulting from the Port of Seattle performance audit.

Human Remains. **E2SHB 2624**, which sets up a process for handling inadvertent discoveries of skeletal human remains, passed the Legislature with just one day to go in the session. When remains are discovered, all activity that might cause further disturbance of the area must stop. The total process could mean a project would have to be put on hold for about two weeks. The bill requires notification of the local coroner and law enforcement first for purposes of determining whether the remains are forensic or non-forensic. The coroner has five days to make that determination and if it is found that the remains are non-forensic they must notify the state Division of Archeology and Historic Preservation within two days. Then they have another two days to notify tribes if the remains are determined to be Native American and the tribes have an additional five days to respond as to their interest in the remains. Funding for this bill was included in the budget.

Port District Contracting. **2SHB 3274** is the legislation that was signed into law based on recommendations by the Auditor resulting from the Port of Seattle’s performance audit. The legislation makes a number of changes to current contracting practices:

- Requires that all public works projects over \$200,000 must be awarded using a competitive bid process.
- Clarifies that civil penalties for a municipal officer’s willful and intentional violation of laws requiring competitive bidding, also apply to; consulting, architectural, engineering, or other services.

- Requires ports with more than ten million dollars in annual gross revenues (excluding grant and loan funds) to maintain a database on a public website of all contracts including public works and personal services beginning Jan. 1, 2010.
- Creates a public outreach process for ports when they are developing property they have purchased outside their jurisdictional boundaries.
- Requires competitive solicitation process be used for contracts for personal services defined as “professional or technical expertise provided by a consultant to accomplish a specific study, project, task or other work statement which may not reasonably be required in connection with a public works project.”
  - Specifically exempt are professional services, emergency contracts, sole source contracts and contracts under \$50,000. Also exempt are contracts with companies where the tariff is established by the UTC or other public entity, intergovernmental agreements, contracts awarded for services performed for a standard fee, as well as expert witnesses for the purposes of litigation and legal services to supplement the expertise of port staff.
  - Competitive Solicitation is defined as a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria, in which criteria other than price may be the primary basis for consideration. The criteria may include such factors as the consultant’s fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance and compliance with statutes and rules relating to contracts or services.
- Requires that emergency contracts must be filed with the port commission and made publicly available within 7 days following commencement of the work or execution of the contract. Documented justification must be provided to the commission.
- Sole source contracts must be filed with the commission and made publicly available prior to the start date of the contract and documentation must be provided to the commission. For contracts over \$50,000 documented justification must include evidence that the port attempted to identify potential consultants, and the port must ensure that costs, fees or rates negotiated in sole source contracts are reasonable.
- Substantial changes in the scope of contracts must be submitted to the port commission to determine if it warrants awarding the work as a new contract.
- Amendments to personal service contracts exceeding 50% of the value of the original contract must be filed with the port commission and made publicly available before the starting date of the contract.
- The MRSC and WPPA will develop guidelines for management of personal services contracts and publish them in hard copy and on the MRSC and WPPA websites.
- Port commissions must adopt policies based on the guidelines developed regarding entering into and amending personal service contracts.
- Port districts shall require port employees responsible for executing or managing personal service contracts to complete a training course provided by the WPPA.
- Ports are no longer exempt from the small works roster process requirement that all contractors on the appropriate list for projects between \$100,000 and \$200,000, be notified that quotations on the work are being sought in cases where the port chooses to solicit bids from less than all the appropriate contractors. The notice can be made by publishing notice in the newspaper, mailing a notice to the contractors, or sending a notice to the contractors by fax, or other electronic means.
- Port commissions must establish by resolution, policies to set forth the conditions by which competitive bidding requirements for public works contracts may be waived, pursuant to RCW 39.04.280 (exemptions to competitive bid requirements).

### ***Transportation***

Port District Ferry Service. **HB 2730** authorizes port districts to operate passenger ferries on Puget Sound. There are no requirements for port districts to provide ferry service, but it clears the way for port districts to offer terminal

facilities for ferry use and to receive funds from the state's Passenger Ferry Account and Ferry Grant Program. (Ferry service authority already exists for port districts on interstate navigable rivers of Washington and on intrastate waters of adjoining states.)

***WPPA positions on Issues that did not pass but will be back in 2009***

- **Taping of executive sessions**  
WPPA believes that executive sessions must retain adequate attorney/client privilege. The existence of audio tapes and the potential public records issues they would raise simply doesn't allow for those protections. WPPA will continue to work to improve the public's trust in insuring executive sessions are only used for appropriate purposes and port commissions operate as transparently as possible.
- **Expansion of prevailing wage requirements for private developers on leased public property**  
Prevailing wages are currently required for all port public works projects. WPPA supports the creation and retention of family wage jobs throughout the state, and has a record of helping encourage private sector investment in the industrial and manufacturing sector that provides these high-wage jobs. WPPA would not support any legislation that would discourage private sector investment toward creating long-term stable high-wage jobs in our state.
- **Property tax limitations, including limits on "banked capacity"**  
Ports have a history of working within limited taxing authority to minimize impacts on the community while using the taxing authority only as necessary to improve the local economy. Partnering with the state and other local governments, ports invest these public funds in infrastructure improvements that help grow capacity, provide additional safety and improve efficiency. Any efforts to limit or eliminate the ability of ports to access funds for these infrastructure improvements would be detrimental to our communities and state and damage potential for future economic growth.
- **Enhanced, long-term funding for CERB**  
CERB is the state's only Economic Development Infrastructure funding program. CERB has a demonstrated record of investing in projects that provide a substantial return on investment for the state, by creating good paying jobs and incenting private sector investment. It is time for the state to recognize the substantial economic value to the state over time of a stable biennial investment of \$50-70 million.
- **New revenues for transportation projects, including container or freight fees, tolling, congestion-pricing and vehicle fees**  
Transportation revenues have been adversely impacted by economic conditions, with revenues down and project costs rising dramatically. In order to fund projects critical to our state's transportation system, the state must look seriously at new sources of revenue. Next session lawmakers will likely discuss tolling, congestion pricing, and other strategies to address current and future shortfalls.

***Where to Go for Information***

There are as many ways to get information on legislative activities as there is information.

**How to Find your Legislator and Contact Them:**

- Senate: <http://www.leg.wa.gov/Senate>
- House: <http://www.leg.wa.gov/House>

**How to Access a Bill:**

- <http://apps.leg.wa.gov/billinfo/>

Here you can enter the bill number you are looking for or even search for it by entering a subject keyword. You can save the bill, print the bill or just check its status and track it as it progresses through the Legislature.

**How to Access Veto Messages**

- <http://governor.wa.gov/billaction/2008>

**How to Watch or Listen to an Archived Hearing:**

- TVW - webcast <http://www.tvw.org/media/archives.cfm>

**INTERNET**

You can access legislative information via the Internet in two ways:

Legislature's website [www.leg.wa.gov](http://www.leg.wa.gov). Here you will find contact information for each legislator and their staff; legislative leadership; committees and their staff and current agendas; floor calendars; the most up-to-date bill information and much more.

TVW ([www.tvw.org](http://www.tvw.org)) provides coverage of floor debates, committee hearings and other public policy events. Also included is a weekly news comment program. Coverage is available through REAL Networks or Windows Media both in real time or as archived. Follow the site's instructions for access.

**E-MAIL**

The Legislature's e-mail system is intended to provide an additional method for legislators to communicate with constituents. It is critical to include your name, address and phone number in your e-mail message, preferably at the top. Most legislative offices have staff resources to respond only to their constituents. All legislative email addresses follow a pattern of *last name.first name@leg.wa.gov*.

**TELEVISION**

TVW is a cable network the Legislature created to cover activities of both houses with live programming and delayed telecasts of each day's events. The week's programming can be found on their website, [www.tvw.org](http://www.tvw.org).

**MAILING ADDRESSES**

To mail a House member, send it to The Honorable..., PO Box 40600, Olympia, WA 98504-0600.

To mail a Senate member, send it to The Honorable..., PO Box 40482, Olympia, WA, 98504-0482.

The Washington Public Ports Association staff in Olympia is also here to assist you in getting information and we're happy to walk you through any of the above. Please feel free to call us 360-943-0760 if you have any questions.

The effective date of most bills is June 11, unless specified otherwise.

## Bill Tracking Report

Bill	Title	Status	Sponsor	Date	Companion Bill
<b>Aquatic Lands</b>					
<a href="#">ESHB 1623</a>	Aquatic lands	C 55 L 08	<a href="#">Morris</a>	3/18/08	
<a href="#">ESSB 6532</a>	Publicly owned marinas	C 132 L 08	<a href="#">Haugen</a>	3/25/08	
<b>Budget</b>					
<a href="#">ESHB 2687</a>	Operating budget	Gov part veto	<a href="#">Sommers</a>	4/2/08	<a href="#">SB 6378(SWays &amp; Means)</a>
<a href="#">ESHB 2765</a>	Capital budget	Gov part veto	<a href="#">Fromhold</a>	4/2/08	<a href="#">SB 6461(SWays &amp; Means)</a>
<a href="#">ESHB 2878</a>	Transportation budget	C 121 L 08	<a href="#">Clibborn</a>	3/25/08	<a href="#">SB 6298(STransportatn)</a>
<b>Economic Development</b>					
<a href="#">ESHB 1031</a>	Electronic devices	C 138 L 08	<a href="#">Morris</a>	3/25/08	
<a href="#">HB 2437</a>	Public works board projects	C 5 L 08	<a href="#">Seaquist</a>	3/7/08	<a href="#">SB 6182(SWays &amp; Means)</a>
<a href="#">SSB 6195</a>	Rural county definition	C 131 L 08	<a href="#">Haugen</a>	3/25/08	
<a href="#">SB 6196</a>	Local infrastructure finance	C 209 L 08	<a href="#">Pridemore</a>	3/27/08	<a href="#">HB 2485(HRules 3C)</a>
<a href="#">2SSB 6855</a>	Economic development	Gov part veto	<a href="#">Kilmer</a>	3/13/08	<a href="#">HB 3266(HRules C)</a>
<b>Environment &amp; Natural Resources</b>					
<a href="#">2SHB 2514</a>	Orca whale protection	C 225 L 08	<a href="#">Quall</a>	4/1/08	<a href="#">SB 6395(Ssubst for)</a>
<a href="#">E2SHB 2647</a>	Children's safe products	Gov part veto	<a href="#">Dickerson</a>	4/2/08	<a href="#">SB 6530(SWays &amp; Means)</a>
<a href="#">E2SHB 2815</a>	Greenhouse gas emissions	C 14 L 08	<a href="#">Dunshee</a>	3/13/08	<a href="#">SB 6516(SWays &amp; Means)</a>
<a href="#">E2SHB 2844</a>	Urban forestry	Gov part veto	<a href="#">Kagi</a>	4/2/08	<a href="#">SB 6469(SWays &amp; Means)</a>
<a href="#">SSB 6309</a>	Gas vehicle emissions	C 32 L 08	<a href="#">Rockefeller</a>	3/17/08	
<a href="#">SB 6504</a>	SEPA waste discharge permits	C 37 L 08	<a href="#">Hatfield</a>	3/17/08	<a href="#">HB 2558(HRules 3C)</a>
<a href="#">ESSB 6580</a>	Climate change impacts	Gov part veto	<a href="#">Marr</a>	3/12/08	<a href="#">HB 2797(HRules C)</a>
<a href="#">SB 6722</a>	Cleanup settlement account	C 106 L 08	<a href="#">Regala</a>	3/20/08	<a href="#">HB 2916(HApprop)</a>
<a href="#">SSB 6761</a>	Wetlands mitigation banks	C 80 L 08	<a href="#">Haugen</a>	3/19/08	
<b>Governance &amp; Elections</b>					
<a href="#">E2SHB 3139</a>	Industrial insurance orders	C 280 L 08	<a href="#">Conway</a>	4/1/08	<a href="#">SB 6750(SRules X)</a>
<a href="#">E2SHB 3186</a>	Beach management districts	Gov part veto	<a href="#">Nelson</a>	4/2/08	<a href="#">SB 6508(Ssubst for)</a>
<a href="#">E2SSB 5278</a>	Public funds for politics	C 29 L 08	<a href="#">Franklin</a>	3/17/08	
<b>Public Works</b>					
<a href="#">E2SHB 2624</a>	Human remains	C 275 L 08	<a href="#">McCoy</a>	4/1/08	<a href="#">SB 6521(SWays &amp; Means)</a>
<a href="#">2SHB 3274</a>	Port district contracting	C 130 L 08	<a href="#">Simpson</a>	3/25/08	
<b>Taxes</b>					
<a href="#">ESHB 3303</a>	Polysilicon manufacturers	C 283 L 08	<a href="#">Grant</a>	4/1/08	<a href="#">SB 6866(SRules X)</a>
<b>Transportation</b>					
<a href="#">HB 2730</a>	Port district ferry service	C 45 L 08	<a href="#">Rolfes</a>	3/17/08	
<a href="#">SSB 6602</a>	Pilotage act	C 128 L 08	<a href="#">Haugen</a>	3/25/08	
<a href="#">SSB 6857</a>	Heavy haul corridor	C 89 L 08	<a href="#">Morton</a>	3/20/08	
<b>Water</b>					
<a href="#">SSB 6340</a>	Water system program	C 214 L 08	<a href="#">Rockefeller</a>	3/27/08	<a href="#">HB 3185(HRules R)</a>
<a href="#">E2SSB 6874</a>	Columbia river water	C 82 L 08	<a href="#">Brown</a>	3/20/08	<a href="#">HB 3309(HRules R)</a>