INTRODUCTION

The Legislature has just one short week left of the regular 2020 legislative session, as Friday March 7th signals the final cutoff for policy bills. Bills must get a Do Pass recommendation from the opposite chamber in order to stay alive. If bills did not move prior to the 5 o’clock deadline, they are not eligible for continued debate this year. After this point, only bills that are in conference (to iron out the differences between the two chambers) or are related to one of the three supplemental budgets will be discussed. There are always more bills on the calendar than time to take them up, so for lots of interest groups, this can be a time of disappointment or relief, depending on your point of view.

The unexpected “elephant in the room” has been the emergence of the coronavirus. Lawmakers, state agency personnel and the Governor have been keeping a close eye on the state and national news about this emerging illness. The race is on to finish this year’s legislative session and get everyone back to their homes quickly and safely. One of the discussions is how much and what kind of resources to devote to this health issue. As the budget negotiations proceed, we will all learn more about their thinking on this subject.

Another matter of interest to lots of observers is how will the legislature manage through the budget pressures in transportation, due to the passage of I-976. See the Budget section for more details on that and other related news.

BUDGETS

Conference negotiations melding the chambers respective budgets progressed this week with no major breakdowns.

OPERATING BUDGET.

• State Environmental Policy Act (SEPA) and greenhouse gas – The SEPA/GHG proviso was amended in the House Appropriations Committee to reflect an agreement WPPA reached with the Governor’s Office and the environmental community. The Senate budget does not include the proviso. With support from the Governor, the Washington Environmental Council and a number of business interests, we are guarded-ly optimistic about its chances. Directing Ecology to enter rule-making to address this problem is WPPA’s priority.

• Net ecological gain proviso – WPPA has been concerned about how this concept might be applied to port-related infrastructure projects through environmental permits. We have legal questions about whether permittees can be asked to do more than offset the impacts associated with a specific action. WPPA has been included in the study group established by the proviso. The proviso is only included in the House Operating Budget.

• GMA study proviso – The Senate directs the Department of Commerce to form a study group to consider how the report from the Ruckelshaus Center on the future of GMA might be implemented. The impact of land use decisions has a profound impact on port districts. WPPA will participate in the workgroup process if the proviso is included in the final budget. The proviso is funded by the Senate, but not the House.

• DNR land transfers – The Senate Operating Budget proposal would sharply limit the Department of Natural Resources ability to complete trust land transfers. Port districts have participated in these transfers in the past. The proviso is not included in the House budget proposal.

• Transfer to transportation – A transfer of $25M from the Operating Budget to the Transportation Budget is included in the Senate proposal but not in the House. The implications of this transfer (or lack of it) are discussed in more detail under the Transportation Budget below.
CAPITAL BUDGET. Last year the legislature authorized the state to issue $3.2B in bonds to support projects included in the Capital Budget for the 2019-21 biennium. Of the $3.2B, the legislature appropriated $3.183B, leaving $70M in remaining bond capacity available to address supplemental issues this session. In short, there is very little funding available from bond proceeds.

Increased appropriations for WPPA’s two Capital Budget priorities this session was possible because they do not depend on bond proceeds.

- The Community Economic Revitalization Board (CERB) asked the legislature to fund $10M in new projects using loan repayments from existing projects. Both House and Senate budgets include $10M for CERB.
- Remedial Action Grants are supported by revenue from the Hazardous Substances Tax created by the Model Toxics Control Act (MTCA). The House increased funding for these grants by $33.7M while the Senate provided only $23.7M. WPPA is supporting the larger House Capital Budget.

TRANSPORTATION BUDGET. The chambers had taken a decidedly different approaches to addressing the budget hole left by the passage of I-976, which approaches $453M for the current biennium alone. Both budgets use “underspend” to address a major portion of the shortfall. Underspend occurs typically when projects are delayed, resulting in the current funds allocated to the project being unnecessary, freeing those dollars to be allocated elsewhere. Both budgets release highway projects which were previously paused by the Governor back in November. Where the budgets diverge significantly is how they address paused projects funded by multimodal dollars. The House maintains delays to rail and transit projects funded by the multimodal account, into next biennium, while the Senate releases these projects from pause as well. To do this, the Senate receives a one-time transfer of $25M from the Operating Budget. Due to the release of more than $30M in rail projects from pause, WPPA testified in support of the Senate proposal but has concerns about the House’s budget proposal.

GOVERNANCE & ELECTIONS

SPECIAL PURPOSE DISTRICTS. As reported last week, the Senate amended ESHB 2588 in the Senate Local Government Committee to do the following:

1) Create a definition of an “unauditable” special purpose district, to be determined by the state Auditor’s office.

2) If a special purpose district is deemed unauditable, requires the state Auditor to notify the impacted county(ies) and prohibits the issuance of warrants except under certain circumstances.

3) Prohibit the state Treasurer from distributing local sales and use taxes imposed by the special purpose district until the district has had its
financial report certified by the state Auditor.  

An earlier version of the bill required all special purpose districts to post agendas and other documents on websites in specific timeframes. WPPA expressed concern about the requirement as burdensome to the very smallest port districts without staff or a website. Fortunately, the requirement was stricken in the new version of the bill. Now the proposal must return to the House for concurrence prior to the end of the legislative session.  

**ELECTION COSTS. HB 2421** relates to state reimbursement of election costs. WPPA had testified with concerns regarding the potential cost shift to ports and other local governments, but not with the underlying policy of providing pre-paid postage or voter pamphlets for all. The bill was amended in committee to remove voter education requirements and delay the effective date of the bill until after this election year. Since the bill has been amended in the second chamber, it must go back to the House for concurrence.

**EMPLOYEE PUBLIC RECORDS. HB 1888** has been further amended in the Senate Local Government Committee. New language was adopted specifying that dates of birth and photographs of public agency employees or volunteers are protected from public records requests, as are the employee birth and photo records of criminal justice agency employees in current law. The bill also mandates that agencies will notify employees of records requests relating to information in the employee’s personnel, payroll, supervisor, or training files. Additionally, the bill requires that employee notices declare that only information in employee records not exempt from disclosure requirements will be released. The bill must go back to the original chamber for concurrence.

**COMMISSIONER COMPENSATION ADJUSTMENTS. SB 6046** would have moved the next date of compensation adjustments from July 2023 until January 2024, allowing special purpose districts to plan for future compensation adjustments in their annual budgets (in January) rather than the middle of the budget year (in July). The bill did not make it through the most recent cutoff deadline and is therefore dead for this year.

**ENVIRONMENT**

**DERELICT VESSELS.** Senator Lovelett’s derelict vessel bill (2SSB 6528) passed the House on Thursday and will be delivered to the Governor for signature. In her comments supporting passage of the bill, Representative Shewmake cited the need to reduce the costs to public port districts. Cheers!

**CAP AND TRADE.** Also known as “CAP AND INVEST” (SB 5981) would create a marketplace for trading permits to emit carbon from regulated facilities. Revenue from the sale of these credits can be used by the state to fund other actions. While bills that would implement a “cap and trade” program in Washington appear to be dead for the 2020 session, we see it again next year as a source of transportation funding. WPPA needs to be prepared to participate in negotiations shaping this policy because of the link being made to transportation infrastructure by committee chairs.

**CLIMATE CHANGE GOALS TO GMA.** SHB 2427 creates a new climate change goal under the Growth Management Act (GMA) requiring jurisdictions to develop and implement plans, policies, and strategies that help achieve emission reduction limits. WPPA has monitored the bill because of its significance for future climate policies. The bill died in the Senate Local Government Committee.

**GREENHOUSE GAS EMISSION LIMITS.** E2SHB 2311 increases the pace at which greenhouse gas emission goals are achieved and states that by 2050, the state as a whole must achieve net zero greenhouse gas emissions. The bill passed the Senate on Thursday and is headed to the governor’s desk for signature.
Ending Use Of Fluorinated Firefighting Foam At Airports. HB 2265 passed the Senate this week and is on its way to the Governor for signature. The bill prescribes a timeframe for the winding down the use of fluorinated foams at airports and certain other fuel facilities. The foam is currently the only allowable product to be used as prescribed by the FAA. Airports will have up to three years to switch to a non-fluorinated foam once the FAA issues guidance on an alternative.

AVIATION

AVIATION LEGISLATION. While technically alive due to their budget implications, WPPA’s two aviation priorities for the session are on life support:

- HB 1457 which would reallocate 1% of the aviation fuel tax to be spent on airport infrastructure. This bill has a very slim chance as finalized budgets must include a transfer of funding from the operating budget to the transportation budget for this bill just to be possible.
- SB 5011 did not make it off the House floor prior to cutoff likely killing this bill for the year. The bill would make the Community Aviation Revitalization Board permanent. The board has awarded a portion of its existing $5 million in funding secured during the 2019 legislative session. Since the program is currently funded in the Capital Budget, this bill may be necessary to implement the budget. WPPA will continue to seek a viable path to move this forward.

TRANSPORTATION

RAILROAD CREW SIZE. Passage of HB 1841, mandating the use of a two-person crew for Class I Railroads, got a step closer to passing today with a vote 34-15 on the Senate floor. WPPA was successful in adding a pair of amendments that exempt shortline (Class III) railroads from the mandate. The bill requires concurrence in the House prior to going to the Governor for signature. This is the sixth year this policy has been debated in Olympia. If passed into law, this legislation could be challenged in the courts with the potential of being federally preempted.

LOW CARBON FUEL STANDARD (LCFS). 109 people testified when the Senate Transportation heard HB 1110 earlier this week and then it did not pass out of committee. This bill would establish a Low Carbon Fuel Standard in the state. Currently, over 40% of greenhouse gas emissions in Washington result from transportation and this bill attempts to address this by providing incentives for the use of more less carbon intensive energy to transport people and goods in the state. While this policy is a priority for the Governor, there does not appear to be a clear path forward for this legislation and sine die is fast approaching.

ECONOMIC DEVELOPMENT

LOCAL REVITALIZATION FINANCING. HB 2804 would reestablish the local revitalization financing program (LRF) and permit a state sales tax credit for projects approved after January 1, 2021. The bill was passed by the House this week with a strong 94-3 vote. It has been sent to the Senate Ways & Means Committee, which will be the first time the Senate has heard this proposal. Since the funding of this program affects the state general fund budget, the bill remains alive for the rest of the session. WPPA is communicating to Senators the importance of this economic development program and asking for passage of this bill.