



**COMMISSION
AGENDA MEMORANDUM**

Item No. 9b

BRIEFING ITEM

Date of Meeting May 28, 2019

DATE: May 21, 2019
TO: Steve Metruck, Executive Director
FROM: Eric Ffitch, Manager, State Government Relations
Nate Caminos, Director, Government Relations
SUBJECT: 2019 State Legislative Session Review

EXECUTIVE SUMMARY

The purpose of this briefing is to provide the Port of Seattle Commission, Executive Director, and Executive Leadership Team with a final report on the 2019 State Legislative Session, with specific attention given to the Port’s 2019 State Legislative Agenda.

On Sunday, April 28th, the House and Senate both adopted conference reports (consensus amended bills) on the Operating Budget, Capital Budget, and Transportation Budget, and adjourned “sine die” (i.e. without designating a future date). This marks the end of the 2019 state legislative session, concluding in 105 days for the first time in a budget year since 2009.

Overall, it was a productive session for the Port of Seattle’s priority issues, save for the Legislature’s failure to enact a low-carbon fuel standard. Several Port of Seattle priorities were debated in the final days of session, including passage in the final week of legislation to reform the Model Toxics Control Act program, legislation to authorize tolling and accelerate the construction of the Puget Sound Gateway program and, hours before adjourning on Sunday, April 28th, the adoption of Initiative 1000.

The final budget compromise funded the Maritime Innovation Center with a full \$5 million, included \$1.75m for the fishing pier at Pier 86, and funded other priorities for the Port of Seattle, such as core plus education.

The memo below attempts to provide a comprehensive review of the final status of all legislative issues on which Port staff and commissioners engaged this legislative session.

MORE WORK TO BE DONE:

Clean Fuels Standard: As the end of session approached, rumors began to swirl in the state capitol about a final effort to enact a Clean Fuels Programs statewide. Advocates who had spent all session supporting HB 1110 met with staff from the Governor’s office and Senate leadership to discuss the prospect of a small transportation package, funded by a gas tax and other

Meeting Date: May 28, 2019

revenue-raising proposals, that could be paired with a low-carbon fuel standard and passed through the Senate.

Early on Friday morning, April 26th, a draft proposal was released that sought to amend the Senate Transportation budget with a compromise proposal that included a small gas tax to fund transportation, a low-carbon fuel standard, and some of the compromise language that Sen. Hobbs had sought in the Transportation Committee’s consideration of HB 1110 (i.e. his “alternate compliance” pathway).

With little time to review and considerable concern from environmental groups, the Port did not engage directly in the debate on this amendment. In its committee hearing, the proposed amendment was opposed by groups on both sides of the low-carbon fuel standard issue and did not move forward. With the Legislature’s adjournment on Sunday, April 28th, the effort to enact a low carbon fuel standard will have to be taken up next session.

Maritime High School: Despite its inclusion in the House-passed operating budget proposal, and apparently lack of controversy or opposition, the final operating budget deal *did not* include \$100,000 for a maritime high school study at the Office of Superintendent of Public Instruction. That funding was put forward by Rep. Gael Tarleton and included in the initial House operating budget proposal, but not the Senate version. Staff is seeking clarity on why the funding was removed in a final deal and will work to advance this effort in the 2020 session.

SUCCESS FOR PORT PRIORITIES:

Workforce development: Governor Inslee signed HB 1568 into law on Wednesday, April 24, 2019. This bill confirms that funding and leading on workforce development programming is within the authority of port districts, as part of their economic development authority. It has been a priority bill for the Port of Seattle since 2016, and this year the Port was joined by the Ports of Port Angeles, Moses Lake, Vancouver, and Everett in seeking its passage. Other partners included the maritime unions, the Association of Washington Business, and more.

Initiative 1000 (I-200 repeal effort): For the third consecutive session, Commissioner Bowman traveled to Olympia to share the Port of Seattle’s perspective on the challenges of reaching our minority contracting goals with Initiative 200 in effect. The testimony took place at a joint meeting of the Senate State Government, Tribal Relations, and Elections Committee and the House Civil Rights and Judiciary Committee. That hearing was kicked off by a panel of Governors Gregoire, Locke, and Evans, all speaking in support of Initiative 1000.

Initiative 1000, which amends Initiative 200 to allow public entities to grant preference on the basis of race, gender, or national origin, passed the House and Senate on the final day of session. It will take effect on July 28, 2019.

Meeting Date: May 28, 2019

Puget Sound Gateway tolling: SB 5825 was passed by the House and Senate in the dying days of legislative session. One of the Port’s priority bills, to authorize tolling and accelerate construction of the Puget Sound Gateway program, SB 5825 took over from the House proposal as the vehicle for passage this session. It was the subject of an intense lobbying effort the final week of session, to secure the 60 percent of votes it needed to pass (because it authorizes bonds, it requires more than a simple majority vote for passage). Since the development and finalization of the 2015 Connecting Washington Transportation Package, the Port has been a primary advocate for the construction of the Puget Sound Gateway Program, connecting SR 167 and SR 509 to Interstate 5, and speeding freight movement throughout the region.

SB 5825 was signed into law on May 21, 2019.

Model Toxics Control Act: In the early morning hours of Sunday, April 28th, the House voted to concur in the Senate amendments to SSB 5993, a bill to reform the Model Toxics Control Act. Port staff testified in support of SB 5993 in its first hearing at the Senate Ways and Means Committee on Wednesday, March 27th. That bill sought to increase the funding available for remedial action grants, changed the Hazardous Substance Tax from a value-based calculation to a volumetric calculation, and brought transparency to MTCA that had been lacking.

The bill also established a specific account for the operating expenses at Dept. of Ecology which had long counted on borrowing MTCA funds and makes that transfer official and codified. The original proposal also set up some specific funds for stormwater, to prevent the annual fight between stormwater and Remedial Action Grants. *And*, the bill established an “inflator” mechanism so the volumetric taxation rate will keep pace with inflation. While the final proposal was moderated a bit through compromise as it moved through the committee process, the structural reforms remained in the final version, and the Port maintained its support for the measure.

The Port was glad to join the Washington Public Ports Association, the Association of Washington Cities, the Washington State Association of Counties, the Washington Environmental Council, the Nature Conservancy, and others in advocating for this bill.

State commercial aviation coordinating commission: Legislation brought forward by Senator Karen Keiser and Representative Tina Orwall, to convene a statewide commercial aviation coordinating commission charged with recommending a site for a future primary commercial service airport, went to a “conference committee” with the House in the final week of session. On Thursday, April 25th, the Conference Committee (three House members; three Senate members) came to agreement, and the final bill included the following changes from its initial version:

- Remove the Governor/his designee and the Freight Mobility Investment Board from the coordinating commission; added WSDOT Aviation and a freight forwarder

Meeting Date: May 28, 2019

- Adds in, as non-voting members of the commission: a representative from the Department of Defense; four legislators, two from the Senate and two from the House; a statewide environmental organization; an organization concerned with water/land use policy
- Removed staff from the 4th and 9th district Congressional offices
- Requires a sixty percent vote of the committee to recommend a future site
- Requires the research on a site done in this process to include: the feasibility of constructing a commercial aviation facility in that location and its potential environmental, community, and economic impacts
- Delays the timeline for the study submission to Jan. 1, 2022 (Governor's compromised had offered 2023; 2022 was the compromise date)
- Prevents the commission from recommending: (a) upgrades at a King County airport or (b) any military facility where commercial aviation would conflict with military operations

The Port of Seattle continued to express support for this effort, while not advocating for any amendments, as directed by the Commission. The Senate and House both adopted the conference committee report unanimously, and SSB 5370 was signed into law by Governor Inslee on Monday, May 13, 2019.

Rep. Fey's "Green Transportation Package": On Sunday, April 28th, the last day of session, the Senate accepted the House amendments and passed Rep. Fey's bill to bring some common sense reforms and new policies to the state's efforts around transportation electrification. Some of the policies contained in that proposal are as follows:

- New incentives for electric vehicles purchases, including a pilot program to promote electric vehicle use by low-income residents;
- Incentives for alternative fuels, including a Business & Occupation Tax exemption that's extended to 2029 and expanded to include alternative fuel infrastructure projects;
- Green Transportation capital grants to help transit agencies to electrify their vehicle fleets, upgrade their electrical transmission and distribution systems or construct charging and fueling stations;
- Reforms to aid the development of electric car-sharing services and businesses;
- Enhances efforts to get cars off the road through increased carpooling, vanpooling, telecommuting, walking, biking or taking mass transit

Port of Seattle staff signed in "PRO" on HB 2042 as it made its way through the legislative process.

Meeting Date: May 28, 2019

The bill was signed by Governor Inslee on Tuesday, May 7th, as part of a suite of other energy bills signed in a public ceremony at a park in South Seattle.

Transportation electrification: SHB 1512, the Seattle City Light priority bill on which the Port and the Northwest Seaport Alliance were partners in advocacy, passed the Senate and was signed into law on April 23, 2019. That policy will allow utilities more authority to engage in transportation electrification capital investment. As it made its way through the legislative process, staff from NWSA provided testimony and Port of Seattle staff signed in “PRO” and raised the issue in meetings with lawmakers before and during session.

Job-order contracting: HB 1295 was recommended to the legislature by the Capital Projects Advisory Review Board, an entity on which the Port of Seattle’s Bob Maruska enjoys a leadership role. The bill improves flexibility in contracting for public entities, including through the authorization of expanded use of “job-order contracting” (JOC). Under JOC, a contractor agrees to perform an indefinite quantity of public works jobs, defined by individual work orders, over a fixed period of time. A job order contractor must subcontract 90 percent of the work under the contract.

HB 1295 was passed by the Senate on April 16th and Governor Inslee signed the bill on Tuesday, April 30th, 2019.

Human trafficking: This session, the Port joined in Rep. Pellicciotti’s effort to pass two bills intended to address the effects of human trafficking. HB 1382 helps ensure people in prostitution who are victims of crimes as a result of their work (i.e. raped, robbed, beaten) can come forward to report their victimization and receive immunity from being prosecuted for prostitution because of their report. And under HB 1383, patronizing a prostitute is increased to a gross misdemeanor upon the second or subsequent conviction under state law or under an equivalent municipal ordinance.

HB 1382 passed both chambers and was signed by the Governor. But HB 1383 did not advance before the “cutoff” deadline and will have to be taken up again next session.

100 percent clean electricity: One of the central environmental accomplishments in the state legislature this session was the passage of ESSB 5116, the “one hundred percent clean electricity” effort led by Sen. Carlyle and Rep. Tarleton, at the request of Governor Inslee. This effort requires all utilities to eliminate coal-generated electricity from their supply by 2025 and calls for one hundred percent renewable sources for electricity by 2045. It has been the focus of an expansive advocacy effort and a central priority for Governor Inslee and broad swaths of the Democratic caucuses in the House and Senate all session long. The Port was a consistent supporter of this effort as it moved through the process.

The Governor signed ESSB 5116 into law on May 7, 2019.

Meeting Date: May 28, 2019

Electric aviation: Rep. Vandana Slatter (D-48th LD, Clyde Hill, Medina) has been leading a conversation in the state about the potential use of hybrid or hybrid-electric aircraft for short, regional flights in Washington. The Port has been participating in an Electric Aviation Work Group that Rep. Slatter had secured funding to convene in the 2018 supplemental transportation budget. HB 1397 sought to continue that work group and provide enough funding for WSDOT to hire a consultant to broaden the research done by the group. The Port supported this bill, but it did not advance.

Although HB 1397 did not receive a vote in the Senate before the final “cutoff” deadline of the year, funding for the electric aircraft work group was included in the final transportation budget.

Final budget outcomes:

Port of Seattle interests in operating budget:

- Sustainable aviation biofuels work group: The final operating budget includes \$20,000 for WSU to continue convening the state’s sustainable aviation biofuels work group through 2020.
- Streamlined sales tax: In the final budget deal, SST mitigation payments continue for an additional biennium, and are booked to continue through the 4-year budget outlook. \$16.4 million was allocated over the biennium, considered strong funding compared to what was included in the initial Senate budget offer.
- Air cargo language: The final budget compromise includes \$125,000 to the Department of Commerce in the 2020 and 2021 budget years to fund a partial employee dedicated to implementing the recommendations of the Joint Transportation Committee’s air cargo study. House operating budget does not contain equivalent language.
- Airport health study: The budget also includes \$125,000 in funding over the next biennium for Public Health-Seattle/King County “to conduct a study on the population health impact of the SeaTac airport communities.” Senator Keiser has told stakeholders that she views this as the next phase of the study currently underway by the University of Washington, of which the Port is a partial funder.

Port of Seattle interests in capital budget:

Meeting Date: May 28, 2019

- Maritime Innovation Center: The final capital budget included \$5m for the Department of Commerce to partner with the Port of Seattle to develop the Maritime Innovation Center.
- Pier 86/North Elliott Bay Public Dock and Marine Transit Terminal: The final capital budget deal included \$1.75m for reconstructing the fishing pier at Pier 86. That is more than the initial House level (\$750,000) and the initial Senate level (\$1,000,000), and Expedia have said that if the Port of Seattle can contribute an additional \$1m, they will provide their entire pledged \$3m.
- MTCA grants: With the passage of SB 5993, the final Capital Budget included stronger than expected funding for remedial action grants under MTCA. While the Port did not receive the roughly \$3m for the Lower Duwamish that was originally proposed by the Senate Capital Budget chair, there was some funding included for Duwamish cleanup work being done by our partners at Seattle Public Utilities.

Port of Seattle interests in transportation budget:

- SR 518 study extension: A small but important priority for this session, Port staff have been working with the House and Senate Transportation chairs and their staff to extend the due date for a study of congestion issues on the SR 518 corridor. *Extension language is now in both the House and Senate operating budget.*
- Ballard-Interbay Regional Transportation Project: The final transportation budget included a proviso authored by Rep. Tarleton/Sen. Carlyle to fund a report at WSDOT on strategies to “improve mobility for people and freight” in the Ballard-Interbay corridor. Port staff participated in meetings convened by Reps. Tarleton and Frame, Sen. Carlyle, and CM Sally Bagshaw over the course of 2018 on this topic, and there was some expectation that Rep. Tarleton would seek funding for a study as described above.

Issues that did not advance:

Data privacy and facial recognition: This session, both chambers debated bills that sought to put in place new consumer data privacy protections. These included efforts to regulate the use of facial recognition technology, which would have had implications on airport operations. Staff communicated with Sen. Carlyle early in the process about the use of this technology at the airport, and Delta Air Lines also met with many members to express concerns as the process

Meeting Date: May 28, 2019

went forward. *In the end, SB 5376 did not garner consensus and no legislation on data privacy or facial recognition moved forward this session.*

Aircraft noise abatement: Rep. Pellicciotti’s proposed legislation, HB 1847, to expand the boundaries within which the Port has statutory authority to conduct noise abatement programming was not considered for a vote in the Senate prior to the final “opposite chamber cutoff” of the year, and it died. *Because this was the first year of a “legislative biennium,” it will remain an active legislative proposal when the 2020 legislative session convenes next year.*

Port automation prohibition: For a brief few days in Olympia, early in session, it looked as though port districts and labor unions may have cause for substantial disagreement. SB 5905 was introduced by Senator Saldaña on February 13th, and would’ve prohibited port districts from using public funds to purchase equipment that could lead to automation of operations. That bill instantly attracted the attention and opposition of port districts, and the sponsor agreed to remove it from its public hearing and not bring it up again this session. *It will remain an active proposal in 2020.*

Transportation Network Companies: In spite of a series of lengthy and substantive meetings over the interim, Uber, Lyft, and their various regulators and local government stakeholders (i.e. City of Seattle, Port of Seattle, King County, City of Tacoma, City of Everett, Washington State Association of Cities, Sheriffs and Police Chiefs, etc.) could not reach agreement on legislation to establish a statewide regulatory regime. That was the goal of the summer stakeholder meetings convened by King County, but the conversation tended to reach deadlock when issues of data sharing and background checks came to the table. *No consensus bill was introduced in Olympia, then, but the TNCs did introduce the bill they’ve sought in each of the last three sessions. It was opposed by those government groups mentioned above, and others, and did not move forward this session.*

Greenhouse Gases and the State Environmental Policy Act: The Port of Seattle signed in “other” at a House Environment and Energy Committee hearing on HB 1549, a bill that directed the Department of Ecology to initiate a rulemaking to clarify how greenhouse gas emissions are calculated under the State Environmental Policy Act. The proposal was the subject of advocacy from the Washington Public Ports Association but was opposed by the Department of Ecology and the Washington Environmental Council. Staff followed up our “other” sign-in with a brief email statement to the Committee expressing general support for the intent of the bill but affirming that the Commission did not yet have an official position on the measure. That bill died but was expected to become a budget proviso establishing a stakeholder process for the interim, intended to give Ecology direction to begin a rulemaking process in this area. *The final budget compromise DID NOT include a budget proviso funding this stakeholder process, so it remains on hold.*

Meeting Date: May 28, 2019

License plate readers: Legislation was introduced and considered that would restrict the use of Automated License Plate Reading Systems (ALPRS) and could have had implications on some Port of Seattle efforts, specifically at the airport. *Staff discussed concerns briefly with the member sponsoring the legislation. It did not move beyond its initial public hearing but will remain an active proposal in the 2020 legislative session.*

ATTACHMENTS TO THIS BRIEFING

- (1) Presentation slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

December 11, 2018 – The Commission approved the 2019 State Legislative Agenda

November 27, 2018 – The Commission was briefed on the 2019 State Legislative Agenda

May 8, 2018 – The Commission was briefed on the final outcomes of the 2017 Legislative Session