



2019 Legislative Session Final Report

8.20.2019

WASHINGTON STATE

Overview

The 66th Legislature of the State of Washington adjourned its 105-day regular session with just minutes to spare. With some of the highest democrat majorities since 2009 after an influx of 26 new members from the previous election, leaders in both chambers made it clear from the beginning of session that taxes would be part of the budget. Of the 2211 bills introduced, the Legislature passed 481 and the Governor approved 467. For the most part, these new laws became effective July 28. Amidst the closure of session, was recognition of Representative Frank Chopp (D-Seattle) who is stepping down from his position as the longest serving Speaker of the House in Washington State history. In addition, Governor Inslee announced his interest in running for President that led lawmakers to debate the funding necessary for security during his campaign travels and the advancement of his clean energy platform.

The final \$52B operating budget relies on \$2.1B in new taxes despite a \$2.8B surplus and includes funding to study removing the Snake River and lower Columbia River dams. The transportation budget saw an emphasis on establishing an I-5 Columbia River Bridge Office and legislation to streamline the replacement of the I-5 bridge once a project is identified between Oregon and Washington leaders. In the capital budget, the Port of Vancouver was provided funding towards its Terminal 1 renovation. New laws affecting the maritime industry include pilot rest break rules and a slew of bills aimed at promoting the recovery for the Southern Orcas Resident Whales. Additionally, lawmakers passed a series of new taxes on service companies, banks, real estate transactions and hazardous substances. Legislation unique to Southwest Washington includes SB 5362 to establish a deferred prosecution program for out of state license and vehicle registration violations and SB 5997 to change the non-resident sales tax exemption into a refund program. For bills that failed to pass in 2019, they are automatically carried forward to the 2020 legislative session. This includes failed legislation on artificial intelligence and environmental justice.

The partisan divide from the 2019 legislative session is likely to continue in 2020 as the elections get closer for half of the Senate and the entire House of Representatives. The House will have its first female Speaker in state history as Representative Laurie Jenkins takes the helm. Additionally, the desire of many democrat lawmakers to establish a state income tax or capital gains tax may take revised approaches after the recent court decision on the Seattle income tax. This fall, voters will weigh in on Initiative 967, the measure to roll back license tab fees to \$30 and the related transportation investments while the Department of Labor and Industries is proposing substantial changes to their rules on which employees are eligible for overtime pay. Finally, the Department of Ecology is once again considering a tax on inbound vessels and the Puget Sound Air Quality Authority is considering adoption of a regional carbon tax before the year is over while legislators have indicated interest in taking a sector approach to carbon policy in the coming years.

BUDGETS

Operating

House and Senate democrats reached a budget deal late in session after they both included different forms of taxation in their initial budgets. HB 1109 (Chapter 415, 2019 Session Laws) as signed into law is a \$52.1B biennial budget that relies on \$2.1B in new taxes on service business, banks, real estate transactions and hazardous substances. With \$8B in new spending, the final budget is an 18% increase in overall budget size from the previous biennium that is largely driven by investments in K-12 resulting from the McCleary court decision. The budget also provides the Office of the Governor with \$750K to contract with a neutral third party to establish a process to address issues associated with the possible breaching or removal of the four lower Snake River dams in order to recover the Chinook salmon population. Additionally, the final budget includes \$290K for rulemaking at the Department of Ecology to change the standards to allow for a higher volume of water to be spilled over Columbia River and Snake River dams to increase salmon runs. \$477M is allocated for state employee collective bargaining agreements, \$248M for behavioral health and substance abuse treatment services, \$155M for special education funding increases and \$44M for Department of Commerce programs to reduce homelessness. The debate in the House was largely partisan over the increased taxes while in the Senate, democrat Senators Mullet and Sheldon sided with republicans against the final budget. Senator Mullet expressed concerns over the transparency of the process and his willingness to go into special session in order to allow a thorough and transparent debate.

Capital

The Capital budget, SHB 1102, (Chapter 413, 2019 Session Laws), was largely non-controversial and provides \$175M for affordable housing projects statewide, \$70.1M for clean energy technology, energy efficiency grants, weatherization, and housing rehabilitation, \$148.8M for toxic cleanup and \$119.9M in community based behavioral health services. Locally, the capital budget provides \$4.7M for the Terminal 1 renovation at the Port of Vancouver to modernize the Vancouver Landing amphitheater and to build a stormwater system while connecting the East entrance of the Renaissance Trail that runs along the Columbia River. The capital budget also includes \$8.6M for loans and grants to be competitively awarded by the Community Economic Revitalization Board (CERB) for projects that construct, repair, and acquire local public facilities to encourage business development and expansion in areas seeking economic growth.

Transportation

The biennial Transportation Budget, HB 1160, (Chapter 416, 2019 Session Laws) continued the funding of the Connecting Washington package while conversations occurred in separate legislation over the next transportation investment package. Additional revenue was provided in the transportation budget from the hazardous substance tax, SB 5993, that dedicates \$50M for stormwater costs. The budget began investment in funding the \$4B fish passage barrier removal funding with \$100M for culvert replacements and prioritized the replacement of the I-5 Columbia River Bridge with \$35M for a bridge office and initial project development. Meanwhile, the Freight Mobility Strategic Investment Board (FMSIB) lost \$15M in funding. The Governor when signing the transportation budget, vetoed a single sentence in six different sections, "Fuel type may not be a factor in the grant selection process." In Washington state, the governor has limited veto authority and can only strike an entire section and the Legislature approved a lawsuit against the Governor for his veto actions on the transportation budget.

ORCA RECOVERY

Task Force Recommendations

The Southern Resident Orca Task Force was established through an executive order issued by Governor Inslee to address the declining numbers of whales. The Task Force received over 18,000 comments and developed 36 recommendations to address prey, diet, vessel traffic, noise and pollution. The Legislature included funding in the budget to study the removal of dams and to increase spill levels in addition to legislation to establish whale watching boating safety education program, address toxic pollution and to food supply for Orcas. The Task Force will monitor the implementation of these bills during its second year, the overall health of the Orcas and climate impact. Failed recommendations that are likely to get reconsidered in the 2020 legislative session include reducing Chinook bycatch in West Coast fisheries, funding a study to see if harbor seal and sea lion predation are a limiting factor for Chinook, creating an orca, protection endorsement for recreational boaters, banning orca viewing and changing boat permit applications.

Dams

Buried in the operating budget, HB 1109 (Chapter 415, 2019 Session Laws) funds a study of dam breaching in Section 118(4) and provides funding to adopt rules for increased spill levels in Section 301(17). The Office of the Governor is provided \$750K to contract with a neutral third party to establish a process to address issues associated with the possible breaching or removal of the four lower Snake River dams in order to recover the Chinook salmon population. \$290K is provided for rulemaking at the Department of Ecology to change the standards to allow for a higher volume of water to be spilled over Columbia River and Snake River dams to increase salmon runs. Recently EconNW released a study on breaching dams that suggests large cities like Fresno and Butte would support up to \$40 increased electrical bills to remove the four dams. Critics of the report have pointed to the flawed economic analysis that does not consider impacts to recreation, tourism and cruise industries in addition to leading survey questions and other false assumptions. CRSOA and many other business, maritime and economic development groups opposed the funding for the dam study as the four lower Snake River dams are critical links in the movement of goods by water transport to Deepwater ports of the Columbia River. The removal of the dams would have significant social, economic and environmental impacts, is not economically feasible, and the state should not spend tax dollars to repeat a federal study that is underway. The dams are integral to our economy and provide important family-wage jobs, tax revenues and economic opportunities. With 10 percent of all U.S. wheat exports passing through the four lower Snake River dams moving more than nine million tons of cargo by barge on the Columbia-Snake River System that would otherwise be moved with 96,000 rail cars or over 370,000 semi-trucks.

Vessel Traffic

With an emphasis on the commercial whale watching industry, SB 5577 (Chapter 291, 2019 Session Laws) increases the approach distance for vessels from 200 to 300 yards. This was initially proposed at 400 yards and negotiated by Representative Brian Blake to the 300 distance. The new law also prohibits vessels from being positioned behind a whale at any point within 400 yards. Speed limits are set at seven knots within one-half nautical mile and a second-degree misdemeanor is established for commercial whale watching without a permit. The Department of Ecology is

granted fee and rulemaking authority, directed to conduct an independent study small vessel noise and traffic, analyze the effectiveness of the new law and report to the Legislature by November 30, 2022 and every two years until 2026. Finally, the law requires the statewide tourism marketing plan to include the topic of sustainable whale watching.

Oil Transportation

HB 1578 (Chapter 289, 2019 Session Laws) was signed by the Governor to establish tug escort rules for oil tankers in the Puget Sound by December 31, 2025. Additionally, a study must be conducted on if emergency response towing vessels serving Haro Strait, Boundary Pass and Rosario Strait will reduce oil spill risks. The Department of Ecology and the Puget Sound Board of Pilotage Commission will develop rules and consider the effects of regulations on vessel traffic patterns and oil spill risks in the Salish Sea by October 1, 2028. While exceptions are provided for oil tankers authorized by the Coast Guard, the law directs Ecology to assess current and potential future risks of oil spills from covered vessels in addition to oil tankers. The law also requires a review of vessel traffic impacts on treaty-protected fishing with federally recognized Indian tribes, first nations and other stakeholders.

Orca Food Supply

HB 1579 (Chapter 290, 2019 Session Laws) is aimed at increasing the food supply for Orcas and increases catch limits for bass, channel catfish and walleye in order to increase Chinook abundance and allows for three demonstration projects by December 31, 2020. The bill also provides authority to the Department of Fish and Wildlife to disapprove hydraulic permits if the activity will harm the food supply for Orcas.

Toxic Pollution

The purpose of SB 5135 (Chapter 292, 2019 Session Laws) is to limit pollution and toxic exposure for the Southern Resident Orcas Whale. The new law directs the Department of Ecology to consult with DOH to identify and reduce priority chemicals and priority consumer products. Under the new law, the Department of Ecology may restrict or prohibit a priority chemical in a consumer product. Rules are required to get adopted by June 1, 2023, updated again by June 1, 2028, and every five years.

Whale Watching

SB 5918 (Chapter 293, 2019 Session Laws) requires the Boating Safety Education Program to establish whale watching guidelines and provide educational materials to boaters. Other voluntary and regulatory measures related to whale watching.

PORTS

Vehicle Marine Cargo

Before the start of session, the Department of Revenue raised concerns with the Northwest Seaport Alliance about the exemption for marine cargo when using public roadways. To clarify the matter, HB 1254 (Chapter 94, 2019 Session Laws) was passed to exempt automobiles as marine cargo from vehicle licensing and registration requirements when moving from a single port property to another that is connected by a city or county street. Vehicles shipped as marine cargo are exempt from vehicle registration if the vehicles are operated from wharves to and from storage areas or terminals owned by a public port; or between storage areas or terminals owned by a public port; and at least part of the operation takes place on public roadways connecting facilities of a single public port.

Imports

The Legislature passed SB 5581 (Chapter 8, 2019 Session Laws) in response to the U. S. Supreme Court decision, *South Dakota v. Wayfair, Inc.*, which overturned the longstanding physical presence nexus precedent and upheld a South Dakota law that imposed a sales tax collection obligation on sellers with gross sales over \$100,000 or at least 200 transactions in the state in the current or prior calendar year. The new law is intended to address conflicts between current tax laws related to the collection of sales taxes and the *Wayfair* decision. SB 5581 partially repeals some of the import exemption assumptions and is limited to wholesale sales of tangible personal property in import commerce when the wholesale is between a parent company and its wholly owned subsidiary or the sale of unroasted coffee beans. Affecting approximately 15,000 taxpayers, SB 5581 increases state revenues by \$115.9 million the first biennium and \$42.1 million for local governments.

Port Worker Development

HB 1568 (Chapter 117, 2019 Session Laws) requires local workforce boards to work with ports and their customers on their training needs. The bill includes both public and private education groups in order to maximize training opportunities to match needs by the port community.

Dredged Materials

SHB 1480 (Chapter 225, 2019 Session Laws) states that a permit is not required in order to dispose of dredged materials at a disposal site approved through the cooperative planning process, if the dredged material disposal proponent has obtained a valid site use authorization from the dredged material management program office within the department of natural resources.

Campaign Contribution Limits

HB 1375 (Chapter 100, 2019 Session Laws) was passed to fix an exemption in campaign law for small port districts that allow unlimited campaign donations. The new law applies campaign contribution limits that are applicable to port districts with over 200,000 registered voters to all port district offices regardless of the number of registered voters. The new law goes into effect for this campaign cycle which would limit donations to about \$1000 per election.

EMPLOYMENT LAW

Pilot Rest Breaks

The Legislature passed request legislation from the Puget Sound Board of Pilotage to rest breaks for Puget Sound pilots with their policies. HB 1647 (Chapter 123, 2019 Session Laws) changes rest breaks from 7 hours to 10 hours with an opportunity to 8 hours of uninterrupted sleep after completion of an assignment. Mandatory rest periods are required after three consecutive night assignments, as defined by the Board of Pilotage Commissioners (BPC). The provision authorizing the BPC to impose sanctions for a pilot's or pilot trainee's refusal of an assignment is removed and instead a pilot trainee must not take a training program trip if the pilot trainee is physically or mentally fatigued or if the pilot trainee has reasonable belief that the training program trip cannot be carried out in a competent and safe manner.

Affirmative Action

In the last hours of session, lawmakers passed Initiative 1000 (Chapter 160, 2019 Session Laws), the measure to repeal a ban on affirmative action found in Initiative 200 from 20 years ago. I-200 prevented preferential treatment based on sex, ethnicity, color, race or national origin.

Soon after session was over, citizens came together and filed Referendum 88 to give the voters the ability to decide on Initiative 1000. R-88 will be on the fall ballot.

ENVIRONMENT

Clean Energy - SB 5116

Establishing policies for a clean energy future was a priority for Governor Inslee this session and SB 5116 (Chapter 288, 2019 Session Laws) was passed to establish deadlines for utilities to make that transition. Electric utilities are required to eliminate coal from the grid by December 31, 2025. Additionally, all electric retail sales are greenhouse gas neutral by January 1, 2030 and utilities must provide renewable resources supply 100 percent for all electricity by January 1, 2045. The new law also extends the sales and use tax credit for manufacturing equipment for utilities investing in clean energy transitions. As part of Governor Inslee's clean energy package, HB 1444 requires the Department of Commerce to adopt rules for new efficiency and testing standards for appliances.

Carbon

After voters refused to pass a carbon tax by initiative twice in Washington, lawmakers implemented different strategies for advancing the issue. Senator Hobbs introduced a package of bills, SB 5970, SB 5971 and SB 5972, to establish a \$17B transportation funding package that relied on a \$15 per metric ton carbon tax, gas tax, weight fees and impact fees. Projects included \$450M for replacement of the I-5 Columbia River Bridge. A competing proposal was introduced by Senator Carlyle, SB 5981 to establish a cap and trade system like California while still providing a portion of the revenues for transportation improvements and the I-5 bridge. Meanwhile, Representative Fitzgibbon introduced HB 1110 to establish a low carbon fuel standard by reducing transportation greenhouse gas (GHG) emissions by 20% by 2035. While these efforts failed to pass, several targeted bills passed the legislature. This includes HB 1112 (Chapter 284, 2019 Session Laws) that directs the State Building Code Council to adopt codes that do not require the use of ozone depleting substances and HB 2042 (Chapter 287, 2019 Session Laws) to extend tax credits for electric vehicles. Lawmakers are continuing conversations over the interim over a bigger carbon package and a targeted sector approach for emission reductions.

EFSEC Process

Legislation to address the Energy Facility Site Evaluation Council (EFSEC) process was introduced both the House, Senate and budget process but ultimately failed to pass. SB 5329 and HB 1332 would streamline the operations and SB 5561 and HB 1549 would establish a process by which lead agencies evaluate environmental impacts of greenhouse gas emissions when conducting environmental review of project and non-project actions under the state environmental policy act. An effort to establish a workgroup to recommend a framework for evaluating greenhouse gas emissions under the State Environmental Act was considered but not included in the final budget.

Voluntary Cleanups

SHB 1290 (Chapter 95, 2019 Session Laws) was passed to establish an expedited process for the Department of Ecology to provide advice for voluntary cleanups. Ecology is required to have full cost recovery for providing advice and assistance under the Model Toxics Control Act, however Ecology can waive the collection of costs for advice and assistance when the owner of a property commits to developing the property for affordable housing.

TAXES

Tax Package

Several new tax laws were part of the final budget agreement. This includes HB 1087 to establish a 0.58% payroll tax, HB 2158 to create a tiered business and occupation tax surcharge on service companies, HB 2167 to impose an additional 1.2% business occupation tax on banks and SB 5313 to revise property tax levies. Additionally, SB 5997 changes the non-residents sales tax exemption to a refund program and SB 5993 changes the hazardous substance tax to a volumetric tax. These taxes and others raise over \$1.93B the first biennium and \$21.7B in 10 years (see chart).

Tax	Bill	2-year	4-year	10-year	Effective Date
Long Term Care Payroll	HB 1087	-	\$2,090	\$8,930	July 28, 2019
B&O Services	HB 2158	\$380	\$945	\$3,009	July 28, 2019
Banks	HB 2167	\$133	\$339	\$1,089	July 28, 2019
Property Tax	SB 5313	\$1,422	\$2,976	\$8,661	July 28, 2019
MTCA	SB 5993	\$165	\$361	\$1,075	July 1, 2019
Graduated REET	SB 5998	\$244	\$598	\$1,884	January 1, 2020
Non-Residents	SB 5997	\$54	\$113	\$327	July 1, 2019
Travel Agents	SB 6004	\$5	\$11	\$32	July 1, 2019
Intl. Investment Svc.	SB 6016	\$59	\$125	\$368	July 1, 2019
TOTAL (Dollars in Millions)		\$2,462	\$7,558	\$25,375	

Long-Term Care Payroll Tax

HB 1087 (Chapter 363, 2019 Session Laws) to establish a new long-term care payroll tax goes into effect on July 28, however there are different effective dates for elements of the new law. HB 1087 provides \$36,500 lifetime long term care benefits adjusted annually by consumer price index that is funded by a 0.58% tax on wages beginning January 1, 2022. A qualifying applicant must be 18 years old and paid premium three of last six years or total of 10 years with five paid without interruptions. A qualifying year equals 500 hours and benefit payments begin January 1, 2025. An employer may opt-out if they provide long-term care insurance that is equal or exceeds the new law. The Employment Security Department and Department of Social and Health Services will co-implement the payroll tax found

B&O Tax Surcharge on Service Companies

The service industry was hit especially hard this legislative session and the measure that passed makes it difficult to initially determine who is affected. This includes attorney, doctors, consultants and over 90,000 companies in Washington. HB 2158 (Chapter 406, 2019 Session Laws) will go into effect on July 28 to establish a tiered business and occupation tax surcharge on service companies. 20 percent business and occupation (B&O) surcharge on the income from service and other activities of select businesses. 33.33 percent B&O surcharge on the income from service and other activities of advanced computing businesses with revenue of more than \$2B, but less than \$10B. 66.66 percent B&O surcharge on the income from service and other activities of advanced computing businesses with revenue of more than \$100B. The new law is broadly construed in favor of surcharge and if any ambiguity exists the surcharge is applied. For any appeal, a presumption of correctness is established in favor of the department of revenue and a clear, cogent and convincing standard for taxpayers is established. Furthermore, the surcharge is applied before any tax credits. These provisions, not the surcharge, will expire January 1, 2022.

Hazardous Substance Tax (MTCA)

All three budgets assume passage of ESSB 5993 (Chapter 422, 2019 Session Laws) regarding the Model Toxics Control Act that is funded by the Hazardous Substance Tax (HST). The account was first established in 1988 by a 0.7 percent tax on the wholesale value of hazardous substances including petroleum products. The tax is changed from value-based to a volumetric tax at a rate of \$1.09 per 42-gallon barrel. The bill also changes the account structure so that 60 percent goes to the operating account, 25 percent to the capital account and 15 percent to the stormwater account. \$50M per biennium is deposited in the Motor Vehicle Fund to be used exclusively for transportation stormwater programs. The Department of Revenue must compile a list of petroleum products that are not easily measured on a per barrel basis and they will remain subject to the 0.7 percent tax on the wholesale value. The volumetric portion of the HST is adjusted annually by the implicit price deflator for nonresidential construction beginning July 1, 2020. and site cleanup managers.

Non-Resident Sales Tax Exemption

SB 5997 (Chapter 423, 2019 Session Laws) is likely to create confusion for retailers and frustration for consumers as the Department of Revenue works to provide guidance on Part I of this new law to change the existing nonresident sales tax exemption to a refund program for the state portion (6.5 percent) of the retail sales tax. Under the new law, qualified nonresidents (both businesses and individuals) to apply for a refund of 6.5 percent state sales tax from the Department instead of receiving the exemption at the point of sale. The bill does not address the local portion of the sales tax and will require counties and cities to provide clarification on the treatment of local sales tax for out of state shoppers. The bill is estimated at raising \$54M the first biennium. Claims for a refund will need to be at least \$25 in tax and is expected to hurt Clark County retailers at the border between Washington and Oregon. The Department of Revenue expects about 10,000 refund claims with about 65% of them coming from Clark County. Retailers in Washington are already reporting lost business to Oregon customers who don't want to hassle with a refund process.

Tax Work Group

Buried deep in the budget, Section 137 of HB 1109 (Chapter 415, 2019 Session Laws) provides a \$2.038M reauthorization of a Tax Work Group. The new work group adds non-voting members, allows for a simple majority vote and requires their work to be conducted between 2019-2021. The first meeting must be held by December 1, 2019 and a preliminary report by December 1, 2020. Additional meetings are to be held after the 2021 session in five geographical locations around the state. Efforts to prevent an income tax from being an option for the work group to consider failed to pass along with legislation to establish a capital gains tax or extraordinary wealth tax.

Graduated Tax on Real Estate

SB 5998 (Chapter 424, 2019 Session Laws) to establish a graduated real estate tax is expected to have impacts on buying and selling patterns as individuals and businesses learn about the new law. SB 5998 goes into effect on January 1, 2020 and changes the 1.28% flat rate into four tiers. 1.1% on properties valued up to \$500,000, 1.28% on properties valued between \$500,000 and \$1.5 million, 2.75% on properties valued between \$1.5 million and \$3 million and 3% on properties valued above \$3 million. Counties currently collect 1.3% of the 1.28% tax that is collected and under the new graduated tax, counties could see more funding with high-dollar value properties.

Alternatively, lower property value counties will lose revenue. The Governor also signed HB 1219 (Chapter 73, 2019 Session Laws) which extends a 2019 sunset date to a county or city to use real estate excise tax (REET II) revenue for facilities serving the homeless and affordable housing projects until January 1, 2026. REET II is historically used for streets, roads, highways, and sidewalks in addition to lighting systems and storm and sanitary sewer systems.

K-12 School Levies

After several days of negotiating, the House and Senate agreed to ESB 5313 (Chapter 410, 2019 Session Laws) to revise local levies for school funding. The measure will allow a school levy at \$2.50 per 1,000 of assessed value or \$2,500 per pupil for school districts with fewer than 40,000 students. The rate is \$2.50 per \$1,000 of assessed value or \$3,000 per pupil for school districts with 40,000 FTE students or more. The measure reignited debate over the McCleary funding decisions made two years ago and that the measure would further divide communities that are able to raise taxes versus those who are not.

TRANSPORTATION

I-5 Columbia River Bridge

The overwhelming support for the replacement of the Columbia River I-5 Bridge was demonstrated in the final transportation budget, HB 1109 (Chapter 416, 2019 Session Laws), that passed the Legislature before adjournment. \$17.5M is provided for a project office of which \$9M is contingent on changes to the Model Toxics Control Act (MTCA). An additional \$17.5M is also provided to begin the pre-design phase for the bridge replacement contingent on a \$50M transfer for stormwater-related activities identified in the MTCA bill, SB 5993. The project office must evaluate permits, develop a finance plan, engage key stakeholders and the public in order to establish the scope, schedule and budget for a reinvigorated bistate effort for replacement of the I-5 Columbia River bridge. The finance plan shall assume that some costs may be covered by tolls, must look at governance structures for a bridge authority between Oregon and Washington and implement HB 1994 (Chapter 137, 2019 Session Laws), the bill to streamline the bridge replacement. Stakeholder work and evaluating environmental permits must be complete by July 1, 2020, a finance plan by December 1, 2020 and the office must make significant progress toward a supplemental environmental impact statement by June 30, 2021. A progress report is due by December 1, 2019 and a final report by December 1, 2020.

Unregistered Vehicles

During the debate over the non-resident sales tax exemption legislation (SB 5997 and HB 2157), it was recognized that at least 20,000 vehicles for Washington residents are registered in Oregon. This session, the Legislature passed legislation twice to allow counties to create a deferral program to get more cars properly registered both in the non-resident sales tax bill, SB 5997 and in SB 5362 (Chapter 423, 2019 Session Laws). Clark County and other border communities in our state will need to implement the legislation to fully realize the benefits of the \$16M annual lost revenues from failure to register vehicles and drivers' licenses when moving here.

Initiative 976

The measure to roll back car tabs to \$30 and to adjust how Sound Transit values vehicles for registration fees was heard this session although no action was taken. When faced with an initiative to the Legislature, lawmakers can pass the initiative and it becomes law, pass an alternative to the initiative and both go to the voters, or take no action and send the measure directly to the people. Since no action was taken, a vote will occur on the November 5 general election.

LOOKING AHEAD

Vessel Tax

The Department of Ecology recently announced that the Oil Spill Program is facing a \$4M shortfall by the next biennium and they are considering a tax on inbound vessels into the Columbia River and Puget Sound. Previously considered in 2017 and 2018, the proposed tax is about \$350 per vessel. Alternate funding sources include the recently revised hazardous substance tax found in SB 5993. DOE has until July 1, 2020 to complete a report to the Legislature on the Oil Spill Program funding levels and activities that was required by SB 6269 (Chapter 262, 2018 Session Laws).

Dam Spill Levels

Comments are being accepted by the Department of Ecology on WC 173-201A to allow for additional spill levels on dams to increase fish passage for salmon and steelhead migrating in the Snake and Columbia rivers. A public hearing is scheduled for September 16 at 1:30 PM at the Washington School for the Blind, 2214 East 13th Street in Vancouver. The rule would change the total dissolved gas limit to allow for increased water flow through spillways. An informational webinar is held on September 19 and the deadline for written comments is September 26.

Oil Spill Contingency Plan Rulemaking

Rules to require contingency plans to address submersible oils are now being proposed by the Department of Ecology. The proposed rule, WAC 173-182, is a result of the passage of SB 6269 in the 2018 legislative session and are intended to require large scale multi-plan holder drills to prepare for non-floating oils. DOE will hold a webinar and in-person event on September 24 at 1:00 PM at the Hilton in Vancouver. Written comments are accepted until October 6 at 11:59 PM. Adoption of the rule is scheduled for December 31, 2019 and the effective date is January 18, 2020.

Overtime Rules

The Department of Labor and Industries (L&I) is proposing to change the employment rules, WAC 296-128, that determine which workers in Washington are required to receive overtime pay or paid sick leave by raising the minimum salary threshold. Washington currently uses the federal threshold of \$23,660 per year when determining if an employee is exempt from overtime pay. The L&I proposal would raise the threshold to \$79,872 when fully implemented in 2026 by using a multiplier of 2.5 times the state's minimum wage. While in need of update, the rules go too far by deviating from the "bona fide executive, administrative or professional capacity rule." This will force many employees who are currently exempt to be paid as non-exempt workers. A hearing is scheduled for August 15 at 9:00AM in Vancouver at Clark College. Comments are accepted until September 6.

Regional Low Carbon Fuel Standard

The Puget Sound Clean Air Agency (PSCAA) has proposed a regional low carbon fuel standard (LCFS) that is on the fast track for adoption by the end of the year. The proposal is more stringent than California and Oregon's LCFS and requires a 25% carbon intensity reduction and assumes no major economic impact. A hearing is scheduled for October 7 with a possible vote on December 19. Concerns that the LCFS will increase the cost of gasoline and is the least efficient method to reduce carbon intensity are being expressed from the business community while advocates are aligning with the proposal as part of a West Coast solution. The PSCAA has set a target of reducing climate pollution by 50 percent below 190 levels by 2030.

Seattle Income Tax

A decision by the Court of Appeals has recently been issued on the Seattle wealth tax adopted in 2017. While the tax on wealth was ruled unconstitutional, the court also ruled that the ban imposed on local governments for imposing a flat tax is also unconstitutional. The Seattle tax on income would have imposed a 2.25% tax on wealth above \$250,000 for individuals and \$500,000 for married couples and raise approximately \$140M per year. Because the court reinforced the decision that an income tax is a property tax it raises an interesting question for the newly adopted graduated real estate excise tax that replaced a flat tax. It also creates a challenge for lawmakers that have supported a capital gains tax. Finally, the decision opens the door to local governments that may consider additional revenue streams. The decision is likely to get appealed to the State Supreme Court.

LINKS

2019 Session Summary: <http://leg.wa.gov/LIC/Documents/Session/Summary%20of%20Legislation.pdf>

Bill Information: <https://app.leg.wa.gov/billinfo/>

Dam Spill Level Proposal: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-201A-revisions>

Oil Spill Rule Proposal: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-182>

Overtime Rule Proposal: <https://www.ini.wa.gov/LawRule/WhatsNew/Proposed/default.asp?RuleID=284>

Orcas Task Force: https://www.governor.wa.gov/sites/default/files/OrcaTaskForce_reportandrecommendations_11.16.18.pdf

PSCAA Low Carbon Fuel Standard Proposal: <https://www.pscleanair.org/528/Clean-Fuel-Standard>

Questions? Contact Amber Carter at 360-561-4861 or
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