



2023 Legislative Session Report

WASHINGTON STATE

Overview

After two years of virtual legislative sessions, lawmakers returned to Olympia to conduct their business in person for the 105-day legislative session. The top priorities for the Legislature were public safety, housing, and workforce. A special session was called for May 16 to finish work on controlled substance laws. The 2023 session resulted in lawmakers adopting the largest operating budget in the state's history. The Legislature failed to provide relief from the long-term care payroll tax, repealed I-841, which voters passed to prevent ergonomics rulemaking, and funded another study on breaching the Lower Snake River dams. For maritime, significant time was spent developing agency guidance to address regulatory problems with the fuel exemption from the Climate Commitment Act. Of the 1694 bills the House and Senate introduced during the 2023 legislative session, 472 will become law. Most are effective on July 23 unless an emergency or other implementation date is specified. Bills that failed to pass, such as the margins tax, will automatically return in the 2024 session.

BUDGETS

Operating Budget

[SB 5187](#), Chapter 475, Laws of 2023, Partial Veto

The largest budget in the state's history was approved by lawmakers on the last day of the session and did not rely on new taxes. The \$69.3 billion, two-year operating budget adds \$4.7 billion in new spending, leaves \$3 billion in reserves, and allocates \$400 million from Climate Commitment Act revenues. The budget also explores new revenue sources by providing \$336,000 for the Department of Revenue to study establishing a wealth tax. The operating budget includes \$2 million to develop an energy replacement portfolio to offset energy currently provided by the lower snake river dams and \$500,000 to analyze irrigation scenarios of the dam removal impacts. A final report is due by December 31, 2026.

For maritime, \$750,000 is provided to the Puget Sound Partnership and Maritime Blue for Puget Sound noise reduction initiatives. The Department of Commerce will receive \$3.6 million for strategic growth areas in critical sectors, including maritime, and \$2 million for clean hydrogen hub grants in sectors of the economy that are the hardest to decarbonize with a focus on maritime. Finally, \$12.7 million supports maritime workforce needs and diversity through skills training, core plus, apprenticeships, grants, and educational programs such as the Highline Maritime High School. Among other vetoes in the budget, the Governor vetoed Section 310(38), which would have required nearly all leases with the Department of Natural Resources to be reviewed and approved by the Board of Natural Resources.

Capital Budget

[SB 5200](#), Chapter 474, Laws of 2023, Partial Veto

The \$9 billion capital budget passed the House and Senate unanimously, with \$400 million in affordable housing, \$224 million in community-based behavioral health facilities, and \$200 million in broadband infrastructure. The Legislature rejected the governor’s housing bond proposal and the bill to increase the real estate excise tax (HB [1628](#)). The capital budget provides \$800,000 to the Port of Anacortes for commercial pump-outs, \$500,000 to the State Parks and Recreation Commission to enhance Puget Sound pump-out facilities to help meet the Puget no-discharge zone, and \$500,000 to assist facilities experience hardship paying the federal matching requirements for projects under the United States Fish and Wildlife clean vessel act program. A \$5 million grant program is established at the Department of Commerce for ports that adopt policies to require vessels, if capable, to use shore power when available at a port facility.

Transportation Budget

[HB 1125](#), Chapter 472, Laws of 2023, Partial Veto

While the \$10.5 billion transportation budget maintains commitments to the Connecting Washington and Move Ahead package, it also funds additional studies to breach the lower Snake River dams. The transportation budget provides \$5 million to study shifting freight movement from barges to roads and rail and an additional \$500,000 to engage an independent review team to ensure greater confidence in the study. The study requires looking at existing volumes and traffic patterns, identifying whether the regional geography allows for rail and road expansion and increased capacity, safety impacts, and increased rural community traffic. A final report is due by December 31, 2026. Governor Inslee partially vetoed the transportation budget to prevent the Department of Licensing and the Washington State Transportation Commission from conducting a feasibility study of implementing and administering a per-mile fee program.

CLIMATE

Climate Commitment Act Fuel Exemptions

[HB 1780](#) / [SB 5766](#) **FAILED**

The Climate Commitment Act went into effect this year on January 1, resulting in a \$0.40/gallon increase in the cost of marine fuel despite the watercraft and agricultural exemption that was part of the 2021 Act. HB 1780 would have required a remittance program for exempt fuels that were erroneously collected, and SB 5766 would have established a \$50 million remittance account. While the bills failed to pass, after pressure from stakeholders and legislators, Ecology issued [guidance on exempt fuels and reporting](#). This helps clarify the exemptions moving forward; however, the guidance does not address how refunds will be handled.

Climate Change Planning

[E2SHB 1181](#), Chapter 228 Laws of 2023

Climate change and resiliency are added to the Growth Management Act (GMA) goals under this legislation. Counties and cities that plan under the GMA must include climate change and resiliency in their comprehensive plans. Additionally, the Department of Ecology must update its Shoreline Master Program guidelines to address the impact of sea level rise and increased storm severity.

Clean Energy Siting

[E2SHB 1216](#), Chapter 230, Laws of 2023

Lawmakers approved the Governor’s legislation to create a new designation for clean energy projects of statewide significance. The goal is to streamline permitting and siting of clean energy facilities in Washington by creating a coordinated permit process, simplifying the environmental analysis for clean energy projects, and requiring agencies to complete environmental impact statements within 24 months.

EMPLOYMENT LAW

Pre-Employment Cannabis Testing

[ESSB 5123](#), Chapter 359, Laws of 2023

Employers are prohibited from discriminating against a prospective employee in the initial hiring based on previous cannabis use. The reasoning behind the bill is that cannabis can stay in the system well beyond the effects of the drugs taken. Employers can still conduct pre-employment screening for non-cannabis drugs. An exemption is provided for positions that require a federal government background investigation or security clearance, law enforcement, first responders, or any other safety-sensitive position for which impairment while working presents a substantial risk of death.

Ergonomics Rulemaking Authority

[SB 5217](#), Chapter 112, Laws of 2023

The legislature passed, and the Governor signed legislation to repeal the voter-approved Initiative 841. The bill gives the Department of Labor and Industries authority to regulate ergonomics to reduce musculoskeletal disorders, despite injuries declining year after year. L&I must track injuries for five years before deciding which industry to regulate. Industries must have twice the average injury rate for musculoskeletal disorders before L&I can adopt rules. Voters repealed the previous ergonomics rule because it was costly, complicated, and couldn’t guarantee that even a single injury would be prevented.

Employee-Union Privilege

[ESHB 1187](#), Chapter 202, Laws of 2023

A new privilege for unions and their employees is established. Advocates argued the need for protected conversations with union employees, yet the new law grants a broad privilege for all communications. This could impede the disclosure of information in employment litigation by allowing union representatives to testify as witnesses and not disclose documents relating to their testimony.

Workers’ Compensation Self-Insurance

[SHB 1521](#), Chapter 293, Laws of 2023

Controversial workers’ compensation legislation affecting self-insured employers was signed into law to establish a “good faith and fair dealing” standard for workers’ compensation challenges. The bill was amended to remove the private right of action and only focus on self-insured municipal employers and firefighters for Boeing and Hanford. The law is effective July 1, 2024.

Warehouse Employees

[HB 1762](#), Chapter 306, Laws of 2023

Legislation to control the pace of warehouse workers has become law and will go into effect on July 1, 2024, after the Department of Labor and Industries conducts rulemaking. Warehouse distribution centers with more than 100 employees in a single warehouse or 1,000 employees in multiple locations in the state must disclose quotas when hiring. Every employee must receive a written description of any quota, including

potential adverse employment actions or associated incentives. Quotas must refrain from interfering with breaks and reasonable travel time to rest areas or bathrooms. Employers are subject to a \$1,000 penalty for each violation, and employers who violate a requirement must pay the employee an additional hour of pay for each day there was a violation.

ENVIRONMENT

Southern Resident Orcas

[SB 5371](#), Chapter 452, Laws of 2023, Partial Veto

SB 5371 expands protection requirements for Southern Resident orcas by increasing the vessel buffer distance to 1,000 yards and adds requirements for whale-watching and paddle-boarding companies. The law goes into effect on January 1, 2025. It continues to exempt operating as a vessel traffic service user established under 33 C.F.R. and vessel transits departing the lanes for safety reasons or to approach or leave a dock or anchorage area. This exemption includes support vessels escorting or assisting vessels, such as tugboats, and conducting operations necessary to avoid an imminent and serious threat to a person, vessel, or environment, including overall safety of navigation and to comply with state and federal navigation requirements. The Governor vetoed Section 3, which would have required mailing orca protection information to every registered vessel owner in the state. Section 4 was vetoed because of duplicative requirements to develop a transboundary and statewide plan to implement vessel distance regulations.

Plastic Pollution

[SHB 1085](#), Chapter 135, Laws of 2023

HB 1085 prohibits the sale, distribution, and installation of foam for use in docks or overwater structures starting January 1, 2024. The bill was amended to narrow the restriction to only structures or blocks not fully enclosed and contained in a plastic, concrete, aluminum, or steel shell. The legislation also prohibits lodging establishments from providing personal health or beauty products in plastic containers and requires construction involving drinking fountains to include refillable bottle stations.

Puget Sound Marine Shoreline Habitat

[SB 5104](#), Chapter 465, Laws of 2023

The Department of Ecology must conduct and maintain a shorelines survey of the Puget Sound. The initial analysis includes on-the-water imagery and must be complete and publicly available by December 31, 2024. A complete survey and map of existing shoreline conditions and structures must be completed by June 30, 2025, including the Strait of Juan de Fuca, Hood Canal, and the San Juan Islands. Additionally, the state will maintain a record of all civil or criminal investigations or enforcement that utilize the survey.

FIRE PROTECTION

Fire-Resistant Materials

[SHB 1323](#), Chapter 145, Laws of 2023

Contractors and their employees who apply fire-resistant materials must be certified by the Department of Labor and Industries under this law. Individuals must undergo initial training and receive recertification training every five years. The legislation is effective January 1, 2026. Fines range from \$2,500 to \$5,000.

MARITIME & PORTS

Shipping Act Anti-Trust Immunity

[HB 1257](#)

Before the session, the Federal Maritime Commission notified numerous ports in Washington that previous anti-trust immunity was being revoked. HB 1257 extends Washington's state antitrust immunity for ten years to ports to allow tariff-setting conversations. Ports have been operating under antitrust protection provided by the Shipping Act since the late 1930s. The large cargo ports such as Seattle, Everett, Vancouver, and the Northwest Seaport Alliance were not affected by the FMC notice.

Thriving Maritime Resolution

[SR 8611](#)

The Senate passed a resolution to honor the maritime industry's role in a sustainable future and significant economic contributions. The resolution recognizes the importance of maintaining a resilient transportation system and the 22,500 jobs resulting from maritime. Former Washington state Senator Jones was also acknowledged for championing the Merchant Marine Act of 1920.

TAXES

Tax Increment Financing

[HB 1527](#), Chapter 354, Laws of 2023

The bill to fix technical problems with the tax increment financing law passed the Legislature, was approved by the Governor, and became effective immediately. The bill corrects the definition of real property to ensure ports, which are local governments, can establish a tax increment area that includes improvements on state-owned land.

Margins Tax

[HB 1644](#) FAILED

Lawmakers considered a significant rewrite of Washington's tax code this session resulting from a Tax Structure Work Group recommendation to create a margins tax. While intended to replace the state business and occupation tax and be revenue neutral, most employers would experience significant tax increases. A margins [tax calculator](#) is available to estimate the new tax level. A maritime company showed a 17% increase using the tax calculator, and a deep-water port would have a 475% increase to their current tax obligation. While the bill failed to pass, tax reform efforts will continue in future sessions.

Long-Term Care Payroll Tax

[HB 1011](#) FAILED

Lawmakers failed to provide relief from the long-term care payroll tax adopted in the 2019 legislative session. Current law requires long-term care insurance coverage paid for with a \$0.58 per \$100 payroll deduction. Lawmakers previously delayed the deadline until July 1, 2023. With the bill failing to pass, employees and employers must pay the tax and sign up for coverage.

TRANSPORTATION

PUT Tax on Interstate Transport of Petroleum

[SB 5309](#) FAILED

SB 5309 would have removed the public utility tax deduction for the instate portion of the interstate transport of petroleum products and crude oil. The exemption was initially established in 1935 for transportation businesses involved in interstate commerce. The bill died in the House of Representatives.

I-5 Bridge Tolling

[SB 5765](#), Chapter 377, Laws of 2023

The Governor approved legislation to authorize tolling on the I-5 Columbia River Bridge (SB 5765). Toll rates are expected to be between \$1.50 and \$3.55 per trip and raise about \$1.2B for the \$6B bridge replacement. The House adopted an amendment to prevent tolls from exceeding the highest toll already collected in the state and ensure tolls do not subsidize Oregon toll facilities.

Freight Mobility Grants

[SHB 1084](#), Chapter 167, Laws of 2023

The Freight Mobility Strategic Investment Board (FMSIB) was amended from the Board prioritizing and funding freight mobility projects to advising the Legislature on priority projects that protect overburdened communities, reduce greenhouse gases, and transition to zero emissions. FMSIB grants have a history of serving strategic freight corridors for international and domestic trade and enhancing the state's competitive position through regional and global gateways.

VESSELS

Derelict Vessel Notices

[SHB 1753](#), Chapter 304, Laws of 2023

The notice provisions are changed under this legislation to make removing derelict vessels quicker. This includes changing the notice of intent to obtain custody to 10 days instead of 20 days and requiring posting 15 days instead of 30 on the vessel before taking control of the derelict vessel.

Derelict Vessel Appeals

[SB 5192](#), Chapter 39, Laws of 2023

SB 5192 authorizes administrative law judges employed by the Pollution Control Hearings Board to substitute for board members in hearing derelict vessel appeals. This includes challenges to seizing a vessel or the reimbursement owed to the agency that removed the vessel.

Derelict Aquatic Structures

[SSB 5433](#), Chapter 227, Laws of 2023

The Department of Natural Resources (DNR) is authorized to purchase or acquire lands and facilities relating to derelict aquatic structures. The bill allows DNR to remove, refurbish, or dispose of derelict structures and to generate and sell conservation credits. Credits must be used for the program.

WORKFORCE

Ferry Workforce Development

[SB 5550](#), Chapter 188, Laws of 2023

Washington State Ferries must adopt a formal diversity, equity, and inclusion strategy for recruitment, employee development, retention, and agency branding for workforce marketing. To address development issues, including cultural, at the Washington state ferries. The new law also requires WSF to conduct an annual employee survey on workplace conditions and perform an in-depth cultural assessment. The agency must also adopt a formal policy to assist job applicants in obtaining the necessary credentialing for entry-level maritime positions.

LOOKING AHEAD

Refunds for Exempt Fuels

The Department of Ecology intends to hold a Work Group with affected stakeholders on June 22 to discuss the status of exempt fuels under the Climate Commitment Act. Unresolved issues include refunds, reviewing the interim guidance to ensure it works as intended, and establishing permanent guidance.

Risk Modeling Program

A [modeling program](#) is under development by the Department of Ecology to assess current and potential future risks of oil spills in Washington waters as required by [HB 1578](#) from the 2019 session. A report on the quantitative assessment and analysis of tug escorts, articulated tug barges, and towed oil barges is due to the Legislature by September 1, 2023. The modeling will be used to guide policies on tug escorts.

Tug Escort Rules

The Department of Ecology has a series of workshops to develop tug escort requirements for vessels in the Puget Sound. Rulemaking ([WAC 363-116](#)) will implement [HB 1578](#) from the 2019 session and focus on oil tankers, articulated tug barges, and towed vessels or barges transporting oil in their hull. The rulemaking will specify operational and functional requirements for vessels and when escorts are required.

Financial Responsibility Rules

The Department of Ecology is starting rulemaking to require a state-specific certificate of financial responsibility for regulated facilities and vessels entering Washington waters ([WAC 173-187](#)). The rules are a requirement of [HB 1691](#) from the 2022 session. Rule development meetings are expected between June and October, with a formal rule proposal filed at the beginning of 2024.

2024 Elections

Three-term Governor Inslee and Insurance Commissioner Mike Kreidler have announced they will not run in the 2024 elections. Attorney General Bob Ferguson and Commissioner of Public Lands Hilary Franz are expected to seek the open seat. A [recent poll](#) conducted before the announcement shows Ferguson as the lead Democrat. [Senator Manka Dhingra \(D-Redmond\)](#) is running for Attorney General, and [Senator Patty Kuderer \(D-Bellevue\)](#) has announced her plan to run for Insurance Commissioner. More candidate announcements are expected.

LINKS

- Bill Information: <https://app.leg.wa.gov/billinfo/>
- Exempt Fuels Interim Guidance: <https://ecology.wa.gov/Air-Climate/Climate-Commitment-Act/Cap-and-invest/Emissions-reporting>
- Tug Escort Proposed Rules: <https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Spills-Prevention-Preparedness-Response/Legislative-work/BPC-tug-escort-rulemaking>
- Financial Responsibility Proposed Rules: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-187>
- Risk Modeling: <https://ecology.wa.gov/Spills-Cleanup/Spills/Oil-spill-prevention/Safety-of-Oil-Transportation-Act/Risk-modeling>

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