

WACD Legislative Bulletin

Week Six

Friday, February 16 marked the 40th day of the 60-day regular session and the end of the sixth week of the 2018 session. All measures had to be approved by their houses of origin by 5 p.m. on February 14th or be considered dead for the session. Excluded are measures necessary to implement budgets (NTIB) or that affect state revenue.

Some 2,560 bills were introduced in the legislature in 2018. The House approved a total of 320 bills at the cutoff, the Senate 247. The winnowing will continue as the houses begin committee action on bills from the opposite house. The next cutoff is February 23rd and the next fiscal cutoff is the 26th.

The state's **Revenue And Economic Forecast** was released on February 15th showing that state revenue projections should increase by about \$1.3 billion more than expected through 2021. Senator Christine Rolfes, chair of the Senate Ways and Means Committee, said in response: "The extraordinary revenue growth will allow us to meet our legal and moral obligation to our public schools and to mental health care. It also will allow us to reduce the property tax burden" enacted in 2017.

The Senate will be releasing their **Operating And Capital Budgets** on Monday, February 19 and a hearing will follow on Tuesday the 20th. The House is slated to release and hear their budget on Tuesday.

The Senate Ways and Means Committee heard testimony on a revised [SB 6203](#) (Carlyle) which would impose a **Carbon Tax** on July 1, 2019. Gone is language that would have required voters to approve a constitutional amendment restricting the use of carbon tax funds to purposes relating to climate mitigation and resilience. The bill was given some momentum when former U.S. Senator and Secretary of State John Kerry came to Olympia this week to address climate change and show support for the measure.

Among many other provisions SB 6203 would impose a carbon pollution tax equal to \$12 per metric ton of carbon dioxide on the sale or use of fossil fuel within the state of Washington (down from the governor's request of \$20 but up from the earlier version of the bill at \$10). The bill requires a rate of increase of \$1.80 per metric ton (down from \$2 each year in the earlier version) beginning in 2021 until capped at \$30/ton. Natural gas would be taxed at the end use and electricity would be taxed at the utility level.

The measure directs the carbon tax revenues to be distributed to the Multimodal Transportation Account, and then the remainder to be allocated into four accounts for activities that reduce greenhouse gas (GHG) emissions connected to energy use and other activity in Washington; provide assistance to vulnerable communities and workers in fossil fuel industries; increase climate resilience; and support rural economic development. It also establishes a Clean Energy Investment Program for both investor-owned utilities

(IOUs) and consumer-owned utilities (COUs) to allow an electric or gas utility to claim a credit of up to 100 percent against the carbon tax for approved investment in projects that reduce or offset carbon emissions from the utility

The bill now remains in the Ways and Means Committee. It is considered NTIB and is therefore exempt from all deadlines for action.

A bill amending the state's **Greenhouse Gas Reduction** targets to align with the latest climate science cleared the House, 50-48 vote, just ahead of the Legislature's House of Origin cutoff deadline. [HB 1144](#) (Fitzgibbon) revises the emissions reduction goals adopted by the state back in 2008. It is scheduled for a hearing in the Senate Committee on Energy, Environment & Technology on February 21.

The Senate Environment, Energy & Technology Committee has also approved [SB 6253](#) (Ranker) the so-called "**100% Clean Energy Standard.**" The bill would require:

- all electric utilities and market customers to only meet new electricity needs with distributed-energy and carbon-free resources.
- all electric utilities and market customers to meet all electricity needs with distributed-energy and carbon-free resources by December 31, 2045.
- all electric utilities to eliminate from electric rates all costs associated with coal-fired generation by January 1, 2030.

The bill was approved by the Ways and Means Committee and sent to the Senate Rules Committee. A similar bill, [HB 2402](#) (Tarleton), currently on the House Floor also addresses a 100% clean standard.

Currently, HB 2402 would prohibit a consumer-owned qualifying utility, small utility, or market customer from using electricity from any of the following resources to meet any new energy or capacity need, except under certain circumstances: coal-fired generation; certain new hydroelectric generation; nuclear generation; natural gas-fired generation; oil or diesel generation; or waste incineration.

One of the two bills will likely become the sole vehicle for a clean energy standard, incorporating elements of each. Both are now deemed "necessary to implement the budget" and exempt from cutoffs.

[HB 2580](#)/SB 6449 promotes **Renewable Natural Gas** through a variety of ways, but of significance are the amendments to certain tax preferences, including:

- A sales and use tax exemption for establishing or operating an anaerobic digester, regardless of whether the anaerobic digester is used primarily to treat livestock manure.
- An expired sales and use tax exemption for the sale and use of machinery and equipment used directly in generating electricity using alternative energy resources is repealed.

- References to anaerobic digestion and landfill gas are removed from a sales and use tax exemption for the sale of machinery and equipment used directly in generating electricity using alternative energy resources that is equal to 75 percent of the state and local sales taxes paid.
- References to buildings, machinery, equipment, and other personal property used primarily for the manufacturing of alcohol fuel, biodiesel fuel, wood biomass fuel, and biodiesel feedstock are removed from an expired six-year property tax and leasehold excise tax exemption.
- A six-year property tax and leasehold excise tax exemption is restored for personal property used primarily for the operation of an anaerobic digester until December 31, 2024.

These bills did not advance before the cutoff but are likely to be deemed necessary to implement the budget and thus be exempt from deadlines.

[HB 1562](#) (Gregerson) establishes the **Washington Food Policy Forum** as a public-private partnership to develop recommendations to advance specific food system goals. HB 1562 was approved by the House 71-27 and is scheduled for a hearing on February 20 in the Agriculture, Water, Natural Resources & Parks Committee in the Senate.

[SB 6529](#) (Saldana) originally would have required growers to give the state Health Department up to a seven-day notice every time they **spray pesticides**. Other provisions of the bill would require making public each month the type and amount of pesticide applied for each spraying. A substitute bill was considered on the floor and the Senate passed it 45-2 and is now scheduled for a hearing in the House Committee on Health Care & Wellness on February 21. The substitute establishes a pesticide application safety workgroup to develop recommendations for improving the safety of pesticide applications. The workgroup includes legislators, agencies, and stakeholders and requires the workgroup to provide a report that includes any findings, recommendations, and draft legislation, to the Governor and the Legislature, by November 1, 2018.

A variety of bills that address **Fire Protection** activities continue to advance:

- [HB 2561](#) (Dent) identifies several fire response activities to be addressed by the **wildland fire advisory committee** including: Examine the value of community programs that educate homeowners and engage in preventive projects within wildfire risk communities, such as Firewise, and make recommendations on whether these programs should be advanced, and if so, how, including potential sources of ongoing funding for the programs. The bill was approved unanimously by the House and is now set for a hearing on February 20 in the Agriculture, Water, Natural Resources & Parks Committee in the Senate.
- [HB 2733](#) (Orcutt) creates a **prescribed fire program** and enumerates specific elements and activities the program must cover. It also allows burn permits issued to certified burn managers to have modified requirements in recognition of the burn manager's training and skills. The measure was approved by the House 97-0 and is scheduled for a

hearing on February 20 in the Agriculture, Water, Natural Resources & Parks Committee in the Senate.

- [SB 6413](#) (Van De Wege) would ban the manufacture and sale of **firefighting foam** containing perfluoroalkyl and polyfluoroalkyl chemicals (PFAS) effective until July 1, 2020. PFAS has been found to persist in the environment, including in drinking water, food, and within the human body. Communities across the state have faced costly cleanup of drinking water sources contaminated by these chemicals. The bill would also require sellers of firefighting gear using or contaminated by PFAS to notify the buyer. The Department of Ecology would be tasked with assisting local governments to avoid purchasing firefighting equipment with PFAS. A public hearing was held last week in the House Environment Committee and it is scheduled for executive actions this week.
- [ESSB 6109](#) (Van De Wege), would adopt the 2018 International **Wildland Urban Interface (WUI)** Code as part of the state building code, after mapping of statewide wildland-urban interface areas by the DNR is complete. Until that time, local governments may choose to adopt the WUI requirements as part of their local building codes. This new code includes requirements for fire-resistant roofing, deck and siding materials, and adequate driveway turnarounds or turnouts to allow access by fire authorities. In addition to mapping areas subject to the new code, DNR would be charged with providing grants and technical assistance to local communities implementing the new requirements. It is scheduled for a hearing in the House Committee on Local Government on February 20.
- [HB 2175](#) (Maycumber) gives the DNR additional authority to use best land management practices to quickly and effectively **reduce fuel loads**. Under terms of this legislation the Department may manage its acquired lands using the best available land management techniques. These techniques include:
 - Licenses or approvals to move firewood or for brush picking;
 - Periodic use application of Department of Agriculture-approved chemicals by licensed personnel;
 - Issuance of right-of-way easements and use permits to use existing roads in nonresidential areas;
 - and issuance of grazing leases regardless of whether the land has been actively grazed.
 - Land management activities under this authority are exempt from the requirement to prepare an environmental impact study under the SEPA, and has a duty to develop mitigation actions where appropriate.
 - HB 2175 was approved by the House 98-0 and is scheduled for public hearing in the Senate Committee on Agriculture, Water, Natural Resources & Parks on February 20.

[SB 6055](#) (Hawkins) establishes a pilot program to allow limited outdoor burning of yard waste and brush in cities and towns and their urban growth areas, without a permit, and under the supervision of local fire authorities. Because **Apple Maggots** are such a serious threat to Washington's apple industry, many cities are under an apple maggot quarantine.

In some areas, the only disposal facilities for brush and yard waste from urban areas are located outside their quarantine area, and transporting urban yard waste to these facilities is not allowed. Burning this yard waste or brush would be an alternative, but cities are subject to burn bans under air quality regulations. Cities that participate in the pilot program must provide information to the WSDA and Department of Ecology for a report back to the Legislature on the program's effectiveness by December 31, 2020. It is scheduled for a hearing in the House Environment Committee on February 19.

Two different bills were considered that address the **Marbled Murrelet** long-term conservation strategy affecting state trust lands. The Department of Natural Resources is updating the habitat conservation plan to extend their "take permit" with US Fish and Wildlife. The land being considered would reduce the harvestable timber and negatively impact trust beneficiaries and the revenue to counties and junior taxing districts. [HB 2285](#) has advanced and is currently on the House floor calendar. The bill would establish an advisory committee to the Commissioner of Public Lands and a reporting process for the DNR regarding certain marbled murrelet habitat information. It is scheduled for a hearing in the Senate Committee on Agriculture, Water, Natural Resources & Parks on February 21.

[HB 2276](#) directs the WDFW to hold a public hearing before relocating or introducing big game animals, or **Wolves**, lynx, bobcats, or coyotes into a new location for the purpose of population maintenance or enhancement. Requires the WDFW to provide 30 days public notice in advance of a public meeting on a wildlife relocation, transfer, or introduction. relocate or introduce. This bill passed House last week 97-1. It is now scheduled for a hearing in the Senate Committee on Agriculture, Water, Natural Resources & Parks on February 19.

In response to the Cooke aquaculture **Non-Native Fish Pen** collapse this summer, two bills are still being considered by the legislature this session. [SB 6086](#) (Ranker) and [HB 2957](#) (Lytton) phase out non-native commercial net pen aquaculture by 2022. HB 2957 was amended as passed the House 67-31 and is scheduled for a hearing in the Senate Committee on Agriculture, Water, Natural Resources & Parks on February 19. SB 6086 passed the Senate 35-12 and is not yet scheduled for a hearing in the House. As currently drafted, HB 2957 intends to phase out nonnative marine finfish aquaculture and to revisit the issue of marine finfish aquaculture once additional research becomes available. The bill:

- Prohibits the DNR from entering into a new lease, or renewing or extending an existing lease, where the use includes nonnative marine finfish aquaculture.
- Authorizes the WDFW to permit activities associated with the use of marine net pens for nonnative marine finfish aquaculture only if such activities are performed in connection with a lease of state-owned aquatic lands in effect as of the effective date of the act.
- Authorizes Ecology to issue NPDES permits associated with nonnative marine finfish aquaculture only if such activities are performed in connection with a lease of state-owned aquatic lands in effect as of the effective date of the act.

- Requires Ecology, WDFW, DNR, and the WSDA to continue the existing effort to update guidance for planning and permitting commercial marine net pen aquaculture. Requires the departments to continue to seek advice and technical assistance from a variety of stakeholders. The guidance must address: the state of the science concerning marine finfish aquaculture impacts on native fish, shellfish, and wildlife; best management practices for the safe and effective operation of finfish aquaculture in the marine environment; and recommendations for future legislative oversight of marine finfish net pen aquaculture. The report and recommendations are due to the Legislature by November 1, 2019.
- Provides that separation from employment as a result of the act qualifies a person as a dislocated worker for the purposes of the Training Benefits Program, which provides extended unemployment benefits while a person participates in approved training for another career.
- Requires any marine finfish aquaculture facility permitted by WDFW to be periodically inspected by a marine engineering firm.

The Senate is considering a bill intended to strengthen **Oil Transportation Safety** through [SB 6269](#) (Ranker), a bill heard last week in Senate Ways and Means. The legislation applies the barrel tax (\$0.04 per barrel) to crude oil received by pipeline. The bill requires the Department of Ecology to review, assess, and provide a report on vessel traffic safety in northern Puget Sound, establish the Salish Sea Shared Waters forum and requires changes to contingency plans and spill drills. The bill is considered necessary to implement the budget (NTIB) and may be identified in the Senate budget as a potential revenue source.

Washington's population of 76 southern resident killer whales has declined to a 30-year low. The endangered marine mammals are struggling to raise calves, due largely to a lack of prey and increased human activity and noise that disrupts their ability to communicate and hunt. Two different southern **Orca Recovery** bills were considered. ([HB 2417](#)-Blake/[SB 6268](#)-Ranker) but neither survived the February 14th cut off.

Though the policy bills did not advance, there will likely be additional funding in the proposed operating budgets being released this week. The Governor's budget at the start of session included \$3.1 million in his proposed 2018-19 supplemental operating budget and \$825,000 in the supplemental capital budget to support these initiatives. Elements of the Governor's budget are often incorporated into the final bill, and the push will now be focused there.

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