

WACD Legislative Bulletin

Week Seven

Friday, February 23 marked the 47th day of the 60-day regular session. All measures had to be approved by policy committees in the opposite house or be considered dead for the session. Excluded are measures necessary to implement budgets (NTIB) or that affect state revenue. The cutoff for fiscal committees (Senate Ways and Means, House Appropriations and Finance, and the Transportation Committees of both Houses) is Monday, February 26.

Majorities in both the House and Senate released their **Supplemental Budget Proposals** this week. The Senate approved the supplemental operating budget ([SB 6032](#)), the supplemental capital budget ([SB 6095](#)) and the supplemental transportation budget ([SB 6106](#)).

The **Senate proposal** would fully fund teacher salaries in 2018–19 by increasing spending by \$777.9 million in 2017–19 and \$193.9 million in 2019–21. The proposal would also make changes to the regionalization factors that were enacted last year to increase salary funding to school districts with high home values as a way to help recruit and retain staff. These would increase spending by \$24.9 million.

The Senate Ways & Means Committee also approved [SB 6614](#) that would reduce the state property tax rate to \$2.35 per \$1,000 of assessed value in calendar year 2018. It would transfer funds from the budget stabilization account (BSA, or rainy-day fund) to the general fund (\$228.0 million in 2017–19 and \$203.0 million in 2019–21) to pay for the tax rate reduction.

The **House original proposal** ([HB 2299](#)) would spend \$727.2 million less than the Senate. The big difference is that the House proposal (unlike the Senate or the governor) would not fully fund the increase in school salaries in school year 2018–19. Like the Senate proposal, the House budget would reduce state property taxes—but the House proposal went farther. It would reduce the state rate to \$2.365/\$1,000 of assessed value in 2019 and to \$2.30/\$1,000 in 2020. This would be paid for with a transfer from the budget stabilization account in the amount of \$995.8 million. Additionally, the proposal assumes passage of HB 2967, which would impose a capital gains tax and allow for reductions in the state property tax after 2020 (see below). By the end of the week, however, they added nearly \$1 billion for the school salaries and made a series of adjustments in education and other programs. By late Friday, the House debated 57 amendments and then put off a final vote on the operating budget until Monday.

Budget highlights from the Senate proposal include:

FIRE SUPPRESSION AND RESPONSE - \$27.2 MILLION 2017-19; \$57 MILLION TOTAL
Funding is provided to the Department of Natural Resources for fire suppression costs. Of the total funding, \$19.8 million is provided from the Budget Stabilization Account.

FIRE RESPONSE CAPACITY - \$1.7 FOREST FIRE PROTECTION ASSESSMENT ACCOUNT
2017-19 One-time funding from the account is provided for the department to improve its capability to respond to wildfires, upgrade tracking systems for wildfire and forest health data, as well as add and train staff.

WATER AVAILABILITY (HIRST FIX) - \$4.5 MILLION 2017-19 (\$13.5 MILLION 2019-21)
Funding is provided for the Departments of Ecology, Fish & Wildlife, and Agriculture to establish watershed restoration and enhancement committees in fifteen watersheds, promulgate rules, fund water use mitigation projects, create a water-metering pilot project, and provide information to a joint legislative task force, as specified in [ESSB 6091](#).

The House would spend \$376 million in bonds and other funds and the Senate would spend \$353 million over the amount appropriated in the **Biennial Capital Budget** which was just approved at the start of 2018. Both the House and Senate Capital supplemental budgets include \$2 million in bonds for the state match for projects that received federal funding through the federal **Regional Conservation Partnership Program** (RCPP).

Under the House plan, \$9.3 million is loaned to the DNR for the first phase of installing a pipeline and irrigation delivery system, known as the Paterson Pipeline, to bring water to land allowed under a water rights permit owned by the DNR for the development of approximately 4,400 acres of agricultural lands to be irrigated with water from the Columbia River. The revenues from the leased irrigated acreage will repay the loan with interest.

The House budget also establishes a Joint Legislative Task Force on projecting costs to complete the Columbia Basin Project and a Joint Legislative Task Force on Water Supply to review surface water and ground water uses as they relate to agricultural uses, domestic potable water uses, instream flows, fish habitat, and to develop and recommend projects that would increase total water supply.

[HB 2967](#), (Lytton), the **Capital Gains Tax**, was approved by the House Finance Committee and is currently in Rules. The amount of tax would be 7.0 percent of net long-term capital gains reported by individuals for federal income tax purposes, with certain exclusions and exemptions. Capital gains on property sold or exchanged by c-corporations (corporations that are subject to the federal corporate income tax) would not be subject to the tax. However, capital gains on property sold by partnerships, limited liability companies, S-corporations or trusts would be subject to tax to the extent that those gains are passed through to individuals' federal income tax returns.

The Senate Ways and Means Committee approved [SB 6203](#) (Carlyle) which would impose a **Carbon Tax** on July 1, 2019. The bill is in Senate Rules and is considered NTIB. If passed, Washington state would be the first in the nation to impose a direct tax on carbon emissions.

The bill would impose a new tax of \$12 per metric ton of carbon emissions on the sale or use of fossil fuels such as gasoline and natural gas. That's lower than the \$20 per ton originally proposed by Governor Inslee, who has previously failed to get a carbon measure passed.

The tax would begin in 2019 and in 2021 would increase \$1.80 per ton each year until it hits \$30 a ton — estimated to be in 2030. In the first two years, the tax is projected to raise \$766 million and increase to about \$988 million in the next biennium.

Half of the money raised would go toward energy projects that reduce greenhouse gas emissions. Twenty percent would address climate resilience through water-related, forest health, wildfire prevention and other natural resources projects. There's also assistance for low-income families and workers in the fossil-fuel industry as well as economic development in rural communities. Specifically, the Energy Transformation Account could be used for the following carbon sequestration activities using procedures and criteria developed by the appropriate state agencies:

- Sequestration of carbon in aquatic marine and freshwater natural resources (RCO, DNR)
- Sequestration of carbon in agricultural lands and soils (WSDA)
- Sequestration of carbon in terrestrial, riparian, and aquatic habitats (RCO, DNR)
- The establishment of a working forest conservation grant (RCO, DNR)

Aviation fuel and fossil fuels used in agriculture are among those that would be exempt. The tax would be levied once at the first point of sale or use, but would likely be passed on to consumers. In 2020, the carbon tax would mean a 10-cent increase in gasoline prices, or nearly 4 percent higher than it otherwise would be, according to legislative analysts.

A bill amending the state's **Greenhouse Gas Reduction** targets to align with the latest climate science was approved by the Senate Committee on Energy, Environment & Technology. [HB 1144](#) (Fitzgibbon) revises the emissions reduction goals adopted by the state back in 2008. The bill now goes to the Senate Rules Committee.

Legislation to enact a so-called "**100% Clean Energy Standard**" has taken some twists and turns and [HB 2995](#) (Tarleton) has survived as the vehicle for any potential legislation. The bill includes many components but of note it establishes a public utility tax credit for certain clean energy investments. A substitute bill is to be heard and voted on in House Appropriations on February 26. You can compare the two bills [HERE](#). It awaits executive action in House Finance on February 26.

[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.

[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 is currently in the House Rules Committee. HB 1562 was approved by the House 71-27 and by the Agriculture, Water, Natural Resources & Parks Committee in the Senate. The bill awaits action in Ways and Means Committee.

[SB 6529](#) (Saldana) 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. The bill is in House Rules.

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

- [HB 2561](#) (Dent) was amended by the Senate Agriculture, Water, Natural Resources & Parks Committee to specify that the **Wildland Fire Advisory Committee** must specifically analyze and develop recommendations on potential administrative and legislative actions on unprotected lands, consult with relevant stakeholders not on the Advisory Committee, and include this information in the December 31, 2018 status report. The bill awaits action in Senate Ways and Means.
- [HB 2733](#) (Orcutt) creates a **prescribed fire program** and enumerates specific elements and activities the program must cover. The original bill also allowed burn permits issued to certified burn managers to have modified requirements in recognition of the

burn manager's training and skills. The Senate Agriculture, Water, Natural Resources & Parks Committee amended it to authorize DNR to modify burn permit requirements for certified prescribed burn managers, subject to smoke management and fire risk standards. The bill awaits action in Senate Ways and Means

- [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. The bill would also require sellers of firefighting gear using or contaminated by PFAS to notify the buyer. The House Environment Committee amended the bill to exempt the manufacture, sale, and distribution of class B firefighting foam containing PFAS chemicals to persons operating oil refineries and oil terminals for use at those facilities. Specifies a July 1, 2018, start date for Ecology to begin helping state agencies and local governments avoid the purchase of class B firefighting foam and firefighting personal protective equipment containing intentionally added PFAS chemicals. Makes technical corrections, including clarifying that restrictions on the manufacture, sale, and distribution of firefighting foams apply only Code to class B firefighting foams to which PFAS chemicals have been intentionally added. This bill is now on the House Floor calendar.
- [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. This bill was approved by the House Local Government Committee and now goes to House Rules. The Senate proposed budget includes \$160,000 for this work. The House does not.
- [HB 2175](#) (Maycumber) gives the DNR additional authority to use best land management practices to quickly and effectively **reduce fuel loads**. The bill was approved by the House 98-0 had a public hearing in the Senate Committee on Agriculture, Water, Natural Resources & Parks on February 20 but no further action was taken. The bill is dead for the session.

Because **Apple Maggots** are such a serious threat to Washington's apple industry, [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. The House Environment Committee amended the bill to strike the section creating pilot project and created a new section authorizing cities and towns located partially within an apple maggot quarantine area to apply for an agricultural activities outdoor burning permit provided certain requirements are met. It also directs the Department of Ecology and the Department of Agriculture to submit to the Legislature by November 1, 2018 a report that addresses the options available for the processing and

disposal of municipal yard waste generated in areas subject to the apple maggot quarantine. The bill was added to the House Floor Calendar.

[HB 2285](#) establishes an advisory committee to the Commissioner of Public Lands and a reporting process for the DNR regarding certain **marbled murrelet** habitat information. It was approved by the House and approved by the Senate Committee on Agriculture, Water, Natural Resources & Parks and awaits action in the Ways and Means Committee. The House proposed budget provides \$100,000 for this work. The Senate does not.

[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. The bill was approved by the Senate Committee on Agriculture, Water, Natural Resources & Parks with an amendment that specifies that the notice and public hearing requirements apply to actions intended for population enhancement, but not maintenance. The bill is in Rules.

In response to the Cooke aquaculture **Non-Native Fish Pen** collapse this summer, five bills were considered by the legislature this session and only one is still alive. [HB 2957](#) (Lytton) phases out non-native commercial net pen aquaculture by 2022. This bill was approved by the Senate Committee on Agriculture, Water, Natural Resources & Parks and is in Senate Rules.

A bill intended to strengthen **Oil Transportation Safety** through [SB 6269](#) (Ranker) was approved by the Senate Ways and Means Committee and sent to the Rules Committee. 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. Both the House and Senate budgets transfer \$4.72 million from the Oil Spill Response Account to the Oil Spill Administration Account for the 17-19 biennium. This transfer reinstates a \$.01 tax that suspends when the Response Account reaches a certain threshold.

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) HB 2417 did not advance from the House committee and though SB 6268 did not hurdle a cut-off, through some legislative wrangling it was resurrected last week in the form of [Senate Bill 5886](#).

There is also funding (\$793,000) in the House supplemental budget for enforcement of vessel traffic near orca whales and for an inventory and maintenance of fish screens to protect juvenile salmonids. In the Senate operating budget there is \$726,000 provided to

address the limiting factors of orca whale recovery including increasing the production of Chinook salmon at hatcheries, increasing enforcement of vessel regulations, and for the department to support, one-time, the Governor's recovery efforts.

[SB 6140](#) (King) promoting efficient and **Effective Management of State Managed Lands** was approved by the Senate 43-4. It was approved by the House Committee on Agriculture & Natural Resources and will be heard in the House Capital Budget Committee on February 26. As approved by the House committee the bill:

- Brings into alignment the maximum length of leases for certain state-owned aquatic lands.
- Provides that the DNR may, rather than must, plat certain aquatic lands.
- Authorizes the DNR to market certain uplands through a real estate broker without first offering them for sale at public auction.
- Authorizes the DNR to transfer certain real property directly, without public auction, to lessees who are currently leasing the property for a home site.
- Directs the DNR to conduct an evaluation of its lands portfolio, revenue streams, management practices, and transaction processes, in order to ensure that its fiduciary duty is being met.
- Requires the DNR, as part of the evaluation, to track certain values generated by state trust lands and state forestlands, including, among others, forestland, irrigated and non-irrigated agricultural land, ecosystem services, and recreation benefits.
- Requires the DNR to use the services of a contractor to perform an independent asset valuation of the trust land portfolio and revenue streams in comparison to other lands regulated by the DNR.
- Directs the DNR to evaluate certain industrial and commercial leases and easements on state-owned aquatic lands relating to certain matters including lease terms, annual revenues, and inspection and compliance efforts.

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