



POST SESSION LEGISLATIVE WRAP-UP

April, 2008

OVERVIEW

The Legislature passed 335 bills during the 60-day session that adjourned “Sine Die” on time and with a mix of wins and losses for the business community. Throughout session, the Coalition has been your voice championing business issues in Olympia. Following are details on legislative issues from the Coalition’s 2008 Legislative Agenda.

EDUCATION – COALITION PRIORITY ISSUE

Redesign of the State Assessment System and WASL – The Governor signed HB 3166 into law requiring the Superintendent of Public Instruction (SPI) to improve administration of the Washington Assessment of Student Learning (WASL) by reducing the number of extended response items and introducing more items that are able to equally assess student achievement such as multiple choice and true/false questions (\$15.9 million budget savings). The redesign applies to all areas except writing and in all grades except high school. SPI must also develop statewide end-of-course assessments for high school algebra and geometry. Beginning with the graduating class of 2014, passage of the end-of-course assessments in algebra and geometry will be a requirement for graduation.

Expanding the Applied Baccalaureate Degree Pilot Program – SB 5104, sponsored by Sen. McAuliffe, requires the State Board for Community and Technical Colleges to select up to three additional colleges to develop and offer programs of study leading to an applied baccalaureate degree. At least one must be a technical college.

Employer Based E-Learning Training Programs – SB 6295 establishes a pilot program for private employer workplace-based educational programs with distance learning components provided by public higher education institutions. Employers participating in the pilot program will be chosen by September 2008. A study is required with the results reported to the Legislature by December 2008 and every two years thereafter.

Career and Technical Programs – SB 6377 requires approval of all high school career and technical training programs to ensure alignment with learning objectives and to provide assistance to schools with programs that may need revision in order to meet the new requirements. As schools broaden student access to career and technical training opportunities, it is essential that these programs align with the WASL and essential academic learning requirements to reinforce the standards established for graduates. In addition this measure requires that training programs focus on high demand fields to ensure students have training in jobs with a sustainable future.

WASL Delay – Fortunately, SB 6540 did not pass this session. The measure would have delayed passage of the 10th grade reading and writing WASL assessments in order for students to graduate.

Mathematics Standards – SB 6534 requires the State Board of Education (SBE) review the February 2008 version of the revised mathematics standards developed by the Office of the Superintendent of Public Instruction (SPI). The bill also requires that a public hearing be held with the SBE Mathematics Advisory Panel on the findings and specific recommendations by May 15, 2008 (the Coalition will send a letter). The final recommendations of the Board will be reported to the SPI, which must revise the mathematics standards in accordance with the Board's recommendations by July 1, 2008. The SBE must either approve adoption of the final revised standards by SPI or develop a plan for ensuring the recommendations are implemented so that final standards can be adopted no later than September 25, 2008.

Eliminating Requirements for a Third Year of Mathematics in High School – In 2007 lawmakers required that all high school students must complete three years of mathematics in order to graduate from high school. This law applies to those students who graduate in 2012 and beyond. This session, legislators contemplated retreating from that requirement. Fortunately, HB 3299 did not receive final action, as it would have eliminated the third year of math as a graduation requirement and would have required the State Board of Education to study whether this new requirement is warranted.

Tuition Increases – The final supplement budget assumes fee authorization for both four-year and two-year colleges and universities to increase 2008-09 resident undergraduate tuition.

K-12 Education – The overall budget for K-12 education increased by \$18 million including elimination of the "Promoting Academic Success" (PAS) program funded in 2007 and providing targeted assistance to 11th and 12th grade students who have not passed the WASL and are in jeopardy of not graduating. This program was eliminated to make way for the "Student Learning Opportunities" (SLO) program (SB 6673) which significantly broadens the assistance to cover those students who fail WASL components in 7th and 10th grades and to those who may pass the WASL at required grade levels, but are still in jeopardy of not graduating due to a variety of reasons. While the \$19.4 million dollars previously allocated to the PAS program was reallocated to the SLO program, due to the construct of the SLO program, \$1.4 million was moved from direct assistance to the Educational Service Districts so they may hire additional staff to help schools identify programs and assistance strategies. \$17.9 million remains for direct assistance.

Professional Educator Standard Board – With the increasing focus on the need for improved education in math and science, the budget includes funding for the Professional Educator Standard Board (PSEB) to conduct a comprehensive analysis of the supply and demand for math and science teachers in the state. The PSEB must also develop recommendations to address any shortages identified in the study, which will conduct the analysis and provide results on a district by district basis.

Salary Increases – Public school employees and some community college workers will receive a 4.4% raise in the 2008-09 school year, an increase of 0.5 percent above the voter-approved law guaranteeing cost-of-living raises.

Higher Education Performance Contracts – Washington develops a ten-year plan for higher education encouraging the state to think about the direction of higher education but not connecting it to funding or to institutional support or implementation of the plan. HB 2461 provides a link to the budget and requires the Higher Education Coordinating Board (HECB) to develop the master plan and partner with universities on a performance agreement which allows the HECB to reconcile what the universities propose to do with the master plan, identify gaps and overlaps, and negotiate changes to meet the goals of the master plan. The agreements would also include commitments, both for the current budget and for the remaining years of the plan. This measure will strengthen accountability by requiring higher education institutions to agree to specific achievements, such as more graduates in engineering disciplines.

UW North Campus – Lawmakers left Olympia without passing any of the bills that would have authorized a branch-campus site in Everett, Marysville or Lake Stevens. They did, however, authorize \$100,000 to get the communities to rally behind a single site that would serve students in north Snohomish, Island and Skagit counties. The state's Higher Education Coordinating Board will be in charge of getting the communities together, and then making a final recommendation by Dec. 1.

TRANSPORTATION – COALITION PRIORITY ISSUE

SR 520 Corridor – HB 3096 requires a finance plan for the bridge replacement that includes certain assumptions, including savings from early pontoon construction and pre-construction tolling, and a tolling implementation committee is formed to evaluate issues including traffic diversion, partnership opportunities and tolling technologies. The committee must also survey citizens about the project. A state and local sales tax deferral is made available for the bridge replacement project. The bridge cost estimates are \$3.9-4.38 billion.

Statewide Tolling Policy – HB 1773 establishes a statewide tolling policy giving authority to the Legislature to impose tolls unless otherwise delegated (authority previously rested with the Transportation Commission). Local entities retain power to impose tolls if it does not affect the state highway system, however tolling administration is set by the Transportation Commission. All revenue from tolls is deposited in a new toll collection account and is only for use on the improvement, preservation, and operation of the same facility. The measure also allows WSDOT to set the statewide standards for all toll facilities.

Vehicle Miles Traveled – HB 2815, an effort to limit green house gas emissions to 1990 levels by 2020, passed the Legislature, requiring in part, for the Department of Transportation to adopt broad statewide goals to reduce annual per capita vehicle miles traveled by 2050.

Concurrency and Impact Fees for Transportation – Unfortunately, neither HB 2950/SB 6566 which aimed to reform transportation concurrency law under the Growth Management Act (GMA), passed this session. The legislation would have modified existing concurrency law under the GMA by providing that if transportation impact fees are imposed upon a landowner or developer during development or construction of a project, then the local jurisdiction must recognize satisfaction of concurrency requirements under the GMA.

The Coalition also supported the following measures which did not pass this session:

- **RTID** – SB 6771 would have authorized a study of the future role of the Regional Transportation Investment District (RTID), the tri-county agency that developed the roads portion of the roads-and-transit measure rejected last year by voters.
- **Transportation Sales Tax** – HB 3051 would have exempted \$1 billion in highway projects from the state's 6.5 percent sales tax if tolls are to be used to cover half of the construction cost.

BUSINESS TAXATION – COALITION PRIORITY ISSUE

Lawmakers ended the session by adopting a budget that places \$835 million in reserves and spends an additional \$230 million. Also anticipated is a \$2.4 billion deficit for the coming biennium.

Transparency In State Spending – SB 6818 requires the Legislative Evaluation and Accountability Program (LEAP) Committee to make publicly available a state expenditure information website that contains state expenditure and budget information, state agency workloads and performance measurements, and state agency personal services contracts. The LEAP Committee must also create a public website specific to K-12 education funding.

ENERGY

Increasing Annual Utility Targets by 2025 – Fortunately HB 2556 failed to receive action this session. The measure attempted to modify provisions of I-937 which mandates that Washington electric utilities serving 25,000 customers or more acquire at least 3% of their electricity from renewable resources (excluding hydropower) by 2012, at least 9% by 2016, and at least 15% by 2020, along with meeting mandatory conservation targets and other requirements. HB 2556 would have added a similar mandate of 25% by 2025.

Promoting Renewable Energy – HB 2994, known as the Renewable Energy Production Incentive (REPI) would have provided payments from Washington State to the owner of any qualified renewable energy facility of 1.5 cents per kilowatt hour of electricity generated by the facility. This approach promoted the development of renewable energy resources by public utilities and provided similar renewable energy production incentives available to private utilities through federal production tax credits. Unfortunately, the bill did pass this session.

ENVIRONMENT

Environmental issues were front and center this session due in part to the popularity of “going green”, climate change and global warming. Fortunately, business groups and other stakeholders successfully held the line in reducing the initial, more regulatory nature of these measures. A larger policy debate is anticipated in the 2009 session which will be pivotal in determining how far the Legislature is willing to go in implementing new, heavy-handed environmental regulations that, if not implemented responsibly, could significantly increase energy costs, hinder Washington’s economy, and place our state and businesses at a competitive disadvantage.

Reducing Greenhouse Gas Emissions – HB 2815 was the environmental community’s number one priority bill, and begins a process to accomplish the greenhouse gas emission reduction goals established in the Governor’s Executive Order 07-02 and SB 6001 passed last session. Unfortunately, the goals are established as limits and a mandate is put in place for the state to reduce overall greenhouse gas emissions to 1990 levels by 2020, reduce emissions to 25% of 1990 levels by 2035, and reduce emissions to 50% below 1990 levels by 2050. The Department of Ecology (DOE) is directed to submit a greenhouse gas reduction plan to the Legislature by December 1, 2008, describing actions necessary to accomplish these emission reductions. DOE is also retrospectively granted authority to develop with the Western Climate Initiative, a design for a cap and trade system, and by December 1, 2008, along with the Department of Community, Trade & Economic Development (CTED), recommend and request approval to implement a preferred design for the cap and trade program. In addition, the bill directs DOE to adopt rules requiring the reporting of greenhouse gas emissions for vehicle fleets emitting 2,500 metric tons or more of greenhouse gas emissions and for stationary sources emitting 10,000 metric tons or more. The reporting of 2009 emissions will be required in 2010. The measure also establishes a “green jobs” initiative based on the goal of increasing green economy jobs in the state to 25,000 and a directive to identify emerging technologies and innovations that are likely to contribute to this goal.

Climate Change and Growth Management – SB 6580, which addresses the impact of climate change through the Growth Management Act, directs the Department of Community, Trade and Economic Development (CTED) to develop and provide counties and cities with a range of advisory climate change response methodologies, a computer modeling program, and estimates of greenhouse gas reductions, along with creating de-facto CTED rules and regulations that could provide the foundation for climate change-related land-use appeals to the Growth Management Hearings Boards. Such appeals and litigation have hindered responsible land use planning, adversely impacted private property rights, limited the supply of buildable land and had an adverse affect on affordable housing in our state.

GROWTH MANAGEMENT

Eminent Domain – HB 2920 would have required agencies to distribute a brochure outlining the process and the rights of property owners threatened with an agency action to take their property through eminent domain. Unfortunately the bill did not pass this session.

Revising Eminent Domain – HB 2016, sponsored by Rep. Larry Springer, would have prevented agencies from taking property predominantly for the purpose of increasing the tax base, economic development, and the transfer of the property to another private entity. The bill would have required agencies to return the property to the previous owners if the property was not used for the purpose for which it was taken. The bill contained many of the provisions discussed in the Attorney General’s Eminent Domain Task Force.

HEALTH INSURANCE

Creating a Citizens’ Workgroup on Health Care Reform – SB 6333 is the platform from which health care reform efforts will be launched during the next biennium. The bill requires the Office of Financial Management (OFM) to contract for an economic analysis of four separate health reform proposals including modification of regulatory provisions to allow plans that have varying mandates; the Massachusetts “Connector” plan; a required comprehensive benefit plan offered through a third party administrator but provided through existing carriers who elect to participate; and the Canadian-style single-payer model. In addition, the consultant must peer-review the economic analysis of Insurance Commissioner Kreidler’s plan introduced this year as SB 6603. After the review, a 13 member commission will travel around the state to discuss the results of the economic analysis to build support for a statewide health care reform proposal that will be voted on in 2010.

Association Health Plans – Fortunately, SB 6365, the measure aimed at establishing regulatory oversight of association health plans, did not pass this session. The bill would devastate this important option available to small employers and many chamber members.

Modification of the Health Insurance Partnership – Last year the Legislature created a program to provide coverage to small employers through a state entity which will enroll certain small employers into existing health plans. During the course of the year, the program identified several areas that they could not implement as originally designed and requested several “technical fixes” to enable the program to move forward. Unfortunately HB 2537 moved far beyond “technical fixes” to fundamentally change the program so it could encompass the entire small group market. Ultimately, the measure was amended to instead focus on the government-run program of providing assistance to small businesses who are not currently providing coverage that have at least 50% low-wage workers and providing subsidies to employees in those businesses with incomes up to 200% FPL.

Granting the Insurance Commissioner Authority to Review Individual Health Plan Rates – SB 5261 will now give the Office of the Insurance Commissioner greater authority to deny carrier rates in the individual insurance market. Proponents contend that the measure is necessary in light of recent premium increases that ranged from 10-30% in one year, but unfortunately this new authority restores many of the same regulatory provisions that led to the crisis in the individual market in 1999-2000, locking thousands of individuals out of the individual market.

Fortunately, the following health care measures did not pass this session:

- **Universal Health Care:** SB 6221 would have created universal health care in the state by replacing employer-provided health care with a payroll tax.
- **Health Care Reform:** SB 6574 attempted to reduce the cost of health insurance by creating a stock market-like exchange for plans.
- **Catastrophic Coverage:** SB 6603 would have provided catastrophic care for the uninsured or underinsured, funded by a 1% payroll tax.

HUMAN RESOURCES & EMPLOYEE BENEFITS

Paid Family Leave: Lawmakers were unable to agree on a funding source for this benefit program established last year, and also unable to agree on how to implement the program or determine which state agency should be given the legal authority to operate the program. Instead, the Legislature appropriated start-up funds for a computer system needed to run the program and implied theoretical legal authority for the Employment Security Department to begin administering the program.

In addition, two new paid family leave laws were enacted – one granting a “reasonable period of leave” for victims of domestic violence, sexual assault, or stalking, went into effect on April 1, and the other, granting up to 15 days of leave for spouses of armed services members called to deployment, on deployment, or on leave from deployment.

LIABILITY REFORM

Homeowner’s Bill of Rights – Fortunately, SB 5550, did not pass again this session. The measure would have imposed major reforms on the single family home market. The bill would have mandated onerous new home warranty policies for new and remodeled homes and would have required transferable warranties of up to 10 years on new homes, holding builders liable for all defects and repairs. It would also have allowed a longer time period for homeowners to sue builders. The bill was similar to legislation enacted on the condo market, which made it nearly impossible for small builders to purchase liability insurance and rendered them unable to build condos in Washington state. SB 5550 would have had similar consequences to small home builders and would have devastated the residential liability insurance market for these business owners. Most importantly, it would have dramatically increased the cost of new housing for consumers.

New Cause of Action for Negligent Construction – In its initial form HB 2837/SB 6385 would have provided a new cause of action against contractors and developers for negligent construction of residential improvements to real property – an action that Washington’s common law and courts have never recognized. This legislation would have been extremely harmful to general and sub-contractors, particularly small business contractors, by opening the door to new litigation and significantly increasing insurance rates.

REGULATORY REFORM

Office of Regulatory Assistance (ORA) – Unfortunately, HB 2631/SB 6690, which would have redefined the purpose and operating principles of the ORA, including emphasizing a forum for improving the regulatory process, and assisting project proponents through those processes, did not pass this session.

Reducing the Regulatory Burden for Business – HB 3335 would have prohibited state agencies from adopting rules unless they are derived from specific grants of legislative authority and would have delayed the effective date of significant legislative rules until after one legislative session has passed. In addition, the measure would have changed the burden of proof in actions challenging the validity of an agency action and stricken the July 2008 sunset of alternative courts for filing actions against state regulatory agencies.

For additional information, please visit the Coalition online at www.eastkingchambers.org, or contact Shannon Boldizar, Government Affairs Director, sboldizar@bellevuechamber.org; or 425-213-1203.