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COMMISSION

AGENDA MEMORANDUM Item No. 11a

BRIEFING ITEM Date of Meeting May 23, 2023

DATE: May 16, 2023

TO: Steve Metruck, Executive Director

FROM: Pearse Edwards, Sr. Director External Relations

Clare Gallagher, Director, Capital Project Delivery

SUBJECT: 2023 State Legislative Session Review

EXECUTIVE SUMMARY

The purpose of this briefing is to provide the Port of Seattle Commission, Executive Director, and Executive Leadership Team with a final report on the 2023 State Legislative Session, with specific attention given to the Port's 2023 State Legislative Agenda.

On Sunday, April 23, 2023, the Washington State Legislature adjourned, representing the end of the 2023 105-day session. While legislators were able to pass three budgets and major milestone legislation, in the final hours of session the Legislature rejected the compromise legislation addressing the state's drug possession law. After the Washington State Supreme Court struck down the State's felony drug-possession law (the Blake Decision) during the 2021 legislative session, lawmakers passed a quick fix to classify possession as a misdemeanor but refer people to treatment before charging them. That law sunsets in July. Thus, the Washington State Legislature reconvened in special session on May 16, 2023, introducing a new compromise proposal that passed both chambers by the close of the day.

It was a good session for the Port of Seattle and NWSA, with bills such as the "2:1 match" and SAF winning passage and funding secured for electric trucks, phase two of SR 509 and SR 167 (Gateway Projects), and Quiet Sound.

The Legislature approved a \$69.3 billion two-year operating budget. No new tax increases were included in the budget, though a tax on capital gains passed in 2021, a law upheld by the Supreme Court in the midst of this session, will bring in about \$1 billion over the next two years. The most significant positive impact to the budget was the higher-than-expected revenue from the State's first carbon auction in the amount of \$300 million in the first auction.

The Washington State House and Senate agreed on a nearly \$13.5 billion transportation budget, a plan that spends heavily on major highway construction already in progress, electrifying the transportation sector, the state ferry system, climate-focused projects, and the court-mandated fix of the State's fish culverts.

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The Legislature also passed an \$8.9 billion capital construction budget, with over \$4 billion in new bonds. Some highlights of spending include historic investments in affordable housing and homelessness, money for behavioral health treatment centers, and k-12 construction. The plan also leaves \$95.4 million in spending for next year.

On Tuesday, May 16, 2023, the Governor signed the 2023-25 Capital, Operating and Transportation Budget bills. While Governor Inslee acknowledged the important investments in the Transportation Budget, he expressed his continued frustration and concerns that the budget underfunds preservation and "over promises" on new projects. Governor Inslee's letter to House and Senate Transportation leaders is included as an attachment to this memo.

Only a few bills that we were advocating for failed to pass. These bills were the WRAP Act, a bill pertaining to changes to recycled materials; a civil asset forfeiture bill that the Port worked with Rep. Hackney on to add an amendment; and transit-oriented development. It is important to note that any bill introduced this session that failed to pass will automatically be reintroduced in next year's short legislative session.

The memo below provides a high-level overview of issues the Port supported, monitored, or otherwise engaged on, and their status at the end of the 2023 legislative session.

Staff will be joined at the Commission briefing by our contract lobbyists, Trent House and Brooke Davies, and Eric ffitch, Executive Director of the Washington Public Ports Association.

SUCCESS FOR PORT PRIORITIES:

Sustainable Aviation Fuels (SAF) legislation (SB 5447 and HB 1505): The Port of Seattle was part of a coalition of aviation and clean fuel production entities who worked with Senate Majority Leader Andy Billig to advance this bill. The legislation incentivizes in-state production and use of

sustainable aviation fuels and requires that the Department of Ecology elevate SAF to a Tier 1 fuel pathway; and a potential amendment to the LCFS statute to give that type of a fuel a "multiplier" in the credit market.

The bill also requires that:

- Washington State University must convene an Alternative Jet Fuels Work Group to further the development of alternative jet fuels as a productive industry in the state. Membership includes legislators and sectors involved in alternative jet fuel research, development, production, and utilization.
- The University of Washington, in collaboration with Washington State University, calculate emissions of ultrafine and fine particulate matter and sulfur oxides from the use of alternative jet fuel compared to conventional fossil jet fuels at SEA, including potential regional air quality benefits of any reductions, beginning in December 2024.

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The bills passed both chambers with strong bipartisan support. Governor Inslee signed the bill on May 3rd. The law becomes effective on July 23rd.

Shorepower: On July 1, 2023, the Washington State Department of Transportation will receive its allocation of \$29m for grants to port districts to support decarbonization work. While two port projects – in Seattle, Bremerton, and Anacortes—received direct appropriations, all other ports are eligible to apply for funding under this section. WPPA will be working with WSDOT to develop the grant program and will be in touch with members with more information as soon as details become available. Additionally, the Transportation Budget included \$14 million for the zero emission shorepower infrastructure demonstration project at Northwest Seaport Alliance facilities.

Clean Trucks: The Transportation budget included \$20 million for an early action grant program for zero-emission commercial vehicle infrastructure demonstration projects, \$6.3 million for a zero-emission drayage truck demonstration project at the NWSA, and \$33.7 million for charging/refueling along priority corridors, which while not specific to clean trucks, could be beneficial.

"2 to 1 Match" bill (HB 1086)– Rep. Shavers (D-10, Mt. Vernon), introduced a bill amending the RCW to increase local governments' ability to contract with community service and non-profit organizations. The Port's goal was to reduce the required non-profit match for those grants, as well as include port districts in the legislation. This required an amendment during Senate consideration to accomplish our goals. With the blessing of labor, the prime sponsor, the committee chair, and the WA Recreation & Park Association, a striking amendment was drafted and adopted. The bill passed both chambers with overwhelming support. Governor Inslee signed the bill on May 2nd, with Commissioner Mohamed present. The law will go into effect on July 23rd.

Clean Energy Siting: HB 1216, sponsored by Rep. Fitzgibbon, seeks to streamline permitting and siting of clean energy facilities in Washington by creating: a new designation for clean energy projects of statewide significance; a new coordinated permitting process; and development of non-project environmental impact statements for certain clean energy projects. The bill was signed on May 3rd. The law goes into effect on July 23rd.

Trafficking: Legislation (SB 5114) passed both chambers with only one dissenting vote to create a network of hearing, support, and transition services for adults 18 and older with lived experience of sex trafficking. Funding for the resource centers in the amount of \$5.7 million is included in the final Operating budget.

Child Care Facilities: HB 1199 (Rep. Senn, D-41, Mercer Island) would allow for childcare facilities in common interest communities (e.g. condominium complex or HOA-administered facilities). The bill passed both chambers. Governor Inslee signed the bill into law on May 1st and the bill became effective upon his signature.

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Middle housing legislation: HB 1110 sponsored by Rep. Bateman (D-22, Olympia) as introduced would have allowed cities with a population of at least 6,000 or a city near an urban growth area with a population of more than 200,000 to increase density in residential areas typically dedicated to single-family detached housing. The Port supported the legislation as it alleviates

pressure to build housing on industrial lands.

The bill was amended to allow different classes of multi-plex housing depending on the population of the jurisdiction. For cities with population of 75,000 or higher – including Seattle and Bellevue – it allows for four units per lot; six units per lot within 0.25 miles walking distance of a major transit stop; and six units per lot if at least two units are affordable housing. Other changes to the bill would allow local government to halt middle housing permits if the project would negatively affect a local government's water and sewer systems. The bill was signed into law on May 8th and becomes effective on July 23rd.

Workforce Training:

Clean energy sector workforce training – The Port supported legislation to develop workforce training programs in the clean energy sector. HB 1176 (Rep. Slatter, D-48, Bellevue) and SB 5247 (Sen. Nobles, D-28, Fircrest) creates the Washington Climate Corps network and directs the state's workforce training and education coordinating board to establish a committee to evaluate clean energy workforce needs that would make recommendations to the Governor and Legislature. The bill passed both chambers. \$9 million was allocated to the program in the budget. The bill was signed into law on May 3rd. The law goes into effect on July 23rd.

Apprenticeship Utilization - HB 1050,, sponsored by Rep. Ricelli, would require port public works projects over \$2 million to achieve 15% use of apprenticeships. Throughout session, WPPA shared that ports strongly support apprenticeship utilization as an effective way to grow the workforce but have concerns this legislation would become a barrier to all small businesses and may limit the number of bidders interested in port projects. The legislature amended a study into this bill which should help ports and other local governments prepare for this change. The legislation will not take effect until 2024. The bill was signed into law on May 9th and becomes effective on July 23rd.

Policing: HB 1240 (Peterson, D-21, Edmonds) – Governor and AG request legislation that will prohibit the manufacture, importation, distribution, and sale of semi-automatic weapons such as the AR-15. The Governor signed the bill on April 25th, becoming effective immediately upon signing. Other measures that passed permit the state to sue the firearms industry for failures to act responsibly and create a 10-day waiting period for firearm purchases.

Tourism: The Port strongly supported HB 1258, statewide tourism marketing, throughout the session. The bill reduces the nonstate match requirement to 1:1 from 2:1 for expenditures from the statewide tourism marketing account. Unfortunately, the bill's initial funding of \$26 million was reduced to \$9 million in the final budget. The whittling away of the proposed funding

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stemmed from the belief that tourists flock to the state already. The Governor signed the bill into law on April 25, 2023, with the law becoming effective immediately.

Other tourism-related items in the state budget include \$150.7 million for Outdoor Recreation and Conservation and \$81.6 million for State Parks.

CACC Replacement: The Commercial Aviation Coordinating Commission was formed pursuant to legislation passed in the 2019 legislative session. Senate Bill 5370 was authored by Senator Karen Keiser (D-33rd, SeaTac, Des Moines) and convened a large group process to identify the preferred site for a next commercial service airport by January 1, 2022.

House Transportation Chair Fey introduced HB 1791 that will decommission the CACC's role to identify preferred sites for a new commercial airport. Instead, it submits a "progress report" to the Governor and the Legislature on January 1, 2024, and "annually thereafter."

The new committee's work will have an expanded focus of a "coordinated look at transportation system as a whole" and asks that it consider the "broader context of state transportation needs."

The Port of Seattle would retain its seat on the committee. Moses Lake and Spokane airports will also be represented. Citizen participation would increase from two to seven representatives from both eastern and western Washington.

Upon passing the Legislature, the bill was delivered to the Governor's office on April 20th. It awaits final action by the Governor.

Derelict Aquatic Structures: SB 5433, Department of Natural Resources supported legislation, will support ongoing work to remove derelict structures from waterways. The Port of Seattle staff worked with WPPA, DNR, and Puget Sound Partnership staff to amend bill language to address our collective concerns. The bill passed both chambers unanimously and signed into law on May 1st.

FMSIB Reform: HB 1084 makes changes to the board, including the addition of four new members while removing direct grant-making authority from the board. However, the legislature

funded nearly \$30 million in board priorities this session, including \$300,000 for the 2024 Marine Cargo Forecast. This is the first funding FMSIB priorities have received in four years. The bill was signed into law on April 25th.

Port Anti-Trust: HB 1257, sponsored by Rep. Hackney, will give ports that move cargo or passengers the authority to continue meeting to discuss rates and charges and other best practices for port operations. This bill extends the state's antitrust protection to those ports and responds to a recent shift in interpretation at the Federal Maritime Commission which called the antitrust immunity of ports joining the Northwest Marine Terminals Association into question. The bill was signed into law on May 9th and becomes effective July 23rd.

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Quiet Sound funding: The Port drafted and supported a \$700,000 appropriation for Quiet Sound in the upcoming biennium. Both chambers adopted this amount in the final operating budget.

MORE WORK TO BE DONE: Issues that we will work next year.

Transit-Oriented Development (TOD): SB 5466 sponsored by Sen. Liias would have required the Department of Transportation to establish a competitive grant program to help finance qualifying housing projects within rapid transit corridors. The Port of Seattle has been supportive of increased density in areas zoned for residential purposes if it relieves pressure to develop industrial lands.

The bill received support from builders, environmentalists, and labor and passed the Senate in a near unanimous vote. A House amendment that included an affordable housing clause split the strange-bedfellow coalition supporting the bill. This conversation will continue over the interim and the bill will be re-introduced next year.

Asset Forfeiture: HB 1385, a bill sponsored by Rep. Hackney, would amend seizure and forfeiture procedures and reporting. The Port submitted and the House amended the bill to expand the Port's use of forfeited funds in its possession. Currently, RCW limits such uses to purposes of illegal drug interdiction (e.g., the hiring of police officers assigned to illegal drug enforcement). Updated language would expand usage of such funds for human trafficking and gun control enforcement issues.

The bill failed to advance before the fiscal cutoff and did not move forward this session.

The bill faced challenges because no state agency wanted the enforcement authority to track forfeited property. This includes the State Treasurer and the Washington State Patrol. Port staff will work with the bill sponsor before the 2024 session to identify a state agency willing to serve as the enforcement party. Since this is the first half of the biennium the bill will automatically be reintroduced next session.

WRAP Act: (HB 1131/SB 5154): the Washington Recycling and Packaging Act (WRAP Act) sponsored by Rep. Liz Berry and Senator Christine Rolfes was an attempt for the state to shift responsibility for managing packaging and paper products (PPP) from local governments to producers. This bill was important to the Port of Seattle because we rely on Washington's recycling system to help achieve our ambitious goal to divert at least 60% of our waste from landfills through waste reduction and recycling programs.

Both bills passed their respective policy committees. The legislation ultimately died in both the House and Senate due to fierce opposition from a variety of stakeholders including the solid waste companies, hospitality, grocers, and pharmaceutical companies. This conversation will continue over the interim as there was \$500,000 included in the final operating budget to

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continue studying this issue. The bill will automatically be resurrected in the 2024 legislative session.

BUDGET:

Operating Budget (SB 5187): The Operating Budget is a two-year plan that pays for the day-to-day operations of state government, including K-12 schools, human services, higher education, prison system, public safety, and more. The final budget appropriates \$69.2 billion for the biennium. It adds \$4.7 billion in new spending, leaves approximately \$3 billion in reserves, and does not rely on new taxes or fees.

Notable investment include:

- Targeted Equity Investments: \$496M

- Clean energy siting and permitting: \$55.8M
- Establishing the Washington Climate Corps: \$4.7 million
- Quiet Sound: \$700K
- Maritime Core Plus Programs : \$1M
- Resource centers for the adult victims of sex-trafficking: \$5.7M
- Tourism: \$9M
- Climate Commitment Act and Natural Resources
 - o \$412 million in Climate Commitment Act investments
 - o \$45 million for forest health and wildfire protection
 - o \$39 million for biodiversity protection
 - o \$36 million for salmon habitat and recovery

Capital Budget (SB 5200): The Capital Budget is the state's construction budget, and typically includes investments to state and local agencies for building and infrastructure projects, such as public schools and universities, parks, prisons, but does not include transportation construction. It operates over the same two-year period as the Operating Budget. The final budget authorizes \$9 billion in total budgeted funds, of which \$4.7 billion is debt limit bonds for the 2023-25 biennium. The remaining amounts are \$947 million in federal funds, \$328 million in Model Toxic Control Accounts, \$717 million in Climate Commitment Accounts, \$295 million in alternate financing authorizations, \$275 million in State Common School Construction Account, and \$1.8 billion in all other funds. Approximately \$95 million in bond capacity is reserved for a supplemental capital budget.

Notable investments include:

- Grants for clean energy research, development, demonstration, and deployment projects: \$60M
- Grant program to reduce carbon emissions in hard-to-decarbonize sectors such as aviation and maritime: \$40M
- Ultra-fine Particle Monitoring: \$400k
- Wildlife Recreation and Conservation: \$150M

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- Natural Resources: \$2.4 billion is invested in natural resource projects that collectively address water quality and supply, salmon recovery, outdoor recreation and conservation, state trust lands, state parks, air quality, and more. Major investments include:

- o Water Quality: \$779 million
- o Salmon Recovery: \$378.3 million
- o Water Supply: \$233.7 million
- o Outdoor Recreation and Conservation: \$150.7 million
- o Toxic Cleanup and Prevention: \$158.1 million
- o State Parks: \$81.6 million
- o Carbon Sequestration Forests and Trust Lands: \$110.1 million
- o Air Quality: \$56.6 million

- Local & Community Projects: \$231 million, which funds over 325 community-based projects.

- Home Electrification and Appliance Rebates Program (HEAR): \$163 million

- Clean Energy Fund Grants: \$60 million

- Large scale solar innovation projects: \$39 million

- Local emission reduction projects and projects to reduce emissions in hard to decarbonize sectors: \$36.7 million

- Local Infrastructure:

- o Public Works Trust Fund for infrastructure projects administered through the Public Works Board: \$400 million

- o Low-interest loans to publicly and privately owned drinking water systems through the Department of Health: \$140 million

- o State matching funds for the federal Broadband Equity, Access, and Deployment Program: \$50 million

Transportation Budget (HB 1125): The state's transportation budget pays for both the day-to-day operation of state transportation agencies and the construction and preservation of state highways and roads. Most of the revenue that supports the transportation budget comes from the state gas tax and permits, licenses, and other fees. The final budget appropriates \$13.4 billion and made significant investments towards major highway projects (\$5.4 billion), the state's ferry

system (\$1.3 billion), and fish and culvert removal and repair (\$1 billion). Notably, this is the first year the state can utilize funding from the Climate Commitment Act that passed in 2021. Nearly \$1 billion will be used for projects that support conversion to zero-emission transportation.

Notable investments include:

- Port Electrification Competitive Grants: \$29M
- Zero emission shore power infrastructure demonstration project at Northwest Seaport

Alliance facilities: \$14M

- The Gateway Project (SR 167 and SR 509) Phase 2 construction: \$874M
- SR 18 Widening: \$57M

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ATTACHMENTS TO THIS BRIEFING

(1) OFM Letter

(2) Presentation slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

January 24, 2023 – Commission amendments approved for the 2023 State Legislative Agenda

November 8, 2022– The Commission approved for the 2023 State Legislative Agenda

October 25, 2022 – Commission Study Session for the 2023 State Legislative Agenda

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