

HOUSE BILL REPORT

SHB 1084

As Passed House:

March 7, 2023

Title: An act relating to freight mobility prioritization.

Brief Description: Concerning freight mobility prioritization.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Fey, Ramos, Ryu, Ramel, Leavitt, Timmons and Wylie).

Brief History:

Committee Activity:

Transportation: 1/19/23, 2/9/23 [DPS].

Floor Activity:

Passed House: 3/7/23, 95-0.

Brief Summary of Substitute Bill

- Changes the primary duty of the Freight Mobility and Strategic Investment Board (Board) to providing strategic guidance to the Governor and the Legislature regarding the highest priority freight mobility needs in the state.
- Requires the Board to recommend a six-year investment program of the highest priority freight projects and also identify critical emerging freight mobility issues.
- Requires a biennial report on these activities to the Governor and the transportation committees of the Legislature.
- Establishes threshold criteria for project inclusion in the six-year investment program that the project sponsor must demonstrate a plan for sufficient engagement with overburdened communities impacted by a project and a plan for evaluation of project alternatives and mitigation measures addressing community impacts to the greatest extent possible.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Increases Board membership by five members: one member representing the package delivery industry, one member representing environmental protection interests, one member representing the interests of overburdened communities, one labor member representing the freight sector, and one member representing the heavy highway construction industry.
- Allows the Secretary of the Washington State Department of Transportation to be represented on the Board by a designee.
- Requires a study of best practices for preventing or mitigating the impacts of investments in and the operation of freight systems in overburdened communities.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry, Bronoske, Chapman, Cortes, Dent, Doglio, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Mena, Orcutt, Ramel, Ramos, Schmidt, Taylor, Volz, Walsh and Wylie.

Staff: Beth Redfield (786-7140).

Background:

The Freight Mobility and Strategic Investment Board (Board) was created in 1998 to make strategic, prioritized freight investments that reduce barriers to freight movement. The Board is required to solicit and prioritize projects from public entities, using specified criteria and a scoring framework.

The statement of legislative intent for the creation of the Board addressed many aspects of freight movement: its importance to the state's economy, constraints impacting the performance of the freight system, and the tension between economic benefits and safety concerns in communities with high freight impacts.

Board membership includes 12 members appointed by the Governor for four year terms: two members representing cities from nominations by the Association of Washington Cities, two members representing counties from nominations by the Washington State Association of Counties, two members representing port districts from nominations by the Washington Public Ports Association, one member representing the Office of Financial

Management, one representative of the trucking industry, one representative of railroads, the Secretary of the Washington State Department of Transportation (WSDOT), one representative of the steamship industry, and one member of the general public. The Board members are not subject to Senate confirmation.

The first 55 percent of investments made by the Board must be allocated to projects with the highest prioritization scores and the remaining investments allocated equally among three regions of the state, one including the counties of the Puget Sound, a second including counties east of the Cascades, and a third including counties west of the Cascades. Specific statutory rules apply to the elimination or restoration of projects from the investment list. The Board is authorized to make grants and loans to project sponsors.

The Board is required to designate the strategic freight corridors of the state and is authorized to recommend policies to address operational improvements to the freight system.

State and federal transportation planning requirements require the WSDOT to develop a freight plan and a marine ports and navigation plan. Port district development plans must be submitted to the WSDOT, transportation planning organizations, and affected cities and counties.

Funding for projects approved by the Board is provided by two state accounts. The Freight Mobility Investment Account receives \$14.5 million each biennium in transfers from revenues limited to use for highway purposes. The Freight Mobility Multimodal Account receives \$14.5 million each biennium in transfers from revenues that may be used for any transportation purpose.

Summary of Substitute Bill:

The Legislative finding addressing community impacts is modified to recognize the impacts of freight transportation on overburdened communities and to state the intent that freight mobility improvements must prevent or minimize community impacts in areas of high freight and must encourage active participation of impacted communities. Additional intent language is added referencing the state's greenhouse gas reduction targets and stating that freight mobility efforts must facilitate a transition to zero-emission technology.

The Board's primary duty of soliciting freight project applications and making freight project investments is changed to providing strategic guidance to the Governor and the Legislature regarding the highest priority freight mobility needs in the state. To accomplish this end, the Board must recommend a six-year investment program of the highest priority freight projects, after seeking input from local governments, transportation planning organizations, Indian tribes and other public entities. The investment program must be developed consistent with the federally recognized state freight plan. The Board must also identify critical emerging freight mobility issues and report on a biennial basis on these

activities to the Governor and the transportation committees of the Legislature.

The required threshold criteria for selection of projects to recommend as part of the six-year investment program of highest priority freight mobility investments are reduced to two criteria. The first is that the project must be on a strategic freight corridor (a current threshold criteria). The second is that the project sponsor must demonstrate a plan for sufficient engagement with overburdened communities impacted by the project and a plan for evaluation of project alternatives and mitigation measures addressing impacts to the greatest extent possible.

The Board may adopt other criteria for the selection of projects to recommend which may include, and not be limited to: benefits to the state's freight system, funding already secured, project readiness for construction, and regional distribution of projects. The Board must also establish procedures for collecting and validating project information that rely on information that project sponsors have already developed to the greatest extent possible.

The Board membership is increased by five members: one member representing the package delivery industry, one member representing environmental protection interests, one member representing the interests of overburdened communities, one labor member representing the freight sector, and one member representing the heavy highway construction industry. The Secretary of the WSDOT may be represented on the Board by a designee.

The Board is required to coordinate with the WSDOT throughout the periodic update of the state's freight mobility plan and review and provide feedback on the plan. The WSDOT is directed to coordinate with the Board throughout its process of updating the freight mobility plan and the marine ports and navigation plans and provide opportunities for review and feedback on the plans.

The Board is authorized to evaluate and recommend for state sponsorship priority projects eligible for federal grant funding under the Infrastructure for Rebuilding America program and the Railroad Crossing Elimination program.

Continued activities of the Board include designating the strategic freight corridors of the state and recommending policies to address operational improvements to the freight system. Also retained is the previous direction to the Board to recommend projects with appropriate levels of state, federal and local funding; ensure that state funds leverage the greatest amount of partnership funding possible; and to not recommend projects that primarily benefit general mobility.

Two definitions are added to the Board's authorizing statute. "Indian tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington, the same definition as is used in the laws relating to government-to-government relationships with Indian tribes. "Overburdened community" means a

geographic area where vulnerable populations face combined, multiple environmental harms and health impacts and is the same definition as is used in the laws relating to environmental justice.

The Board is required to conduct a study of best practices for preventing or mitigating the impacts of investments in, and the operation of freight systems in overburdened communities. The focus of the study must be on developing common procedures and practices for use by jurisdictions developing freight projects. The study must also make recommendations to the Board regarding methods to evaluate the requirement to demonstrate a plan for engagement with overburdened communities and mitigation of project impacts in those communities.

The Freight Mobility Investment Account and the Freight Mobility Multimodal Account are each amended so that funds shall only be used for projects recommended by the Board, rather than projects approved by the Board.

Port districts are authorized to develop freight development plans. These plans must be submitted to the Board, the WSDOT, transportation planning organizations, and affected cities and counties.

Repealed sections include the authorization to make grants and loans, a required methodology for allocation of funds among regions of the state, the required process for removal of projects from a funding list, and obsolete language.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Board is a group of high-level experts, and the state isn't taking advantage of their expertise. The purpose of this bill is to make a strategic effort to identify the biggest freight needs. Instead of receiving applications, the process should be more forward looking. There will also be better coordination with the WSDOT especially on recommendations for using federal funds in the state. New Board members are needed to recognize the greater role of local trucking in delivering goods to people's homes. And it is also important to recognize the intersection between freight issues and the environment and overburdened communities. Money will still go to the projects recommended by the Board. Greenhouse gas emissions have doubled and freight investments have contributed, the zero-emissions language in the intent statement should be operationalized. More voices in the process would be good. If Board members are added, a labor position should be

considered.

(Opposed) The confidence that the Board is handling this and broadening its scope of activities is appreciated. The Board can implement these additional tasks, but the big thing that is taken away is granting authority. Which means that the Board no longer has a capital budget to focus on freight projects.

(Other) The Board has provided a vital funding source for the last 25 years, with 30 percent going to ports. California funds ports at over \$1 billion per year. Over the last four years, about \$45 million has been swept from the Board's accounts. The Board's strategic investments reduce delays on mainline railroads, separate roads and railroads, investments which are important to ports and the State of Washington. The Board is a strong advocate for regions, without them freight investments could get lost among all the transportation projects. It is important to lessen the impacts on communities and it should be a more conscious decision. Hopefully, the Board will still be able to make small investments that leverage significant funds from other sources. The study's look at environmental justice requirements for projects will be important to ensure there aren't duplicative requirements. Time spent on the Board is time spent away from running my company, this time on the Board needs to be well spent. The Board member interest may decline in serving without project approval authority. The six-year plan is out of sync with the five-year state freight plan. Concerned that without an application process, there won't be community impact information. It would be useful for the Board to have a labor representative with hands on experience and working knowledge of freight mobility. The Board should also include a heavy highway construction labor representative.

Persons Testifying: (In support) Representative Jake Fey, prime sponsor; Leah Missik, Climate Solutions; and Mike Elliott.

(Opposed) Dan Gatchet.

(Other) Jim Hagar, Port of Vancouver United States of America; Temple Lentz, Ben Wick, Matthew Ewers, and John McCarthy, Freight Mobility Strategic Investment Board; John Worthington; Mike Ennis, Association of Washington Business; Sheri Call, Washington Trucking Associations; Axel Swanson, Washington State Association of County Engineers; Anne McEnery-Ogle, Association of Washington Cities; Herb Krohn, Sheet Metal Air Rail Transportation Division and United Transportation Union; Licett Garbe, Greater Spokane Valley Chamber of Commerce; Chris Herman, Washington Public Ports Association; and Gordon Baxter, International Longshore and Warehouse Union.

Persons Signed In To Testify But Not Testifying: None.