

VETO MESSAGE ON ESHB 1094

May 15, 2007

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 305(7); 305(10); 308(3); 407(9) and 407(b); 504; 709; 710; 712; 905, page 104, lines 11 through 30, and 905(1); 906, page 109, lines 24 through 37 and page 110, lines 1 through 2 and 906 (1); 907; and 909, page 116, lines 8 through 28 of Engrossed Substitute House Bill 1094 entitled:

"AN ACT Relating to transportation funding and appropriations."

Section 305(7), page 37, Use of Mitigation Funding

This proviso prevents funds provided for mitigation from being used to pay for environmental assessments. The amount of funding for mitigation was not identified in the project list making it unclear how the Department of Transportation would implement this proviso or show compliance. Therefore, I am vetoing Section 305(7).

Section 305(10), page 37, Limit Use of Agricultural Land

Many agricultural lands consist of historically drained wetlands that often provide the best, and at times only, opportunity to successfully restore wetlands. Mitigation banks that conform to state statutes and to rules the Department of Ecology is now finalizing will help protect productive agricultural lands. This language could restrict the land considered for mitigation banks and could prohibit the Department from incorporating real estate acquired from a willing seller. Of the Department's three existing wetland mitigation bank sites, one was established on this type of land and was acquired from a willing seller.

Although I am vetoing this section, I am directing the Department of Transportation to not use eminent domain on its own to acquire agriculture land, and to submit any proposal to acquire agricultural property for review by my office before the land is acquired.

Section 308(3), page 43, Replacing Dolphins at Orcas and Vashon Islands

Section 308(3) identifies funding from the Puget Sound Ferries Operating Account - State appropriation; however no funding is appropriated from this account. Although I am vetoing this section, I have asked the Department of Transportation to

complete a predesign study before designing and constructing dolphins at the Orcas and Vashon Island Ferry Terminals.

Sections 407(9) and 407(b), page 54, Reducing Business and Occupation Tax Rates

Sections 407(9) and 407(b) make funding contingent on Engrossed Substitute Senate Bill 5799, which did not pass during the 2007 Legislative Session. Therefore, I am vetoing these two sections.

Section 504, page 57, Compensation -- Pension Contributions

This section asserts that appropriations are provided to fund employer contributions to state pension funds at rates adopted by the pension funding council. Because employer contribution rates are not set in this manner, this section is vetoed to avoid any confusion regarding the contribution rates for public pension funds. Therefore, I am vetoing section 504.

Section 709, page 74, Government Accounting Standards Board Asset Valuation

The Department of Transportation is meeting the requirements of the Governmental Accounting Standards Board's (GASB), Statement #34 to reflect additions and improvements that increase capacity or efficiency of the system. The requirement to establish the asset replacement value exceeds the reporting requirements of GASB, Statement #34. Establishing the asset replacement value is very complex and fluctuates with the economy and inflation, and is difficult to accomplish. Therefore, I am vetoing section 709.

Section 710, pages 74-75, Freight Mobility Strategic Investment Board

Under RCW 47.06A.030 (2), the Freight Mobility Strategic Investment Board has twelve members that represent a variety of stakeholders. Each member is appointed by the Governor for a four-year term. Section 710 adds a new member to the board for the 2007-09 Biennium. I support the addition but making a change in the size and composition of the board is a policy decision best done in substantive legislation. Therefore, I am vetoing section 710.

Section 712, pages 76-77, Transportation Goals and Policies

This section establishes policy goals for the state's transportation system. The language is identical to Section 3 (a) of Substitute Senate Bill 5412, which was enacted by the Legislature. Therefore, I have vetoed section 712 to eliminate the duplicate language.

Section 905, lines 11 through 30, page 104, and Section 905 (1), 2007 Supplemental Adjustments in the Improvement Program

The 2005-07 appropriations were reduced to reflect planned spending levels for the remainder of the biennium. The revised estimates were developed in January and February. Since then, four projects have progressed more quickly than was previously

expected including the I-5/SR 16 Tacoma HOV Design that requires \$600,000 more in 2005-07, SR 11/Chuckanut Park and Ride that needs another \$5 million for right-of-way acquisition, the SR 3/SR 303 Interchange that is under construction and needs another .9 million, and SR 240/I-182 to the Richland Y which is also under construction and requires an additional million.

Vetoing Section 905(1) restores current law procedures for moving funds among projects when the Legislature is not in session and ensures continuity with similar procedures included in the 2007-09 budget.

For these reasons, I have vetoed all appropriations (lines 11 through 30, page 104) and Section 905(1) to restore funding to prior levels and to simplify the allotment process. The Office of Financial Management will direct the Department of Transportation to place into reserve status any excess appropriation authority not required for the remainder of the 2005-07 Biennium.

Section 906, page 109, lines 24 through 37, and page 110, lines 1 through 2 and Section 906(1), 2007 Supplemental Adjustments in the Preservation Program

The 2005-07 appropriations were reduced to reflect planned spending levels for the remainder of the biennium. The revised estimates were developed in January and February. Since then, cost estimates changed, and better than expected weather has allowed a number of projects to move more quickly than previously expected.

Vetoing Section 906(1) restores current law procedures for moving funds among projects when the legislature is not in session and ensures continuity with similar procedures included in the 2007-09 budget.

For these reasons, I have vetoed all appropriations (lines 24 through 37, page 109, and lines 1 through 2, page 110) and Section 906(1) to restore funding to prior levels and simplify the allotment process. The Office of Financial Management will direct the Department of Transportation to place into reserve status any excess appropriation authority not required for the remainder of the 2005-07 Biennium.

Section 907, pages 111-113, 2007 Supplemental Adjustments in the Ferry Construction Program

The 2005-07 appropriations were reduced to reflect planned spending levels for the remainder of the biennium. The revised estimates were developed in January and February. Since then, cost estimates have changed and the underlying provisos will place unintended restrictions upon available resources for the remainder of the biennium.

For these reasons, I have vetoed the entire section to restore funding to prior levels and simplify the allotment process. The Office of Financial Management will direct the Department of Transportation to place into reserve status any excess appropriation authority that is not required for the remainder of the 2005-07 Biennium.

Section 909, lines 8 through 28, page 116, 2007 Supplemental Adjustments in Highways and Local Programs

The 2005-07 appropriations were reduced to reflect planned spending levels for the remainder of the biennium. The revised estimates were developed in January and February. Since then, two projects have progressed more quickly than was previously expected: the LeMay Museum and the Issaquah Traffic Signal project.

I have vetoed the appropriations on lines 8 through 28, page 116, to restore funding to prior levels and simplify the allotment process. The Office of Financial Management will direct the Department of Transportation to place into reserve status any excess appropriation authority that is not required for the remainder of the 2005-07 Biennium.

For these reasons, I have vetoed Sections 305(7); 305(10); 308(3); 407(9) and 407(b); 504; 709; 710; 712; 905, page 104, lines 11 through 30, and 905(1); 906, page 109, lines 24 through 37 and page 110, lines 1 through 2 and 906(1); 907; and 909, page 116, lines 8 through 28 of Engrossed Substitute House Bill 1094.

With the exception of Sections 305(7); 305(10); 308(3); 407(9) and 407(b); 504; 709; 710; 712; 905, page 104, lines 11 through 30, and 905(1); 906, page 109, lines 24 through 37 and page 110, lines 1 through 2 and 906(1); 907; and 909, page 116, lines 8 through 28, Engrossed Substitute House Bill 1094 is approved.

Respectfully submitted,
Christine O. Gregoire
Governor