CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1084**

Chapter 167, Laws of 2023

68th Legislature

2023 Regular Session

FREIGHT MOBILITY—PRIORITIZATION

EFFECTIVE DATE: July 23, 2023

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| Passed by the House March 7, 2023  Yeas 95 Nays 0  LAURIE JINKINS  **Speaker of the House of Representatives**  Passed by the Senate April 12, 2023  Yeas 48 Nays 0  DENNY HECK  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1084** as passed by the House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved April 25, 2023 3:17 PM | April 26, 2023 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SUBSTITUTE HOUSE BILL 1084**

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Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** House Transportation (originally sponsored by Representatives Fey, Ramos, Ryu, Ramel, Leavitt, Timmons, and Wylie)

AN ACT Relating to freight mobility prioritization; amending RCW 47.06A.010, 47.06A.001, 47.06A.020, 47.06A.030, 47.06.045, 47.06.070, 46.68.300, 46.68.310, and 47.06A.080; adding a new section to chapter 53.20 RCW; adding a new section to chapter 47.04 RCW; creating a new section; recodifying RCW 47.06A.080 and 47.06A.090; and repealing RCW 47.06A.045, 47.06A.050, and 47.06A.060.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 47.06A.010 and 1998 c 175 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the freight mobility strategic investment board created in RCW 47.06A.030.

(2) "Department" means the department of transportation.

(3) "Freight mobility" means the safe, reliable, and efficient movement of goods within and through the state to ensure the state's economic vitality.

(4) "Indian tribe" has the same meaning as provided in RCW 43.376.010.

(5) "Local governments" means cities, towns, counties, special purpose districts, port districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts.

((~~(5)~~)) (6) "Overburdened community" has the same meaning as provided in RCW 70A.02.010.

(7) "Public entity" means a state agency, city, town, county, port district, or municipal or regional planning organization.

((~~(6)~~)) (8) "Strategic freight corridor" means a transportation corridor of great economic importance within an integrated freight system that:

(a) Serves international and domestic interstate and intrastate trade;

(b) Enhances the state's competitive position through regional and global gateways;

(c) Carries freight tonnages of at least:

(i) Four million gross tons annually on state highways, city streets, and county roads;

(ii) Five million gross tons annually on railroads; or

(iii) Two and one-half million net tons on waterways; and

(d) Has been designated a strategic corridor by the board under RCW 47.06A.020((~~(3)~~)) (4). However, new alignments to, realignments of, and new links to strategic corridors that enhance freight movement may qualify, even though no tonnage data exists for facilities to be built in the future.

**Sec.**  RCW 47.06A.001 and 1998 c 175 s 1 are each amended to read as follows:

The legislature finds that:

(1) Washington state is uniquely positioned as a gateway to the global economy. As the most trade-dependent state in the nation, per capita, Washington's economy is highly dependent on an efficient multimodal transportation network in order to remain competitive.

(2) The vitality of the state's economy is placed at risk by growing traffic congestion that impedes the safe and efficient movement of goods. The absence of a comprehensive and coordinated state policy that facilitates freight movements to local, national, and international markets limits trade opportunities.

(3) Freight corridors that serve international and domestic interstate and intrastate trade, and those freight corridors that enhance the state's competitive position through regional and global gateways are strategically important. In many instances, movement of freight on these corridors is diminished by: Barriers that block or delay access to intermodal facilities where freight is transferred from one mode of transport to another; conflicts between rail and road traffic; constraints on rail capacity; highway capacity constraints, congestion, and condition; waterway system depths that affect capacity; and institutional, regulatory, and operational barriers.

(4) ((~~Rapidly escalating population growth is placing an added burden on streets, roads, and highways that serve as freight corridors. Community benefits from economic activity associated with freight movement often conflict with community concerns over safety, mobility, [and] environmental quality. Efforts to~~)) The negative impacts of freight transportation do not fall equally on all residents of Washington, and historically the negative impacts have been concentrated or felt most acutely within overburdened communities. Overburdened communities and vulnerable populations tend to be disproportionately located next to industrial areas and freight facilities such as ports, rail yards, highways, and truck stops. As such, the incidence of many health conditions, traffic accidents involving nondrivers, and highways dividing communities are among the highest in these communities. Freight mobility improvement efforts must prevent or minimize community impacts in areas of high freight movements ((~~that~~)) and must encourage the active participation of communities in the early stages of proposed public and private infrastructure investments ((~~will facilitate needed freight mobility improvements~~)).

(5) Greenhouse gas emissions from freight transportation contribute to global climate change. In keeping with RCW 70A.45.020, freight mobility efforts must facilitate a transition to zero-emissions technology and proposed public and private infrastructure investments must align with this transition. Projects that invest in zero-emissions vehicle refueling and transportation patterns and zero-emissions freight movement corridors should be included within the investment program.

(6) Ownership of the freight mobility network is fragmented and spread across various public jurisdictions, private companies, and state and national borders. Transportation projects have grown in complexity and size, requiring more resources and longer implementation time frames. Currently, there is no comprehensive and integrated framework for planning the freight mobility needs of public and private stakeholders in the freight transportation system. A coordinated planning process should identify new infrastructure investments that are integrated by public and private planning bodies into a multimodal and multijurisdictional network in all areas of the state, urban and rural, east and west. The state should integrate freight mobility goals with state policy on related issues such as economic development, growth management, and environmental management.

((~~(6)~~)) (7) State investment in projects that enhance or mitigate freight movements, should pay special attention to solutions that utilize a corridor solution to address freight mobility issues with important transportation and economic impacts beyond any local area. The corridor approach builds partnerships and fosters coordinated planning among jurisdictions and the public and private sectors.

((~~(7)~~)) (8) It is the policy of the state of Washington that limited public transportation funding and competition between freight and general mobility improvements for the same fund sources require strategic, prioritized freight investments that reduce barriers to freight movement, maximize cost-effectiveness, yield a return on the state's investment, require complementary investments by public and private interests, and solve regional freight mobility problems. State financial assistance for freight mobility projects must leverage other funds from all potential partners and sources, including federal, county, city, port district, and private capital.

**Sec.**  RCW 47.06A.020 and 2013 c 104 s 1 are each amended to read as follows:

(1) The purpose of the board is to:

(a) Provide strategic guidance to the governor and the legislature regarding the highest priority freight mobility needs in the state;

(b) Identify and recommend a program of high-priority strategic freight mobility investments;

(c) Encourage policies that support a competitive, resilient, sustainable, and equitable freight system; and

(d) Serve as a forum for discussion of state transportation decisions affecting freight mobility.

(2) The board shall:

(a) Adopt rules and procedures necessary to implement the freight mobility strategic investment program;

(b) ((~~Solicit from public entities proposed projects that meet eligibility criteria established in accordance with subsection (4) of this section; and~~

~~(c) Review and evaluate project applications based on criteria established under this section, and prioritize and select projects comprising a portfolio to be funded in part with grants from state funds appropriated for the freight mobility strategic investment program. In determining the appropriate level of state funding for a project, the board shall ensure that state funds are allocated to leverage the greatest amount of partnership funding possible. The board shall ensure that projects included in the portfolio are not more appropriately funded with other federal, state, or local government funding mechanisms or programs. The board shall reject those projects that appear to improve overall general mobility with limited enhancement for freight mobility.~~

~~The board shall provide periodic progress reports on its activities to the office of financial management and the senate and house transportation committees.~~

~~(2)~~)) After seeking input from local governments, transportation planning organizations, other public entities, and Indian tribes recommend a six-year investment program of the highest priority freight mobility projects for the state across freight modes, jurisdictions, and the regions of the state;

(c) Ensure that the program provides statewide inclusion and maximum federal funding options, projects recommended as a part of the six-year investment program that intend to leverage federal funds must be developed consistent with planning requirements for inclusion in the federally recognized state freight plan;

(d) Monitor the implementation of projects included in the six-year investment program on an ongoing basis;

(e) Identify critical emerging freight mobility issues not yet addressed by investments considered for inclusion in the six-year investment program of the highest priority freight mobility investments required in (a) of this subsection; and

(f) Submit an initial full report meeting the requirements of this subsection to the governor and the transportation committees of the legislature by December 1, 2024. Updated reports may be submitted annually to the transportation committees of the legislature and governor by December 1st of each year; however, a full update must be provided every two years.

(3) The board may:

(a) ((~~Accept from any state or federal agency, loans or grants for the financing of any transportation project and enter into agreements with any such agency concerning the loans or grants;~~

~~(b)~~)) Provide technical assistance to project ((~~applicants~~)) sponsors;

((~~(c)~~)) (b) Accept any gifts, grants, or loans of funds, property, or financial, or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

((~~(d)~~)) (c) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter; ((~~and~~

~~(e)~~)) (d) Do all things necessary or convenient to carry out the powers expressly granted or implied under this chapter;

(e) Evaluate and recommend for state sponsorship priority projects eligible for federal grant funding under the nationally significant multimodal freight and highway projects program, also known as the infrastructure for rebuilding America program, established in 23 U.S.C. Sec. 117 and the railroad crossing elimination program established in 49 U.S.C. Sec. 22909; and

(f) For critical emerging freight issues identified under subsection (2)(e) of this section, proactively work with potential project sponsors, impacted communities, and other interested parties to facilitate project development to address these critical issues.

((~~(3)~~)) (4) The board shall ((~~designate~~)):

(a) Designate strategic freight corridors within the state. The board shall update the list of designated strategic corridors not less than every two years, and shall establish a method of collecting and verifying data, including information on city and county-owned roadways((~~.~~

~~(4) The board shall~~));

(b) Coordinate with the department of transportation throughout the process of its periodic update of the state's freight mobility plan and review and provide feedback on the plan;

(c) For the purposes of developing the six-year program of highest priority freight mobility investments, utilize threshold project eligibility criteria that, at a minimum, includes the following:

((~~(a)~~)) (i) The project must be on a strategic freight corridor;

((~~(b) The project must meet one of the following conditions:~~

~~(i) It is primarily aimed at reducing identified barriers to freight movement with only incidental benefits to general or personal mobility; or~~

~~(ii) It is primarily aimed at increasing capacity for the movement of freight with only incidental benefits to general or personal mobility; or~~

~~(iii) It is primarily aimed at mitigating the impact on communities of increasing freight movement, including roadway/railway conflicts; and~~

~~(c) The project must have a total public benefit/total public cost ratio of equal to or greater than one.~~

~~(5) From June 11, 1998, through the biennium ending June 30, 2001, the board shall use the multicriteria analysis and scoring framework for evaluating and ranking eligible freight mobility and freight mitigation projects developed by the freight mobility project prioritization committee and contained in the January 16, 1998, report entitled "Project Eligibility, Priority and Selection Process for a Strategic Freight Investment Program." The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority. After June 30, 2001, the board may supplement and refine the initial project priority criteria and scoring framework developed by the freight mobility project prioritization committee as expertise and experience is gained in administering the freight mobility program.~~

~~(6) It is the intent of the legislature that each freight mobility project contained in the project portfolio approved by the board utilize the greatest amount of nonstate funding possible. The board shall adopt rules that give preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. The board shall consider twenty percent as the minimum partnership contribution, but shall also ensure that there are provisions allowing exceptions for projects that are located in areas where minimal local funding capacity exists or where the magnitude of the project makes the adopted partnership contribution financially unfeasible.~~

~~(7) The board shall develop~~)) (ii) The project sponsor must demonstrate a plan for:

(A) Sufficient engagement with overburdened communities impacted by the project; and

(B) The evaluation of project alternatives and mitigation measures addressing the impacts on these communities to the greatest extent possible;

(d) Adopt other evaluation criteria for the six-year program of highest priority freight mobility investments to include, but not be limited to, benefits to the state's freight system, how much funding has already been secured for a project, project readiness for construction, and the regional distribution of projects;

(e) For the six-year investment program, solicit from public entities proposed projects that meet threshold criteria established in accordance with this subsection. The procedures for collecting and validating project information must rely on information project sponsors have already developed to the greatest extent possible; and

(f) Develop and recommend policies that address operational improvements that primarily benefit and enhance freight movement((~~,~~)) including, but not limited to, policies that reduce congestion in truck lanes at border crossings and weigh stations and provide for access to ports during nonpeak hours.

NEW SECTION. **Sec.**  The freight mobility strategic investment board must contract for a study of best practices for preventing or mitigating the impacts of investments in and the operation of freight systems in overburdened communities, with a focus 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 threshold criteria requiring projects to demonstrate a plan for engagement with overburdened communities and mitigation of project impacts in those communities. The recommended methods should not create duplicative burdens on project sponsors. The board must work with the department of enterprise services to ensure that a diverse group of potential consultants are notified of the contracting opportunity. By December 1, 2024, the board must submit a report to the governor and transportation committees of the legislature with its findings and recommendations.

**Sec.**  RCW 47.06A.030 and 1999 c 216 s 2 are each amended to read as follows:

(1) The freight mobility strategic investment board is created. The board shall convene by July 1, 1998.

(2) The board is composed of ((~~twelve~~)) 17 members. The following members are appointed by the governor for terms of four years, except that five members initially are appointed for terms of two years: (a) Two members, one of whom is from a city located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the association of Washington cities or its successor; (b) two members, one of whom is from a county having a strategic freight corridor within its boundaries, appointed from a list of at least four persons nominated by the Washington state association of counties or its successor; (c) two members, one of whom is from a port district located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the Washington public ports association or its successor; (d) one member representing the office of financial management; (e) one member appointed as a representative of the trucking industry; (f) one member appointed as a representative of the railroads; (g) the secretary of the department of transportation or the secretary's designee; (h) one member representing the steamship industry; ((~~and~~)) (i) one member representing the package delivery industry; (j) one labor member representing the freight sector; (k) one member representing the heavy highway construction industry; (l) one member representing environmental protection interests; (m) one member representing the interests of overburdened communities; and (n) one member of the general public. In appointing the general public member, the governor shall endeavor to appoint a member with special expertise in relevant fields such as public finance, freight transportation, or public works construction. The governor shall appoint the general public member as chair of the board. In making appointments to the board, the governor shall ensure that each geographic region of the state is represented.

(3) Members of the board shall be reimbursed for reasonable and customary travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations and departments under subsection (2) of this section must be filled from a list of at least four persons nominated by the relevant association or associations.

(5) The appointments made in subsection (2) of this section are not subject to confirmation.

**Sec.**  RCW 47.06.045 and 1998 c 175 s 10 are each amended to read as follows:

The state-interest component of the statewide multimodal transportation plan shall include a freight mobility plan which shall assess the transportation needs to ensure the safe, reliable, and efficient movement of goods within and through the state and to ensure the state's economic vitality. The department shall coordinate with the freight mobility strategic investment board throughout the process of the department's periodic update of the state's freight mobility plan and provide opportunities for the board to review and provide feedback on the plan.

**Sec.**  RCW 47.06.070 and 1993 c 446 s 7 are each amended to read as follows:

The state-interest component of the statewide multimodal transportation plan shall include a state marine ports and navigation plan, which shall assess the transportation needs of Washington's marine ports, including navigation, and identify transportation system improvements needed to support the international trade and economic development role of Washington's marine ports. The department shall coordinate with the freight mobility strategic investment board throughout the process of the department's periodic update of the state marine ports and navigation plan and provide opportunities for the board to review and provide feedback on the plan.

**Sec.**  RCW 46.68.300 and 2021 c 333 s 711 are each amended to read as follows:

The freight mobility investment account is hereby created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account ((~~may~~)) shall be used only for freight mobility projects that have been ((~~approved~~)) recommended by the freight mobility strategic investment board in RCW 47.06A.020 and may include any principal and interest on bonds authorized for the projects or improvements. ((~~During the 2019-2021 and 2021-2023 fiscal biennia, the expenditures from the account may also be used for the administrative expenses of the freight mobility strategic investment board.~~))

**Sec.**  RCW 46.68.310 and 2020 c 219 s 702 are each amended to read as follows:

The freight mobility multimodal account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account ((~~may~~)) shall be used only for freight mobility projects that have been ((~~approved~~)) recommended by the freight mobility strategic investment board in RCW 47.06A.020 and may include any principal and interest on bonds authorized for the projects or improvements. ((~~However, during the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the freight mobility multimodal account to the multimodal transportation account.~~))

**Sec.**  RCW 47.06A.080 and 1998 c 175 s 9 are each amended to read as follows:

Any port district may adopt and amend a freight development plan as an amendment to the port's comprehensive scheme of harbor improvements, pursuant to RCW 53.20.020. Port districts in the state shall submit their freight development plans to the relevant regional transportation planning organization or metropolitan planning organization, the Washington state department of transportation, the freight mobility strategic investment board, and affected cities and counties to better coordinate the development and funding of freight mobility projects.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 47.06A.045 (Board—Standing committee—Travel reimbursement) and 2013 c 306 s 707;

(2) RCW 47.06A.050 (Allocation of funds) and 2016 c 23 s 1, 2013 c 104 s 2, & 1998 c 175 s 6; and

(3) RCW 47.06A.060 (Grants and loans) and 1998 c 175 s 7.

NEW SECTION. **Sec.**  (1) RCW 47.06A.080 is recodified as a section in chapter 53.20 RCW.

(2) RCW 47.06A.090 is recodified as a section in chapter 47.04 RCW.

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Passed by the House March 7, 2023.

Passed by the Senate April 12, 2023.

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