

# Proposed Substitute House Bill 1084 (H-1103.2/23)

House Transportation Committee

By Representative Fey

## Original 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. Establishes threshold criteria for the project inclusion in the six-year investment program 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 community impacts to the greatest extent possible. Increases Board membership by 3 members representing the package delivery industry, environmental interests, and overburdened communities. Allows the Secretary of the Washington State Department of Transportation to be represented by a designee. Requires a study of best practices for preventing and mitigating the impacts of freight projects in overburdened communities.

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## Proposed Substitute House Bill (H-1103.2/23 ) compared to the Original Bill:

- Intent language relating to prioritizing investments in zero-emissions freight movement corridors is modified to say that investments in these corridors should be included in the investment program.
- The new duty of recommending a program of high-priority strategic freight mobility investments is included in the new purposes of the Board.
- The new duty of recommending a program of high-priority strategic freight mobility investments is modified. The Board must "seek input" from various public entities and tribes rather than "consult" with those entities. The Board must also ensure that the investment program provides statewide inclusion and maximum federal funding options and must be developed consistent with the federally recognized state freight plan.
- Board membership is increased by an additional two members: a labor representative of the freight sector and a representative of the heavy highway construction industry.
- Expenditures from the Freight Mobility Investment Account and the Freight Mobility Multimodal Account are required to be used only for projects recommended by the Board.
- Port districts may adopt freight development plans. Port freight development plans must be submitted to the Board as well as the Washington State Department of Transportation and transportation planning organizations.

Staff: Beth Redfield

Date: February 8, 2023

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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-1103.2/23 2nd draft

ATTY/TYPIST: AI:lcl

BRIEF DESCRIPTION: Concerning freight mobility prioritization.

1 AN ACT Relating to freight mobility prioritization; amending RCW  
2 47.06A.010, 47.06A.001, 47.06A.020, 47.06A.030, 47.06.045, 47.06.070,  
3 46.68.300, 46.68.310, and 47.06A.080; adding a new section to chapter  
4 53.20 RCW; adding a new section to chapter 47.04 RCW; creating a new  
5 section; recodifying RCW 47.06A.080 and 47.06A.090; and repealing RCW  
6 47.06A.045, 47.06A.050, and 47.06A.060.

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

8 **Sec. 1.** RCW 47.06A.010 and 1998 c 175 s 2 are each amended to  
9 read as follows:

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

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

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

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

18 (4) "Indian tribe" has the same meaning as provided in RCW  
19 43.376.010.

20 (5) "Local governments" means cities, towns, counties, special  
21 purpose districts, port districts, and any other municipal

1 corporations or quasi-municipal corporations in the state excluding  
2 school districts.

3 ~~((5))~~ (6) "Overburdened community" has the same meaning as  
4 provided in RCW 70A.02.010.

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

7 ~~((6))~~ (8) "Strategic freight corridor" means a transportation  
8 corridor of great economic importance within an integrated freight  
9 system that:

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

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

14 (c) Carries freight tonnages of at least:

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

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

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

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

24 **Sec. 2.** RCW 47.06A.001 and 1998 c 175 s 1 are each amended to  
25 read as follows:

26 The legislature finds that:

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

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

36 (3) Freight corridors that serve international and domestic  
37 interstate and intrastate trade, and those freight corridors that  
38 enhance the state's competitive position through regional and global  
39 gateways are strategically important. In many instances, movement of

1 freight on these corridors is diminished by: Barriers that block or  
2 delay access to intermodal facilities where freight is transferred  
3 from one mode of transport to another; conflicts between rail and  
4 road traffic; constraints on rail capacity; highway capacity  
5 constraints, congestion, and condition; waterway system depths that  
6 affect capacity; and institutional, regulatory, and operational  
7 barriers.

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

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

35 (6) Ownership of the freight mobility network is fragmented and  
36 spread across various public jurisdictions, private companies, and  
37 state and national borders. Transportation projects have grown in  
38 complexity and size, requiring more resources and longer  
39 implementation time frames. Currently, there is no comprehensive and  
40 integrated framework for planning the freight mobility needs of

1 public and private stakeholders in the freight transportation system.  
2 A coordinated planning process should identify new infrastructure  
3 investments that are integrated by public and private planning bodies  
4 into a multimodal and multijurisdictional network in all areas of the  
5 state, urban and rural, east and west. The state should integrate  
6 freight mobility goals with state policy on related issues such as  
7 economic development, growth management, and environmental  
8 management.

9 ~~((6))~~ (7) State investment in projects that enhance or mitigate  
10 freight movements, should pay special attention to solutions that  
11 utilize a corridor solution to address freight mobility issues with  
12 important transportation and economic impacts beyond any local area.  
13 The corridor approach builds partnerships and fosters coordinated  
14 planning among jurisdictions and the public and private sectors.

15 ~~((7))~~ (8) It is the policy of the state of Washington that  
16 limited public transportation funding and competition between freight  
17 and general mobility improvements for the same fund sources require  
18 strategic, prioritized freight investments that reduce barriers to  
19 freight movement, maximize cost-effectiveness, yield a return on the  
20 state's investment, require complementary investments by public and  
21 private interests, and solve regional freight mobility problems.  
22 State financial assistance for freight mobility projects must  
23 leverage other funds from all potential partners and sources,  
24 including federal, county, city, port district, and private capital.

25 **Sec. 3.** RCW 47.06A.020 and 2013 c 104 s 1 are each amended to  
26 read as follows:

27 (1) The purpose of the board is to:

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

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

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

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

37 (2) The board shall:

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

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

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

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

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

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

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

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

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

1        (3) The board may:

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

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

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

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

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

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

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

25        ~~((3))~~ (4) The board shall ~~((designate))~~:

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

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

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

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

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

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



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

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

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

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

12       ~~(5) From June 11, 1998, through the biennium ending June 30,~~  
13 ~~2001, the board shall use the multicriteria analysis and scoring~~  
14 ~~framework for evaluating and ranking eligible freight mobility and~~  
15 ~~freight mitigation projects developed by the freight mobility project~~  
16 ~~prioritization committee and contained in the January 16, 1998,~~  
17 ~~report entitled "Project Eligibility, Priority and Selection Process~~  
18 ~~for a Strategic Freight Investment Program." The prioritization~~  
19 ~~process shall measure the degree to which projects address important~~  
20 ~~program objectives and shall generate a project score that reflects a~~  
21 ~~project's priority compared to other projects. The board shall assign~~  
22 ~~scoring points to each criterion that indicate the relative~~  
23 ~~importance of the criterion in the overall determination of project~~  
24 ~~priority. After June 30, 2001, the board may supplement and refine~~  
25 ~~the initial project priority criteria and scoring framework developed~~  
26 ~~by the freight mobility project prioritization committee as expertise~~  
27 ~~and experience is gained in administering the freight mobility~~  
28 ~~program.~~

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

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

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

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

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

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

18       (f) Develop and recommend policies that address operational  
19 improvements that primarily benefit and enhance freight movement(~~(7)~~)  
20 including, but not limited to, policies that reduce congestion in  
21 truck lanes at border crossings and weigh stations and provide for  
22 access to ports during nonpeak hours.

23       NEW SECTION. Sec. 4. The freight mobility strategic investment  
24 board must contract for a study of best practices for preventing or  
25 mitigating the impacts of investments in and the operation of freight  
26 systems in overburdened communities, with a focus on developing  
27 common procedures and practices for use by jurisdictions developing  
28 freight projects. The study must also make recommendations to the  
29 board regarding methods to evaluate the threshold criteria requiring  
30 projects to demonstrate a plan for engagement with overburdened  
31 communities and mitigation of project impacts in those communities.  
32 The recommended methods should not create duplicative burdens on  
33 project sponsors. The board must work with the department of  
34 enterprise services to ensure that a diverse group of potential  
35 consultants are notified of the contracting opportunity. By December  
36 1, 2024, the board must submit a report to the governor and  
37 transportation committees of the legislature with its findings and  
38 recommendations.

1       **Sec. 5.** RCW 47.06A.030 and 1999 c 216 s 2 are each amended to  
2 read as follows:

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

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

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

37       (4) If a vacancy on the board occurs by death, resignation, or  
38 otherwise, the governor shall fill the vacant position for the  
39 unexpired term. Each vacancy in a position appointed from lists  
40 provided by the associations and departments under subsection (2) of

1 this section must be filled from a list of at least four persons  
2 nominated by the relevant association or associations.

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

5 **Sec. 6.** RCW 47.06.045 and 1998 c 175 s 10 are each amended to  
6 read as follows:

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

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

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

29 **Sec. 8.** RCW 46.68.300 and 2021 c 333 s 711 are each amended to  
30 read as follows:

31 The freight mobility investment account is hereby created in the  
32 state treasury. Money in the account may be spent only after  
33 appropriation. Expenditures from the account ~~((may))~~ shall be used  
34 only for freight mobility projects that have been ~~((approved))~~  
35 recommended by the freight mobility strategic investment board in RCW  
36 47.06A.020 and may include any principal and interest on bonds  
37 authorized for the projects or improvements. ~~((During the 2019-2021~~

1 ~~and 2021-2023 fiscal biennia, the expenditures from the account may~~  
2 ~~also be used for the administrative expenses of the freight mobility~~  
3 ~~strategic investment board.))~~

4 **Sec. 9.** RCW 46.68.310 and 2020 c 219 s 702 are each amended to  
5 read as follows:

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

16 **Sec. 10.** RCW 47.06A.080 and 1998 c 175 s 9 are each amended to  
17 read as follows:

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

27 NEW SECTION. **Sec. 11.** The following acts or parts of acts are  
28 each repealed:

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

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

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

34 NEW SECTION. **Sec. 12.** (1) RCW 47.06A.080 is recodified as a  
35 section in chapter 53.20 RCW.

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

--- **END** ---