

# SENATE BILL REPORT

## SHB 1084

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As Passed Senate, April 12, 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:** Passed House: 3/7/23, 95-0.

**Committee Activity:** Transportation: 3/27/23, 4/04/23 [DP, w/oRec].

**Floor Activity:** Passed Senate: 4/12/23, 48-0.

### Brief Summary of Bill

- Changes the primary duty of the Freight Mobility and Strategic Investment Board (FMSIB) to providing strategic guidance to the Governor and the Legislature regarding the highest priority freight mobility needs in the state.
- Requires FMSIB to recommend a six-year investment program of the highest priority freight projects and also identify critical emerging freight mobility issues.
- 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.
- Increases FMSIB membership by five members.
- Requires a study of best practices for preventing or mitigating the impacts of investments in and the operation of freight systems in overburdened communities.

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*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.*

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## SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass.

Signed by Senators Liias, Chair; Lovick, Vice Chair; Shewmake, Vice Chair; King, Ranking Member; Holy, Assistant Ranking Member; Cleveland, Fortunato, Kauffman, Lovelett, MacEwen, Nobles, Padden, Randall, Valdez, Wilson, C. and Wilson, J..

**Minority Report:** That it be referred without recommendation.

Signed by Senator Hawkins.

**Staff:** Bryon Moore (786-7726)

**Background:** The Freight Mobility and Strategic Investment Board (FMSIB) was created in 1998 to make strategic, prioritized freight investments that reduce barriers to freight movement. FMSIB 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 FMSIB addressed many aspects of freight movement including 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.

FMSIB is comprised of 12 members appointed by the Governor for four-year terms as follows:

- 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 representative of the trucking industry;
- one representative of railroads;
- one representative of the steamship industry;
- one member representing the Office of Financial Management;
- the Secretary of the Washington State Department of Transportation (WSDOT); and
- one member of the general public.

The first 55 percent of FMSIB investments must be allocated to projects with the highest prioritization scores and the remaining 45 percent in investments allocated equally among three regions of the state, one including the counties of 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. FMSIB is authorized to make grants and loans to project sponsors.

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

Funding for projects approved by FMSIB 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 Bill:** FMSIB'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, FMSIB 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. FMSIB 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 the following two criteria:

- the project must be on a strategic freight corridor—a current threshold criteria; and
- 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.

FMSIB may adopt other criteria for selecting projects to recommend which may include, but is not limited to benefits to the state's freight system; funding already secured; project readiness for construction; and regional distribution of projects.

FMSIB 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 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.

FMSIB 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 FMSIB regarding methods to evaluate the requirement to demonstrate a plan for engagement with overburdened communities and mitigation of project impacts in those communities.

The secretary of WSDOT may be represented on FMSIB by a designee and FMSIB membership is increased by five members with the additions as follows:

- 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.

FMSIB is required to coordinate with WSDOT throughout the periodic update of the state's freight mobility plan and review and provide feedback on the plan. WSDOT is directed to coordinate with FMISB 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.

FMSIB 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 FMSIB 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 FMSIB 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.

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 FMSIB, rather than projects approved by FMSIB.

Port districts are authorized to develop freight development plans. These plans must be submitted to FMSIB, 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.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This reform of the Freight Mobility and Strategic Investment Board (FMSIB) is something that has been looked at for several years. FMSIB has very qualified experts with a great deal of knowledge, but much of that energy and focus has been spent on mind-numbing details of project investments. This bill in part is about the modernization of FMSIB responsibilities and making it more focused on providing strategic direction. The major emphasis of this bill on the freight impacts on overburdened communities is long overdue. Another added area of emphasis is around environmental and emission impacts. The additional membership added to FMSIB will help with emphasizing those two areas. The bill reflects a collaborative effort. The funding provided in the House budget is crucial to successfully implementing it and achieving the intended strategic focus of FMSIB going forward. While still allowing FMSIB to recommend specific investments and projects, the changes will allow FMSIB to get involved in other freight related public policy issues.

CON: The focus of this bill on overburdened communities will detract from the needed focus on shipping emissions which have a much greater impact on the environment. The overburdened communities concept is a complete fabrication and ignores other more important issues about freight movement. The Legislature can do better than this.

**Persons Testifying:** PRO: Representative Jake Fey, Prime Sponsor; Temple Lentz, FMSIB - freight Mobility Strategic Investment Board; Christopher Herman, Washington Public Ports Association.

CON: John Worthington.

**Persons Signed In To Testify But Not Testifying:** No one.