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When the 2007 session began everyone was sure it would end in record time—definitely before the scheduled 105 days. In the end, we were wondering if it would ever be over. It was a long final week, but they managed to avoid going into overtime.

The Legislature did set one major record. Members introduced a ton of bills. In the House, 1,705 bills were introduced. While the Senate tried to stay competitive, they couldn’t keep up—though they kept close. Senators introduced 1,535 bills, well above the usual. Remember, there are half as many members of the Senate than the House. So, if we score them on a per-member basis, the Senate wins.

What matters is not what’s introduced, but what’s passed. Of the 3,240 pieces of legislation introduced, 540 bills were passed. But it’s still not over. Since this is the first year of the biennium, everything stays alive. Much of the legislation that didn’t pass this year we expect to see again next year, plus more. Speaker of the House Frank Chopp gets credit for effectively controlling the flow of bills affecting business, giving us more time to help shape family leave, health care, consumer protection, and environmental legislation. We’ll continue to watch these issues in 2007 and through the 2008 session.

This session brought some very interesting challenges to the business community. Let’s start with the budget. The Legislature went into session with more than $2 billion in the bank, and left with about $760 million in reserves. They spent about $1.3 billion more than revenue coming in. The June forecast added nearly $500 million, but the operating deficit remains a clear concern. We’ll have to watch to see how this plays out in the future. This budget has government spending increasing at about twice the rate of revenue growth. Although we saw spending grow during the last biennium at roughly the same rate, we also saw the economy keep up with it. We can’t count on this continuing forever. Are we setting ourselves up for a tax increase or major budget cuts in the future? Unless lawmakers begin to temper their spending, we think so.

We did see a major budget victory. After years of debate, a solid bipartisan majority of lawmakers voted to establish a constitutionally-
protected rainy day fund. This November, voters will decide whether to adopt the amendment. AWB has long supported this budget protection. We encourage our members to support it in the fall election.

AWB also spent a lot of time this session working on so-called “paid family leave.” This summer, we’ll be faced with the task of filling in the holes in the bill that was passed by the Legislature. There are plenty of gaps to fill. The adopted legislation set up an effective date for benefits, but left a lot of work to a task force. As it stands, we have a requirement to pay benefits, but no revenue stream, no funding mechanism, and no agency to administer the program.

Count on it—this is a program that will grow over time. I believe that most businesses currently have some type of flexible leave policy in place. That flexibility will now be replaced by inflexible regulation. Of all the bills passed this year, paid family leave is the one that may cost small businesses the most, at least initially. It may also have an impact on our larger businesses in the future as the policy changes.

As you read the 2007 Legislative Review you will see that AWB’s staff kept very busy this session. We expect the lobbying team to be busy again next year. Many of the bills we stopped this year will be back.

Expect to see a return of legislative proposals to tilt the field in favor of union organizing campaigns by restricting employers’ freedom of speech. There will also be another attempt to mandate 10-year warranties on new home construction and allow purchasers to collect punitive damages under the Consumer Protection Act. And there’s more. We detail them in the pages that follow.

Legislation, of course, is cumulative. Regulations, fees, taxes, and policies add up over time. In addition to looking back at this last session, AWB will be tracking what’s happening to Washington’s competitive position. Are we becoming more competitive in the global marketplace, or are we falling behind?

Currently, our economy is strong and our firms are competing effectively. But nothing is guaranteed in global, even interstate, competition. Too often, we become complacent when we’re doing well. That’s not something that we can afford to let happen now.

AWB pledges to work with legislators of both parties to identify policy solutions that that preserve and enhance our economic competitiveness. No one wins when the employer community loses.
Each year, shortly after the legislative session ends, the Association of Washington Business rates the governor and legislators on the way they voted on bills that affect the state’s business community.

AWB’s Governmental Affairs Council compiles the legislative voting record from a list of bills considered most important by Washington’s business community. Each legislator receives a rating based on how he or she voted in relation to AWB’s position, either supporting or opposing significant bills and amendments. Many of Washington’s voters will use this record in weighing their choices at the polls.

AWB records votes on either the final passage of a bill or—in some cases—an amendment, depending on its significance. Often, AWB tabulates the votes of legislators on an amendment without including the final passage of a bill. Such amendments are included when they have a substantial impact on the business community.

AWB ultimately determines whether it supports or opposes legislation by referring to its legislative objectives, which AWB members draft and approve prior to the start of each legislative session. After compiling a comprehensive list of legislative objectives, AWB looks for bills or amendments that fit with the recommendations of the business community.

Legislative Review and Voting Record

The 2007 Legislative Review provides an in-depth description of bills monitored by AWB. Bills that were considered as part of AWB’s voting record, which begins on page 34, are marked “VR.” The voting record provides details on how legislators voted on measures of interest to the business community.

To make it easier to locate a particular legislator within the voting record, AWB sorts the tables by chamber—one for the Senate and one for the House of Representatives—and then sorts legislators alphabetically by last name.

To sort the voting record by voting percentage or by district, please visit AWB’s Web site at www.awb.org.

Gov. Gregoire’s 2007 Legislative Record Percentage: 37%

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**SUMMARY**

The 2007 session began dramatically with the creation of the Senate’s new Consumer Protection and Housing committee chaired by former plaintiffs’ attorney Sen. Brian Weinstein, D-Mercer Island.

Soon, proposals to expand civil tort liability (including punitive damages) for the business community arrived with a special emphasis on the insurance, as well as design and construction, industries. Fortunately, most of those proposals were defeated this session, or at least deferred until the next. This included a bill that would have made major, lasting alterations in Washington law by allowing punitive damages in Consumer Protection Act suits. Washington law has remained free of efforts to impose exemplary damages that have no bearing on an individual’s actual economic loss, but proposals are cropping up to impose punitive awards.

**THE DETAILS**

**ESSB 5726 ➤ Creating the Insurance Fair Conduct Act**

Passed / AWB opposed / VR

This bill, sponsored by Sen. Brian Weinstein, D-Mercer Island, expands the liability of insurance companies for the “unreasonable denial” of an insurance claim. AWB opposed ESSB 5726 because it imposes triple punitive damages plus attorney’s fees upon a finding of unreasonableness. Since the reasonableness of a company’s conduct will typically be a question for a jury, the effect will be to force insurers to settle wrongful denial claims faster, and for more money, to avoid the risk and uncertainty of a jury trial. This will lead to an increase in general insurance costs for the business community as higher lawsuit payouts lead to higher underwriting costs.

**SHB 1873 ➤ Revises the requirements for, and recoveries under, a wrongful injury or death cause of action**

Failed / AWB opposed / VR

AWB scored another victory in this area with the defeat of HB 1873, sponsored by Rep. Timm Ormsby, D-Spokane. HB 1873 would have increased tort liability in the area of wrongful death lawsuits, expanding causes of action, awarding new kinds of damages, and making attorneys’ fees more readily available to plaintiffs’ lawyers. The bill was an effort to overturn two recent state Supreme Court rulings that refused to expand liability in this area. Although HB 1873 passed the House, strong AWB opposition helped defeat it in the Senate.

**SUMMARY**

The 2007 Legislature saw very little action in the area of workplace safety. The one exception was HB 2171, related to construction crane safety. This bill was brought forward after a tragic accident in November 2006, when a construction crane collapsed in downtown Bellevue, killing a man as he slept in his apartment. AWB worked with legislators and proponents of the bill to make sure that it was narrowly crafted and that the forthcoming rulemaking and implementation process will not hinder businesses with over-reaching regulations.

**THE DETAILS**

**HB 2171 ➤ Crane safety**

Passed / AWB supported

This legislation, sponsored by Rep. Deborah Eddy, D-Kirkland, requires the Department of Labor and Industries to establish, by rule, a crane certification program and minimum qualifications to operate cranes used in construction. Crane operator experience requirements will be graduated based on crane type and size.

AWB worked with the prime sponsor and proponents of the bill to narrow the scope of the legislation and minimize the potential impacts of the bill on businesses in the state. Additionally, AWB will participate in the forthcoming rulemaking to ensure that the intent of the legislation is carried forward in subsequent rulemaking and seek additional clarification in the law, if necessary, during the 2008 legislative session. The bill takes affect Jan. 1, 2010.
SUMMARY

The business community fared well on environmental issues during the 2007 legislative session. AWB was able to advance three of its five priority land-use bills and improve a bill leading to the creation of a new state agency charged with cleaning up Puget Sound by 2020. AWB also stopped a number of harmful environmental bills, including an attempt to change Washington’s development right vesting laws; misguided climate change legislation; legislation that would shut down a vital gravel mine important to our region’s transportation projects; and an attempt to impose a broad set of warranties on contractors for new residential construction.

Nevertheless, the environmental community was clearly in the driver’s seat this session, accomplishing their top four priority objectives of creating the Puget Sound Partnership; imposing a PBDE flame retardant ban; and clean air and clean fuels legislation. In addition, environmental advocates succeeded in passing climate change legislation that places additional regulation on utilities which may lead to increased costs to businesses and consumers.

THE DETAILS

ENERGY

SHB 1032 ▶ Creating a sustainable energy trust
Failed / AWB opposed

This bill, sponsored by Rep. Jeff Morris, D-Anacortes, provided that an electric or natural gas utility may collect a “system benefits charge” of up to $1.90 per month per meter from each retail residential, commercial and industrial customer in the state. The surcharge would supposedly foster the growth, development, and commercialization of sustainable energy resources of five megawatts or less and smart energy technologies that are connected to an electric utility’s distribution system. The surcharge, which further raises power rates, amounted to a new tax, providing no clear connection between the rate increase and the benefits to customers.

SHB 1037 ▶ Electrical transmission
Passed / AWB supported

This bill, sponsored by Rep. Jeff Morris, D-Anacortes, provides that a person constructing, reconstructing, or expanding electrical transmission facilities of at least 115 kilovolts may choose to use the state’s Energy Facility Site Evaluation Council process for placement of these facilities. This bill creates an opt-in provision for EFSEC jurisdiction over multi-jurisdictional electrical transmission facilities of at least 115 kilovolts. If the transmission corridor is wholly within a city or town, the local government has 120 days to accept or decline jurisdiction. This legislation will accelerate the process for siting electrical transmission lines. This will aid in moving power from generation points in rural parts of the state and delivering it to urban centers that need power, which is important because of the wind power mandates contained in Initiative 937.

SB 5009 ▶ Exempting biodiesel fuel used for non-highway farm use from sales and use tax
Passed / AWB supported

This bill, sponsored by Sen. Mary Margaret Haugen, D- Camano Island, provides that biodiesel fuel used by a farm-fuel user for non-highway use is exempt from sales and use taxes. The language of this bill also extended the exemption to biodiesel fuel blended with diesel. The legislation represents a clear, incentives-based approach to promoting alternative energy sources.
**ENVIRONMENT**

**ESB 5669 ▶ Requiring agencies to expedite decisions regarding the implementation of renewable fuel standards**  
Passed / AWB supported

This bill, sponsored by Sen. Janéa Holmquist, R-Moses Lake, requires state agencies to minimize processing and accelerate review times when dealing with decisions affecting renewable fuel standards. This legislation also makes the pertinent information easily accessible to the public. These requirements apply to installing new storage tanks and pumps; increasing refining and blending capacity; adding efficiency improvements for refiners, blenders, or bulk plant operators; modifying on-loading or off-loading racks; adding equipment to biodiesel storage tanks or tanks holding blended fuel; and replacing underground and aboveground fuel storage tanks, pumps, and large bulk tanks. The requirements do not apply to biodiesel or ethanol production facilities. The requirements expire on Dec. 31, 2009.

**SHB 2206/SB 6170 ▶ Reviewing pipeline capacity in southwest Washington**  
Failed / AWB supported

These bills, sponsored by Rep. Richard Curtis, R-La Center, and Sen. Joseph Zarelli, R-Ridgefield, required the Energy Facility Siting Evaluation Council to review the status of pipeline utility corridor capacity and distribution. Even though these bills did not pass, money was set aside in the budget for EFSEC to study the issues surrounding pipeline capacity in southwest Washington. A report on EFSEC’s findings are due to the Legislature by Dec. 1, 2007.

**Missed Opportunities**

**HB 1174/SB 5026 ▶ Providing a sales and use tax exemption for recovered wood waste boiler equipment**  
Failed / AWB supported

These bills, sponsored by Rep. Eric Pettigrew, D-Seattle, and Sen. Ed Murray, D-Seattle, provided an exemption from retail sales and use tax for the purchase of recovered wood waste boiler equipment. This equipment is used primarily in the production of steam for resale. These bills define recovered wood waste as “discarded wood” and require that the steam must be sold for use in sterilizing personal property, heating water, or heating buildings. The exemption also applies to repair or replacement parts and the cost associated with labor and services.

**ESHB 1211 ▶ Providing sales and use tax exemptions for solar hot water components**  
Failed / AWB Supported

This bill, sponsored by Rep. Maralyn Chase, D- Shoreline, exempts solar hot water heating components from state and local retail sales and use taxes. This legislation would also exempt repair and replacement parts for such components, as well as charges for labor and services rendered with respect to installing, repairing, cleaning, altering, or improving such components.

**SB 6111 ▶ Electricity generation from tidal and wave energy**  
Failed / AWB supported

SB 6111, sponsored by Rep. Steve Hobbs, D-Lake Stevens, creates a state retail sales and use tax exemption for the machinery and equipment used to generate 200 watts or more of electricity using tidal or wave energy. Washington state has abundant potential for electrical generation from tidal and wave energy sources like the Tacoma Narrows.

**LAND USE**

**SHB 1458 ▶ Requiring notice to property owners before condemnation decisions**  
Passed / AWB supported

This governor-requested legislation, sponsored by Rep. Kevin Van De Wege, D-Hoquiam, requires that state agencies, counties, cities, school districts, certain corporations and other entities with condemnation authority must provide landowners a minimum of 15 days notice before the entity’s final action regarding condemnation of a specific property. The bill outlines a process for giving notice to a property owner, which describes the date, time, and location of the final action at which the condemner may authorize the condemnation of the property. Notices must be issued by certified mail to all property owners of record and must be published in local newspapers. This bill addresses the Washington Supreme Court’s decision in *Central Puget Sound Regional Transit Authority v. Miller*.

**SHB 1965/SB 5684 ▶ Authorizing major industrial developments within industrial land banks**  
Passed / AWB supported / VR

These bills, sponsored by Rep. Deborah Eddy, D-Kirkland, and Sen. Dan Swecker, R-Rochester, create a two-step process for counties to follow in using the industrial land banks provision of the Growth Management Act. First, counties site and designate up to two industrial land banks as part of their comprehensive plan. Second, they approve major industrial developments through an administrative master-plan process. These bills clarify existing law and make the process more...

appealing and user-friendly for rural counties siting major industrial developments. SB 5684 died in committee but SHB 1965 passed. AWB appreciates the hard work of both Rep. Eddy and Sen. Swecker in championing this important part of its 2007 land use package.

SSB 5248/HB 1167
Preserving the viability of agricultural lands
Passed / AWB supported / VR

These companion bills, sponsored by Sen. Brian Hatfield, D-Raymond, and Rep. Brian Blake, D-Aberdeen, require counties and cities to defer amending or adopting Critical Area Ordinances that specifically apply to agricultural activities until July 1, 2009. Counties and cities that defer amending or adopting such CAOs must review and revise the CAOs to comply with the Growth Management Act by July 1, 2010.

The William D. Ruckelshaus Center will conduct an examination of the conflicts between agricultural activities and CAOs and issue a report on the first phase to the governor and the Legislature by Dec. 1, 2007. Even though the final version of this legislation does not address all of our concerns, it is an important first step.

SB 5507
Changing Washington’s vesting laws
Failed / AWB opposed

This legislation, sponsored by Sen. Adam Kline, D-Seattle, attempted to revise Washington’s Vested Rights Doctrine. Under current law, building and development rights vest at the time of application until July 1, 2009. Counties and cities that defer amending or adopting such CAOs must review and revise the CAOs to comply with the Growth Management Act by July 1, 2010.

This bill would have allowed government—on its own or at the urging of other special interests—to change zoning and other rules while construction is pending, thus creating an unfair and uneven playing field for developers. Sen. Kline promises that SB 5507 will return next year.

SB 5550
Concerning new residential construction warranties
Failed / AWB opposed / VR

This bill, sponsored by Sen. Brian Weinstein, D-Mercer Island, establishes a statutory implied warranty for the construction of new residential homes or the substantial remodel of existing residential homes. This “one-size-fits-all” warranty bill would have punished honest contractors by significantly increasing liability insurance premiums or causing some contractors to completely lose insurance coverage, while driving unlicensed, unbonded contractors further underground. This bill would have also had a particularly inequitable affect on small contractors—nearly 97 percent of the market in Washington. This bill also provided no incentive for proponents to participate in the committee study in good faith because the warranties became effective on July 1, 2008. AWB appreciates House Speaker Frank Chopp, D-Seattle, blocking this extremely harmful piece of legislation.

SB 5210
Addressing transportation concurrency under the Growth Management Act
Failed / AWB opposed

This legislation, sponsored by Sen. Jim Kastama, D-Puyallup, required local jurisdictions that plan under the Growth Management Act to prohibit approval of new development if the development causes the level of use on state-owned transportation facilities to fall below congestion standards. New development would not be allowed unless transportation improvements to accommodate the impacts are made concurrent with the development. Similar to existing laws under the GMA, this bill would extend power to the state to limit development based on concurrency requirements.

The total cost of large, state-owned infrastructure, such as on-ramps and off-ramps, are too expensive to attribute to one business—even big-box retailers. Businesses would not be able to afford to pay the high concurrency price tag and would have to relocate away from these high-traffic areas. This would create additional sprawl, contrary to the intent of the GMA.

Missed Opportunities

HB 1753/SB 5683
Addressing transportation concurrency and impact fees under the Growth Management Act
Failed / AWB supported

These AWB-backed land use bills, sponsored by Rep. Deborah Eddy, D-Kirkland, and Sen. Pam Roach, R-Auburn, would have prohibited jurisdictions that impose transportation impact fees from denying development approvals because of a failure to achieve applicable level of service standards. These service standards were adopted for locally-owned transportation facilities and specify new requirements for jurisdictions that impose impact fees. In addition, this legislation would have reestablished nexus and proportionality requirements of impact fees by overturning the Washington Supreme Court’s ruling in City of Olympia v. Drebick. These bills attempted to restore the promise of the Growth Management Act—to manage growth, not prevent it.
ENVIRONMENT

**HB 1727**
Planning to ensure sufficient land and densities available to accommodate growth
Failed / AWB supported

This bill, sponsored by Rep. Larry Springer, D-Kirkland, requires that the land use sections in local governments’ comprehensive plans designate sufficient land for residential, commercial, and industrial use. The housing element of the plan must also identify a sufficient amount of land suitable for meeting existing and projected housing needs. This legislation expanded the statutory list of land-use management techniques to include mixed-use development and accessory dwelling units.

**WATER**

**ESHB 1374/ESSB 5372**
Creating the Puget Sound Partnership
Passed / AWB supported

These bills, sponsored by Sen. Phil Rockefeller, D-Bainbridge Island, and Rep. Dave Upthegrove, D-Burien, created the Puget Sound Partnership, a new state agency to oversee cleanup and restoration of Puget Sound for at least the next 13 years. Led by a seven-member, governor-appointed leadership council, the agency also includes an executive director, an independent science advisory panel, and a large stakeholder board called the Ecosystem Coordinating Board.

The leadership council must have an action agenda in place by September 2008 outlining the cleanup strategy for Puget Sound. AWB appreciates Sen. Rockefeller’s and Rep. Upthegrove’s work to ensure this new agency will be collaborative and not regulatory in nature. This bill represents a starting point for Puget Sound cleanup and restoration.

**HB 1453 / SB 5519**
Regarding points of diversion under a water right
Failed / AWB supported

Sponsored by Rep. Bill Grant, D-Walla Walla, and Sen. Jerome Delvin, R-Richland, these bills authorize and direct the Department of Ecology to approve changes in “point-of-diversion” rules in Washington’s water rights laws. These bills clarify issues that several municipalities have been coping with in terms of where water is withdrawn. The bill also makes simple changes that help many cities along the mainstem of rivers, improve flexibility in the water right management, and would not cause any harm on the Columbia or Snake rivers.

**Missed Opportunities**

**HB 1938 / SB 5849**
Concerning relinquishment of a water right
Failed / AWB supported

This legislation, sponsored by Rep. Steve Hailey, R-Cheney, and Sen. Bob Morton, R-Kettle Falls, provided that water right owners need not relinquish their water right if they continue to use at least a portion of the water for the its previously established use. This bill would encourage conservation by all water right holders and ease worries about changing or modifying crops. This legislation continues to be good public policy and represents another missed opportunity.

**AIR QUALITY**

**ESSHB 1303**
Encouraging the use of cleaner energy
Passed / AWB supported

This bill, sponsored by Rep. Mary Lou Dickerson, D-Seattle, is also known as the Clean Fuels Initiative. It creates a variety of incentive measures for dealing with carbon emission reduction. The legislation includes assistance to retrofit old diesel school buses for lower carbon emissions and promotes ethanol and biodiesel production and use within the state. AWB supported this bill because it took the approach of providing incentives rather than issuing unfunded mandates.

Sen. Phil Rockefeller, D-Bainbridge Island.
Columbia-Snake River


The CSRIA Technical Review describes the types and likely amounts of water savings attainable from eastern Washington water conservation and management projects related to irrigated agriculture.

Highlighting Potential Water Savings and Costs

- Throughout eastern Washington, irrigation scheduling and monitoring could yield as much as 435,000 acre-feet annually. Most Columbia-Snake River irrigators have already adopted this measure as a best management practice. The estimated annual cost of irrigation scheduling and monitoring is about $10 to $30 per acre-foot.

- The potential water savings from conversion to more efficient irrigation systems would likely exceed 200,000 acre-feet. The capital cost of these measures varies widely, about $50 to $1,300 per acre-foot (or about $10 to 140 per acre-foot annually).
Irrigators Association

- There are numerous opportunities for canal lining and enclosure measures (some with pressurizing systems) that are in the $70 to 140 per acre-foot range (annual cost).

- The potential to use groundwater recharge for tributary enhancement at site-specific locations may be highly significant to deal with water temperature and quality issues, and that may offer more environmental benefits than general flow improvements. The annual cost of these measures, for many sites, is likely in the $20 to $40 per acre-foot range.

- Site-specific water diversion transfers can also have significant benefits, with the cost estimated at about $30 to $100 per acre-foot (annual cost, including power).

To read the full report, see “Technical Papers” at www.csria.org
HB 1929 ▶ Authorizing utilities to engage in environmental mitigation efforts
Passed / AWB opposed

This bill, sponsored by Rep. Christopher Hurst, D-Enumclaw, reverses the result of Okeson v. City of Seattle, a 2007 Washington Supreme Court decision. This legislation grants municipal utilities and public utility districts authority to lessen their utility’s impact on the environment, especially with regard to greenhouse gases. The bill allows municipally owned utilities to shift costs to ratepayers for greenhouse gas mitigation not directly connected with electricity production and use.

SB 6001 ▶ Climate change
Passed / AWB neutral

The primary climate change legislation, sponsored by Sen. Craig Pridemore, D-Vancouver, codifies most of the governor’s greenhouse gas reduction and clean energy employment goals in Executive Order 07-02. Beginning July 1, 2008, electric utilities must meet a new emissions performance standard of 1,100 pounds of greenhouse gas per megawatt-hour or the average available emissions output from combined-cycle combustion gas turbines as determined by the Department of Community Trade and Economic Development and the Department of Ecology.

AWB opposed early drafts of this legislation, citing our member’s preference for a national solution, Washington’s relatively low greenhouse gas emissions and the potential for this legislation to raise energy rates for businesses and consumers. After negotiations by member companies, AWB was able to take a neutral position on final passage.

TOXICS

HB 1024 ▶ PBDE flame retardant ban
Passed / AWB opposed / VR

This bill, sponsored by Rep. Ross Hunter, D-Medina, prohibits products containing polybrominated diphenyl ethers from being manufactured, sold, or used in Washington after Jan. 1, 2008. The banning of these flame retardants has been a top priority of the environmental community for many years. A number of exemptions are provided, primarily for vehicles, medical devices, equipment required by the FAA, and for products containing deca-BDEs. A ban on products containing deca-BDEs begins in 2011, provided a fire safety committee determines that a safer and technically feasible alternative is available. By passing this bill, the Legislature sends a strong message to manufacturers that they should stop using deca-BDEs now—an act that could put more people at risk of fire related injuries and death.
Business—particularly small business—saw a handful of good regulatory reform measures adopted this year. Most notably, the Legislature continued the Office of Regulatory Assistance until 2012. This office assists citizens with permitting questions, provides access to information about state regulations and assists with coordinating between the layers of state, local, and federal permit review.

New legislation was also passed requiring that a Small Business Economic Impact Statement include an estimate of the number of jobs that will be created or lost as the result of compliance with a proposed rule. Also, legislation was passed requiring that permit applicants receive information from state or local agencies on the time an agency will need to make a permit decision and the minimum amount of information required for a decision. Applicants should also receive information on when an application is complete, the expected fees, and the reasons for denial of a permit. Permitting agencies are encouraged to report annually on success in providing this information.

Regulatory reform, streamlined permitting and coordination among state and local agencies continues to be a priority for AWB.

**THE DETAILS**

**2SSB 5122** Preserving regulatory assistance provisions  
*Passed / AWB supported*

This bill, sponsored by Sen. Phil Rockefeller, D-Bainbridge Island, repeals the existing sunset date of June 30, 2008 for the Office of Regulatory Assistance and establishes a new sunset date of June 30, 2012. The bill adds a new reporting requirement regarding negotiation and implementation of voluntary cost reimbursement agreements to existing reporting requirements. The first report is due on June 1, 2008, after which biennial reports are required. By July 1, 2008, the Joint Legislative Audit and Review Committee must provide a status report to the governor and appropriate committees of the Legislature on the compliance of ORA with the sunset review.

**ESB 5508**  
Providing for economic development project permitting  
*Passed / AWB Supported*

ESB 5508, sponsored by Sen. Derek Kilmer, D-Gig Harbor, requires that state and local agencies provide permit applicants with information about the cost and duration of the permit process. Further, it requires that the local government’s record of providing such information be used as criteria for awarding funds through the Public Works Board, the Community Economic Revitalization Board, the Local Infrastructure Financing Tool, or the Job Development Fund. This bill requires the Office of Regulatory Assistance to assist local jurisdictions with the statutory requirements for local project review and eliminates current ORA reporting requirements.

**EHB 1525** Reducing the impact of regulatory provisions on small businesses  
*Passed / AWB supported*

This bill, sponsored by Rep. Maralyn Chase, D-Shoreline, requires that, if a state agency cannot reduce the costs imposed by a rule on small businesses, that agency must provide a clear explanation of why it has made that determination. The Small Business Economic Impact Statement is subject to selective review of the Joint Administrative Rules Review Committee, and a person affected by the rule may petition the JARRC for review. In analyzing costs of compliance for the business, the agency must consider costs of professional services in addition to the factors currently required by law. The SBEIS must include the number of jobs that will be created or lost because of compliance with the proposed rule.
EMPLOYMENT LAW

SUMMARY

In the area of employment law, the employer community survived the 2007 session in a purely defensive crouch. In addition to what passed, many troubling bills were defeated—for now. Their deferral will become next session’s dilemmas.

Facing difficult challenges ahead, AWB will continue to defend principles of job growth and economic expansion in the face of significant legislative threats while seeking to capitalize on missed opportunities through continued education and debate.

THE DETAILS

HB 1828 ▶ Requiring a state policy of neutrality toward unionization for persons using aerospace-related tax incentives
Failed / AWB opposed

This bill, sponsored by Rep. Mike Sells, D-Everett, targeted the aerospace industry with severe restrictions on free speech rights when it comes to resisting a union organizing campaign. HB 1828 claimed that by virtue of participating in state-granted economic development incentives, such as preferential tax rates, employers in the aerospace industry should not be able to hold meetings with employees to discuss the employer’s view on unionization. AWB strongly opposed this abridgement on employer’s legitimate rights but expects it to return in 2008.

HB 2383 ▶ Prohibiting employers from requiring employees to participate in certain communications about political, religious, or labor organizing matters
Failed / AWB opposed

HB 2383, also sponsored by Rep. Mike Sells, D-Everett, would have extended the same prohibition as HB 1828 to the entire employer community without regard to participation in economic development incentives. In AWB’s view, this bill runs afoul not only of the First Amendment but of federal labor law as well. Nevertheless, it is expected to return with a strong labor push in 2008.

HB 1154 ▶ Regulating employment decisions based on the consumption of lawful tobacco products
Failed / AWB opposed

HB 1154, sponsored by Rep. Dawn Morrell, D-Puyallup, would have made smokers a protected class by prohibiting hiring/hiring or terms/conditions of employment decisions on the basis of a workers’ use of tobacco products. AWB opposed the bill as introduced, and sought an amendment that would have made it clear the proposal did not intend to limit employer’s tobacco use policies during work hours and on the work premises. Although the bill did not pass, it generated sufficient interest among legislators to ensure its return in 2008.

HB 1920 ▶ Addressing overtime compensation for truckers transporting agricultural commodities
Failed / AWB opposed

This bill, sponsored by Rep. Steve Conway, D-Tacoma, would have gutted the agricultural industries’ long-standing exemption from overtime provisions of the Minimum Wage Act, resulting in industry-wide changes and significantly higher labor costs in this vital economic sector. AWB assisted in the successful opposition to this bill but expects its return in 2008.
Human Resources

SUMMARY

The 2007 Legislature imposed a handful of new regulations that threaten the competitiveness of Washington employers. A new paid family leave mandate makes Washington the second state in the nation to require employers to grant paid time off. Unlike California’s model, however, E2SSB 5659 merely established the leave entitlement and left the difficult decisions about how to fund and administer the benefit to a task force of legislators, business, and labor representatives to figure out over the summer and fall of 2007.

Other HR issues of note included changes to the definition of “disability” for purposes of discrimination law, restrictions on the use of credit reports for background checks, and several changes to the workers’ compensation and unemployment insurance systems.

THE DETAILS

E2SSB 5659
Establishing family and medical leave insurance
Passed / AWB opposed / VR

This bill, sponsored by Sen. Karen Keiser, D-Des Moines, directs an undesignated state agency to establish and administer a family leave insurance program beginning Oct. 1, 2009. The program provides for five weeks of paid leave—up to $250 per week—for every eligible employee to care for a newborn or newly adopted child. Initially financed with an $18 million loan from the Workers’ Compensation Supplemental Pension Fund, the Family Leave Insurance Account has no permanent funding source. The bill established a 13-member task force including legislators, labor, business, and consumer advocates to determine the funding and administration of the program and report back to the Legislature by Jan. 1, 2008.

AWB led a coalition to educate lawmakers about the bill’s hidden costs. This resulted in several limitations to the scope of the original bill, lessening what would have been severe regulation of employer leave policies. Several key amendments were offered during floor action, including a successful amendment by Rep. Cary Condror, R-Wenatchee, to balance out the committee composition. Unfortunately, amendments by Rep. Maureen Walsh, R-Walla Walla, and Rep. Judy Warnick, R-Moses Lake, which would have respectively exempted small businesses and fixed the financial raid on the workers’ compensation system, were defeated.

SSB 5340
Defining disability in the Washington law against discrimination
Passed / AWB concerns

This bill, sponsored by Sen. Adam Kline, D-Seattle, codifies an expansive definition of the word “disability” in Washington’s Law Against Discrimination, the civil rights law which protects individuals from discrimination in housing, insurance, employment, and other areas of life with respect to various attributes including race, gender and religion. The bill overturns a 2006 decision of the Washington Supreme Court, McClarty v. Totem Electric, that clarified a patchwork of existing disability discrimination law by adopting the definition of “disability” used by the federal government under the 1990 Americans with Disabilities Act.

As introduced, the bill would have created virtually limitless categories of disabilities under which nearly every individual would fall. AWB worked with advocates on key limitations in the bill to preserve the status of the law before McClarty. Nevertheless, the resulting legislation is one of the more complex and expansive definitions of disability in the nation and will likely result in further litigation.

ESSB 5827
Regarding consumer privacy
Passed / AWB opposed / VR

This bill, sponsored by Sen. Steve Hobbs, D-Lake Stevens, limits the ability of employers to use credit report information as part of a background check unless the employer can prove the information is “substantially job related.” This amendment to the state’s Fair Credit Reporting Act is expected to alter the employment practices of many employers, particularly those in retail, financial services, and other sectors where money and valuables, or positions of trust, are involved. AWB opposed the bill in principle and lobbied for greater clarity in the permissible uses of credit information. Unfortunately, the vague “substantially related” standard is likely to lead to uncertainty and exposure to liability for employers acting in good faith.
UNEMPLOYMENT INSURANCE

SUMMARY

The 2007 legislative session was not as contentious as we’ve come to expect over the past several years. With a direct attack on the system reforms we achieved in 2003 resulting in major compromise legislation passed during the 2006 legislative session, the 2007 session was devoted to other controversial areas of employment law and human resources. However, with that 2006 compromise facing federal conformity challenges (regarding how employers are charged taxes to pay for workers’ benefits), unemployment insurance will undoubtedly reemerge as a priority issue in coming months.

THE DETAILS

SBH 1278 ▶ Modifying industry average unemployment contribution rates
Passed / AWB supported

This governor-requested legislation, sponsored by Rep. Steve Conway, D-Tacoma, originated as a bill that would have helped new employers by giving them lower initial tax rates. It also had potential to put existing employers at risk for higher taxes to offset the lower rates given to new employers. AWB negotiated with the governor’s office and the Employment Security Department and, as passed by the Legislature, the bill modifies the new employer contribution rate to as low as 90 percent of the industry average, but raises that contribution rate back to 115 percent of the industry average, depending on economic conditions. Thus, new businesses are helped while existing employers are protected from higher taxes.
ESSB 5373  Regarding reporting, penalty, and corporate officer provisions of the unemployment insurance system  Passed / AWB supported

This bill, sponsored by Sen. Jeanne Kohl-Welles, D-Seattle, was the primary focus of unemployment insurance discussions this year. As negotiated by AWB with the labor community and Employment Security Department, the bill changed from one that would have been onerous for the business community to one that makes improvements without overburdening employers. It adds services performed by corporate officers to covered employment for the purposes of unemployment compensation, with certain exceptions. It makes corporate officers personally liable for certain contributions owed by corporations that have gone out of business (in cases where the person could also be held criminally liable). It also charges certain benefits resulting from an employer’s reporting errors to the employer’s experience rating account rather than socializing those costs to the rest of the business community. ESSB 5373 also modifies penalties for employers who file untimely, incomplete or incorrectly formatted tax and wage reports. In addition, it increases weeks of disqualification and adds penalties for claimants who make false statements involving material facts. Finally, it designates professional employer organizations and client employers as co-employers for unemployment tax liability.

SSB 5653  Authorizing the development of self-employment assistance programs  Passed / AWB opposed / VR

This bill, sponsored by Sen. Claudia Kauffman, D-Kent, entitles claimants enrolled in self-employment assistance programs to continue receiving regular unemployment insurance benefits if they have been identified by the department as likely to exhaust their regular benefits. Enrollment in a self-employment assistance program satisfies the weekly work search requirement and enrollees do not have to engage in other work searches in order to receive their benefits. AWB opposed this bill because it allows the Employment Security Department to choose those claimants least likely to find new employment and pay them to learn how to start a business without requiring them to look for other work. Persons completing a self-employment program may not directly compete with their former employer. ESD shall report to the Legislature on the performance of the self-employment assistance program by December 2011. The act expires July 1, 2012.

SSB 6082  Addressing unemployment insurance for employees who voluntarily quit work  Failed / AWB opposed

This bill, sponsored by Sen. Jeanne Kohl-Welles, D-Seattle, would have undone the 2003 reform legislation that limited when people could quit their jobs but still qualify for unemployment insurance benefits. AWB opposed this bill, because it would have significantly expanded the grounds for when unemployment benefits would be allowed for claimants who voluntarily leave their employment. This bill was heard in committee but did not pass, due, in part, to uncertainties created by an ongoing legal battle regarding the 2003 legislation. Nonetheless, the business community should be wary because proponents of this legislation contend that people should be able to collect unemployment benefits when they voluntarily quit their jobs for reasons unrelated to their employment.
SUMMARY

The 2007 Legislature’s most significant workforce training accomplishment was the passage of an AWB-priority opportunity grants measure. The bigger issue of K-12 education and the continuation of WASL testing dominated the attention of legislators during the session. Lawmakers continue to recognize the need to prepare today’s students for their place in the future workforce, but AWB is disappointed that action was not taken on legislation to establish on-the-job training programs in high-demand job fields.

THE DETAILS

SCR 8404 (2006)  ▶  Update to the state plan for workforce training  
Passed / AWB supported

This resolution, sponsored by Sen. Paull Shin, D-Mukilteo, gives the Legislature’s approval of the 2006 update to the state’s comprehensive plan for workforce training. This plan becomes the state’s workforce policy unless changed by the Legislature. The plan includes increasing high school graduation rates, improving coordination between workforce and economic development in key economic clusters and expanding customized training for current workers. Overall, the goal of the plan is to help employers retain a skilled workforce.

HB 1096  ▶  Opportunity grants  
Passed / AWB supported / VR

This workforce legislation, sponsored by Rep. Phyllis Kenney, D-Seattle, seeks to match Washington workers to Washington jobs. Encouraged by the successful pilot program from last session, the Legislature reauthorized opportunity grants for low-income students in this bill. The measure requires the College Board, the business and labor communities, and the Workforce Training and Education Coordinating Board to identify and market job-specific training programs.

The data from the initial pilot program indicates that students in the program are exceeding expectations and are better prepared to enter the labor market. These grants are an effective tool in meeting our members’ needs for skilled workers and providing educational benefits to low-income students who would not otherwise be able to attend college. Rep. Kenney worked tirelessly to pass this AWB-supported legislation.

SB 5790  ▶  Skill centers  
Passed with partial veto by governor / AWB supported

Sponsored by Sen. Steve Hobbs, D-Lake Stevens, this bill is in response to the directive from the 2006 Legislature to the Workforce Training and Education Coordinating Board to make recommendations for increasing access to skill centers. The enrollment at skill centers is not expanding proportionately with the rest of our education system, so this legislation establishes new skill centers in statute and encourages satellite and branch campuses of skills centers to address high-demand fields like math and...
science. A plan to connect skill centers with K-12, higher education, and other educational institutions is also required in this bill. This bill will increase student access to skill center programs. Skill centers augment the course offerings of a school district and are a useful tool in providing a trained workforce.

**SB 5731** Students in high-demand field  
Passed / AWB supported

This bill, sponsored by Sen. Paull Shin, D-Mukilteo, creates a committee on the education of students in high-demand fields that will develop a plan to increase the capacity of Washington institutions of higher education by 10,000 students per year by 2020. The goal is to produce degrees in high-impact, high-demand areas of the economy. It will also develop a marketing plan to inform students, parents, and educators of opportunities, investigate ways to motivate students to take more mathematics and science courses, and identify ways that the business community can partner with the state to ensure enough qualified graduates for these jobs.

**Missed Opportunities**

**HB 1969/SB5486** Workforce training B&O tax credit  
Failed / AWB supported

This legislation, sponsored by Rep. Phyllis Kenney, D-Seattle, and Sen. Paull Shin, D-Mukilteo, would have authorized employer tax incentives for the employment of students in workforce training programs for high-demand job skills such as math, science and health sciences. This bill would have helped employers find qualified employees.

SUMMARY

Workers’ compensation legislation this year imposed greater regulation on the employer community mixed with small and large increases in worker benefits. Opportunities to address long-standing and well known problems in the workers’ comp system were met with stiff resistance, and ultimately, defeat.

THE DETAILS

SSB 5443 ▶ Suppressing workers’ compensation claims
Passed / AWB concerns

The Department of Labor & Industries requested this bill, sponsored by Sen. Jeanne Kohl-Welles, D-Seattle. SSB 5443 gives L&I the authority to investigate and administratively prosecute “claims suppression,” which is the intentional act of inducing an injured worker not to file a workers’ comp claim. AWB worked with the Department of Labor and Industries and stakeholders to ensure the law, as passed, applies only to “intentional” misconduct and that it excludes from the notion of claims suppression bona fide workplace safety incentives and practices. L&I intends to engage in rulemaking to implement this bill, and AWB will continue to stay actively involved in the discussion.

SSB 5053 ▶ Creating the office of the ombudsman for workers of industrial insurance self-insured employers
Passed / AWB opposed

This bill, sponsored by Sen. Karen Keiser, D-Kent, creates the office of ombudsman for employees of firms that self-insure for workers’ compensation. This position is to act as a liaison and advocate for injured workers between the self-insured employer and the Department of Labor and Industries, which oversees compliance. AWB opposed the bill on the principle that greater restraints on self-insured employers should come with greater claims management authority.

SSB 5920 ▶ Establishing a pilot program for vocational rehabilitation services
Passed / AWB supported / VR

The Department of Labor & Industries requested this bill, sponsored by Sen. Jeanne Kohl-Welles, D-Seattle. SSB 5920 establishes a pilot program and study of the vocational rehabilitation benefit in which the monetary benefits are tripled and the amount of time for an injured worker to complete vocational rehabilitation is doubled. This business-labor-negotiated bill also contains provisions that add accountability, real choices for the worker to opt out of the system, and mechanisms to ensure better training outcomes and fewer pension awards for unemployability at the end of rehabilitation. It is a five-year pilot program.
**HB 1244**
**Defining wages for industrial insurance purposes**
*Passed / AWB opposed / VR*

This bill, sponsored by Rep. Steve Conway, D-Tacoma, mandates the payment of health care benefits as part of the wage replacement benefit of workers’ compensation, regardless of whether the employee is actually eligible for and receiving the health benefit at the time of injury. AWB opposed the bill as introduced but was able to work with advocates in the Senate to limit the bill’s scope to health care benefits before it ultimately passed.

**ESB 5675**
**Increasing minimum industrial insurance benefits**
*Passed / AWB opposed*

This bill, sponsored by Sen. Rosa Franklin, D-Tacoma, increases the minimum benefit across the system and ties its rise to inflation. AWB opposed this bill because it is sure to increase costs for small business and agriculture, where more minimum-benefit eligible individuals work.

**ESSB 5290**
**Establishing industrial insurance medical and chiropractic advisory committees**
*Passed / AWB supported*

The Department of Labor & Industries requested this bill, sponsored by Sen. Karen Keiser, D-Kent, which establishes medical and chiropractic advisory committees to assist the L&I medical director in making evidence-based coverage decisions. The Legislature held off a sustained push by labor to put a union representative on the advisory committees, which would have politicized an otherwise scientific discussion. Holding down medical inflation has been a successful initiative at L&I, though not without controversy on the part of workers whose treatments have been denied, or the manufacturers, distributors, or practitioners of devices or treatments that have been denied. AWB supported this bill because input from evidence-based medical practitioners should assist L&I in its mission to hold down medical inflation costs, which are ultimately borne by Washington employers and workers.

**SHB 1128**
**Pension award study budget proviso**
*Passed / AWB supported*

The Legislature passed as part of the 2007-2009 operating budget a bipartisan proviso, championed by Rep. Steve Conway, D-Tacoma, and Rep. Cary Condotta, R-Wenatchee, directing L&I to hire an expert to study an unsustainable increase in pension awards, a trend which has more than doubled in the last five years. The study will examine cost drivers affecting pensions and compare practices and outcomes in Washington with those in other states. AWB looks forward to the data produced by the study and expects it to play a role in further debates over reform of the pension system.

**HB 1503**
**Regarding injured worker medical rights**
*Failed / AWB opposed*

This bill, sponsored by Rep. Steve Conway, D-Tacoma, would have placed significant hurdles in the way of the department and employers ordering Independent Medical Examinations (IMEs) by increasing delays, interposing claimant’s attorney’s, and removing employers from important parts of the IME process. AWB opposed HB 1053, because it would have turned IMEs into an adversarial, litigious process between worker and employer. Although this bill had enormous momentum coming out of the House Commerce and Labor Committee, an AWB-led coalition was able to kill the bill on the floor of the House. We expect it will return as a key issue next year.

**HB 1709**
**Establishing requirements for industrial insurance final settlement agreements**

**HB 1749**
**Simplifying and adding certainty to the calculation of workers’ compensation benefits**

**HB 5679**
**Establishing requirements for industrial insurance final settlement agreements**

House bills 1709 and 1749, sponsored by Rep. Cary Condotta, R-Wenatchee, in the House and Sen. Jim Clements, R-Selah, in the Senate (Senate Bill 5679), would have made key changes in the calculation of the wage replacement benefit and established the ability of the Department of Labor and Industries and employers to voluntarily settle claims with injured workers, a process adopted by every other state called “compromise and release.” Both proposals would have added significant efficiency reforms to the workers’ compensation system and would have resulted in cost-reductions for Washington employers.

**HB 2233**
**Restricting the use of industrial insurance funds**
*Failed / AWB Supported*

This bill, sponsored by Rep. Cary Condotta, R-Wenatchee, would have ended raids by the Legislature and Department of Labor & Industries on the workers’ compensation funds for non-compensation purposes by making clear that workers’ compensation trust funds are fiduciary in nature and can only be used for benefits and administration related to workers’ compensation. AWB strongly supported this common-sense proposal, yet HB 2233 never received a hearing.

**Missed opportunities and dilemmas deferred**

In workers’ compensation, several proposals were introduced to further the debate over reform of the workers’ compensation system. All met defeat. These were missed opportunities.

**Rep. Bill Fromhold, D-Vancouver.**
Two major issues dominated the Legislature’s debate on education. The first involved adopting legislation recommended by Washington Learns, a comprehensive study to create a “strong education system that will produce an educated citizenry and a thriving economy.” The second stemmed from the requirement that students pass the reading, writing and mathematics sections of the Washington Assessment of Student Learning to graduate from high school.

AWB supports standards-based education and assessment techniques designed to ensure that all students leave school ready to enter college or the workforce. While we were disappointed that graduation requirements were significantly delayed, we succeeded in defeating attempts to do away with the WASL and standards-based education entirely. Additionally, a major focus of the Legislature was to enhance performance standards and efficiencies, particularly in math and science, which AWB supports.

**THE DETAILS**

**E2SSB 5841** ► Enhancing student learning opportunities and achievement

Passed / AWB supported

The Washington Learns advisory committee was divided into three sections – early learning, K-12, and higher education. The Early Learning Committee recognized the importance of students’ formative years to their education. Their recommendations are reflected in this bill, sponsored by Sen. Steve Hobbs, D-Lake Stevens, that addresses the phase-in of voluntary all-day kindergarten programs in low-income schools, demonstration projects in grades K-3, and English as a Second Language programs. The demonstration projects will include full-day kindergarten, class sizes with an 18-1 student-teacher ratio and the use of an instructional coach. The Washington Community Learning Center Program is established to create tutoring opportunities for students when school is not in session. The governor vetoed the creation of the Career Pathways Program in high-demand fields and OSPI World Languages Supervisor due to lack of funding.

**ESSB 6023** ► Concerning the Washington Assessment of Student Learning

Passed / AWB opposed / VR

This bill, sponsored by Sen. Rosemary McAuliffe, D-Bothell, delays until 2013 the requirement that students pass the math and science portion of the WASL to graduate from high school. This delay is two years longer than originally proposed by the governor. If students do not pass the math section, they will be required to take at least one additional math or vocational-technical course to graduate. Despite previous threats, it doesn’t alter the implementation of the reading and writing sections of the WASL. However, alternative testing is now allowed after
a student has failed the WASL once, rather than twice, and a number of new alternatives were added, raising the total to approximately 20.

AWB opposed this bill in its final form because the changes may harm the validity of the WASL as an accurate assessment tool for judging whether students are actually meeting the standards the state deems important. Unlike previous versions of WASL legislation, this bill does not move firmly toward end-of-course exams as the pre-determined WASL replacement, but it does require the State Board of Education to study the possibility.

2SSB 1906 ►
**Improving mathematics and science education**
*Passed / AWB supported*

This bill, sponsored by Rep. Ross Hunter, D-Medina, recognizes the need for enhanced math and science instruction by creating an after-school mathematics support program, as well as a math and science instructional coach program. It also directs the State Board of Education and the Office of the Superintendent of Public Instruction to revise and implement academic requirements in math and science. It requires OSPI to recommend three basic math and science curricula for elementary, middle and high school, which are for voluntary use unless mandated for a substandard school. It also creates two new alternative routes to certification for math and science teachers, thus enhancing the state’s ability to attract professionals in this arena. The bill also requires a common math college readiness exam. The business community supported these upgrades to math and science education in Washington.

HB 1051 ► **Expanding high school completion programs**
*Passed / AWB supported*

This bill, sponsored by Rep. Dave Upthegrove, D-Des Moines, establishes a pilot program for two community or technical colleges to enable students under the age of 21 to complete their high school education and obtain a high school diploma if they have completed all graduation requirements except the WASL. AWB supported this bill, because it allows students to finish their high school education in a more age-appropriate setting, while also encouraging them to continue with higher education by familiarizing them with that environment.

2SHB 1573 ► **Authorizing a statewide program for comprehensive dropout prevention, intervention and retrieval**
*Passed with partial veto by governor / AWB supported*

This bill, sponsored by Rep. Dave Quall, D-Mount Vernon, requires the Office of the Superintendent of Public Instruction to create a grant program to phase in a statewide comprehensive dropout prevention, intervention, and retrieval system known as the Building Bridges Program. AWB supports opportunities to reduce high school dropout rates and is pleased that this bill was passed.

2SSB 5955 ► **Regarding educator preparation, professional development and compensation**
*Passed with partial veto by governor / AWB supported*

This bill, sponsored by Sen. Rodney Tom, D-Bellevue, recognizes the need to better prepare educators to teach mathematics. It requires the Professional Educator Standards Board to adopt new math knowledge and skills standards for initial teaching certificates and adopt new teacher certification requirements addressing mathematics content. Currently, teachers may be teaching subjects for which they were not trained.
As usual, health care was a major issue in 2007. With the comprehensive and balanced final report from the Blue Ribbon Commission on Health Care Costs and Access released just prior to this year’s session, we began the legislative session hoping that AWB might be able to make significant headway toward lowering costs for employers and other health care purchasers. Instead, a number of bills were introduced that would have raised the cost of health care for employers, and AWB was able to block some of them. Unfortunately, once again, no substantial progress was made toward actually reducing the cost of health care for those who purchase it.

**THE DETAILS**

**SHB 1337** Regarding coverage for colorectal cancer examinations and laboratory tests
Passed / AWB opposed

This bill, sponsored by Rep. Phyllis Kenney, D-Seattle, requires insurance plans issued or renewed after July 1, 2008, to cover colorectal cancer examinations and laboratory tests consistent with certain national guidelines and as deemed appropriate by the patient’s physician. The benefits must be provided to individuals who are 50 years old or who are high risk. AWB opposed this bill because studies show that mandating benefits increases costs and reduces flexibility in plan design, thus hindering an employer’s ability to find coverage at an affordable price.

**EHB 1460** Extending existing mental health parity requirements to individual and small group plans
Passed / AWB opposed / VR

This bill, sponsored by Rep. Shay Schual-Berke, D-Seattle, expands the mental health parity requirements imposed on large businesses two years ago. This bill requires all insurance policies, regardless of size, to include coverage for mental health services equal to coverage for other medical and surgical services. AWB opposed the original legislation due to its likelihood to increase costs, and we opposed the expansion of the law this year as well. When the bill was originally passed, the Legislature recognized the impact of increased costs on small employers and individuals and did not apply the bill to them. That previous recognition was not acknowledged this year, and EHB 1460 was one of the first bills the governor signed into law.

**E2SHB 1569** Improving health insurance coverage in Washington
Passed with partial veto by governor / AWB opposed / VR

This bill, sponsored by Rep. Eileen Cody, D-Seattle, was one of the bills relating to the much-debated Massachusetts-style “connector” plan. E2SHB 1569 requires the Health Care Authority, in collaboration with a newly created seven-person Washington Health Insurance Partnership Board and the Office of Insurance Commissioner, to study and design a public-private partnership, known as the Washington Health Insurance Partnership, to pool purchasing of small group health benefit plans, including all small group products approved by the OIC.
Initially, the Washington Health Insurance Partnership will run parallel to the existing small group market and be offered to employers who have low-income employees. AWB opposed this legislation because it sets in place a framework to do away with all privately run health care and reroute all markets—individual, small group, and large group—into a state-run program within the next few years. This bill also eliminated the small employer/low-income employee subsidy program created last year in favor of this new program. By fixing a fatal flaw that caused AWB to oppose last year’s program and funding it, the Legislature could have helped small employers immediately. Instead, they opted to create a new bureaucracy that places all health plans at risk in the long run.

2SSB 5597 ▶ Concerning contracts with chiropractors
Passed / AWB opposed / VR
This bill, sponsored by Sen. Rosa Franklin, D-Tacoma, passed the Senate 41-6 and the House 84-10, despite vigorous opposition by the employer community, Health Care Authority and Puget Sound Health Alliance. If a health carrier wants to contract with one chiropractor in an office it will now be required to offer contracts to all chiropractors located in that office. AWB opposed this bill because it moves away from the cost and quality controls that the Blue Ribbon Commission endorsed this year. It is likely that this legislation will cost millions of dollars per year and raise insurance premiums.

E2SSB 5930 ▶ Providing high-quality, affordable health care to Washingtonians based on the recommendations of the Blue Ribbon Commission on Health Care Costs and Access
Passed / AWB opposed / VR
This bill, sponsored by Sen. Karen Keiser, D-Des Moines, was supported by AWB in the form it originally passed the Senate. The House altered it significantly into a version not supported by AWB. The original version passed the Senate unanimously. The final version passed both houses on a largely party-line vote.

E2SSB 5930, originally based on the recommendations of the Blue Ribbon Commission, began as comprehensive health care reform. It would have allowed new, lower-cost options into the market for small employers and young adults, as well as necessary course corrections that had the potential to lower overall long-term costs of health care. As passed, some of the long-term solutions remain, but it now may actually increase premium costs due to changes to the state high risk pool.

A very broad bill, ESSB 5930 tackles reimbursement changes, patient decision aids, chronic care projects, the creation of a quality forum, health technology and information projects, a study of unnecessary emergency room use, administrative efficiency, public authority and sustainability, and a study of reinsurance. It also tackles Basic Health for foster parents, modifications to the Washington Health Insurance Partnership, state wellness programs, a prescription drug monitoring program, strategic health planning, public health accountability, newborn screening fees, and medical coverage for jail inmates. The bill also requires all private insurance carriers and the state employee programs to offer enrollees an opportunity to extend coverage for unmarried dependents up to age 25.

In its final form, language proposed by AWB to reduce confusion with IRS regulations was deleted. Most disappointing was the removal of all of the provisions relating to health insurance reforms for the small group market, thus ensuring that small employers will receive no help for yet another year.

Budget Proviso Regarding SHB 2094
Creating the Taxpayer Health Care Fairness Act
Passed / AWB opposed
This bill, sponsored by Rep. Steve Conway, D-Tacoma, would have required employers to reimburse the state for the cost of coverage if an employee was enrolled in a state-sponsored medical plan. However, an employer would not be allowed to require an employee to take employer-sponsored coverage or to drop state-sponsored coverage. Due to vigorous opposition from the business community, this newest form of “pay or play” legislation died in committee. Nonetheless, proponents were able to pass a budget proviso calling for yet another study related to coverage of low-wage workers enrolled on state plans who are employed by employers with more than 50 employees.

ESB 5261 ▶ Granting the insurance commissioner the authority to review individual health benefit plan rates
Failed / AWB opposed / VR
This bill, sponsored by Sen. Karen Keiser, D-Des Moines, allowed the Insurance Commissioner authority to review and approve or disapprove rates for individual health care plans. The Insurance Commissioner held that authority until 2000, when the Legislature adopted numerous changes to the laws governing the then-failing individual market. AWB opposed this bill because it would jeopardize the stability of the now-successful individual market by reinstating previously unsuccessful practices.

Missed Opportunities
As usual, a number of bills that would have helped employers with the cost of health care coverage did not receive the attention that they deserved.

HB 1539 ▶ Providing access to health insurance for small employers and their employees
Failed / AWB supported
This bill, sponsored by Rep. Barbara Bailey, R-Oak Harbor, would have increased access to health insurance for small employers and their employees by creating small group reforms the business community has supported for years.

HB 1638 ▶ Providing tax incentives for employer-provided health care
Failed / AWB supported
This bill, sponsored by Rep. Bill Hinkle, R-Cle Elem, would have provided a tax incentive for employer-provided health care in an effort to help defray the expense incurred by employers.

SSB 6030 ▶ Providing health insurance options for young adults
Failed / AWB supported
This bill, sponsored by Sen. Linda Evans Parlette, R-Wenatchee, would have provided targeted health insurance plans for the young adults who make up the large majority of the uninsured. These plans are successfully offered in other states.
TRANSPORTATION

The legislative session began with a debate over how to replace the Alaskan Way Viaduct. Ultimately, the state plans to proceed with work on safety and mobility improvements at the north and south ends of the project. It is expected that tolling and other funding mechanisms will be used to pay for the remainder of the project—a trend that is expected to continue in the future for other projects.

This was part of a wider recognition of skyrocketing costs for transportation projects and the realization that transportation tax receipts are declining despite recent increases to gas taxes in 2003 and 2005. A new proposed freight container tax caused a significant outcry from employers and other transportation financing supporters. The entire session posed a threat to the affordability of sand and gravel raw products for transportation projects as lawmakers pushed legislation to prevent the use of an existing aggregate mine on Maury Island.

Other actions taken by the Legislature in the transportation area are reforms to the governance of regional transportation districts, state ferries, public transportation and rail while also creating new rules for driving and “texting.” The end of the session provided the grand finale of an agreement reached on the transportation budget and the administration of fuel taxes on tribal lands. Many hurdles remain in establishing a viable long-term financing solution for our transportation needs.

THE DETAILS

HB 1094 ➤ 2007-2009 transportation budget
Passed with partial veto by governor / AWB supported

HB 1094 passed the Legislature as a “no new project” budget. The Legislature honored commitments made with the 2003 and 2005 gas tax increases, allowing projects to stay on schedule despite $2 billion in unanticipated cost increases. Also, the budget restored many delayed projects to the original schedules. The Legislature also increased bonding capacity, allowing more funding for the State Route 520 bridge.

This budget gets the ball rolling on many of the state’s mega-projects. The budget funds a summit on regional transportation needs in the Spokane area. The state will continue discussions with the Oregon Legislature for the Columbia River Crossing Project between Vancouver and Portland. Only projects with changes to their scope have altered timelines.
The new budget allows for inflationary cost increases on virtually every project in progress around the state. Special thanks to Rep. Judy Clibborn, D-Mercer Island; Rep. Fred Jarrett, R-Mercer Island; Sen. Mary Margaret Haugen, D-Camano Island; and Sen. Dan Swecker R-Rochester, for working in a bipartisan manner to develop and pass a transportation budget for the 2007-2009 biennium.

**SB 5207 ▶ Freight congestion relief study**
Passed / AWB will monitor

This legislation, sponsored by Sen. Mary Margaret Haugen, D-Camano Island, directs the Joint Transportation Committee to study container fees, port-related user fees and other funding mechanisms as a means to fund freight infrastructure improvements. The preliminary results of the study are due to the Legislative Transportation Committees on December 15, 2007 with the full report due the beginning of the 2008 legislative session.

AWB opposed the original version of this bill that would have imposed a $50 fee on each twenty foot equivalent unit of a container in Washington ports. A 12-member stakeholder group is established in the study to support the Joint Transportation Committee.

**SB 5085 ▶ Interest earnings on transportation accounts**
Passed / AWB supported

This bill, sponsored by Sen. Mary Margaret Haugen, D-Camano Island, authorizes transportation accounts to receive 100 percent of their proportionate share of earnings. Currently, certain transportation accounts only retain 80 percent of the interest income they generate, with the remaining 20 percent going to the general fund.

AWB testified in favor of this legislation as a way to dedicate additional revenue for transportation and to increase accountability in transportation financing. This bill reinforces AWB’s position that earmarked revenue for transportation—and their interest earnings—should only fund related activities.

**SB 6011 ▶ Creating the Maury Island Aquatic Reserve**
Failed / AWB opposed / VR

This bill, sponsored by Sen. Erik Poulsen, D-Seattle, would have created the Maury Island Aquatic Reserve and prohibited a member company, Glacier Northwest, from operating its gravel mine located on the island. Glacier Northwest is the largest supplier of ready-mixed concrete in the Pacific Northwest and, to date, has received approval from state and federal agencies who agree that their operation on the island will have minimal impact on the environment.

The gravel mine on Maury Island serves as an important resource for public works projects. By remaining open, it will keep transportation project costs in check and help reduce congestion on our state highways. A majority of legislators agreed that it would be wrong for the Legislature to step in now—trumping agency permit decision-making—thereby eliminating a vital resource for our state’s economy.

**SB 5798 ▶ Design-build construction**
Passed with partial veto by governor / AWB supported

This legislation, sponsored by Sen. Dan Swecker, R-Rochester, allows the continued use of design-build construction techniques on certain transportation projects. Design-build construction is a contracting technique that allows the owner of a project to contract with a single entity for the design and construction of a project. Some construction work can often begin before final design is complete, providing opportunities for cost savings and expedited project delivery. This legislation was requested by the Washington State Department of Transportation, which currently uses methods that are more time consuming and wasteful for large, specialized projects. A design-build project must be over $10 million; however, WSDOT may also use the design-build process on up to five pilot projects costing between $2 million and $10 million.

**HB 2138 ▶ Gas tax indexing**
Failed / AWB opposed

This legislation, introduced by Rep. Geoff Simpson, D-Kent, would tie the state gas tax to the federal implicit price deflator beginning July 1, 2009. The difference between the current gas tax of 37.5 cents per gallon and the new rate would be deposited into the highway project account. This would also apply to special fuels, including diesel, natural gas, propane and butane. While the goal of this bill to provide additional funding for transportation projects may be well-intentioned, AWB has a long history of opposing the linking of revenue streams to artificial triggers or adjustments. The bill died without a public hearing.
AWB priorities in the tax and fiscal arena met with some success during the 2007 legislative session. AWB staff worked with the governor, the Department of Revenue and the Legislature to pass bills aimed at improving the state’s economy, including passage of a constitutional amendment mandating a state rainy day fund. The measure will go to voters for ratification this fall.

Other legislation of importance to the business community included clarification of the tax code on the resale of natural gas to prevent double taxation; adoption of a streamlined sales and use tax; expansion of the successful Local Infrastructure Financing Tool legislation passed in 2006; and protection of the state uniformity clause for property taxes.

While we are happy with our successes, there are dark clouds on the horizon. The final budget violated our top priority of building a sustainable budget for the future. At every step, AWB urged lawmakers to temper their spending enthusiasm. But, despite knowing the potential for a future economic downturn, the Legislature and the governor spent well beyond its current income. AWB will continue to work with lawmakers, urging prudence in future government spending and promoting the passage of new laws that will make our state more competitive in the global marketplace.

HB 1128 ▶ Operating budget
Passed / AWB opposed / VR

Coming into the session, the Legislature enjoyed nearly $2 billion in budget surpluses. Following the governor’s lead, lawmakers adopted a $33.3-billion budget for the 2007-2009 budget cycle, spending nearly $1.3 billion more than estimated revenues at the time the legislation was passed. Lawmakers covered the operating shortfall by drawing down reserves. Following the June economic forecast the 2007-2009 general fund was brought into rough balance, although when closely related funds are included—especially those established for health care and education—the state still faces a future gap between revenues and spending of nearly $1 billion.

AWB agreed with many of the lawmakers’ priorities, particularly in education, and endorsed the constitutionally protected rainy day fund and changes in the unaffordable gain-sharing pension program. But the budget also increased spending at a rate nearly twice the pace of revenue growth and launched studies of potentially costly new programs, including family leave and a major new health care initiative.

The business community believes that lawmakers must spend within available revenues, something this budget clearly fails to do. The likelihood of slower revenue growth in the next budget cycle creates an unacceptable risk to taxpayers and those who rely on state programs and services, including the health care and education programs expanded this session.
The Department of Revenue requested legislation, sponsored by Sen. Deborah Kach, D-Seattle, that would codify current agency practice regarding the taxation of import and export products. The department stated that without this change, a department rule (Rule 193C) would have to be repealed, resulting in an additional $60 million a year in additional taxes. AWB testified on the importance of passing this legislation to protect manufacturers, car dealers, agriculture, high-tech, retailers and others from an unnecessary B&O tax increase.

**SB 5089 ▶ Streamlined sales tax**
Passed / AWB supported / VR

This legislation will bring Washington into conformance with the Streamlined Sales Tax Project, a national effort to assist states as they administer a simpler and more uniform sales and use tax system. The legislation will ease the burden on businesses operating in multiple states and create incentives for the voluntary collection of sales tax on Internet sales from remote sellers. Under this bill, the sales tax rate is based on the location where the consumer takes possession of the product or service. The measure also establishes a mitigation account for cities and counties, as well as technical assistance funding and liability protection for employers. Sponsored by Sen. Debbie Regala, D-Tacoma, the law takes effect in July 2008. AWB and the Department of Revenue will be working together to assist businesses with compliance.

**HB 1508 ▶ Resale of natural gas taxation**
Passed / AWB supported / VR

During the summer of 2006, AWB worked with the Department of Revenue to address recent interpretations of the law that would require the agency to collect business and occupation tax on sales of natural gas by parties other than public utilities. The sale of natural gas has been viewed as exempt from business and occupation tax. The imposition of both the business and occupation and use tax on natural gas would result in more total tax paid when a consumer chooses to purchase gas from someone other than their local utility. This legislation, sponsored by Rep. Ed Orcutt, R-Kalama, prevents double taxation when large consumers of natural gas have to sell their gas back to the market for pipeline-balancing requirements or for other reasons. The law takes effect on July 22, 2007.

**HB 1566 ▶ Rural county tax credit**
Passed / AWB supported

Requested by the Department of Revenue, sponsored by Rep. Kevin Van DeWege, D-Seattle, and supported by AWB, this bill provides greater access to existing rural county tax credits by changing the definition and some of the qualifications. Changes include allowing firms to apply for credits up to 90 days after hiring instead of applying for the credit before the hiring. Seasonal employers may now also qualify for the credit based on a calculation of full-time equivalent employment.

**HB 1277 ▶ Local Infrastructure Financing Tool**
Passed / AWB supported

This legislation, sponsored by Rep. Troy Kelley, D-Tacoma, expands the Local Infrastructure Financing Tool legislation passed in 2006. The LIFT program helps local governments promote economic development. Most other states have a more robust tax-increment-financing tool, and this pilot program is designed to see how a similar avenue for a public-private partnership will work in Washington.
Missed Opportunities

**HB 2380**

Additional taxpayer relief for SST implementation  
Failed / AWB supported

This bill, sponsored by Rep. Mark Ericks, D-Bothell, would expand the ranks of small businesses eligible for a tax credit under the new streamlined sales tax legislation. This would be accomplished by increasing the threshold to $3 million in gross receipts, instead of $500,000. Distributors, wholesalers and other retailers would benefit from passage of this bill. HB 2380 passed the House, but the Senate did not act on it.

**SB 5685**

High-tech research and development tax incentive  
Failed / AWB supported

This legislation, sponsored by Sen. Rodney Tom, D-Medina, and requested by the Department of Revenue, would restore the high-tech research and development tax incentive as established before 2003. In 2003, the R&D tax incentives were calculated on the amount of R&D spending after subtracting 0.92 percent from the calculation of the taxable amount. This adds additional steps to the calculation for both the taxpayer and department. Fully reinstating the R&D tax incentive law to its original form will simplify the tax credit, improve access for small businesses, and promote research and development in our state. The bill received strong support in the Senate but died in the House.

**HB 1451/SB 5758**

Staffing industry B&O tax classification  
Failed / AWB supported

In December 2002, the state Supreme Court issued a decision that prevented the deductions for wages previously authorized by the state. As a result, the B&O tax must now be paid on revenues that include wages and payroll taxes. The staffing industry, faced with a B&O tax increase that, for some companies, exceeded 500 percent, drafted legislation in each of the past three years that would have created a definition of “staffing company” and assessed a lower tax rate on gross revenue that is comparable to the taxes paid prior to the court decision. This legislation would establish an industry definition and single tax classification for the staffing industry. This bill, sponsored by Rep. Mark Ericks, D-Bothell, and Sen. Ed Murray, D-Seattle, had a $20-million fiscal note but did not get financed in the budget, despite passing the House Finance Committee.

**HB 1884/SB 6095**

State estate tax exemption for family business  
Failed / AWB supported

The House version of legislation to deduct the value of a family-held business from the estate tax, sponsored by Rep. Kelli Linville, D-Bellingham, received a public hearing but died early in the session. The Senate version, sponsored by Sen. Marilyn Rasmussen, D-Eatonville, and Sen. Mark Schoesler, R-Ritzville, met a quick death in the Senate Ways and Means Committee. The Legislature expressed an unwillingness to change the law so soon after the initiative to repeal the entire state estate tax was defeated. This limited deduction would have reduced state revenues by only $5 million a year but would have sent positive signals to businesses wanting to stay in—or relocate to—Washington. AWB will be back in 2008 to ask lawmakers for this change.
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### 2007 Legislative Session Review

**WASHINGTON SENATE**

#### Bill Number

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**Notes**

- FP = Final Passage
- E = Excused
- A = Absent

**2007 Position**

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**Notes:**
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- **Y** stands for Passed
- **E** stands for Not exhaustive list
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Thanks to our members for ranking us “Highest in Member Satisfaction with Commercial Health Plans in the West.” And to our more than 3,000 associates who strive to create higher standards in customer service every day.