

WSPE News

Serving members of the Washington Society of Professional Engineers

From the President

By Beth Fifield Hodgson, PE, F.NSPE
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Dear WSPE members.

The 2023 ballots will be released this week via email where possible or USPS for those who don't use email. Please watch for the communication as it'll help you know more about our 2023-2024 leadership. The new officers will be installed at the May 20th Board of Directors meeting with NSPE President Elect William (Bill) Atkinson, PE, FNSPE will be providing insight from National and providing our members with an opportunity to connect with national leadership. Watch for more on the meeting agenda and location next week.

Since our last newsletter WSPE members have been busy over the past 2 months. The chapter Presidents and WSPE officers met virtually March 24th and April 21st to review business matters including reports from all of our chapters, plus AELC, BRPELS, Education Foundation, and NSPE. Seattle/Lake Washington and Mt. Rainier chapters each held meetings in March and April. MathCounts was a success with 99 students competing and more than 70 volunteers/coaches supporting the event; one student each from Timberline Middle School, Odle Middle School, Islander Middle School and one non-school affiliated student will be competing at the national competition May 14-15, 2023 in Orlando, Florida. In pursuit of engineering degrees, the Spokane Chapter awarded five \$5000 Carl M Hansen scholarships in March to Spokane Area students and the WSPE Education Foundation are collecting applications for three \$3000 scholarships to be awarded by the end of June to community college students. AELC has been meeting biweekly while the legislature is in session and Ken McGowan has diligently forwarded Christine Bower's reports to the



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WSPE leadership. The Paul Tappel case was dismissed by the Washington State Appeals Court Division II panel but the Board of Registration for Professional Engineers and Land Surveyors (BRPELS) is now open to engaging with WSPE on our concerns relating to the practice of engineering by unlicensed individuals.

It is with sadness that we share the passing of two of NSPE's life members from our region:

Charles (Cap) Pearson, PE (1944-2023) [Mt. Rainier Chapter]

Stephen A. Olsen, PE (1934-2023) [Mt. Rainier Chapter]

And with joy that we share the NSPE's recognition of the following WSPE member to the grade of Fellow:

Thomas Smailus, PhD, PE, F.NSPE [Lake Washington Chapter]

Please contact any of our leadership if you have any questions, concerns recommendations, or updates on your fellow engineers. We look forward to seeing you in the near future!

WSPE Board of Trustees, Executive Committee

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WSPE News is edited by Steven Collins with input from Board of Trustees members. Opinions expressed by the authors herein are not necessarily those of the Society. Submissions from all WSPE members are welcome. Please send articles of 250 - 500 words to stevenwcollins@gmail.com. Articles may be edited for clarity, grammar, and conciseness.



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Legislative Update

By Ken McGowan, P.E., F.NSPE

WSPE Representative on the Architects and Engineers Legislative Council (AELC)

The 2023 session has focused on budgets and forecasts. The House looked in every nook and cranny for revenue. Hearings were frequent, legislators met late in the evenings, and bills were passed at a rapid pace. Among the main legislative concerns were inflation, interest rates, and lower personal income.

[SB 5283](#), Sen. Van De Wege's requested legislation for BRPELS, passed unanimously on March 7, 48-0. This bill authorizes the state board of registration for Professional Engineers and land surveyors to waive the fundamentals examination for professional engineer or professional land surveyor comity applicants.

With one month left in the session, the State Supreme Court issued its highly anticipated decision upholding the state's capital gains tax. This cleared the way for collection of the tax to begin in April, as well as budget writers to include projected revenue in the operating budget. The tax is expected to raise upwards of \$500 million per year by taxing capital gains above \$250,000 in a given tax year. The court held on a 7-2 vote that the tax is a valid excise tax and not, as challengers claimed, an invalid income tax. In reaching its decision, the court also turned away an invitation by the tax's supporters to hold that the tax constituted an income tax and on that basis uphold it by overturning nearly a century of previous case law holding that income is property, and therefore subject to the state constitution's one percent uniform limit on the taxation of property. The majority opinion contended that capital gains are income, income is property, and therefore subject to the constitutional one percent cap on property taxes.

On March 20, the state's [quarterly economic revenue forecast](#) was released, indicating an overall slowdown in revenue collection. Revenue is still anticipated to grow, but slowdowns in real estate transactions dramatically impacting the REET tax, consumer spending, and uncertainty in the financial services sector are driving a reduction of



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\$483 million in the 2023-25 biennium and \$541 million in the 2025-27 biennium from prior forecasts.

The [operating budget compromise](#) between the House and Senate will spend a record \$69.8 billion in the next biennium, an increase of 8.8 percent over the prior biennial budget.

The budget allocates funding for projects in affordable housing, environmental protection, school construction, and public safety building and infrastructure. The budget balances without general tax increases, instead relying on a variety of fund transfers and an assumed \$1 billion in revenue from the state's new tax on capital gains.

The [capital budget](#), which passed unanimously in both chambers, spends \$8.9 billion over the next two years. Allocations include \$717 million for environmental protection; \$694 million in affordable housing projects; \$613 million for a new forensic hospital at Lakewood's Western State Hospital; and \$588 million for K-12 school construction and seismic safety projects.

The [transportation budget](#) plans to spend \$13.5 billion over the next two years. \$5.4 billion is directed to highway projects, \$1.3 billion to the ferry system, \$1 billion for continued work on fish passage, and \$2.6 billion to improve recruitment and retention efforts at the Washington State Patrol. Roughly \$1 billion will be allocated for Climate Commitment Act auction dollars to reduce emissions from the transportation sector.

After much debate, [HB 1155](#), the consumer health data privacy bill, passed with a broad private right of action, attorney general enforcement, and wide coverage of included data. The strong incentive to litigate, paired with an expansive definition of consumer health data, had industry and technology groups generally opposed to the bill again. In response to concerns from the financial services and insurance industries, an exception was granted for consumer data already regulated under the federal Gramm Leach Bliley Act (GLBA).

[SB 5123](#), protecting job applicants from pre-employment screening for cannabis, passed, along with [HB 1491](#), prohibiting employers from searching employee vehicles on employee



premises. Also passing was [HB 1570](#), expanding access to unemployment insurance and paid family leave benefits for transportation network company drivers.

Both chambers passed, and the Governor has signed, [SB 5286](#), establishing rates for the paid family & medical leave insurance program as a recommendation of the legislative task force established to provide financial stability to the program.

Both chambers passed, and the Governor has signed, [SB 5217](#). This law will allow the Department of Labor & Industries to adopt administrative rules on industry-specific ergonomics exposures, choosing one industry per year by NAICS code based on severity of musculoskeletal injury claims in that industry.

Among the bills tracked by the AELC that did not pass during this year's session are:

[HB 1026](#) Rep. Walen's bill on streamlining local permit design review.

[HB 1067](#) Rep. Berry's bill on requiring oil refineries to pay prevailing wage, and

[SB 5057](#) Sen. Mullet's bill on creating a work group to evaluate the costs of the state energy performance standard for covered commercial buildings.

Links

1. NSPE Board of Directors Update, April 2023 ([link](#)).
2. NSPE Update, April 2023 ([link](#)).
3. NSPE Daily Designs (Business News for PEs) ([link](#))



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Update on The State of Washington v. Fisheries Engineers, Inc., Court Case

By Sharon Zimmerman, PE, WSPE Past-President, 2021-22

CASE #: 56285-5-II/Fisheries Engineers, Inc., et al., Respondent v. State of Washington, Appellant (Tappel)

On February 7, 2023, Washington Court of Appeals Division Two (Appeals Court) issued an Unpublished Opinion that the Superior Court of Thurston County (Trial Court) had erred in granting summary judgement in the referenced case. The Appeals Court held that Tappel did not have standing to bring this case. The Appeals Court reversed and remanded the case back to the Trial Court to enter a judgment of dismissal in favor of the Board of Registration for Professional Engineers and Land Surveyors (BRPELS) making the September 29, 2021 Court Order null and void.

The Appeals Court noted that since they concluded Tappel did not have standing, they did not address BRPELS's enforcement policy and interpretation of the Professional Engineer's Registration Act (PERA) items at the center of the Tappel case.

Background

The 2018 Tappel case sought injunctive and declaratory relief under the Administrative Procedures Act (APA) and the Uniform Declaratory Judgement Act (UDJA) challenging the BRPELS's refusal to enforce the licensing statute. Tappel had filed a complaint with BRPELS objecting to the use of the title "Forest Practice Engineer" by an employee of the Washington State Department of Natural Resources who was not a licensed engineer. BRPELS had found no violations and did not pursue the complaint further.

On September, 29, 2021, the Trial Court granted relief and enjoined the State from using the professional job title and description for its employees who are not licensed Engineers. The State sought review of the Trial Court's order to the Appeals Court.

WSPE, NSPE, and American Council of Engineering Companies (ACEC) submitted an amicus brief arguing that the State's practice of allowing unqualified individuals to use the



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title “Engineer” undermines the integrity of the licensing regime, thereby delegitimizing the profession and endangering the public interest, which the PERA attempts to protect by imposing rigorous qualification requirements.

The Appeals Court heard oral arguments on December 5, 2022, and issued their Unpublished Opinion in February removing the previous Trial Court Judge’s order and legal interpretation of PERA.

What next?

The Tappel legal team has submitted a request to have the opinion printed in the Washington Appellate Reports. The State has filed a response indicating the Appeals Court should deny the request.

WSPE leadership will continue to monitor and provide updates as information becomes available.

Should you have questions or would like copies of the any of the court filings, please contact Sharon Zimmerman (szimmerman2012@gmail.com).



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News and Events from WSPE and NSPE

- The University of Washington Bothell held its annual Order of the Engineer induction ceremony March 13. Seventeen Mechanical Engineering seniors accepted the [Obligation of the Engineer](#) as part of Professor Wolf Yeigh’s Citizen Engineer course. WSPE member and Order of the Engineer Regional Governor Ken McGowan presided, assisted by WSPE members Ted Taylor and Steven Collins. UW Bothell is one of nine Order of the Engineer links in the State of Washington, along with WSPE.
- The NSPE Committee on Policy and Advocacy published a new document “What a PE Says with their Signature and Stamp.” Learn about the significance of the stamp and how to use it at [this link](#).
- “Match your wits and knowledge of engineering ethics with experienced professional engineers and engineering students throughout the country!” says the [web site](#) for the 2023 Milton F. Lunch Ethics Challenge. Check out the rules and consider entering by the May 12 deadline.
- “Keep Yourself in the Game” by joining [a panel](#) of distinguished Women PE Leaders who will share wisdom about balancing work and life at the next Workability Wednesdays webinar on May 17.
- Congratulations to the four students who will represent Team Washington at the [National MathCounts Competition](#) May 14-15 in Orlando, FL They are Edward Li from Redmond, Ian Rui from Bellevue, Maxwell Sun from Bothell, and Eric Shao from Mercer Island. They will be joined by their coach Allen Rui from Bellevue. Let’s hear it for the home team!



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