

February 1, 2016



VIA EMAIL & US MAIL

The Honorable Frank Chopp, Speaker of the House
State of Washington House of Representatives
LEG 339C
Olympia, WA 98504-0600

**RE: HOUSE SUPPORT OF THE WA STATE CIVIL RIGHTS COALITION - COMMUNITY
REQUEST LEGISLATION - SENATE BILL 6180**

Dear Honorable Speaker of the House,

We are the Washington State Civil Rights Coalition (CRC), which is made up of over 30 minority community organizations here in Washington State, that work diligently to advance the cause and/or concern of people of color - both in jobs and business opportunity.

The CRC writes you to express that we are in favor of Senate Bill 6180 and strongly encourage your full support of the bill. SB 6180 - *Creating a disadvantaged business enterprise advisory committee within the transportation commission* (Exhibit A), is co-sponsored by Senator King (R), Senator Schoesler (R), and Co-Chair of the Members of Color Caucus - Senator Hasegawa (D). Please see the CRC's testimony on SB 6180 (Exhibit B).

This Senate bill is critical to our disadvantaged business community given the decades of failure of the Washington State Department of Transportation (WSDOT) to prove to Washington state tax payers that WSDOT is able to hold itself accountable on the issues of inclusion of disadvantaged small businesses, in both state and federal programs. This claim is self-evident and nationally known, WSDOT having made national news in 2013 for being found jointly liable of Title VI violations on the WSDOT SR 99 Deep Tunnel Project, along with the prime joint venture, the Seattle Tunnel Partners (STP).

Today, the largest minority DBE issue is WSDOT seemingly lowered the priority of coordinating with the Federal Highway Administration (FHWA) the last four years on the most important finding from the WSDOT BBC 2012 DBE Program Disparity Study; which is White Women DBE's over the previous four years (2008, 2009, 2010, 2011) did not show consistent evidence of inequity; and as such, were to be waived out of the mandatory goal portion of WSDOT's DBE program. To summarize the years of impact, since 2007 until current day, eight years, White Women DBE's have had the majority share of all DBE mandatory goals, in nearly all cases more than double that of all (four) other disadvantaged groups combined. The Federal Law is clear; it is illegal to have a public contracting mandatory goal program without legal proof of disparity for those within the mandatory goal portion of the program. According to WSDOT Secretary Lynn Peterson's testimony to the Washington State Joint Transportation Committee on December 17th 2015 (Exhibit C), White Women DBE's accounted for over 55 million dollars in DBE program inclusion for just one fiscal year. Even without the two mega projects the first few years of the study period, we are looking at a financial total loss to minority DBE's in mandatory opportunity that amounts anywhere from 150 million to 300 million dollars over

the eight year period aforementioned above. Certainly WSDOT can provide this segregated data upon request and should to all those representing the Washington State voters paying the taxes that support WSDOT and the state billion dollar transportation program.

So what is the minority community left to understand about all this injustice? Opinions shared by the minority business community explain that obviously the risk of potentially harming White Women DBE's was and is more concerning to Secretary Lynn Peterson the last three years than correcting the programmatic issues that have been found discriminatory to the minority community; in particular, against African American-owned businesses in the WSDOT DBE program. Clearly, Secretary Peterson, a previous business owner herself, allowed the inequity to continue by knowingly using White Women DBE's fraudulently to ensure that the agency meet the overall WSDOT DBE annual goal. This failed leadership has put our state in significant jeopardy of a potential lawsuits or a class action suit, as well as potentially put our state DBE program at risk.

Many outside our state that work within the transportation industry ask how did this happen and why did FHWA allow this, especially with a state DOT which had the most talked about Title VI case in the country on the largest (diameter) transportation tunnel ever constructed in the world. The answer to this question is unclear at this time, but from the minority communities' perspective, Secretary Lynn Peterson placed a higher priority on the success of WSDOT's overall construction program and her expressed desire in the email referred to below, than the Civil Rights of those knowingly affected by the little and unsuccessful action taken on the 2012 legal recommendation of the White Women DBE waiver. Attached is an email from Secretary Peterson to then FHWA Office of Civil Rights Associate Administrator, Warren Whitlock, that clearly shows a carefully communicated request asking if there is anything that can be done **OTHER** than a waiver of White Women DBE's (Exhibit D). All WSDOT communications, particularly between Mr. Warren Whitlock and Secretary Lynn Peterson, around the DBE Program waiver and the WSDOT Breach of Contract with STP should be investigated for possible collusion, and WSDOT should be held accountable for the millions in mandatory inclusion dollars taken in opportunity from our minority DBE community since the 2012 study.

If history is any indicator, WSDOT will likely deny intent, responsibility, and may even go as far as to suggest none of this is their fault. Furthermore, and most importantly where does our disadvantaged business community go for support and accountability on these larger programmatic issues that knowingly burden our community and yet never seem to be reported by WSDOT or shared beyond WSDOT?

Speaker Chopp, we ask for your leadership and unwavering support of this community request legislation - SB 6180. Unfortunately, the bill does not immediately make up the millions of dollars in opportunity taken from our minority business community, but it certainly gives new voice to constituents that have historically been underserved by our state transportation program planning and transportation governance.

In closing, we the CRC want our community to have a seat at the table, a voice on the Hill; we request the legal state statute of responsibility and service of the Washington State Transportation Commission meant to be provided to all Washington citizens; to **NOW** include the voice of our disadvantaged business community stakeholders.

Thank you for your time and consideration. We are very much looking forward to a written response of support of the CRC and this community request legislation - SB 6180.

Sincerely,

Hayward Evans

Co-Chair of the Washington State African American Political Action Committee

On behalf of a Washington State Civil Rights Coalition of more than thirty Civil Rights Leaders, Clergy Leaders, and Minority Business Advocates (pages 4-6)

cc: Rep. Judy Clibborn - [41st Legislative District](#), Chair - House Transportation Committee
Rep. Jessyn Farrell - [46th Legislative District](#), Vice Chair - House Transportation Committee
Rep. Jake Fey - [27th Legislative District](#), Vice Chair - House Transportation Committee
Rep. Luis Moscoso - [1st Legislative District](#), Vice Chair - House Transportation Committee
Rep. Steve Bergquist - [11th Legislative District](#), Member - House Transportation Committee
Rep. Mia Gregerson - [33rd Legislative District](#), Member - House Transportation Committee
Rep. Joan McBride - [48th Legislative District](#), Member - House Transportation Committee
Rep. Jim Moeller - [49th Legislative District](#), Member - House Transportation Committee
Rep. Jeff Morris - [40th Legislative District](#), Member - House Transportation Committee
Rep. Lillian Ortiz-Self - [21st Legislative District](#), Member - House Transportation Committee
Rep. Marcus Riccelli - [3rd Legislative District](#), Member - House Transportation Committee
Rep. JD Rossetti - [19th Legislative District](#), Member - House Transportation Committee
Rep. Mike Sells - [38th Legislative District](#), Member - House Transportation Committee
Rep. Gael Tarleton - [36th Legislative District](#), Member - House Transportation Committee

Enclosures:

Exhibit A - Senate Bill 6180

Exhibit B - CRC Testimonial Letter to Senate Transportation Committee - SB 6180

Exhibit C - WSDOT DBE Participation 04/01/2014 - 09/30/2015

Exhibit D - Email from WSDOT Secretary Lynn Peterson to previous FHWA Office of Civil Rights Associate Administrator Warren Whitlock - RE: Disparity Study Options

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