Hot topics

2019 Legislature adjourns, final state budgets approved
In the final days of the 2019 session, the budget conference committee reached agreement on state operating, capital, and transportation budgets for FY 2019-21. The budgets were passed with just minutes to go in the legislative session. Overall, the final operating budget is positive for cities and our legislative priorities, including increased funding for homelessness, behavioral health, and culverts. Concerns remain with the sweep of funding from the Public Works Trust Fund.

AWC priority housing bill passes during budget negotiations
HB 1406, one of AWC’s priority housing bills, provides cities with a tool to address affordable housing in their communities. HB 1406 passed the Legislature during the wee hours on the last day of session. The bill creates a sales tax revenue sharing program, allowing cities to access a portion of state sales tax revenue to make local investments in affordable housing. The bill now heads to the Governor for signature.

MTCA bill passes
Despite being introduced late into session, the Model Toxics Control Act (MTCA) bill (SB 5993) passed. The bill shifts the hazardous substances tax from a value-based to a volume-based tax, which is intended to prevent swings in revenue that can cause approved city projects to go unfunded. Late amendments included an inflation adjuster. The bill will result in more resources for toxic cleanups, brownfields, and stormwater work. Despite some frustrating diversions of MTCA funds for other programs, we believe this bill will be of significant benefit for cities, especially over time.

Media time

2019 legislative wrap-up and look ahead to 2020
May 29 | Webinar
Join the AWC advocacy team for an informative recap of city-related issues. Get caught up on key outcomes of the 2019 session, learn how city priorities fared during session, and discover how you can make the most impact during the legislative interim and prepare for 2020.

View from the Hill

2019 session adjourns on time – a solid session for cities
The 2019 legislative session adjourned on schedule Sunday, April 28 with a flurry of last-minute bills. Legislators worked nearly round the clock during the last few days to finalize budgets and line up support. Action will continue for the next 20 days while the Governor reviews and signs or vetoes the various bills that have been sent to his desk. This was a solid session for city priorities. Learn how the transportation, capital and operating budgets will affect your city, and plan to continue your advocacy during the interim.

Things you can do

Time to register for AWC’s Annual Conference!
June 25-28 | Spokane
AWC’s Annual Conference offers something for everyone. Elected officials can earn 10 credits towards their Certificate of Municipal Leadership and return to their community with renewed ideas, insights, and contacts. Registration is now open. Visit our conference page for all the details you need!

File your 2018 lodging tax report by May 15
The deadline for mandatory reporting of 2018 lodging tax expenditure data is May 15, 2019. Cities and counties that collect lodging tax are required to report annual expenditures to the Joint Legislative Audit & Review Committee’s (JLARC) website. If your city has not yet completed its report, please submit the data by the May 15 deadline. JLARC regularly reviews these reports, and legislators have raised concerns about incomplete or insufficient detail in reports in previous years.

What you need to know

Budget & finance: Graduated REET and service B&O tax bills pass as part of state budget revenue package. Legislature passes new tax bills. Legislature approves changes to pre-LEOFF fire pension levy authority. Transportation budget passes.

Economic development: Legislature passes Governor’s broadband bill.
View from the Hill

2019 session adjourns on time – a solid session for cities
Contact: Candice Bock

The 105-day, 2019 legislative session adjourned on schedule Sunday, April 28 with a flurry of last-minute bills. Legislators worked nearly round the clock during the last few days to finalize budgets and line up support.

While the session has ended, action will continue for the next 20 days while the Governor reviews and signs or vetoes the various bills that have been sent to his desk. (For more about when the Governor will sign a bill, go to the bill action webpage.)

Budget highlights
The Legislature passed transportation and capital budgets with bipartisan support. This type of support isn’t unusual because both budgets fund popular projects. This year’s capital budget also provides significant funding for behavioral health facilities to help the state address its struggling mental health system. The capital budget also received a boost from an increase in the hazardous substance tax (SB 5993) that allowed more funding for stormwater and other cleanup programs. If you are curious about how your city’s capital budget request fared, the capital budget summary has an easy-to-read list.

The operating budget was more complicated. As we reported at the beginning of session, Democratic leaders estimated a deficit of around $3.5 billion to meet maintenance level expenses and cover necessary new costs including behavioral health and state collective bargaining agreements. In the end, a boost from a positive revenue forecast, as well as tax increases, brought them to a total budget of about $52 billion. For a more thorough summary, see our budget summary article.

The main tax increases are:
• Graduated REET (SB 5998) that raises around $243 million;
• State B&O tax increase on certain businesses. HB 2167 raises the rate on large financial institutions and generates about $133 million. HB 2158 raises the rate on certain business to fund higher education and work force training, among other things;
• Eliminating tax preferences for some businesses; and
• Increasing and stabilizing the hazardous waste tax (SB 5993).

Additionally, a couple of other major policy pieces passed in order to make way for the final budget adoption: I-1000 reinstating affirmative action and HB 5313 addressing local school levy authority.

Environment & natural resources:
Paint stewardship bill returns from the dead, passes Legislature.
Final status of recycling-related bills.

Homelessness & human services:
Opioid treatment bill advances to Governor for signature.
Trueblood settlement bill unanimously passes Legislature.

HR & labor relations: First-responder occupational disease compromise bill signed by Governor.
Affirmative action bill passes legislature.

Land use & planning: Last minute fix made in key density bill.
New law requires a searchable database of land use decisions.

Open government: AWC’s public records reporting fix bill passes Legislature.
Sunshine Committee recommendation bill passes Legislature.

Pensions: $300 million LEOFF 2 transfer bill passes Legislature.

Public safety & criminal justice:
Animal fighting bill delivered to Governor.
Legislature passes bill related to informant and eyewitness evidence.
Hate crimes bill passes Legislature.

Public works: Amended public works bid limit bill passes Legislature.

Transportation: SR-167, I-405 tolling and bonding bill passes Legislature.
Bill proposing new requirement on state-paid stormwater fees passes Legislature.

continued
Cities have a solid session
The 2019 session ended with some good news for cities. Highlights include:
• Preservation of state-city shared revenues,
• Full funding of 19 Basic Law Enforcement Academy classes per year,
• Passage of HB 1406 with new affordable housing funding, and
• Increased stormwater grant funding.

We also managed to turn some negatives into positives by pushing back and negotiating to protect local decision-making authority over housing density zoning and micro-mobility transportation uses like electric scooters.

The most disappointing aspect of the session is the continued sweep of the Public Work Trust Fund—the final operating budget swept an additional $160 million out of the fund for education funding. It further diverted funds to specific projects, leaving only $85 million for competitive loan applications. This is particularly disappointing given that the legislature had record revenue and raised additional revenue, but still felt that they needed to sweep these critical infrastructure funds for other purposes.

What’s next?
This Legislative Bulletin is full of information on bills that passed in the last week of session, and a run down of the capital, transportation, and operating budgets. We will post our full 2019 Session Recap Bulletin on May 20. After that, we will resume our monthly interim Bulletin schedule.

You can register now for a live webinar Session recap on May 29 where we will share more about what happened during the 2019 session and look ahead to 2020.

Now is also the time to start making plans for how you will connect with your legislators during the interim. Legislative advocacy is a year-round effort and the next few months are the best time for your city to build stronger relationships with your local legislators. Invite them out for coffee or ask them to come to a council meeting and share their perspective on the 2019 session. Thank them for their hard work and support for cities—but don’t forget to ask them why there was so much legislative interest in pre-empting local decision-making, and what it will take for the legislature to stop sweeping the Public Works Trust Fund.

By building your relationship during the interim, your legislator will have a better understanding of your city’s needs, which can yield better results in the 2020 session.
Affordable housing

AWC priority housing bill passes during budget negotiations

Contact: Carl Schroeder, Shannon McClelland

HB 1406, one of AWC's priority housing bills, provides cities with a tool to address affordable housing in their communities. HB 1406 passed the Legislature during the wee hours on the last day of session. The bill creates a sales tax revenue sharing program, allowing cities to access a portion of state sales tax revenue to make local investments in affordable housing. The bill now heads to the Governor for signature.

During the final days of session there was an attempt to tie the ability to levy this tax with actions in HB 1923, the housing density bill. A final floor amendment struck that provision.

Here’s what HB 1406 does:

• County and city legislative authorities are authorized to implement a local sales tax—in turn, proportionally reducing the state sales tax—to fund affordable or supportive housing. This results in no impact to the consumer.
• Housing and services may only be provided to persons whose income is at or below 60 percent of the county median income.
• A county or city may enter into an interlocal agreement with one or more other counties, cities, or housing authorities to provide affordable or supportive housing.
• To impose the tax, a county or city legislative authority must adopt a resolution of intent within six months of the effective date of the bill and impose the tax within one year.
• The tax expires 20 years after the jurisdiction first imposes the tax.
• A county or city may use funds on a cash basis or bond against the tax. The revenue collected or bonds issued may only be used for:
  • Acquiring, rehabilitating, or constructing affordable housing, including new units of affordable housing within an existing structure or facilities providing supportive housing services to individuals with mental or behavioral disorders; or
  • Operations and maintenance costs of new units of affordable or supportive housing.
• Counties with a population of 400,000 or less and cities with a population of 100,000 or less may also use the revenue to provide rental assistance to tenants.

There is a somewhat complicated revenue sharing formula in the bill, essentially designed to share the money among cities and counties unless a city adopts a separate local housing or mental health levy. In that case, the city would also receive access to the county’s share of revenues generated within their city. If either the city or the county chooses not to access this resource after one year, then the other party may levy the second share of the tax.
To see what your city could raise (based on 2017 data) annually for the next 20 years under this new taxing authority, see our chart.

For the first 12 months after the effective date of the bill, the following occurs:
• Both cities and counties may access their half of the resources provided by the state – by adopting a local sales tax of up to .0073%.
• The maximum rate of 0.0146% is available to:
  • A city levying a qualifying local housing or mental health levy, including those newly adopted within the first year;
  • A city located in a county that declares it will not levy the tax; and
  • A county within its unincorporated areas and within the limits of a city that declares it will not levy the tax.

After the bill has been effective for one year:
• Cities without a qualifying tax may impose a rate of 0.0073%.
• A county may impose a rate of 0.0073% within the unincorporated areas and the limits of a city that levies this HB 1406 tax but does not impose a qualifying tax.
• The maximum rate of 0.0146% is available to:
  • A city levying a qualifying local tax (in which case a county may not levy the tax within the limits of the city)
  • A county within its unincorporated areas and within the limits of a city that is not levying the HB 1406 tax.
  • A city that is in a county that has chosen not to levy the HB 1406 tax.

A "qualifying local tax" is defined as the affordable housing levy, property tax levies dedicated to affordable housing, the sales and use tax for housing and related services, or the sales and use tax for chemical dependency and mental health treatment services or therapeutic courts.
Budget & finance

Legislature reaches deal on final state budget in last days of session

Contact: Candice Bock, Sheila Gall

In the final days of the 2019 session, the budget conference committee reached agreement on state operating, capital, and transportation budgets for FY 2019-21. The budgets were passed with just minutes to go in the legislative session.

Overall, the final operating budget is positive for cities and our legislative priorities, including increased funding for homelessness, behavioral health, and culverts. It also assumes passage of SB 5993, which makes significant changes to the Model Toxics Control Account (MTCA) with the intent to stabilize funding, and provides additional resources for additional funding for stormwater, solid waste and remediation programs (see our article on SB 5993).

Unfortunately, the final agreement adopted the House’s proposal to continue to sweep $160 million in funding from the Public Works Trust Fund (PWTF) for education, as well as additional appropriations or transfers in the capital budget for other uses, including statewide broadband. The budget also transfers $300 million from the LEOFF 2 pension fund to the Benefits Improvement Account.

Final operating budget

The final operating budget funds $52.4 billion in state near-general fund expenditures and relies on two primary new taxes to generate additional revenues: a graduated real estate excise tax (REET) and a state service B&O tax surcharge on specific industries to fund higher education, as well as several changes to tax preferences and exemptions. (see our revenue article).

For more information, see our budget summary chart (update link). Check out some of the highlights of how the budget impacts cities:

• State shared revenues: The proposal fully funds state shared revenues, with one exception. The budget did not include an expected increase in marijuana excise tax distributions, which were funded at the last biennium’s level of $30 million instead of $40 million originally anticipated when distributions were approved (HB 2136 in 2015).

For eleven warehousing jurisdictions impacted by the state’s change to destination-based sales tax sourcing, streamlined sales tax (SST) mitigation funding is fully funded beyond October 2019.

• Pensions: The final budget includes a LEOFF 2 pension fund transfer of $300 million to the Benefits Improvement Account, which concerns cities because it would reduce the funded status of the plan. Further, these funds are held to provide current member benefits, and this proposal transfers those funds to an account to provide new benefits. Funding the Benefits Improvement Account is a state obligation which should not be shifted to the LEOFF 2 fund.

continued
• **Basic Law Enforcement Academy (BLEA):** The Senate budget funds 19 classes each year as requested by cities. The annual increase of nine classes will help cities keep up with the need to train new officers and supports public safety in our communities.

• **Mental Health Field Response Grant Program:** $4 million is appropriated in response to the Trueblood settlement to help phase in a grant program statewide, of which $3 million will be used for phase one jurisdictions. This program is an invaluable tool to help our local law enforcement address the behavioral health crisis in our cities.

• **Municipal Research Services Center (MRSC):** MRSC and the crucial technical assistance it provides to cities is fully funded.

• **Homelessness & behavioral health:** The budget invests significant levels of additional funding for grants and community-based behavioral health services.

• **Affordable housing:** The budget includes passage of HB 1406 to provide a local sales tax credited against the state tax for affordable housing projects.

**Final capital budget**

Highlights affecting cities include:

• **Housing and behavioral health:** The Housing Trust Fund is funded at $175 million, which is an historic level. The budget also invests significantly in behavioral health community facilities.

• **Public Works Trust Fund:** The operating budget took $160 million out of the PWTF for education in addition to continuing the diversions of REET, solid waste utility revenues, and public utility tax revenues. The capital budget also expands the PWTF for additional uses, including $21.5 million for a new broadband program to expand service in underserved areas of our state. AWC will continue to work with the Legislature to prevent further diversions of PWTF money for new programs in future years and to restore traditional funding levels.

• **Culverts:** The capital budget includes $26.5 million for the Fish Barrier Removal Board. We appreciate the state's continued investment in local culvert funding and recognition that the state must use a strategic approach to address both state and local barriers to maximize the value of this investment.

• **Model Toxics Control Account:** The final budget includes significant changes to the Model Toxics Control Account (MTCA) through passage of SB 5993, which will make changes to stabilize funding and provide additional resources for stormwater and water programs.
Graduated REET and state service B&O tax bills pass as part of state operating budget revenue package

Contact: Candice Bock, Sheila Gall

Three bills (SB 5998, SB 5997, and HB 2158) that change state taxes passed the Legislature as part of the state operating budget revenue package. The Legislature also passed a bill funding the capital budget that reforms the Model Toxics Control Account (see article on SB 5993).

An amended version of SB 5998 passed out of the House Finance Committee and passed the Legislature on April 27. The final version of the bill would implement a graduated state real estate excise tax (REET), effective on January 1, 2020, that would change the current state rate of 1.28% by lowering tax rates for property sales under $500,000 to 1.1%, and raising rates for the portion of the value above each threshold for sales greater than $1.5 million. The rates would remain 1.28% for the portion of sales between $500,000 and $1.5 million and for sales of undeveloped land, timberland, agricultural land, or water or mineral rights.

The state REET tax rates would be as follows based on the value of the sale:

- $500,000 or less: rate reduced to 1.1%;
- For portion of sale $500,000 to $1.5 million: rate remains 1.28%;
- For portion of sale $1.5 million to $3 million: rate increased to 2.75%; and
- For portion of sale greater than $3 million: rate increased to 3%.

The thresholds would be adjusted by the lesser of inflation on housing (based on the consumer price index for shelter) or five percent, effective January 1, 2023, and updated every four years.

The bill also changes the tax distribution formula for the new REET, decreasing the percentages in the state tax formulas so that they are equivalent to current funding levels. It continues the existing diversion of a portion of the state REET from the Public Works Trust Fund (PWTF) to the state education account until 2023. As a result, the bill also changes the proportions dedicated to the PWTF and city-county assistance so that these accounts are funded at current levels and do not benefit from the increased revenues raised by the graduated rate changes.

Local authority to impose REET would remain unaffected by the state REET changes.

SB 5997, the amended Senate version of proposed bills changing tax preferences and exemptions, also passed. Provisions of this bill include replacing the non-resident sales tax exemption with a refund process.

Finally, HB 2158, imposing a state B&O tax surcharge on certain services reliant on a highly educated workforce, passed out of the Senate Ways & Means Committee on April 27 and passed the Legislature on April 28. HB 2158 would impact cities with sewer and some electric utilities, and AWC had hoped the bill would be amended before final passage to exclude utilities from the surcharge. However, the final version did not include that amendment.

The bill would impose a 20% B&O surcharge on the tax rate for service and other activities of select businesses, and additional tax surcharges for high income technology businesses, to fund workforce education.

Sewer treatment and electricity generation are listed among activities that could be subject to the surcharge, resulting in a tax rate increase from 1.5% to 1.8% if more than 50% of annual gross revenues was generated from engaging in the service activities listed in section 72(2) of HB 2158. It is uncertain how many city utilities would be impacted by the surcharge.

continued
Late-breaking MTCA bill a big win for cities, but it is not without risk
Contact: Carl Schroeder, Shannon McClelland

When the Model Toxics Control Act (MTCA) bill (SB 5993) was introduced three months into session, it would be understandable for observers of the Legislature to question how viable it was to pass such a major bill with so little time left. The bill shifts the hazardous substances tax (primarily from oil) from a value-based tax of seven-tenths of a percent on the value of a barrel of crude oil, to one based on a flat $1.09 fee per barrel of oil. That shift results in a tax increase of roughly 53%, raising projected revenues from $310 million this biennium to $475 million.

The change to a volume-based tax is intended to prevent the major swings in revenues that have affected this account when oil prices drop, which in recent years caused city projects (which had been approved by the Legislature) to go unfunded because resources were not available. Although there was a big fight late into the night, ultimately the House approved an inflation adjuster on the per barrel rate. Over time, this will mean significantly more resources coming into the account. This approval occurred despite the House Finance Committee removing the inflation adjuster just hours before.

Even better for cities than just more resources and more stability for a critical fund source for toxic cleanups, brownfields, and stormwater work, the proposal also dedicated 15% of revenues to stormwater projects. AWC has supported and worked for dedicated stormwater funding since at least 2009, so this a very exciting achievement. At this point, this dedication amounts to more than $63 million per biennium dedicated to stormwater, which will increase with inflation.

On the toxic cleanup side, the bill dedicates 25% to capital investments—including remedial action grants that support large cleanup projects around the state. This component of the bill amounts to a dedication of $106 million per biennium, which again will increase with inflation.

Unfortunately, it’s not all good news. The state did continue their recent trend of investments in natural resource programs that have traditionally been funded with general fund dollars and moved them to draw on MTCA funds instead, in order to save general fund dollars. Even more disturbingly, the Senate needed to create a new $50 million diversion to address stormwater needs for the state Department of Transportation in order to secure support to pass the bill in the first place.

Despite those frustrating elements, we believe this bill will be of significant benefit for cities, especially over time. The passage of this bill promises more and growing resources for cleanups and, for the first time, dedicated funds for local stormwater projects. We are pleased that so many stars aligned and this bill was able to make it across the finish line despite the late start.
Legislature passed bills heard by Finance Committee on Friday
Contact: Candice Bock, Sheila Gall
On April 26, the House Finance Committee heard and passed out of committee two bills (HB 2167 and HB 2168) related to the state budget.

HB 2167 would impose an additional B&O tax rate on service B&O tax for financial institutions. The bill would raise the current rate for financial institutions from 1.5% to 3% if another B&O revenue bill, HB 2158, is not signed into law; the rate would be 2.7% if HB 2158 is signed into law. HB 2158 would impose a 20 percent surcharge on the tax rate for service B&O tax for industries that depend on a highly educated workforce, raising the rate on certain services, including sewer treatment and electricity generation, from 1.5% to 1.8%.

HB 2168 would provide a tax exemption for a public hospital in King County.

These bills were part of the final mix of revenue bills passed along with the state operating and capital budgets.

May 15 is the deadline for submitting 2018 lodging tax reports
Contact: Candice Bock
If your city has not yet completed its reporting of 2018 lodging tax expenditures, the May 15 deadline is fast approaching.

Cities and counties that collect lodging tax are required to report annual expenditures to the Joint Legislative Audit & Review Committee's (JLARC) website at http://leg.wa.gov/JLARC/Pages/Lodging-Tax.aspx.

JLARC regularly reviews these reports, and legislators have raised concerns about incomplete or insufficient detail in reports in previous years.

Firefighters’ pension levy bill passes with modifications
Contact: Candice Bock
SB 5894, which makes changes to the firefighters’ pension levy, passed the Legislature after initially being held up when the Senate refused to concur on House amendments. The bill ended up passing after an additional amendment made at the request of the bill sponsor, Sen. Braun (R–Chehalis).

Approximately 40 cities and towns are eligible to impose the levy under RCW 41.16.060. Municipalities may impose a pension levy rate up to $0.225 per $1,000 of assessed value. The original purpose of the tax was to cover the costs of pre-LEOFF firefighter pensions provided by individual cities. The existing statute allows the levy revenue to be used for those pension costs as well as for other municipal purposes if the pension obligations are met.

The version of the bill that passed the Legislature:
• Clarifies that cities may continue to impose the levy even if all pre-LEOFF beneficiaries are deceased;
• Requires that, if the levy is continued, the revenue must first be used to cover medical benefits for LEOFF 1 retirees and then for other municipal purposes; and
• Clarifies that the levy expires when there are no longer any LEOFF 1 retiree medical obligations.

The bill now goes to the Governor for consideration.
Economic development

Legislature passes Governor’s broadband bill
Contact: Candice Bock, Brandon Anderson

Governor-request bill SB 5511, which creates a statewide broadband office and new funding program, passed the Legislature last week after the Senate adopted amendments made in the House.

The bill establishes a competitive grant and loan program managed by the Public Works Board to help promote expanded broadband access to unserved areas across the state. Eligible applicants for the grant and loan program include local governments, tribes, nonprofits and private companies.

AWC supports the Legislature’s intent to expand access to high-speed broadband in unserved areas but opposed the capital budget’s diversions of critical infrastructure dollars from the Public Works Trust Fund to support the new broadband grants and loans.

The bill is now headed to the Governor for signature.
Environment & natural resources

Final status of recycling-related bills
Contact: Carl Schroeder, Shannon McClelland

Several bills related to plastics and recycling were introduced this session. Here’s how they fared.

Plastics study
SB 5397 was introduced to create a plastic product stewardship program for Washington. After passing the Senate, the bill proposed to study plastic impacts in the state and evaluate the role of a stewardship program. The House made further amendments but retained the study-bill provisions. The bill was funded in the final budget and becomes law once signed by the Governor.

The final bill requires the Department of Ecology (Ecology) to hire a consultant to conduct a statewide assessment and evaluation of the plastic packaging sold in the state. Ecology must submit this report to the Legislature by October 31, 2020. The report must evaluate the following:

- Amount and types of plastic packaging coming into the state;
- Full cost of managing plastic packaging waste, including costs to ratepayers, businesses and others;
- Final disposition of all plastic packaging sold into the state;
- Costs and savings to all stakeholders in product stewardship programs implemented in other cities and solid waste companies;
- Needed infrastructure to manage plastic packaging;
- Contamination and sorting issues for the plastic packaging recycling stream;
- Existing stewardship organizations and databases useful to develop a program in Washington; and
- Near-term legislative options to meet plastic packaging reduction goals, which can be implemented by January 1, 2022.

The report must include the following components:

- Compilation of all programs in the state that currently manage plastic packaging, including end-of-life management and litter and contamination cleanup;
- Existing studies of the final disposition of plastic packaging and materials recovery facilities residual composition;
- Review of industry efforts and any other domestic or international efforts and innovations to reduce, reuse, recycle, chemically recycle plastic packaging. Review must include technologies such as pyrolysis and gasification processes; and
- Recommendations to meet the goals of reducing plastic packaging through industry lead or product stewardship to:
  - Achieve 100 percent recyclable, reusable, or compostable packaging in all goods sold in Washington by January 1, 2025;
  - Achieve at least 20 percent postconsumer recycled content in packaging by January 1, 2025; and
  - Reduce plastic packaging when possible.
Recycling market research center

**HB 1543** is Ecology’s request bill to create an in-house recycling market research center. The bill passed the Legislature and was funded in the final budget. Once signed by the Governor it becomes law.

The bill also directs Ecology to create and implement a state recycling contamination reduction and outreach plan and to provide technical assistance to local governments to reduce recycling contamination. Finally, **HB 1543** requires city and county solid waste plans to contain a recycling contamination reduction and outreach plan, either of their own design or by adopting the state’s version. Counties with a population of 25,000 or less are exempt. The contamination reduction plan must be included by July 1, 2021, either by amendment or as part of an update.

Banning plastic straws and bags

**SB 5077** was introduced as a bill to ban plastic straws. After passing the Senate, it became a “straws on request only” bill, but grandfathered in any city bans already in place. As it moved through House, the bill retained the request-only provision, but prohibited a city from banning plastic straws. Ultimately, the bill failed to move out of the House and died for this session.

**SB 5323** was the plastic bag ban bill. It was not amended after it passed the Senate and, like the straw bill, failed to proceed out of the House before cutoff. However, unlike the straw bill, the bag bill was brought back to life during budget negotiations. Although the final budget included funding for the bill, **SB 5323** was never brought to the floor for a vote in the House. Because it did not pass the Legislature, the appropriations lapsed. This bill will likely return next session. To see details on what this bill intends to do, please see our previous article.

Paint stewardship bill returns from the dead, passes Legislature

Contact: Carl Schroeder, Shannon McClelland

**HB 1652**, sponsored by Strom Peterson (D–Edmonds), was introduced to create a product stewardship program for paint. The bill requires producers of interior and exterior house paint to participate in a stewardship program to fund and manage leftover paint. Proponents of this bill have been working for the better part of a decade to pass a paint stewardship program.

The bill stalled in the House and never made it to the Senate before the cutoff date. It appeared dead for the session but was revived during budget negotiations. On Thursday, April 25 a substitute version passed the House. Two days later, that same version passed the Senate. The “zombie” bill now heads to the Governor for signature.

The substitute bill makes the following changes to the original House bill:

- Clarifies that the product stewardship program is required to accept only latex paint from generators of dangerous waste;
- Clarifies that one paint collection site must be established by paint stewardship organizations:
  - For every 30,000 residents of an urban cluster, and
  - For every urban cluster of at least 30,000 residents;
- Requires the first annual report to be submitted to the Department of Ecology (Ecology) by either October 15, 2020 or by a later date acceptable to Ecology;
- Clarifies that Ecology’s costs to enforce and administer program-related requirements are to be covered by an annual fee paid by stewardship organizations.

continued
HR & labor relations

Affirmative action initiative passed by Legislature, will become law

Contact: Logan Bahr, Brandon Anderson

Over the weekend the Legislature voted to adopt Initiative 1000 (I-1000), concerning affirmative action.

In 1998, voters approved Initiative 200 (I-200) restricting the use of affirmative action. I-200 prohibited state and local governments from granting preferential treatment to an individual or group based on race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

State and local governments will now be allowed to implement affirmative action laws, regulations, policies or procedures to encourage diversity in public employment, higher education and contracting. However, public employers will be prohibited from setting policies that:

• Use quotas;
• Set policies that constitute preferential treatment; or
• Are in violation of a state or federal statute, final regulation, or court order.

The passage of I-1000 also expands the prohibition on discrimination and preferential treatment to cover age; sexual orientation; the presence of any sensory, mental, or physical disability; and honorably discharged veteran or military status.

First-responder occupational disease compromise bill signed by Governor

Contact: Logan Bahr, Brandon Anderson

HB 1913, concerning the presumption of occupational diseases for first-responders, was signed by the Governor last week. The bill provides first responders with additional workers' compensation presumptions for certain cancers and infectious diseases. The bill also creates a permanent advisory committee within the Department of Labor and Industries that will review scientific evidence and make recommendations to the Legislature for any future presumptive diseases for first responders.

With the Governor's signature, the bill now becomes law.

AWC supported the compromise bill as it was the product of negotiations among cities, counties, and first responder advocacy groups.
Homelessness & human services

**Opioid treatment bill advances to Governor for signature**
Contact: Sharon Swanson, Brandon Anderson

SSB 5380, concerning opioid use treatment, has passed the Legislature and now awaits signature by the Governor.

SSB 5380 modifies the protocols for using medications to treat opioid use disorder (OUD). The bill also requires therapeutic courts that receive funding from the state's criminal justice treatment account and city and county jails to provide medication-assisted treatment (MAT).

City and county jails, to the extent funding is available, must provide MAT to individuals in their custody who were receiving the treatment pursuant to valid prescription immediately before incarceration, or at least 30 days before release when treatment is determined to be medically appropriate. City and county jails must make reasonable efforts to directly connect incarcerated individuals receiving medication for the treatment of OUD to an appropriate provider or treatment site.

AWC supports the final version of the bill.

**Trueblood settlement bill unanimously passes Legislature**
Contact: Sharon Swanson, Brandon Anderson

SB 5444, the Trueblood settlement bill, passed the Legislature last week. The bill aims to address the Trueblood litigation where the state was found liable for imposing excessive wait times on in-custody defendants waiting to receive competency evaluations and restoration services. SB 5444 does the following:

• Allows a prosecuting attorney to challenge the dismissal of charges when a person is found not to be competent and the prosecutor believes the person should receive competency restoration services;
• Provides that competency restoration, for a person charged with a nonfelony, may take place in an inpatient setting or a community-based setting based on the recommendation in a competency evaluation;
• Establishes criteria for a person to be eligible for outpatient competency restoration; and
• Restricts a court from ordering outpatient competency restoration unless the Department of Social and Health Services certifies there is an available outpatient restoration program with adequate space for the person.

The bill unanimously passed the Legislature and is now awaiting signature by the Governor.
Land use & planning

New law requires a searchable database of land use decisions
Contact: Carl Schroeder, Shannon McClelland

HB 5151 requires the Environmental and Land Use Hearings Office (ELUHO) to develop a rational, searchable website of Growth Management Hearings Board (GMHB) rulings, decisions, and orders. All rulings, decisions, and orders issued before January 1, 2019 must be published by June 30, 2021. The bill passed the Legislature, received funding in the final budget, and has been delivered to the Governor to be signed into law.

Although land use decisions can be searched online now, the keyword search function limits its usability. The new website must allow a user to search by topic, party, and geographic location, or by language. In developing the database, the ELUHO must coordinate with the GMHB, the Department of Commerce and other stakeholders.

Last minute fix made in key density bill
Contact: Carl Schroeder, Shannon McClelland

As we previously reported, key housing density bill HB 1923 passed the Senate containing our advocated-for provisions to retain local authority and provide resources for cities to tailor affordable housing solutions. We were subsequently alerted by a member about a technical glitch in one the provisions. Instead of asking the House to concur with the Senate amendments, we then requested that the House reject the as-passed version so that language could be added to address the fix.

AWC’s requested change was made in the Senate and accepted in the House. As originally intended, the bill now states that if a city adopts or amends ordinances or development regulations to increase residential building capacity under the new law, those changes are not subject to legal challenges under the Growth Management Act. To read the full scope of what this bill does, please see our previous article.

Thanks again to all our members for a keen review of this bill—and many others—this session! One missed comma or section reference can make a big difference on implementation. And nothing beats a fresh set of eyes when we are swimming in amendments.
Open government

AWC’s public records reporting fix bill passes Legislature
Contact: Candice Bock, Brandon Anderson

**HB 1667**, AWC’s public records reporting bill, unanimously passed the Legislature last week.

**HB 1667** aims to improve local government public records reporting requirements, established by the 2017 Legislature under **ESHB 1594**, by streamlining and clarifying some of the reporting metrics.

The bill also aids cities by ending the sunset on the Attorney General Local Records Assistance Program and the State Archives Local Grant Program which assist in the improvement of local government public records management.

The bill now awaits signature by the Governor before it becomes law.

Sunshine Committee recommendation bill passes Legislature
Contact: Candice Bock, Brandon Anderson

**HB 1537**, developed out of the 2019 recommendations by the Public Records Exemptions Accountability (Sunshine) Committee, narrows the exemption on applications for public employment. The bill excludes applications for vacancies in elected offices from the exemption. **HB 1537** also removes an exemption for lists of members or owners of timeshare projects, subdivisions, camping resorts, condominiums, land developments, and associated communities. The bill was passed by the Legislature and is now on its way to the Governor for signature.

Pensions

AWC requests veto on $300 million LEOFF 2 transfer bill
Contact: Logan Bahr, Brandon Anderson

**HB 2144**, concerning the Law Enforcement Officers’ and Firefighters’ Plan 2 (LEOFF 2) pension system, passed the Legislature last week.

**HB 2144** would repeal any current or future Public Safety Enhancement Account (PSEA) obligations. This account has never been funded by the state. The bill will also transfer $300 million out of the LEOFF 2 trust fund and into a subaccount to pay for unidentified new pension benefits.

The bill is now headed to the Governor for signature. AWC has submitted a veto request to Governor Inslee.
Public safety & criminal justice

Hate crimes bill passes Legislature
Contact: Sharon Swanson, Shannon McClelland

HB 1732 makes changes to hate crimes and creates a workgroup to make recommendations on best practices for prevention, reporting, and response. The bill passed the Legislature and now awaits the Governor’s signature to become law.

The bill does the following:
• Renames the crime of malicious harassment to that of a hate crime offense.
• Expressly includes and defines “gender expression or identity” as a protected category, rather than including it as part of the definition of “sexual orientation.”
• Adds the following circumstances to the list of acts that allow the trier of fact in a criminal prosecution for a hate crime to infer that a threat was intended:
  • Defacing religious property with words, symbols, or items that are derogatory to persons of the faith associated with the property;
  • Placing a vandalized or defaced religious item or scripture on the property of the victim;
  • Placing a noose on the property of a victim who is or whom the actor perceives to be of a racial or ethnic minority group; or
  • Damaging, destroying, or defacing religious garb or other faith-based attire belonging to the victim.
• Increases the maximum punitive damages available in a civil action brought by a victim of a hate crime from $10,000 to $100,000.
• Creates a multidisciplinary hate crime advisory working group within the Office of the Attorney General.

Legislature passes bill related to informant and eyewitness evidence
Contact: Sharon Swanson, Shannon McClelland

SB 5714, sponsored by Sen. Manka Dhingra (D–Redmond), aims to ensure the reliability of evidence based on informants or eyewitnesses. The bill passed the Legislature and is awaiting signature by the Governor.

The bill establishes two workgroups—on eyewitness evidence and informant reliability—that must submit reports to the Legislature by November 30, 2019. The reports must include model guidelines, a law enforcement training curriculum, and a pilot project to test the effectiveness of the eyewitness evidence training program. SB 5714 also requires each county prosecuting attorney to adopt and implement local protocols for the use of informants, consistent with the model guidelines, by December 31, 2020.

Finally, the bill provides jury instruction for informant testimony. The city or county prosecuting attorney or defendant may request a jury instruction on exercising caution in evaluating the credibility of an informant. At the court’s discretion, SB 5714 provides the language to which that instruction must conform.
Animal fighting bill delivered to Governor
Contact: Sharon Swanson, Shannon McClelland

HB 1919, the most comprehensive animal fighting bill this session, has passed the Legislature and was delivered to the Governor for signature.

The bill does the following:
• Expands the circumstances under which a person may commit an animal fighting offense to include:
  • Stealing an animal for animal fighting; and
  • Possessing, transferring, manufacturing, or engaging in other activities relating to animal fighting paraphernalia.
• Defines "animal fighting paraphernalia" to include equipment, products, implements, or materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting. Animal fighting paraphernalia includes but is not limited to: cat mills; fighting pits; spring poles; unprescribed veterinary medicine; treatment supplies; and gaffs, slashers, heels, and any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.
• Elevates the classification of animal fighting to a Class B felony when a person intentionally mutilates an animal for fighting purposes.
• Provides that a person is guilty of animal cruelty in the second degree when he or she abandons an animal that has been used for animal fighting, and, as a result, the animal suffers or is at risk to suffer harm.
Public works

Amended public works bid limit bill passes Legislature
Contact: Candice Bock, Brandon Anderson

SB 5418, a bill impacting city public works project bid limits, was passed by the Legislature last week after the Senate concurred on amendments in the House.

Under the final version of the bill, contract thresholds are increased when competitive bidding is required for a first-class city, second-class city, code city or town as follows:
- **First-class cities:**
  - The estimated cost is $150,000 or more and involves more than one craft or trade; or
  - The estimated cost is $75,500 or more and involves a single craft or trade, or the public works is street signalization or street lighting.
- **Second-class cities, code cities or towns:**
  - The estimated cost is $116,155 or more and involves more than one craft or trade; or
  - The estimated cost is $75,500 or more and involves a single craft or trade, or the public works is street signalization or street lighting.

The final version of the bill also includes the following components:
- State agencies and local governments may use the small works roster process for projects estimated to cost $350,000 or less-- this is an increase of $50,000. Governments may choose to solicit bids from less than all the appropriate contracts on an appropriate small works roster for projects estimated to cost between $250,000 and $350,000.
- As an alternative to awarding competitive public works contracts to the lowest responsible bidder, second-class and code cities may award the contract to a responsive bid that meets responsible bidder criteria and is within 5% of the lowest bid, if certain conditions are met.
- Requires that after a bid is awarded for a project, all bids received are open for public inspection and made available upon request.
- Authorizes state agencies and local governments to use the limited public works process to solicit and award small works roster contracts to minibusineses and microbusinesses.

A previous version of the bill required local governments that use the small works roster to obtain quotes from either all of the appropriate contractors on the list, or at least five contractors who have indicated they are capable of performing the work. This language was removed in the final bill to reflect the feedback from small cities and towns.

The bill is now headed to the Governor for signature.
Transportation

State passes transportation budget over weekend, heads to Governor
Contact: Logan Bahr

The Legislature passed the 2019-21 transportation budget, HB 1160, over the weekend. The budget provides funding for several city-related studies. The budget also fully funds the Transportation Improvement Board and the Freight Mobility Strategic Investment Board. The budget now heads to the Governor’s desk for signature. Below are details on some of the city-related studies.

City Gas Tax Funded Culvert study: $350,000 is provided solely for the Washington Department of Fish and Wildlife to work with AWC to inventory and assess fish passage barriers associated with city roads located in the U.S. v. Washington case area. The study is a continuation of previous inventories, and priority must be given to the assessment of sites that have not yet been inventoried. The initial goal of the study is to finalize the inventory of all city-owned fish passage barriers within the case area. A report of the study must be provided to the office of financial management and the transportation committees of the Legislature by July 1, 2020.

Joint Transportation Committee studies: $450,000 is provided for a study on the electrification of public fleets. The study must include:

• An inventory of existing public fleets for state agencies, counties, a sampling of cities, and public transit agencies.
• A review of currently available battery and fuel cell electric vehicle alternatives to the vehicle types most commonly used by the state, counties, cities, and public transit agencies.
• The projected costs of achieving substantial conversion to battery and/or fuel cell electric fleets by 2025, 2030, and 2035 for the state, counties, cities, and public transit agencies.

The bill also provides $450,000 for a comprehensive assessment of statewide transportation needs and priorities. The study will review existing and potential transportation funding mechanisms to address those needs and priorities. The assessment must include:

• Recommendations on critical state and local transportation projects, programs, and services needed to achieve an efficient, effective, statewide transportation system over the next ten years.
• A comprehensive menu of funding options for the Legislature to consider for identified transportation system investments.
• An analysis of the economic impacts of a range of future transportation investments.

continued
SR-167, I-405 tolling and bonding bill passes Legislature  
Contact: Logan Bahr, Brandon Anderson

SB 5825, relating to interstate tolling, has passed the Legislature. The bill was heard in the House Transportation Committee over the weekend before it was passed by the Legislature. Passage of SB 5825 does the following:

- Makes both the Interstate 405 express toll lanes and State Route 167 express toll lanes permanent;
- Modifies performance metrics for the required express toll lanes corridor reporting;
- Authorizes tolling on, and creates an account for, the future Puget Sound Gateway facility; and
- Authorizes the issuance of up to $1.5 billion of general obligation bonds for I-405, SR 167, and the Puget Sound Gateway facility, payable from toll revenue, motor fuel taxes, and vehicle-related fees, and adds legislative intent for projects on which the bond proceeds will be used.

The bill is headed to the Governor's desk for signature.

Bill proposing new requirements for state-paid stormwater fees passes Legislature  
Contact: Logan Bahr, Brandon Anderson

SB 5505, concerning state paid stormwater fees, passed the Legislature last week. The bill requires stormwater fees that the Washington State Department of Transportation (WSDOT) pays to local governments to be spent on stormwater improvements that directly address state highway runoff. Currently, there is no such requirement.

In addition to limiting how local governments can spend DOT payments, the bill would increase annual reporting requirements for jurisdictions collecting payments from DOT.

AWC opposed the bill due to the administrative burden and reduced stormwater fees to local governments. SB 5505 is now headed to the Governor for signature.
AWC Legislative Contacts

During the legislative session, AWC's lobbyists often are unable to return your phone calls immediately. If you have a legislative or specific issue question, please request AWC’s analyst staff, or send them an email.

Call AWC at (360) 753-4137 or 1-800-562-8981

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