



Legislative Bulletin

January 22, 2018

Hot topics

Legislature takes action on capital budget, funds Public Works Trust Fund

On January 18, the Legislature took action on a critical piece of holdover legislation from the 2017 session – the capital budget! This bill's passage sends much-needed resources to cities throughout the state and the Public Works Trust Fund (PWTF) loan list is funded for the first time in years.

Senate passes substitute version of Voting Rights Act bill

This version is better for cities than past proposals, but still has areas of concern.

From the Director

Legislators need to hear from you!

Whether in Olympia or at home this week, let your legislators hear city voices

This week we'll welcome nearly 400 city officials in Olympia for our annual City Action Days. Find out what attendees will learn, and what you can do from home to add your voice. Also discover what issues we are tracking closely including the state Voting Rights Act and the recently-passed capital budget.

Media time

AWC's very own Jane Wall brings you these quick tips on how to "work the doors" when you're at the Capitol in Olympia. Find out how to capture your Senator or Representative's attention when they're on the floor.

Things you can do

We look forward to seeing you at City Action Days this week!

If you haven't already, remember to tell your legislators that you are coming to town! Make appointments and invite them to the reception or a meal. See the schedule here.

What you need to know

Economic development

AWC supports bill that would create and fund the Washington Tourism Marketing Authority.

Bill would make Local Infrastructure Financing Tool work better.

Environment & land use

HB 2789 would fundamentally alter annexation laws making annexations more difficult.

Bill would authorize local fees to fund long-range planning.

Companion bills that would simplify island annexations up for hearing this week.

Housing

Affordable housing and homelessness bills on the move. Here's a status summary of our "top tier" bills.

Marijuana

Two bills with differing impacts on cities have hearings scheduled for Monday.

Open government

Cities can now apply online for the Washington State Archives Local Records Grant Program.

Personnel

Senate Ways and means to hear three competing bills that will add a COLA to PERS 1 retirement plan.

Both chambers considering expansion of wrongful death liability proposals.

Public safety & criminal justice

Bill on body worn cameras introduced last week.

Bill that would require the state to fully fund public defenders by 2028 has a hearing this week.

Transportation

Cities support bill that would allow greater certainty in selling off-street parking.

Bill would require cities to develop ADA on-street parking plans. We have concerns about cities' ability to meet the requirements of the bill in the time allocated and with no resources provided.

continued

From the Legislative Director

Legislators need to hear from you!

Whether in Olympia or at home this week, let your legislators hear city voices.

On Wednesday and Thursday of this week we'll have close to 400 city officials in Olympia for our annual City Action Days. Attendees will hear from key legislators and others about bills we like and some we don't.

By the time our conference attendees arrive, we'll have produced a hot sheet that describes key city issues and bills of interest, which you can also use to brief your own legislators. Look for your electronic copy in Wednesday's edition of AWC's *CityVoice* newsletter.

During conference sessions or when meeting with legislators, we will communicate these important messages:

- Thank you for finally passing last session's stalled capital budget and agreeing to a compromise to address critical water supply issues.
- Support critical city priorities that help address housing shortages and affordability, support individuals with mental health and drug addiction issues, and provide tools to enhance local economic vitality.
- Avoid infringing upon local control and adding mandates.

Among many important special guests and speakers at this week's City Action Days, we'll be honoring 2017 City Champion Award winners Reps. Joan McBride (D-Kirkland) and Terry Nealey (R-Dayton) for their several-year effort to craft and pass reforms to the Public Records Act. We'll be interested to hear their experiences and also their reaction to the growing interest in clarifying that legislators should also be subject to the same requirements as local officials, the Governor, and state agencies.

Legislative session week three – bills on the move

Within this edition of our weekly *Legislative Bulletin*, we highlight a number of these issues and where they stand.

Last week's breaking of the deadlock over the Hirst water rights issue allowed the capital budget to pass. For cities, this means many local projects can proceed and grant funds are again available from programs like the rebooted Public Works Trust Fund. Removing this roadblock also allows legislators and the new Democratic majorities to focus on their priorities and move towards adjournment by March 8.

One of the first bills moving is **ESSB 6002**, the state Voting Rights bill. Debated for several years, it passed the Senate late last week on a vote of 29-19-1. It allows code and second class cities to divide council seats by district if they want or if ordered by a court. If cities of 1,000 or more people are challenged to adopt district seats due to a lack of representation by a protected class of voter, a process is outlined on how to go forth. AWC expects some form of the bill to pass the House and we continue to share ideas on how it can best work – including whether or not the 1,000 city size threshold makes sense.

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We're seeing bills to help provide funding and tools to expand affordable housing opportunities and also some that seek to impose new planning requirements, such as requiring minimum density zoning in residential areas. There are bills being seriously considered that would increase local costs, including ones that would expand city liability in situations where someone makes a wrongful death claim against a local government, and some seeking to expand presumptive occupational diseases for police and fire personnel. House and Senate bills are under consideration that would encourage, in different ways, cities to get ready for the deployment of new 5G cellular technology and others to speed up deployment of high-speed broadband to rural areas not currently served.

Legislators on fiscal committees have heard the Governor's ideas about "tweaks" to the biennial operating budget they adopted last July and will soon commence conversations about their own ideas. AWC continues to share our thoughts about what's important to fund based upon the Governor's proposal, and we look forward to discussions with key legislators as they start to unveil their own.

In gratitude

A final note of thanks and appreciation for the many minds and hands that come together to make our cities thrive. The city message is strongest when city officials, staff, partners, and constituents work alongside your AWC board and staff to voice a shared vision and need. In the midst of a face-paced legislative session, it serves us well to remember that the only way to realize success is to support one another in this important work.

Budget & finance

Legislature takes action on capital budget, funds Public Works Trust Fund

On January 18, the Legislature took action on a critical piece of holdover legislation from the 2017 session – the capital budget! This bill's passage sends much-needed resources to cities throughout the state.

In the final hours of the 2017 legislative session, legislators were not able to come to a deal on important water rights issues leading to an impasse on the capital budget. As the 2018 drew near, AWC called for swift action on the budget – and we are pleased to see it has finally passed.

Passage of this budget means a Public Works Trust Fund (PWTF) loan list is funded. This is the first time since the 2011-13 biennium. It was a 2017 AWC priority to see the continuation of this important infrastructure funding source.

You can see more highlights of important programs to cities here awcnet.org/portals/0/documents/legislative/1719capbudget.pdf.

You can find the capital budget bills and project lists here leap.leg.wa.gov/leap/budget/detail/2018/sc2018p.asp.

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Cannabis

Two marijuana bills that impact cities have hearing

Two bills with differing impacts on cities have hearings scheduled for Monday, January 22 at 1:30 pm in the House Commerce & Gaming Committee.

Licenses issued only to those in compliance with local regulations (HB 2630) –

Sponsored by Rep. Dan Griffey (R-Allyn), **HB 2630** seeks to ensure that marijuana licenses are only issued to businesses that comply with local ordinances. The bill requires that license approval or renewal by the Liquor and Cannabis Board (LCB) is contingent on the applicant providing written proof of local compliance. It allows the LCB to issue a tentative license to those applicants who have not furnished proof of compliance. The applicant has six months to provide written proof and is prohibited from engaging in any marijuana commercial activities as a tentative license holder. AWC supports this proposed legislation.

Private label sales (HB 2473) –

Sponsored by Rep. Brandon Vick (R-Vancouver), **HB 2473** proposes to allow marijuana to be sold under a retail store brand label. It would also allow marijuana to be produced and sold under a label other than that of the producer, processor, or retailer.

Current law prohibits licensed marijuana producers and processors from having a financial interest in a marijuana retailer. This bill would allow marijuana producers and processors to contract with a marijuana retailer for private label retail purposes under two conditions:

1. The marijuana retailer would not have an exclusive right to sell the private label product; and
2. The producer or processor making the private-label product must make it reasonably available to other marijuana retailers.

All such contracts would also have to be disclosed to the LCB. It is unclear if this proposal would make tracking the production, processing, and retailing of marijuana products more difficult and, thus, harder to regulate. AWC is monitoring this issue. Please reach out to Logan Bahr or Shannon McClelland with any questions or concerns.

Economic development

Bill would align LIFT program with LRF

SB 6177, Sen. Curtis King (R-Yakima), would allow local governments that have been awarded Local Infrastructure Financing Tool (LIFT) funds to carry the funds forward for use in later years. The funds could be carried over to determine the state contribution amount if the revenues from local public sources dedicated in the preceding calendar year are in excess of the project award. This provision already exists in the similar program, Local Revitalization Financing (LRF).

The LIFT program was created in 2006 and was intended to encourage economic development or redevelopment. As part of the LIFT program, a sponsoring local government – a city, town, county, or federally recognized Indian tribe – creates a revenue development area from which annual increases in revenues from local sales and use taxes and local property taxes are measured. Such increases in revenues and any additional funds from other local public sources are then used to pay for public improvements in the revenue development area and are also used to match a state contribution.

Cities support this measure because it makes common-sense changes to the program and will allow local governments participating in LIFT to make the best use of the funds committed.

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Cities support revived tourism bill

SB 5251, Sen. Dean Takko (D-Kelso), has been reintroduced after failing to pass in 2017. The bill was well on its way to final passage when it became caught up in the 2017 capital budget impasse.

Historically, the Washington State Department of Commerce ran a tourism office, but it was never adequately funded. In 2011, the state ceased to fund any sort of tourism offices in Washington. Today, we are the only state in the nation without a dedicated state-funded tourism office.

Tourism is the fourth largest economic sector in the state. Many of our cities, large and small, benefit immensely from tourism.

SB 5251, would create the Washington Tourism Marketing Authority to manage financial resources and contract for the development of a statewide tourism marketing plan. The 2017 operating budget dedicated \$500,000 to formulate a tourism marketing plan.

AWC supports this legislation.

Environment & land use

Bill would authorize fees to cover long-range planning

HB 2599, sponsored by Rep. Joe Fitzgibbon (D-Burien) would authorize local governments to collect reasonable fees from an applicant for a permit or other governmental approval to cover the cost of long-range planning. Under current law the fees are to cover the costs of issuing and administering building and land use related permits and approvals, but not for the underlying work that goes into developing comprehensive plans and development regulations.

This could be a beneficial local option for cities looking for ways to help cover some of the costs of long-range planning. Typically those cost are covered through a city's general fund.

The bill is scheduled for public hearing in the House Environment Committee at 8 am on Thursday, January 25.

Annexation bill of concern to get hearing in House committee

HB 2789 would make modifications and additions to current annexation law that would create significant new barriers to using annexation methods that have been in place for decades. Specifically, the bill would:

- Create new public hearing requirements by both the city and the county;
- Require annexation elections to occur only during general elections;
- Increase signature threshold requirements for annexation petitions; and
- Prohibit cities from requiring utility service annexation covenants as a condition of extending utilities to a property.

In short, this bill would fundamentally alter annexation law in our state and make it much more difficult for cities to annex. This is despite the directives of the Growth Management Act that requires cities and counties to work together to identify urban growth areas that are intended to become parts of cities.

This bill is scheduled for a public hearing in the House Local Government Committee on Wednesday, January 24 at 8 am. AWC will be expressing our opposition to this proposal.

continued

Companion bills that would simplify island annexations up for hearing this week

Identical bills, commonly referred to as “companions” have been introduced in the House and Senate and both will get a public hearing next week. **HB 2665** sponsored by Rep. Nicole Macri (D-Seattle) will be heard in the House Local Government Committee at 10 am on Tuesday, January 23. In the Senate, **SB 6312**, sponsored by Sen. Sam Hunt (D-Olympia) will be heard in the Senate Local Government Committee at 1:30 pm on the same day, January 23.

These bills would simplify the process for annexing unincorporated areas that are at least 80 percent surrounded by a city within a single county and urban growth area (i.e. unincorporated islands). This is done by removing the referendum provision of current law which can trigger a public vote on island annexations and the authority for Boundary Review Boards to review island annexations.

AWC will be expressing our support for these bills.

General government

Senate passes substitute version of Voting Rights Act bill; House considering its own substitute

The Senate passed **ESSB 6002** on Friday, two weeks into session. This version addressed many issues that would have been overly burdensome to cities on implementation; however, it has the following provisions that continue to be a concern for cities:

- **Languages required for public notice:** If five percent of the city – or 500 residents, whichever is fewer – speaks a language other than English, the jurisdiction must provide notice of the proposed voluntary change to their election system, including radio or television ads, “in languages that diverse residents of the subdivision can understand,” according to demographic data.
- **Standing to sue:** Inconsistent language between sections on who may file a notice and lawsuit – “any person” and “any voter who resides in the jurisdiction” (Compare Sec. 304 with Sec. 401).
- **Inconsistent statement of violation:** During notice, proponent has to show polarized voting and only a significant risk that members of a protected class did not have equal opportunity to elect candidates as a result of the dilution or abridgement of their rights (See Sec. 302). Once a lawsuit is filed, a court will determine whether the election process “impairs the ability of members of a protected class...to have an equal opportunity...” (See Sec. 104; see also Sec. 401.). This second provision requires showing an actual lack of equal opportunity.
- **Time to address two or more notices:** No additional time is provided.
- **Applicability:** Applies to cities with a population of one thousand or more.

The House Rules Committee is considering **SHB 1800**. This version varies from the Senate version:

- Reduced timelines to propose a remedy: If a notice is received after July 1, 2021, a jurisdiction only has 90 days to adopt a remedy (instead of 180 days).
- A rebuttable presumption against the city’s proposed remedy during the notice process.
- The bill also has the same areas of concern as the engrossed substitute Senate bill on public notice, standing to sue, and applicability to small cities, as stated above.

continued

Both bills removed language expressly allowing an alternative proportional voting method as an option for local jurisdictions enacting voluntary changes to their election system or as a court-ordered remedy. Both bills are now silent on this issue. However, **HB 2746** was introduced and it would allow local governments to choose a proportional voting system, including rank choice voting. The secretary of state must approve any proportional voting system before it is adopted by a jurisdiction. The bill also allows jurisdictions to eliminate the primary election. **HB 2746** has a hearing on Tuesday, January 23 at 8 am in House State Government, Elections & IT Committee.

Stay tuned as these bills will continue to get early attention in the session. Please contact Shannon McClelland with any questions or concerns.

Housing

Affordable housing and homelessness bills on the move

A number of affordable housing and homelessness bills of importance to cities continue to move through the process. Here's a status summary of our "top tier" bills below.

HB 1570 makes the temporary \$40 local homeless housing and assistance surcharge permanent. This is a very important source of funding for state and local homelessness funding. Initially introduced in 2017, this bill is scheduled for a vote in the House Appropriations Committee on January 22.

HB 1797 contains a number of local option tools that cities could use in support of affordable housing efforts. This includes a sales tax rebate for affordable housing and authority to use local Real Estate Excise Tax revenues for affordable housing development. This bill nearly passed in 2017. It's now eligible for a vote on the floor of the House.

HB 2437 would provide a local option 0.025 percent credit against the state sales tax for affordable housing purposes. Counties would be given the first choice, and if they do not choose to use the option, it would then be provided to cities. Funds could be bonded against, and used for the acquisition, construction, maintenance, or operations of affordable housing, as well as rental assistance or to provide services within supportive housing. This bill is scheduled for a vote in the House Finance Committee on January 23.

HB 2667 addresses a technical issue that prevents the aged, blind, and or disabled from receiving adequate support from the Housing and Essential Needs (HEN) program leading to housing instability and homelessness. This bill passed out of the House Early Learning & Human Services Committee on January 19.

Open government

Local Records Grant Program now accepting applications

Cities can now apply online for the Washington State Archives Local Records Grant Program (www.sos.wa.gov/archives/recordsmanagement/local-records-grant-program.aspx). Grant-funded projects can include technology tools, organization of files, or digital imaging. Only one type of grant project is allowed per grant cycle.

Applications for this grant cycle close on February 28, 2018. Another grant cycle will start again in July 2018.

Please send any questions to recordsmanagement@sos.wa.gov or call (360) 586-7810.

continued

Personnel

Both chambers have heard and are considering expansion of wrongful death liability proposals

The Senate Committee on Law & Justice heard **SB 6015**, and is scheduled for executive session on Thursday, January 25 at 10 am. A new version is being considered which would remove the expansion of damages for future losses under a special survival action. The companion bill, **HB 2262**, has also been heard and is awaiting action in the House Judiciary Committee.

The bills would amend the current wrongful death statutes in a few important ways:

- Removes dependency requirements for claimants;
- Allows parents to bring an action for children over 18 years old;
- Expands noneconomic covered damages; and more.

AWC opposes this bill as it would significantly increase a city's liability and costs associated with these claims.

Contact: Loan Bahr or Shannon McClelland.

Senate Ways & Means to hear three bills on PERS 1 COLA increases

The three major bills that would create a Cost-of-Living-Adjustment (COLA) for TRS 1 and PERS 1 retirees will be heard this week. On Tuesday, January 23 at 3:30 pm, the Senate Ways & Means Committee will hear **SB 6290**, **SB 6305**, and **SB 6340**.

- **SB 6340** provides a one-time, permanent increase of three percent subject to a cap on the increased benefit of \$750.
- **SB 6290** provides a one-time, permanent increase of three percent with no increase cap.
- **SB 6305** provides a one-time, permanent increase of three percent subject to a cap on the increased benefit of \$750. The bill also provides a prescription drug subsidy for individuals who select a Medicare supplemental insurance policy.

AWC will oppose these bills because they create substantial costs for employers and no funding mechanism is provided.

Public safety & criminal justice

Bill on body worn cameras introduced last week

Sen. Mike Padden (R-Spokane Valley) has introduced a bill concerning the use of law enforcement body worn cameras, **SB 6408**. The bill makes minimal changes to the current body worn camera statutes but does remove the sunset clauses which would ensure that these statutes continue to remain in law. The bill came out of a two-year-long task force which issued a report and set of recommendations in December. AWC is supportive of the bill and expects the bill to be heard soon.

Hearing scheduled for public defense funding bill

AWC and the Washington State Association of Counties have partnered to introduce a bill that puts the responsibility of public defense funding back on the state. **HB 2687**, sponsored by Rep. Noel Frame (D-Seattle), requires the state to increase public defense services funding by ten percent every year, with full funding provided by 2028. Counties and cities would be required to apply annually for reimbursement of public defense services funds from the Office of Public Defense. AWC will be testifying in support of the bill in the House Judiciary Committee on Wednesday January 24 at 8 am.

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Recent Washington court cases highlight that providing adequate representation under demanding caseloads is a significant financial challenge for local governments. In 1963 the U.S. Supreme Court held in *Gideon v. Wainwright* that the provision of a public defender for indigent people is a state obligation under the Fourteenth Amendment. Yet the state contributed only a small percent last year to fund public defenders in Washington. And while the Supreme Court has not directly considered whether it is unconstitutional for a state to delegate its constitutional responsibility to local government, the state must still guarantee that local governments are not only capable of providing adequate representation, but that they are in fact doing so.

Transportation

Bill would require cities to develop ADA on-street parking plans

HB 2729, Rep. Joan McBride (D-Kirkland), would require cities to prepare a plan to address the phase-in of retrofitting streets with accessible on-street parking spaces for individuals with a physical disability. This bill is the result of a 2013 U.S. Ninth Circuit Court of Appeals case, *Fortyone vs. City of Lomita*, requiring cities to provide accessible public on-street parking to individuals with disabilities. However, the decision did not clarify standards or what that parking should look like. Disability standards are set by the United States Access Board, but, unfortunately, to date no standards have been adopted for on-street parking.

With no official standards in place, **HB 2279** is proposing a solution. However, cities are concerned with our ability to carry out this new proposed policy. Specifically, **HB 2729** would require cities:

- To prepare a plan that addresses how we will phase in retrofitting of local streets to accommodate accessible on-street parking;
- Show how retrofitting and design recommendations are in compliance with the guidelines issued by the Access Board;
- Include a timeline for when retrofitting will begin; and
- Provide a fiscal analysis of the design and construction costs for the retrofitting.

These plans are due to the Department of Commerce by December 30, 2020.

Cities applaud the intent of the bill, and are committed to working with the sponsor to address the problem. However, we have significant concerns around our ability to carry out the requirements of the bill in the time allocated and with no resources provided.

Cities support bill that would allow greater certainty in selling off-street parking

HB 2292, Rep. Monica Stonier (D-Vancouver), would grant a city legislative authority to sell, transfer, exchange, lease or otherwise dispose of real property obtained for off-street parking. **HB 2292** allows for this under three conditions:

1. When the legislative body has determined by ordinance that such property is no longer necessary for off-street parking purposes;
2. When all bonds issued for acquisition and construction have been paid in full; or
3. When the properties within any local improvement district created for the acquisition or construction of off-street parking facilities are no longer subject to any assessment for such purpose.

Up to this point there has been uncertainty if cities have had the authority to do this.

HB 2292 had a public hearing in the House Local Government Committee on January 16.

continued

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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