



Legislative Bulletin

April 10, 2017

Hot topics!

Senate votes on AWC priority public records bill, help is needed on other bill

One of AWC's priority bills was voted out of the Senate on Friday with a strong bipartisan vote. Our other priority public records bill is still in the Senate but has hit some opposition and needs your help.

Good news for cities in House capital budget.

It is an encouraging sign that capital budget proposals from both chambers fund key programs that are important to cities.

From the Director

When legislative budget leads start talking, here is what cities think of their ideas:

Lead House and Senate negotiators have not publicly agreed to talks yet. In anticipation of when they start, AWC has shared key items needed to support strong cities and towns across the state. Learn what AWC has been working on and how you can help support your city with a few different tools.

Things you can do

Thank you for making our recent lobby day such a success!

But don't let its passing deter you from continuing to reach out to your legislators. It is critical you let them know what is important as they continue their work. Learn about what we support, and what we don't, in both the House and Senate budgets.

Media time

Funding the Public Works Trust Fund

Over the past several years, the Legislature has responded to the economic recession by diverting infrastructure funds to basic government. Watch this video to learn more about the need for the Senate and House to fund the Public Works Trust Fund.

What you need to know

Budget & finance

Business license bills ready for possible floor action.

House revenue bill moves out of committee.

Federal

Washington State Attorney General issues guidance for local governments on federal immigration enforcement.

Open government

The Senate needs to take action on AWC's priority public records bills by April 12.

Personnel

Talk to your local media about city budget impacts of potential LEOFF 2 costs.

House budget provides funds for paid family leave policy.

Public safety & criminal justice

Multiple fire district bills continuing to progress in the Legislature.

Telecommunications

Discussions continue on small cell deployment.

continued

From the Legislative Director

When Legislative Budget leads start talking, here is what cities think of their ideas.

Lead House and Senate negotiators have not publicly agreed to talks, but when they start, AWC has shared key items needed to support strong cities and towns across the state. On April 5, we submitted a detailed letter to the 81 legislators who sit on one or more of the budget committees. It communicates our support and appreciation for what we like in operating and capital budgets, as well as concerns and preferences in each approach. At the Direction of AWC's Board of Directors, we also shared our support for some of the new revenues included in the House adopted budget proposal. We have summarized the letter in this Hot Sheet.

You are encouraged to share this letter or Hot Sheet with your respective House and Senate members – many of whom are not in leadership, nor serve as leads on budget negotiations. Nevertheless, they can be your specific city advocate! If you choose to share, please consider including notations of local impacts – items like your shared revenues (which you can easily find here), or LEOFF 2 pension obligations in the Senate budget, etc.

The clock is ticking down to when they are supposed to be finished with their work on April 23. While chances of that happening do not look promising, their attention is focused on budget issues, and your help reminding them of your needs is most appreciated.

If you have questions, please do not hesitate to contact Peter King, Dave Williams, Victoria Lincoln, or any of our team of advocates working to keep cities strong.

Budget & finance Business license bill ready for possible action by the Senate

EHB 2005 was moved out of the Senate Rules Committee and is ready for possible floor action. The bill includes an amendment by the Senate Ways & Means Committee changing the timeline to phase in cities to partner with the state's business licensing system from 10 years to five years, if funding is appropriated.

ESSB 5777 is in the House Rules Committee awaiting further action. Its provisions are almost identical to **EHB 2005**, with the exception of the timeline to phase in cities to partner with the business license system, which is 10 years in the House Finance amended version of the bill.

For more information on the bills, see last week's Legislative Bulletin.

House revenue proposal related to House budget moves out of committee

HB 2186, the House revenue proposal released in conjunction with the House proposed budget passed out of the House Finance Committee last week with a few amendments placing sunset dates and on new taxes and reporting requirements on tax preferences related to B&O and REET. The bill awaits further action in the House Rules Committee, which is not expected to occur until further negotiations take place on the differences between the House and Senate budget proposals.

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As the letter AWC sent to the House and Senate budget leaders indicated, AWC supports the Legislature in securing sufficient revenue to fund state programs and obligations. AWC also continues to support new proposed revenues that include a local government share and promote local economic security, such as requiring sales tax collections or reporting of customers for use taxes by internet retailers, and removal of the bottled water sales tax exemption. The expected revenue increase from sales tax changes in the bill is \$71 million for cities for the 2017-19 biennium.

At further direction by the AWC Board, we expressed support for the provision establishing a graduated rate for the state Real Estate Excise Tax. It would result in a lower 0.75 percent rate on residential sales under \$250,000, the same 1.28 percent rate on sales \$250,000 to \$1 million, higher rates of 2 percent for sales \$1 million to \$5 million, and 2.5 for sales over \$5 million. (For more information, see *From the Director*)

AWC also expressed concern with one provision requiring cities to collect information on subcontractors for projects that receive building permits. This new mandate would put significant liability on cities, placing new enforcement responsibility on our building inspectors and creating a new disincentive for contractors to apply for local building permits.

AWC will continue to evaluate and monitor these proposals and seek direction from the AWC Board as needed as budget negotiations move forward.

Federal

Attorney General guidance on immigration enforcement

The Department of Justice (DOJ) was in the news recently announcing their plan to require cities applying for DOJ grants to certify their compliance with federal law, including Section 1373 of the U.S. Code. Section 1373 prohibits localities from obstructing federal immigration enforcement, but does not require those jurisdictions to perform the duties of federal immigration agents. This DOJ action is in part a response to the executive order on sanctuary cities that is under court challenge by several cities, including San Francisco and Seattle, and issuance of a list of jurisdictions by Immigration and Customs Enforcement (ICE) they believe have been uncooperative with federal immigration enforcement.

The Washington State Attorney General released a publication last week with guidance for local governments on federal immigration authority and enforcement.

The publication addresses these issues in chapters directed to local law enforcement, jails, public hospitals, libraries, schools, and employers, as well as guidance on interactions between local jurisdictions and federal authorities. The guidance also includes model language for local resolutions and policies related to local government entities and responses to federal requests for assistance with immigration enforcement.

Please note that the publication provides general information to local governments related to immigration enforcement issues and is not intended as legal advice. For specific questions and policies, cities should consult their legal counsel.

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General Government

Senate considers bill to reduce government tort liability

Sen. Dino Rossi (R-Sammamish) has sponsored **SB 5896** which would reduce state and local government liability in numerous ways. The bill would cap non-economic damages at \$1.5 million per claimant, change when interest starts to accrue, and cap attorney fees at 33 percent of an award. The bill has yet to pass out of the Senate, but the Senate budget does include fiscal impacts that the bill would create, so the bill will most likely continue to be relevant. AWC is continuing to monitor the progress of the bill.

Infrastructure

Good news for cities in House capital budget

Last week we gave you highlights on the Senate's proposed capital budget that has many positives for cities. The House rolled out their capital budget proposal this past week, and it contains good news for cities as well. Since the final capital budget will be tied up in the contentious operating budget negotiations, we cannot predict the final outcome but the initial proposals from both chambers are encouraging.

Highlights of the House capital budget (HB 1075) include:

- \$226 million for the Public Works Trust Fund, including \$97 million for the 2017 construction loan list. \$105 million for a 2019 loan list, and \$19 million for pre-construction and emergency loans.
- \$40 million for stormwater projects. This would be enough to restore all delayed stormwater projects from previous budgets.
- \$20 million for the list of projects created by the Fish Barrier Removal Board, on which AWC serves. It is exciting to see this investment into smarter and strategic investments into local and private culvert replacements.
- \$106 million for low-income housing assistance.
- \$30 million for the Centennial Clean Water Account including sewer grants for communities in economic hardship. \$30 million is not quite enough to meet the need of just the first year of the biennium. AWC is working to increase this funding level in the final budget negotiations to provide capacity for the full biennium.

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Open Government

The Senate needs to take action on AWC's priority public records bills by April 12

HB 1594 and **HB 1595** are awaiting action by the full Senate. They must pass out of the Senate by the next cut-off deadline on April 12 to keep moving. At that point, because the Senate has amended the versions that came over from the House, the bills must go back to the House for agreement no later than April 19.

HB 1595 was modified slightly in the Senate, but remains mostly unchanged from the version that passed the House. **HB 1595** does the following:

- Amends the PRA to allow cities to charge a small fee for providing copies of electronic records. A city may establish different fees by conducting its own cost study but the default charges in the bill are as follows:
 - 10 cents per scanned page
 - 5 cents per 4 files or attachments
 - 10 cents per gigabyte
 - These charges may be applied cumulatively
- Allows an agency to charge a flat fee of \$2 for providing copies when the estimated costs are expected to be \$2 or more.
- Creates the ability for cities to deny overwhelming computer generated "bot" requests.
- Prohibits overly broad requests for all of a city's records.
- Creates a way for cities to apply a service charge to exceptionally complex requests.

HB 1594 has been more significantly modified in the Senate. As reported last week, Sen. Miloscia (R-Federal Way) added a number of performance measurement reporting requirements to the bill. We heard concerns from a number of cities as well as other local governments about the impact of collecting those metrics. Staff proposed several additional changes to mitigate those impacts. However, we were only able to reach agreement on raising the threshold for agencies to report from those that spend \$40,000 per year on records request to \$100,000. We also agreed that the Joint Legislative and Audit Review Committee (JLARC) would work with agencies to develop a consistent reporting method. While we still have concerns about the impacts created by this reporting requirement, we want to see the bill continue to advance because of the other beneficial programs in the proposal.

HB 1594 includes the following:

- Requires training for records officers to address issues of retention, production and disclosure of electronic records.
- Creates a grant program within the Office of the Secretary of State for local governments to improve their public record management systems.
- Establishes a program within the Office of the Attorney General and the State Archives to consult with local governments on public records best practices.

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- Creates a study on the feasibility of establishing a statewide open records portal.
- Provides for a \$1 document recording fee to fund the consultation and grant programs.
- The funding and the programs will sunset in 2020.
- Updates the process for asking a requestor to clarify a request.
- Requires agencies to maintain a log of each records request.
- Requires agencies with actual budgeted public records costs over \$100,000 to report certain performance measurements to JLARC.

Personnel

Talk to your local media about budget impacts of potential LEOFF 2 costs

AWC has been hearing from cities across the state about the impacts from potential increases in Law Enforcement Officers' and Fire Fighters' Plan 2 (LEOFF 2) pension costs. This plan covers all full time commissioned law enforcement officers and firefighters. While the House budget does not change current law related to LEOFF 2 contributions, the Senate budget eliminates the state's 20 percent share of the contribution, increasing the employer's share from 30 percent to 50 percent. Fire districts would be exempt from this policy with the state continuing to pay its 20 percent share.

This cost shift to cities would increase city expenses by over \$70 million for the 2017-2019 biennium. The Senate budget's proposed rate structure is below and would go into effect on July 1, 2017. AWC has been encouraging cities to calculate the impact of this cost shift and share the impacts to your city with your local legislators. AWC also encourages all of our cities to reach out to local media to illustrate the alarming fiscal impacts a LEOFF 2 contribution change would create. We need to all work to draw attention to this major cost shift in order to prevent it from being included in the final budget.

	FY 2016	FY 2017	Senate proposal FY 2017-19
Employee	8.41%	8.75%	8.75%
Employer	5.05%	5.25%	8.75%
State	3.36%	3.50%	0%

continued

Public safety & criminal justice

Title: Multiple fire district bills continuing to progress in the Legislature

SB 5628 would create a mechanism for a city to establish a fire protection district with boundaries that equal the city's boundaries. The bill would make the city council the de facto fire commissioners unless otherwise delegated. To establish the district a city would: (1) adopt a resolution establishing the district; (2) create a financing plan; (3) hold a public hearing; and (4) the resolution must be approved by either a simple majority or, if a benefit charge is proposed, 60 percent of voters.

SB 5364 would change a number of RCWs related to fire districts. The bill would make many changes: modify the definition of fire protection districts to include regional fire protection service authorities, modify voter approval requirements to benefit charges, exempt certain properties from benefit charges (such as property owned by a public housing authority or by a nonprofit providing housing for individuals with developmental disabilities), allow unused levy capacity banking, and create a protection against levy pro-rationing.

Telecommunications Discussions continue on small cell deployment

While **SB 5711** is officially dead for this year, discussions continue about permitting of small cell facilities, pole attachment rates and other costs, and the need for more rural broadband. Cities, PUDs, Ports, telecommunications and cable companies all have been attending regular meetings with Governor Inslee's staff to discuss areas of possible agreement. There is a lot to disagree about, but for cities, there are two areas of particular concern: language that would preempt city authority to manage Rights-of-Way and city-owned infrastructure, and authority over municipal utility pole attachment policies.

As an alternative to preemption in the areas of permitting, ROW management and city-owned infrastructure, AWC and cities are refining language that would require cities above 5,000 population to adopt a small cell facility ordinance establishing a process for deployment of this infrastructure. This would give each individual city more flexibility to adopt an ordinance that would fit their own needs. Cities over 20,000 population would need to have an ordinance in place by the first of 2018, and cities above 5,000 population by July 2018. It seems clear that this new technology is going to be deployed in urban areas during the next several years; therefore, cities can begin planning now to be ready for it.

To read the latest draft of the city proposal, [click here](#). Share your comments with Victoria Lincoln or Dave Catterson at AWC.

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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

Dave Williams

Director of Government Relations
davew@awcnet.org

Candice Bock

Government Relations Advocate
candiceb@awcnet.org
Issue areas: Emergency management,
law & justice, liability, marijuana,
pensions, personnel & labor relations,
public records

Victoria Lincoln

Government Relations Advocate
victorial@awcnet.org
Issue areas: Energy, general
government, municipal finance, state
budget, telecommunications

Carl Schroeder

Government Relations Advocate
carls@awcnet.org
Issue areas: Environment & water,
housing, infrastructure, land use, state
building codes

Jane Wall

Government Relations Advocate
janew@awcnet.org
Issue areas: Economic development,
human services, infrastructure,
transportation

Logan Bahr

Government Relations Advocate
loganb@awcnet.org
Issue areas: Emergency management,
general government, health care (non-
personnel issues), human services, law
& justice, liability, marijuana, public
records

Dave Catterson

Government Relations Analyst
davec@awcnet.org
Issue areas: Economic development,
energy, environment & water,
housing, infrastructure, land use, state
building codes, telecommunications,
transportation

Vacant

Government Relations Analyst
Issues areas: Municipal finance,
pensions, personnel & labor relations,
state budget

Regina Adams

Government Relations Coordinator
reginaa@awcnet.org
Issues area: Federal

AWC CEO

Peter B. King, peterk@awcnet.org

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