



# Legislative Bulletin

May 22, 2017

## From the Director

### First special session ending – will a second help or hurt cities?

Partisan gridlock is alive and well in Olympia as the 30-day special session concludes in a near-empty Capitol on May 23. Learn what's likely to happen in June.

## Hot topics!

### AWC priority public records bills signed into law by Governor

Governor Jay Inslee signed into law **HB 1594** and **HB 1595**, AWC's two priority public records bills. The effective date of the two bills is July 23, 2017.

### What does it mean for cities if the Legislature fails to adopt a budget before June 30?

In 2015, the state faced similar budget gridlock and made a contingency plan for what would happen if a budget was not in place by the start of the fiscal year July 1. Find out what a government shutdown would mean for cities.

## Things you can do

### Five things you can do during special session

Legislators are in overtime pending a budget deal. Here are five actions you can take now:

1. Meet with legislators and give specific examples of why state-shared revenues matter to you.
2. Invite legislators to a council meeting and discuss how your city relies on state revenues and programs.
3. Ask for a commitment from your legislators that they won't support a budget deal that reduces the state-shared revenues that cities count on.
4. Talk to your local media and explain how cuts in state-shared revenues would impact your budget.
5. Read this mailer to discover what's at stake for cities and key messages.

## What you need to know

### Budget & finance

The Department of Revenue is hosting its annual meetings with local governments to connect with department staff and other jurisdictions on June 7 and 15.

### General government

Bill that requires ballot drop boxes in cities, towns signed into law.

### Marijuana

AG opinion requested on LEOFF 1 coverage of medical marijuana.

### Open government

New non-English emergency notice requirements signed into law.

### Personnel

New law creates requirements for accommodating an employee's pregnancy.

Paid sick leave draft rules released and public comment needed.

### Telecommunications

New small cell bill introduced.

## Media time

### Saving the Public Works Trust Fund is within our grasp

We are at a crossroads with the Public Works Trust Fund (PWTF). Coming into the 2017 session, we faced the very real possibility that all tax revenues and loan repayments would be permanently diverted, effectively shutting down the program for good. Fortunately, both the House and Senate have proposed some level of funding in their budgets to preserve the program. That's a good sign, but the PWTF could still be cut in the final budget negotiations. We need to keep up the pressure on legislators to make sure that the program continues. Watch this video to learn more and talk to your legislators about the importance of this program.

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# From the Legislative Director

## First special session ending – will a second help or hurt cities?

Partisan gridlock is alive and well in Olympia as the 30-day special session concludes in a near-empty Capitol on May 23. Governor Inslee has used this period to review and sign bills passed during the 105-day regular session – including AWC’s priority public records bills. He is expected to immediately call a second 30-day special session, giving him and legislators until late June to conclude their work.

Legislators have until Friday, June 30 to adopt a 2017-19 biennial operating state budget or the state government will begin to shut down over the 4th of July weekend. What that might mean, and how it could impact cities is outlined in this *Bulletin* article - [awcnet.org/Advocacy/Newsandupdates/LegislativeIssues/TabId/677/ArtMID/1863/ArticleID/1788/What-does-it-mean-for-cities-if-the-Legislature-fails-to-adopt-a-budget-before-June-30.aspx](http://awcnet.org/Advocacy/Newsandupdates/LegislativeIssues/TabId/677/ArtMID/1863/ArticleID/1788/What-does-it-mean-for-cities-if-the-Legislature-fails-to-adopt-a-budget-before-June-30.aspx)

In order to avoid that, leaders in both chambers need to get serious about negotiating and that has not happened yet. Legislators involved in the continuing efforts to constitutionally fund the K-12 education system are meeting and apparently making progress. Similarly, small clumps of legislators are discussing other policy issues like water availability and paid family leave. Senate Republicans have refused to hold serious conversations about the capital budget until water availability issues are addressed.

In the meantime, most legislators are at home awaiting word from budget leaders that it’s time to come back and start passing bills and grappling with the budgets. Whether they can accomplish this before June 22 is not clear. What *is* known is that once the call comes, they will rush back and move quickly. There will not be time or energy to change much of what leadership has put in the budgets. **At that point in session is when more than \$225 million in shared city revenues will survive or get cut.** It is important that legislators do not forget the importance of these funds to you, so if you have not already, please take a moment and connect with your legislators to remind them.

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# Budget & finance

## What does it mean for cities if the Legislature fails to adopt a budget before June 30?

In 2015, the state faced similar budget gridlock and made a contingency plan for what would happen if a budget was not in place by the start of the fiscal year July 1. Since a shutdown has never occurred in Washington State, nobody knows precisely what the impacts will be, and much depends on how long a state government shutdown lasts and what available options the Legislature may have to respond. The state's guidance to state agencies on contingency planning is available here - [ofm.wa.gov/agencycommunications/FY2017/OFM\\_memo\\_20170425\\_Contingency\\_Planning\\_for\\_State\\_Agency\\_Operations.pdf](http://ofm.wa.gov/agencycommunications/FY2017/OFM_memo_20170425_Contingency_Planning_for_State_Agency_Operations.pdf).

Most revenue distributions to cities from the state, such as sales tax and liquor revenue, are scheduled for the end of July. Based on the 2015 state contingency plan ([ofm.wa.gov/contingency/agency\\_planning.pdf](http://ofm.wa.gov/contingency/agency_planning.pdf)), the Department of Revenue will have a skeleton crew working to receive tax returns, make deposits, and ensure revenues are distributed to local governments. The State Treasurer will continue to operate the Local Government Investment Pool. The State Auditor will continue conducting local government and performance audits.

Some state services that are intertwined with cities, such as state business licensing and permits, will not operate in the event of a partial shutdown.

Other impacts are less clear. What happens with state grants and contracts will depend on the type of funding and which state agency administers it. Preparations similar to those that occurred in 2015 are underway in state agencies, and grant recipients and other funding recipients will soon start to receive official notifications as required by contracts that funding will be suspended on July 1 if there is no state budget. Cities that receive a letter or are concerned about specific grants should contact the agency administering it.

## DOR local government partnership meetings

**June 7 | Tumwater**

**June 15 | Moses Lake**

The Department of Revenue is hosting its annual meetings with local governments to connect with department staff and other jurisdictions. The agenda includes a legislative update on tax issues, partnering with the Business Licensing Service, taxability of IT contracts, and reporting unclaimed property.

Register here ([dor.wa.gov/content/doingbusiness/LocalGovtPartMtg.aspx](http://dor.wa.gov/content/doingbusiness/LocalGovtPartMtg.aspx)). Attend in person or via an online webinar option on June 7 in Tumwater, or in person on June 15 in Moses Lake.

# General government

## Bill that requires ballot drop boxes in cities, towns signed into law

**SB 5472** was signed into law on May 16 which requires county auditors to establish a minimum of one ballot box for each 15,000 registered voters in the county and in each city, town, and census-designated place in the county that has a post office. The law's effective date is July 23, 2017.

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# Marijuana

## **Opinion requested on LEOFF 1 coverage of medical marijuana**

The Attorney General's Office has received a request ([atg.wa.gov/pending-attorney-generals-opinions#Brusic](http://atg.wa.gov/pending-attorney-generals-opinions#Brusic)) for a formal published opinion on the ability of a LEOFF 1 disability board to cover the costs of medical marijuana for a LEOFF 1 retiree.

The actual question was posed by the Yakima County Prosecutor and reads as follows: "Does state law allow or require a county disability board to reimburse a member of the Law Enforcement and Fire Fighters Plan 1 (LEOFF 1) for medical marijuana, given considerations of federal law including potential effects on federal funding received by the county?" (Opinion Docket No. 17-04-04). For the full text of the inquiry click here - [agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/About\\_the\\_Office/AGO\\_Opinions/170416FergusonBrusicOpReqLtr.pdf](http://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/About_the_Office/AGO_Opinions/170416FergusonBrusicOpReqLtr.pdf).

Those interested in providing comment to the Attorney General's Office on this opinion request should notify Jeff Even, Deputy Solicitor General, [jeff.even@atg.wa.gov](mailto:jeff.even@atg.wa.gov), by May 24, 2017.

# Open Government

## **New non-English emergency notice requirements signed into law**

SB 5046 was signed into law on May 16, creating a new requirement for local emergency management organizations. Cities and towns are either 1) a local emergency management organization themselves, or 2) a member of a joint local emergency management organization (see RCW 38.52.070 for more info).

The new law requires each local emergency management organization that produces an emergency management plan to include a section that details plans for providing emergency notices of "life-safety information" to "significant population segments" of non-English speaking persons within their jurisdiction.

The law defines "life safety information" as: "information provided to people during a response to a life-threatening emergency or disaster informing them of actions they can take to preserve their safety. Such information may include, but is not limited to, information regarding evacuation, sheltering, sheltering-in-place, facility lockdown, and where to obtain food and water."

The law defines "significant population segment" as: "each limited English proficiency language group that constitutes five percent or one thousand residents, whichever is less, of the population of persons eligible to be served or likely to be affected within a city, town, or county. The office of financial management forecasting division's limited English proficiency population estimates are the demographic data set for determining eligible limited English proficiency language groups."

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## Governor signs AWC priority public records bills

The Legislature passed **HB 1594** and **HB 1595** when the House voted to concur on the changes made by the Senate. The House concurrence vote for both bills was a strong bipartisan showing of 80-18. The Governor signed the bills into law on May 16.

AWC would like to thank all of our cities who weighed in with your legislators about the challenges you face in upholding the public records act and the importance of the reasonable updates proposed in these two bills. We also want to express our appreciation to the Washington State Association of Counties for being such a strong partner in working on this issue.

And, of course, we want to send a huge thank you to our prime sponsors, Rep. Joan McBride (D-Kirkland) and Rep. Terry Nealey (R-Dayton). They spent countless hours over the past year working to get to this point. We also appreciate the efforts of many other legislators including Reps. Springer, Senn, Koster, and Hudgins and Senators Miloscia, Hunt, Schoesler, and Kuderer.

Passage of these two bills represents significant work with a large group of stakeholders spanning nearly 12 months. Cities are committed to open and transparent government and we have worked hard to have legislation that upholds that commitment while helping to address the challenges facing the public records act from ever-changing technology.



The effective date of the two bills is July 23, 2017. The following details explain what the bills do:

**HB 1595** 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 four files or attachments
- 10 cents per gigabyte
- These charges may be applied cumulatively

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The bill also:

- 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:**

- 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.
- 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

### **Paid sick leave draft rules released and public comment needed**

Voters passed Initiative 1433 in 2016 which raised the state’s minimum wage and required employers to provide paid sick leave to employees. The initiative provided that an employee shall accrue at least one hour of paid sick leave for every forty hours worked as an employee. The minimum wage portion of the initiative was effective Jan. 1, 2017 and the paid sick leave portion will become effective on Jan. 1, 2018. The new requirements will effect employers even if they currently a more generous or comprehensive leave policy.

To meet the 2018 effective date, the Washington State Department of Labor & Industries (L&I) drafted proposed rules governing paid sick leave and is actively soliciting feedback. The proposal can be found by clicking here - [https://s3-us-west-1.amazonaws.com/ehq-production-us-california/64333b2b4ff449112b8724ac8f2482fc0550fb01/documents/attachments/000/000/339/original/I-1433\\_Draft\\_Proposed\\_Rules\\_-\\_Pre-CR102.pdf?1491606888](https://s3-us-west-1.amazonaws.com/ehq-production-us-california/64333b2b4ff449112b8724ac8f2482fc0550fb01/documents/attachments/000/000/339/original/I-1433_Draft_Proposed_Rules_-_Pre-CR102.pdf?1491606888). The agency is accepting stakeholder feedback on this draft until May 31 and will develop the final rules through the end of the calendar year.

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The draft rules cover many aspects of the new law:

- How hours accrue;
- How they may be used;
- Employer notice requirements;
- Rates of pay that may be applied to the hours;
- Prohibitions on retaliation;
- L&I enforcement policy;
- Payroll records requirements; and more.

L&I created a comprehensive webpage about Initiative 1433 here (<https://lni.us.engagementhq.com/>) which includes proposed rules, stakeholder responses, and other ways to stay involved with the law's implementation.

## **New law creates requirements for accommodating an employee's pregnancy**

**SB 5835** was signed into law on May 16 which requires employers to provide reasonable accommodations for an employee's pregnancy and pregnancy-related health issues. With an effective date of July 7, 2017, the new law will apply to employers with fifteen employees or more.

The law provides that it is unfair practice for an employer to:

- Refuse to make reasonable accommodations for an employee for pregnancy, unless the employer can demonstrate that doing so would impose an undue burden;
- Take adverse action against a qualified employee who requests, declines, or uses an accommodation under the new law that affects the terms, conditions, or privileges of employment;
- Deny employment opportunities if such denial is based on the employer's need to make reasonable accommodation under the new law; and
- Require an employee to take leave if another reasonable accommodation can be provided for the employee's pregnancy.

The law defines "reasonable accommodations" as including:

- Providing more frequent, longer, or flexible restroom breaks;
- Modifying a no food or drink policy;
- Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;
- Providing seating or allowing the employee to sit more frequently if her job requires her to stand;
- Providing for a temporary transfer to a less strenuous or less hazardous position;
- Providing assistance with manual labor and limits on lifting;
- Scheduling flexibility for prenatal visits; and
- Any further pregnancy accommodation an employee may request, and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the Department of Labor & Industries or the attending health care provider of the employee.

The law also directs the state Department of Labor & Industries (L&I) to develop education materials explaining the rights and responsibilities of employers and employees under the new law.

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# Telecommunications

## New small cell bill introduced

As we have been reporting since last December, a coalition of some telecommunications providers has been working to move legislation aimed at advancing the deployment of new telecommunications technology that relies upon small cell networks. Unfortunately, the path they chose was to introduce a bill (**SB 5711**) that contained sweeping preemption of cities' current authority to manage the public rights-of-way, set appropriate fees to cover costs, and adopt permitting processes that accommodate installation of new telecommunications facilities while addressing community concerns.

When that bill encountered strong opposition from cities and Public Utility Districts (PUDs) we were asked to bring forward our own proposal. In the meantime, the Governor's office became more involved in the issue as they are seeking ways to expand broadband access for underserved areas. Based on those ongoing discussions and input, Senators Tim Sheldon (D-Potlatch) and Reuven Carlyle (D-Seattle) introduced **SB 5935**. Recognizing that small cell facilities are coming to cities around the state for use during emergencies and as a new service offered by wireless companies, this bill would require cities with population above 5,000 to adopt a small cell facility ordinance establishing a process for deployment of this infrastructure. Unlike **SB 5711** this bill would give each individual city more flexibility to adopt an ordinance that would fit their own needs. Cities over 20,000 in population would need to have an ordinance in place by nine months after the effective date of the bill, and cities with a population between 5,000 and 20,000, 12 months after the effective date.

Given the clear lack of consensus amongst legislators on the best approach to this issue, it is unclear whether any of the telecommunications bills will be able to pass. No matter what happens, it seems clear that new telecommunications technology is going to be deployed over the next several years and cities can begin planning now to get ready for it.

## 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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