ASSOCIATION OF WASHINGTON CITIES

Legislative Bulletin

July 10, 2017

Hot topics!

Long-standing AWC priority marketplace fairness act passes as part of budget revenue package
The state marketplace fairness bill passed during budget negotiations. Learn what's included.

Capital budget fate still unclear and linked to water rights fight
Legislators are trying to find consensus on two water rights fights holding up the capital budget. Otherwise, the state faces the very real risk of not passing a capital budget.

Legislature passes new statewide Paid Family & Medical Leave program
The Paid Family & Medical Leave program passed in the final hours of the budget deals. Find out how it works and what provisions are included in the new program.

From the Director

Legislature still not finished as AWC begins identifying 2018 priorities
Most of the state's budgets have been adopted and signed by the Governor, but legislators have yet to adjourn their third special session. Find out what's left in addition to the capital budget, and how it impacts cities.

Things you can do

Thank your legislators!
The 2017 legislative session was long and grueling for legislators. They sorted through a lot of competing priorities and heard from many voices in their communities. Ultimately, legislators made some tough decisions to pass this historic budget. Take a minute to drop them a line and say thanks, particularly if they were a strong supporter of city priorities.

Media time

Advocacy All-Star Award video
We awarded nine individuals and two groups with AWC's Advocacy All-Star Awards this year, which recognize and celebrate the actions of city officials who consistently advocate for all 281 cities and towns. Watch this short video to see some of this year's winners discussing their strategy when working with legislators.

What you need to know

Budget & finance
Property tax bill not addressed in budget negotiations.

More information on the McCleary education funding agreement.

Economic development
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Marijuana
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From the Legislative Director

Legislature still not finished as AWC begins work identifying priorities for the 2018 session

The state's operating, transportation and supplemental budgets have been adopted and signed by the Governor, but legislators have yet to adjourn while still in their third special session, ending July 20. AWC and many legislators hope a capital budget can be passed so that critical funding for numerous infrastructure programs and projects can move forward.

At issue is whether or not a compromise can be reached on how and if to address two recent state Supreme Court rulings affecting water availability for development. These cases known as Hirst and Foster turned water management on its head by requiring local government to independently assess the legal availability of water in parallel with the state (Hirst) and eliminating the opportunity for creative mitigation to offset impacts of new water rights, changes or transfers (Foster). Compromise agreements to address these have so far eluded legislators and the Senate majority has refused to adopt a capital budget until there is agreement on these complex water issues. Read more about this issue here - awcnet.org/Advocacy/Newsandupdates/LegislativeIssues/TabId/677/ArtMID/1863/ArticleID/1838/Capital-budget-fate-still-unclear-and-linked-to-water-rights-fight.aspx

As we've reported previously, AWC appreciates that the operating budget agreements maintain the bulk of revenues shared with cities and provide some new revenues (internet sales tax collections on out-of-state retailers and bottled water). A more detailed chart of city impacts provides more information.

As the clock ticks towards the end of this third special session, AWC is gearing up to provide a summary of legislative accomplishments. Look for our annual *Final Bulletin* within a month of session ending and action by the Governor on any final bills.

Also, we've begun seeking and considering ideas for our legislative priorities for the upcoming 60-day session in 2018. Our Legislative Committee is set to meet in late July to begin sorting through ideas.

Look for more information in August and September as this process unfolds. Recommendations will be sent to the AWC Board of Directors for their consideration in late September after which AWC will hold Regional Meetings around the state to discuss issues during October and early November.

continued

Budget & finance

Where to get more information on the *McCleary* education funding agreement

HB 2242 provided the majority of the framework for the *McCleary* fix that has been the primary issue of the 2017 session. While not directly impacting cities, this significant legislation has a number of provisions of interest. Under the court order, the state will provide a report on its funding progress after the special session ends, and the court will evaluate whether this solution meets the constitutional requirement for funding basic education.

Overall, the budget directed $7.3 billion in funding over four years from 2017-21 to education. Of that, approximately $4.1 billion is funded with a new state property tax levy, which in conjunction with the current state levy will increase the total levy by about $0.82 per thousand assessed value to a set rate of $2.70 per thousand assessed value. The rate is set at that amount for the next four years, and exempt from the one-percent property tax levy limit for those four years. Thereafter, both state levies will be subject to the one percent levy limit.

Following are some other key provisions:

Teacher compensation
Of the $7.3 billion funding over four years 2017-21, $6 billion is compensation-related. With this funding are a number of new statewide provisions for compensation:

- New salary ranges for three categories of school employees with maximum amounts and defined adjustments by factors for regional differences and specialized or in demand categories such as special education. Salary ranges will be adjusted for inflation, limited to increases based on the implicit price deflator (IPD) instead of the consumer price index (CPI) beginning in 2020.
- Additional hold harmless provisions for districts with salaries above the new ranges, with a phase down through 2023.
- A new employee allocation for healthcare, based on the current rate for state employees in the public employees benefits board (PEBB). A new school employees benefit board (SEBB) is established within the PEBB to offer a single pooled health benefits to all school employees, and health benefits are removed from the scope of school employee collective bargaining.

Basic education funding formula

- The funding formula for school district funding is adjusted to a new per student allocation, plus additional allocations for high poverty school instruction hours, special education, and a new learning assistance program funding.
- I-1351, which provided for additional class size reductions beyond the K-3 changes already mandated by legislation in place before the McCleary decision, is redefined as staffing enrichments outside of the definition of basic education. A task force is established to review class size needs.

Changes to local levies

- In addition to the state levy described above, new limitations are put in place for local levies to further limit future reliance on local levies for basic education services. Beginning in 2019, local levies are capped at $1.50 per thousand assessed value or $2,500 per pupil beginning in 2019.
- Local levies must be approved by the Office of the Superintendent of Public Instruction (OSPI) to ensure they are for enrichment purposes and supplement basic education.

For more information, see the K-12 statewide summary or additional materials on the K-12 proposal on the LEAP budget page.

continued

Property tax bill not addressed in budget negotiations

While the Legislature changed the state property taxes as part of the funding sources for the McCleary "fix" for schools, we were disappointed that the budget proposal did not include a new local option to allow cities or counties to increase property taxes greater than one percent, or any other new "cap."

AWC priority bill **HB 1764**, would have changed the annual property tax limit from one percent to a limit linked to inflation and population growth.

Long-standing AWC priority marketplace fairness act passes as part of budget revenue package

EHB 2163 passed on the last day of session with several pieces of provisions that cities supported in the previous revenue proposals **HB 2186** and **SB 5929**, including passage of a state version of a long-standing AWC priority, the Marketplace Fairness Act. The bill is expected to raise $445.4 million in 2017-19 and $864.1 million in 2019-21 in revenues for the state general fund.

Here are some of the major provisions of the bill:

Marketplace fairness act

- Requires internet and out-of-state retailers to collect sales taxes or provide customer names and notice for use taxes, effective January 1, 2018
- For estimates of impacts by city, see AWC's Open Data Portal

Other sales tax impacts

- Repeals sales tax exemption on bottled water
- Narrows sales tax exemption on self-produced fuel and provides a new state use tax for refinery self-produced fuel

Streamlined sales tax mitigation

- Phases out streamlined sales tax (SST) mitigation to jurisdictions impacted by the 2007 change to destination-based sourcing due to increased internet sales tax revenues from the marketplace fairness provisions
- The appropriation for mitigation in the budget includes mitigation for cities, counties, and PFDs, offset by new revenues as provided in **EHB 2163**
- The calculation for mitigation is amended to include an offset for new revenues from new retailers under the mainstreet fairness provisions, in the mitigation calculation of net losses which is currently offset by new voluntary compliance revenues under SST
- Transit authorities are excluded from eligibility for mitigation beginning July 1, 2017 through a change to the definition of local jurisdiction
- Repeals mitigation for cities and counties on October 1, 2019
- A related proviso in the budget includes a Department of Revenue study of impacts of new internet sales tax on mitigation jurisdictions by November 1, 2018

HB 2163 did not include another provision that had been included in **HB 2186** and that AWC supported for a graduated rate for the state Real Estate Excise Tax (REET). That proposal would have established a graduated rate for the state REET. The graduated rate would have resulted 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 percent for sales over $5 million. AWC also had requested similar authority for cities as a local option.

continued

Economic development

Tourism marketing effort revived in final hours of budget negotiations

The tourism marketing bill **2SSB 5251**, sponsored by Senator Dean Takko (D-Longview), regained momentum as legislators raced to pass an operating budget before July 1. **SB 5251** relies on an appropriation to get underway.

While **SB 5251** has yet to pass the Legislature, the fact that the Legislature appropriated money in the budget is a strong indication the bill is on its way to passage. The 2017-19 operating budget dedicates $500,000 to this new endeavor. **SB 5251** creates a tourism marketing authority that would undertake a statewide tourism-marketing plan in an effort to revive Washington's flagging tourism marketing industry. The bill also establishes a new marketing account within the state treasury.

An early version of the bill redirected some of the general sales taxes collected on rental cars for the marketing authority. Rental car taxes are deposited into the multimodal account, which funds a number of transportation-related projects and programs that cities benefit from, including grants for bicycle and pedestrian projects, safe routes to schools, and support for transit. AWC expressed concern over this transfer and the bill was amended to take the transfer out. AWC is supportive of the current version of the bill.

Infrastructure

Capital budget fate still unclear and linked to water rights fight

Legislators continue to try to find consensus on a controversial water rights fight holding up the adoption of the state's capital budget. During budget negotiations on the final day of the fiscal year, a tentative deal fell apart in the early hours of the morning. The proposal (amendment to **SB 5239**) would have permanently addressed the *Hirst* case and clarified that local governments can rely on the state to regulate water availability. The proposal included a significant new fee for well drilling that, combined with capital budget investments, would have resulted in major new permanent funding for stream flow restoration efforts.

The proposal regrettably did not include any resolution of the *Foster* case - leaving municipal providers who need to secure water for future growth in a precarious position and unable to move forward. Tribal interests fought vigorously against this deal. Ultimately neither chamber brought up or passed legislation that would have fixed it.

Negotiations on the capital budget were postponed by the Senate majority until the water issues were dealt with to their satisfaction. The House Democrats and House Republicans sent over a new capital budget very late in the night that represented what a negotiated budget could look like. The Senate declined to take this budget up.

The path forward from here remains unclear. Somehow both chambers must figure out how to find common ground on this divisive topic or the state faces the very real risk of not passing a capital budget.

continued

Marijuana

New budget imposes restrictions on local marijuana revenue

Local government marijuana mitigation revenues were reduced from $30 million to $12 million for cities and counties in the 2017-19 biennium. This comes at a time when a new formula for distributing marijuana revenues, per a 2015 law, comes into effect: 30% of the distribution will be based on jurisdictions' marijuana retailer sales and 70% will be based on a per capita basis (this only includes jurisdictions that allow marijuana businesses). Due to these factors, the amounts of local marijuana distributions are, at this time, difficult to project. AWC will continue to work with the Liquor and Cannabis Board to provide greater clarity for our members.

The budget also provides that if the Feb. 2018 forecast of general fund revenues exceeds the June 2017 general fund forecast by over $18 million, local governments may receive an additional $18 million in the 2017-19 biennium. However, in all biennia following 2017-19, the budget imposes a $6 million per fiscal year limit on marijuana distributions.

Personnel

Rulemaking continues on new paid sick leave requirement – public hearings set

Voters passed Initiative 1433 in 2016 raising the state's minimum wage and requiring employers to provide paid sick leave to employees effective January 2018. The initiative provides that an employee shall accrue at least one hour of paid sick leave for every forty hours worked as an employee.

The Department of Labor and Industries (L&I) has been working to draft rules implementing the new law. On July 6, the agency released the latest version of the draft rules (lni.wa.gov/rules/AO17/02/1702Proposal.pdf) for comment. AWC previously provided written comment (lni.us.engagementhq.com/725/documents/509) on the earlier draft. We are now reviewing the latest version in anticipation of providing additional feedback.

In addition to accepting written comments, L&I is hosting a series of public hearings around the state this August to gather feedback. The deadline for comment on the latest draft is September 1.

The public hearings are set for the following dates and locations:

August 8, 2017, 10 am
Labor & Industries Headquarters
Auditorium
7273 Linderson Way SW
Tumwater, WA 98501

August 16, 2017, 10 am
Spokane CenterPlace Auditorium
2426 N. Discovery Pl.
Spokane Valley, WA 99216

August 17, 2017, 10 am
Columbia Basin Community College,
L102, Building L
2600 North 20th Ave.
Pasco, WA 99301

August 29, 2017, 10 am
Xfinity Center, Edward D Hansen
Conference Center, Ballroom 3 South
2000 Hewitt Avenue, Suite 200
Everett, WA 98201

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

continued

Legislature passes new statewide Paid Family & Medical Leave program

As part of the whirlwind activity to pass the operating budget on June 30, the Legislature passed **SSB 5975**, instituting a new Paid Family & Medical Leave program. The program was heavily negotiated during the past two months and the parties reached a tentative agreement in June.

The program is intended to cover all employees and provide paid leave for a medical disability as well as paid leave to care for a family member.

The new program will apply to public sector employers and employees including cities. Premiums will begin to be collected in 2019 and benefits will follow in 2020.

The new program includes the following provisions:

- The Employment Security Department (ESD) will administer the program. ESD will collect the premiums (beginning in 2019) and make the payments to covered individuals (beginning in 2020).
- Employees must work 820 hours in the last five quarters to qualify – once they qualify, they are vested and there is no waiting period to use the benefit even if they change employers.
- There will be 12 weeks of family leave and 12 weeks of disability leave with a combined 16-week cap in a twelve-month period (up to 18 weeks for pregnancy related complications).
- Employees will receive a percentage of their weekly wage, with the lowest paid employees receiving 90 percent of their average weekly wage. Those earning more will receive a lower percentage with a maximum benefit of $1,000 per week.
- Premium sharing will be 45 percent employee paid and 55 percent employer paid for the disability leave portion of the program and 100 percent employee paid for the family leave portion of the program. Only employers with more than 50 employees will pay the employer premium, but all employees will pay the employee share.
- The initial premium rate is set at 0.4% of wages. The employers share is 37%. For planning purposes, you would assume that you take your total payroll and then you multiply that by 0.4% and take that premium amount and multiply it by 37% to get the employer-paid share. The remaining 63% will be paid by employees. However, the law does allow employers to elect to pay the full premium.
- Job protections provisions will be similar to the federal Family and Medical Leave Act (FMLA) and only apply to employers with 50 or more employees.
- There will be a voluntary plan option for employers who offer equal to or better benefits to seek a waiver from the state program. There is not a specific exemption for Collective Bargaining Agreements.
- Employers may request unemployment benefits charges that result from hiring a temporary employee who was laid off due to the return of an employee using these benefits.
- Leave taken under this program will run concurrently with leave taken under FMLA.
- Cities are preempted from adopting additional requirements for family and disability leave for employers in their jurisdictions.

continued

LEOFF 2 state contribution maintained in the 2017-19 budget but other LEOFF 2 changes made

The newly-passed 2017-19 biennial budget maintains the state commitment to funding their 20% share of the LEOFF 2 contributions ($70m in 2018, $73.3m in 2019). AWC thanks all the members who reached out to their legislators to tell them to continue funding LEOFF!

However, the budget also contained two minor LEOFF 2 items. One of them will have an immediate impact on cities that provide contracted public safety services to third parties.

Special event contributions

The budget made a change to contribution levels when a LEOFF 2 member provides services for a fee. During fiscal years 2018 and 2019, when a LEOFF 2 employer charges a fee or recovers costs for work that is performed by a LEOFF 2 member, while receiving their basic salary (pensionable compensation), the employer must cover both the employer and the state contributions. Examples of this could include providing emergency services or security for a fee at festivals or sporting events.

Local Public Safety Enhancement Account

The budget deferred funding the Local Public Safety Enhancement Account. This account was created in 2008 to provide local jurisdictions added public safety funding and to provide enhanced pension benefits to LEOFF 2 members. The account has never been fully funded. The Governor vetoed a subsection of the budget that stated that the enhanced pension benefits could be paid by the LEOFF 2 pension fund.

Public safety

Budget includes boost in public defense grants

The new state budget includes a boost in public defense grants for cities. This issue was finally addressed thanks to the hard work and diligence of a number of cities. AWC supported several bills this session including SB 5676 to try to fix an issue created when the 2015-17 budget was adopted, but these bills failed to advance. We appreciate the work that went into ensuring that this fix was included as a budget proviso.

In January 2014, new misdemeanor public defense standards took effect as mandated by the Supreme Court. The result was increased public defense service costs for many cities and counties. AWC, the Washington Association of Counties (WSAC), and the Office of Public Defense (OPD) sought additional revenues to help offset these new costs. In 2015 we were successful in getting the Supreme Court to adopt a modest increase in the base infraction fine, and subsequently, in asking the Legislature to dedicate $900,000 per year of that new revenue to OPD for the public defense grant program. However, the new money was still subject the old split of 90 percent to counties and 10 percent to cities. AWC and WSAC worked jointly on this effort and had agreed to share any new funding equally. The newly adopted 2017-19 budget corrects the split effectively dedicating $450,000 to cities' public defense grants.

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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