



# Legislative Bulletin

November 14, 2017

## From the Director

### Control of the state Senate shifts – How might it impact cities?

Senate Democrats have regained the majority after five years of Republican control. Find out what it means for cities including the capital budget, a potential state Voting Rights Act, the McCleary fix, and Governor Inslee's plans.

## Things you can do

### Develop your city's legislative agenda and share it with the public, media, and legislators

Developing a legislative agenda before session is a simple and effective way to get your legislators' attention.

- Keep it short and simple – one page only.
- Add credibility by having your city council adopt it before session.
- Include capital needs along with policy priorities.
- Incorporate AWC's Legislative Priorities into your agenda.
- Make it public. Post it on your city's website, put it in your newsletters, and insert it into utility bills.
- Work with your local media for coverage.

Find examples of cities' legislative agendas from past years on our website, and send your 2018 priorities to Regina Adams, Government Relations Coordinator.

## Media time

### Top ten steps to take for a successful legislative session

January is nearly here – take advantage of the interim and engage your legislators on important city issues now. Need ideas? See this handy top ten list. Better yet, print it and refer to it often. Can you complete all ten actions? Doing so could win you a 2018 AWC Advocacy All-Star award!

## What you need to know

### Budget & finance

Watch for a survey related to development of the business license model threshold.

Updates on partnership options for business license administration.

B&O tax apportionment task force continues to meet.

Studies on streamlined sales tax mitigation impacts.

### Economic development

City leaders speak at rural jobs summit.

### General government

Early action on Voting Rights Act legislation expected in 2018 session.

### Infrastructure

Capital budget remains locked up.

"State bank" task force to produce report by the end of the year.

### Open government

Guidance on public records data reporting to JLARC expected soon.

### Personnel

Webinar on new paid sick leave law taking effect January 2018.

DRS releases updated guidance on the new LEOFF 2 "third party contract rule."

### Public safety & criminal justice

Workgroup reviewing Washington's civil asset forfeiture laws.

### Transportation

Innovations and Partnerships in Transportation Conference is December 5 in Tacoma.

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# From the Legislative Director

## Control of the state Senate shifts – How might it impact cities?

Following a special election in the Seattle suburbs last week, Senate Democrats regained the majority by one vote after five years of Republican control. With a slim two-vote majority in the House, there's lots of speculation (but few certainties) about what might happen during the upcoming 60-day legislative session starting on January 8.

We do know the power shift in the Senate will result in a shake-up of who chairs and sits on committees, some of which may be restructured. We also expect certain issues to come up like a Washington version of a Voting Rights Act that could propel more cities to establish district voting systems for council elections. Efforts will also continue to pass the stalled capital budget that funds critical local projects. It's not yet clear whether the Senate Republicans will continue to link the capital budget's passage to a resolution of a contentious water rights issue (the *Hirst* case). Some Republicans' votes are needed on the budget in order to meet the supermajority requirement to pass a bond bill.

A Democratic majority in the Senate likely provides more opportunities to consider ways to better address the deepening homeless and chemical dependency crisis facing many of our communities. These problems are increasingly recognized by both sides of the political aisle and AWC welcomes the chance to find ways that the state can support local efforts to address these challenges.

Governor Inslee will also seek progress on important items that have stalled when the Senate was controlled by Republicans. Expect to see proposals to tax carbon (which would include new revenue to address reducing emissions from congested traffic) and possible consideration of other revenue like a capital gains tax.

The state Supreme Court also has more to say on the K-12 related McCleary decision. The plaintiffs argued recently that the budget doesn't adequately fund the K-12 system and the state argued it did. The funding package was a major issue in the Senate race that gave Democrats back control and they're likely to revisit the issue regardless of what the court thinks. Anytime legislators start looking for different ways to fund priorities, cities are vulnerable to cuts or diversions from state-shared revenues.

All of these ideas and more will be discussed during what's expected to actually be a 60-day session. Legislators must revisit their recently-passed biennial budget due to some drafting errors when hurriedly passed in late June, as well as how to allocate higher than expected revenues. With Democrats in charge, they'll likely want to show they can manage the calendar and get out on time for a change – and all legislators want to start fundraising for the 2018 election, which they can't do when in the Legislature is in session.

Look for updates as we learn more about what's planned and possible. Remember, there's no better time than now for you to connect with your legislators to let them know what you need and learn what they need from you. For best results, make contact before January. See our 2018 city legislative priorities ([awcnet.org/Advocacy/Citylegislativepriorities.aspx](http://awcnet.org/Advocacy/Citylegislativepriorities.aspx)) for a refresher.

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# Budget & finance

## Business license workgroup

The city workgroup developing the city business license model threshold required to be completed by July 1, 2018 under **EHB 2005** has continued to meet. The group is developing a model threshold that all cities with business licenses will be required to adopt by January 1, 2019.

To help inform the committee's work, AWC will be sending a survey to city finance directors soon asking for information on current thresholds in cities, the characteristics of cities' business license holders, and preferences for the basis for a threshold and the amount of the threshold. We appreciate your city's assistance in providing information for this important project.

In addition, AWC is in the process of reaching out to regional city groups for presentations on this project and other aspects of implementation of EHB 2005. If your regional group would like to schedule a presentation in 2018, please contact Regina Adams.

## Business license portal participation

**EHB 2005** requires all cities with business licenses to partner with either the state's online business license service for business license administration by 2027 or the city-operated FileLocal system for local tax and license administration by 2020.

The Department of Revenue (DOR) has released its first draft implementation plan for the 2019-21 biennium and has started working with cities on the list of potential implementation timelines. Under this implementation plan, nine cities will be onboarded to the business licensing service in 2018 and 15 in 2019.

For more information on these systems, see the following websites:

Business Licensing Service - [dor.wa.gov/doing-business/business-licensing-service-and-local-licensing](http://dor.wa.gov/doing-business/business-licensing-service-and-local-licensing)

FileLocal - [filelocal.org](http://filelocal.org)

## Apportionment workgroup

The final workgroup created by **EHB 2005** is a task force of city and business representatives to evaluate the two-factor apportionment formula for service-income for local B&O taxes and to recommend changes to RCW 35.102.130 by November 2018. The task force members have been discussing what does and does not work under the current model and have been learning about different methods for market-based tax apportionment models used in other state tax systems. The current apportionment method took effect in 2008 and both cities and businesses have found it difficult to administer the second factor of the allocation formula related to service income based on contacts with customers.

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## **Streamlined sales tax studies**

**EHB 2163** imposes new requirements on more out-of-state internet retailers to collect sales tax or report customer sales, and notify customers for use tax purposes. The bill also created a study of potential impacts to cities receiving mitigation. The Streamlined Sales Tax mitigation advisory committee will be working with DOR to determine impacts for mitigation and is meeting later this year to discuss DOR's implementation plans. As part of that process, DOR has been collecting questions from cities on implementation of **EHB 2163** and other aspects of mitigation impacts. If your city has additional questions, please email them to Valerie Torres.

The operating budget also included a DOR study on the impacts of destination sourcing and marketplace fairness on jurisdictions with concentrations of warehousing by November 2018 to provide information on potential policy recommendations to the Legislature before mitigation ends in October 2019. AWC will be appointing an advisory group of impacted cities, business representatives, and ports to look at the policy implications of the economic impact and to make recommendations that will be included in DOR's report. Interested cities are welcome to attend the meetings to monitor the group's discussions and work. If you would like to be added to a distribution group for meeting information, please contact Andrew Pittelkau.

Meanwhile, the Supreme Court has been asked to review a South Dakota law enacted as a direct challenge to the 1992 Quill case that determined that physical presence was required for sales tax collection requirements to be imposed on out-of-state retailers under the commerce clause of the U.S. Constitution. South Dakota and several amicus briefs by national organizations representing state and local governments have asked the Supreme Court to accept review to overturn the 1992 decision. For more information see NLC's breakdown of the issue at [nlc.org/article/south-dakota-asks-supreme-court-to-consider-online-sales-tax](http://nlc.org/article/south-dakota-asks-supreme-court-to-consider-online-sales-tax).

## **Economic development**

### **City leaders present at rural jobs summit**

The Association of Washington Business (AWB) held a rural jobs summit in Moses Lake to discuss the rural economy. Two city officials participated in a panel alongside two county commissioners to discuss the local government perspective. Twisp Mayor and AWC Board member Soo Ing-Moody, and Kelso City Manager Steve Taylor shared their experiences living in rural communities. Mayor Ing-Moody shared that access to rural broadband, workforce housing, and limits to workforce and financial resources are the primary barriers to economic development in her area. Taylor shared that the Kelso-Longview area has primarily struggled with an unpredictable regulatory environment that has kept industry away. Specifically, three "mega-projects" have met significant delay due to permitting issues. Taylor would like to see streamlined permitting processes at both the state and federal levels.

Streamlined permitting processes was a theme that resonated throughout the day at the summit, and not only with the local government panel. Multiple presenters from industry and government argued that they have struggled to incentivize and spur development in their regions when faced with the regulatory environment. Many

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argued that rural areas frequently depend more on the use of natural resources for economic development, uses that are met with more stringent regulatory processes. This in turn creates additional barriers to economic development in these areas. While many asked for better, and more streamlined, regulatory processes, others also suggested assistance could come in the form of a “rapid response” office set up within government that could assist local communities when responding to large economic development opportunities.

In addition to industry and local government representatives, many state legislators attended the summit. The final panel of the Summit included Senate and House leadership. Speaker of the House Frank Chopp (D-Seattle), Senate Majority Leader Mark Schoesler (R-Ritzville), Senate Ranking Minority member of the Agriculture, Water, Trade and Economic Development Committee Maralyn Chase (D-Edmonds), and House Minority Leader J.T. Wilcox (R-Yelm). They discussed their visions for economic development in our rural areas. Senator Schoesler argued that it boils down to several key priorities, fixing the water issue in rural areas (Hirst - [awcnet.org/Advocacy/Newsandupdates/LegislativeIssues/TabId/677/ArtMID/1863/ArticleID/1802/Legislature-still-struggling-to-find-fixes-for-water-management-issues.aspx](http://awcnet.org/Advocacy/Newsandupdates/LegislativeIssues/TabId/677/ArtMID/1863/ArticleID/1802/Legislature-still-struggling-to-find-fixes-for-water-management-issues.aspx)), access to broadband, and streamlining the regulatory environment. Representative Wilcox focused much of his remarks on farming, a subject he is intimately familiar with. Speaker Chopp and Senator Chase touched on what their caucuses have done to help spur rural development, as well as shared ideas for the coming session.

As we move into the 2018 legislative session it is clear rural economic development is on the minds of many – industry, local government and state leadership. Economic development is one of AWC’s priorities for the 2018 session ([awcnet.org/portals/0/documents/legislative/legpriorities.pdf](http://awcnet.org/portals/0/documents/legislative/legpriorities.pdf)), and we will continue to follow this issue closely as we work towards ensuring all of our communities are given opportunities and tools for success.

## **General**

### **Early action on state Voting Rights Act legislation expected in 2018 session**

For a number of years, the Legislature has debated proposals to create a Washington State Voting Rights Act. If a Washington voter presently believes that, as a member of a protected class, they do not have an equal opportunity to elect members of their choice, there exists a federal Voting Rights Act. The federal law broadly prohibits any voting procedure that impairs equal opportunity to elect candidates from minority groups. The Washington State version of the bill would implement a state Voting Rights Act, creating an opportunity to challenge specific local governments’ voting procedures in state court. After a voter gives notice to a local jurisdiction of a possible violation, if the local jurisdiction fails to implement a satisfactory solution within 180 days, a claim may be filed in state court.

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This proposal would do the following:

- Apply to cities and towns above 1,000 population, as well as school districts with more than 250 students, counties, fire districts, port districts, and public utility districts. It does not apply to statewide elections.
- Allows voters to file notice with a local government that they intend to challenge the election process. The local jurisdiction would have 180 days to implement a remedy, or, if no action is taken, then the voter may file a legal action alleging a violation under the Act.
- If a violation under the Act is determined, the court may order the jurisdiction to adopt a district-based election process, may order redistricting, or another remedy.
- Depending on the timing of adoption of districts or other changes, special elections would be triggered for council positions with more than two years remaining.
- If the local jurisdiction adopts a remedy either as a result of the notification or by a court-approved remedy, then no legal action may be brought against the local jurisdiction for the next four years.
- Amends state statute to expressly allow non-charter code cities, second class cities and towns to adopt district-based election systems (or other types of voting methods) in general elections.

There are numerous other details in this proposal and there is the potential for this bill to impact a significant number of cities and towns. The bill is eligible for consideration again in 2018. The Legislature is expected to begin debate on this the first week of session and, given that about half of the members of the House cosponsored the bill, it will likely move very quickly.

AWC is working to identify actions cities can take to be proactive. There are some steps that cities can take now, such as engaging minority groups within your city, evaluating past elections to understand how your city's election system works, and seeking advice from experts on this issue. AWC will continue to fine-tune information and identify ways to assist.

## **Infrastructure**

### **Capital budget remains locked up**

Unfortunately, we do not have promising news to report on the capital budget front. There have not been any breakthroughs on the water issues holding back resolution. With the apparent shift in majority control to Democrats in the State Senate, we may finally see some more action in the coming weeks. However, four Republicans in the Senate and nine in the House must be willing to vote to authorize the bonds necessary to fund most of the capital budget. Authorization for the state to incur debt requires a 60 percent majority vote in each chamber.

One of the biggest questions on this issue is whether the Republican caucuses will successfully maintain their unity on this potential vote. Another large unanswered question is whether the majority Democrats will force the issue by putting the question up for a vote, or whether they will continue to try to find resolution on the water issues.

On that front, we are still waiting for the House Democrats to bring forward a proposal and re-start the negotiations. We have been held up at this stage for the last several months. We have been told to expect to see language during committee days this week.

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To end on a more optimistic note, we have had a number of promising discussions with all sides over the last several weeks. Should the negotiating process ever restart in earnest, we believe the ingredients for compromise and ultimate resolution are in play.

## **“State bank” task force to produce report by the end of the year**

The 2017 Legislature established a task force on public infrastructure and a publicly-owned depository ([tre.wa.gov/about-us/infrastructure-public-depository-task-force/](http://tre.wa.gov/about-us/infrastructure-public-depository-task-force/)) to explore the scope of financial needs for local governments for constructing public infrastructure and to examine the feasibility of creating a publicly-owned depository, i.e. “state bank.” The goal of the bank would be to facilitate investment in, and financing of, public infrastructure systems that will increase public health and safety, and leverage the financial capital and resources of Washington State by working in partnership with financial institutions that benefit local communities, or with community-based organizations, economic development organizations, local governments, guaranty agencies, and other stakeholder groups to create jobs and economic opportunities within our state for public benefit.

Over the course of the last month the task force has met a number of times to begin its work on the issue. Unfortunately, AWC was not given a seat on the task force, but we were given the opportunity to present at its October 31 meeting. In our presentation, AWC provided an overview of the various types of infrastructure cities are responsible for, and discussed the challenges we’ve faced in securing and maintaining infrastructure with, and without, rate bases. AWC is very open to the concept of finding new ways in which to finance public infrastructure, but we caution any new program must have assurances local revenues and deposits are safe from future state raids.

As the task force continues to meet and explore funding options, AWC will remain an active participant in discussions and continue to provide updates on its progress. A report including recommendations is due to the Legislature by December 1, 2017.

## **Open government**

### **Public records performance metrics in HB 1594 - Guidance expected soon**

The Joint Legislative Audit and Review Committee (JLARC) is required to begin collecting data in July 2018 for the 2017 calendar year for agencies that spend at least \$100,000 per year on public records requests. JLARC is expected to release guidance to jurisdictions in the next week on the data required and methods for calculating the data for reporting. JLARC is also developing an online portal system that will allow agencies to report the data electronically, which will be available next spring in advance of the July 2018 reporting deadline.

In addition, JLARC has developed a spreadsheet for jurisdictions to help determine if it meets the \$100,000 threshold and is required to report the data. Any jurisdiction below the threshold may choose to collect and report the data to JLARC.

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In addition, two new technical assistance programs were created:

- The Attorney General's Office will be providing local governments with technical assistance on public records issues. That program is expected to be available at the end of the year. In the meantime, the AG has created a fact sheet with the options for implementing charges for electronic records and the adoption processes required by the bill. MRSC has begun collecting sample policies that local governments have used to implement these electronic records charge options.
- The state archives office will have a technology grant program for records administration for local governments. Information about the grants and applications is expected soon.

## Personnel

### **DRS releases updated guidance on the new LEOFF 2 "third party contract rule"**

The state's 2017-19 operating budget included language when a LEOFF 2 employer charges a fee or recovers costs, which shifted the responsibility for who pays the state's 20 percent pension contribution. Cities must now pay the 20 percent state share for the hours worked by a LEOFF 2 member (police and fire personnel) providing services to a non-LEOFF 2 entity (private companies, school districts, etc.) but only when the city charges a fee or recovers costs.

The Department of Retirement Systems (DRS) recently issued final guidance on how and when this rule applies to LEOFF 2 employers via a PowerPoint presentation, [awcnet.org/portals/0/documents/legislative/leoff2nlecreport.pdf](http://awcnet.org/portals/0/documents/legislative/leoff2nlecreport.pdf). If you have any more questions on when this new policy applies or how to implement this change, please contact DRS at [employersupport@drs.wa.gov](mailto:employersupport@drs.wa.gov) or AWC's Logan Bahr at [LoganB@awcnet.org](mailto:LoganB@awcnet.org).

### **Webinar on new paid sick leave law taking effect January 2018**

AWC recently produced and recorded a webinar that provides information on what city employers need to know about the new paid sick leave requirements that were created by the passage of Initiative 1433. City staff can watch this webinar to:

- Learn the key requirements of the new paid sick leave law, including employee eligibility, reasons for which leave must be permitted, and limits on sick leave documentation;
- Review a helpful checklist for determining compliance; and
- Understand practical considerations and options for modifying existing sick leave policies to meet the new legal requirements.

The webinar is \$25 for AWC members and \$55 for non-members. There are scholarships available.

Purchase the recorded webinar at [awcnet.org/DataResources/Resourcesbytopic/TabId/941/ArtMID/2423/ArticleID/1921/Washington-paid-sick-leave-recorded-webinar.aspx](http://awcnet.org/DataResources/Resourcesbytopic/TabId/941/ArtMID/2423/ArticleID/1921/Washington-paid-sick-leave-recorded-webinar.aspx).

We will continue to provide excellent education resources for new labor laws that impact cities. Stay connected with us as the state implements the newly-passed Paid Family and Medical Leave Act.

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# Public safety & criminal justice

## Workgroup reviewing Washington's civil asset forfeiture laws

Leaders in the House Democratic and Republican caucuses have initiated an informal workgroup to review the state's laws on civil asset forfeiture. These laws allow law enforcement agencies to seize illegal property, property that was used in a crime, and property that is proceeds from a crime. There were multiple bills in the 2017 legislative session that sought reform to these laws but none were enacted into law.

AWC has been included in the workgroup along with other local government advocacy groups. We maintain that these laws are necessary to maintain public safety and that incidents of abuse are rare and often unsubstantiated. Given the bipartisan desire for reform, it is likely that legislation will again be pursued during the 2018 legislative session. AWC will continue to closely engage on this issue.

# Transportation

## Innovations and Partnerships in Transportation Conference is December 5 in Tacoma

The Washington State Department of Transportation is hosting its Innovations and Partnerships in Transportation Conference on Tuesday, December 5, in Tacoma. This year's theme is "Thinking Boldly to Move Forward Together." The conference will look at how we manage the transportation system, and how, through trust, partnerships, collaboration and community engagement, we can foster a more sustainable and practical future.

Register for the conference here - [www.wsdot.wa.gov/partners/innovations](http://www.wsdot.wa.gov/partners/innovations).

## 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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