



# Legislative bulletin

January 23, 2023

## Hot topics

### **Bills revising police vehicular pursuit restrictions introduced**

Companion bills introduced last week revised pursuit restrictions that have a 'reasonable suspicion' standard, while still protecting public safety.

### **Cities oppose prejudgment interest bill for increased liability costs, bill up for hearing this week,**

AWC is opposing **SB 5059**, which increases the cost of claims against cities by requiring interest on tort damages to begin when the alleged injury occurs, rather than when the court enters a judgment. This can add years' worth of interest to a claim before cities even knew there was an injury. The bill is scheduled for action this week in the Senate, so please contact your senators to ask them to oppose this costly legislation.

### **Three bills have been introduced addressing *Blake***

Cities asked and the Legislature is beginning to deliver. As we enter week three of session, proposals responding to the *Blake* decision are coming forward. We anticipate the bills will be scheduled for public hearing sometime next week.

## Media time

### **Five things we learned at Mayors Exchange**

Last week, we welcomed 40 mayors and city managers from across the state to our headquarters in Olympia to share ideas and insights into the unique role of mayor. The event was sold out—so if you were unable to attend, you'll want to catch these five things we learned together. While you're there, make sure to check out the event photos! If you couldn't attend this time, you can register for City Action Days or AWC Lobby Day for similar opportunities to engage and learn.

### **Register for AWC Lobby Day**

#### **March 16 | Olympia**

City officials are invited to Olympia during a crucial time in the legislative session to tell legislators that strong cities are the key to a great state. Add your voice and let legislators know how they can help support and enhance strong cities. Register to join us and start making appointments with your legislators now.

### **Learn how to sign into a hearing**

For the first time ever, you now have three ways to engage in the legislative process. Watch this video to learn how you can sign in to testify remotely, in person, or in writing. With so many choices to get involved, your city advocacy can now be stronger than ever before.

## View from the hill

### **Bills, bills, and more bills**

In a long session, there is traditionally more time to consider bills and a little less pressure to have bills introduced at the beginning of session. But as we head into week three, we are seeing a steady flow of new bills introduced. As of last Friday, more than 990 bills had been introduced between the House and the Senate. AWC does our best to work through all of those bills and sort out which ones are of greatest interest to cities. You can check out which bills are hot this week with our weekly Bill Hot Sheet.

### **AWC city action calls**

#### **Fridays at 12:30 pm | Online**

Join our Friday lunchtime city action calls to get timely updates on the legislative session directly from our team of lobbyists. Each Friday at 12:30 pm, call in via Zoom to hear your AWC lobbyists provide updates on the latest action on the hill and progress on bills of importance to cities. Make sure to sign up in advance each week. After registering, you will receive a confirmation email containing the Zoom link for that week's call. Register now for this Friday's call.

### **Three weeks until City Action Days!**

#### **February 15-16 | Olympia**

It's our first in-person City Action Days in three years and it's nearly full! If you haven't already, check out the agenda and register now before it's too late. We can't wait to see you there!

## Things you can do

### **Get involved in an AWC committee or a state board or advisory group!**

AWC is recruiting city officials to serve on two AWC committees as well as several state boards and advisory committees. Check out the following opportunities and submit an interest form by February 1. View all opportunities here. For questions, contact Alicia Seegers Martinelli or Betsy Hildreth, (360) 753-4137.

- AWC Diversity, Equity, Inclusion, and Belonging Cabinet (deadline extended)
- AWC Large City Advisory Committee
- Citizens Committee on Pipeline Safety
- Ground Ambulance Balance Billing Study Advisory Group
- Missing and Murdered Indigenous Women and People Task Force
- Sentencing Guidelines Commission

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### **Has your city received BIL funding? Tell us about it**

It's been over a year since the Bipartisan Infrastructure Law (BIL) was passed and notices of funding opportunities for federal infrastructure dollars began to open. Several Washington cities have applied to BIL-funded programs, and some have even won. If your city or town has been awarded BIL funding, or is in the process of applying for it, AWC would like to learn about the project and share your story. Please contact Brianna Morin by February 1.

### **Attend a grant writing webinar for local governments on Feb. 22**

Are you interested in writing compelling grant proposals to secure funding for your community? Join this online event, hosted by MRSC, to learn strategies that will improve your grant writing process and ensure your applications stand out. Speakers will also cover the federal Bipartisan Infrastructure Law (BIL), which appropriated billions of dollars for various areas of local infrastructure, and highlight local government grant opportunities available through the BIL.

## **What you need to know**

### **Affordable housing: Update on AWC's Housing Solutions Group proposal.**

Another legislative week passes, and two more bills are introduced that support the regulatory streamlining part of our comprehensive policy package.

**More proposals on promoting alternative housing types.** The contention that housing would be a focus of this Legislature is certainly proving to be true. This week will see hearings on several proposals related to promoting certain housing forms, from ADUs to middle housing to condominiums.

**Housing bills more focused on process than style.** Although the bills on housing types tend to get all the media attention, a significant number of bills are attempting to alter the way housing development is approved and processed by local governments.

**Budget & finance: Margin tax proposed to replace state B&O tax.** The proposal for implementing a 3.2% margin tax in 2027 is one of the recommendations of the State Tax Structure Work Group.

**Property taxes on the agenda for Senate Ways & Means Committee.** Two of the proposals would establish a state property tax exemption based on the first \$250,000 of value of a residence and a proportional rebate for renters.

**Economic development: Rural economic development sales tax credit reintroduced.** Cities support extending this .09 sales tax credit option to 2054 and frequently partner with counties on economic development projects using the funds.

**Energy: Waivers for municipal utility connection charges allowed under new bill.** Aiming to lessen the cost of providing services for low-income persons, the proposal would permit waivers for designated properties.

**General government: Bill eliminating qualified immunity for police and increasing liability for cities scheduled for hearing. HB 1025,** which increases city liability for police conduct, is scheduled for a hearing Wednesday. It is similar to previous proposals to increase liability for actions by police officers by ending qualified immunity for police and making cities liable for much of their conduct. AWC will oppose the bill.

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**HR & labor relations: Bill to repeal 20-year-old prohibition on ergonomic injury rules returns.** A bill that would repeal a 20-year ban on workplace safety rules preventing workplace ergonomic injuries, like carpal tunnel and other “musculoskeletal” injuries, is scheduled for a hearing in the Senate. A similar bill was passed out of the House last year but failed to pass the Senate before the 2022 session ended.

**Bills on paying interns, providing info to unions, and employer political speech all up for hearings.** Several bills of interest are up for hearing in the Senate Labor & Commerce Committee, including bills requiring minimum wage for public sector interns, new requirements for public employers to provide employee information to unions, and allowing workers to avoid their employer’s speech on political or religious issues.

**New bill on flexible work hours for police.** A bipartisan bill would formally authorize police officers to serve part-time and departments to adopt flexible work policies, and would update mutual aid and pensions statutes to accommodate the changes.

**Human services: New process for new settlements from opioid litigation.** In late December, Attorney General Bob Ferguson announced five resolutions with drug companies totaling over \$400 million for Washington. Eligible cities will be contacted about a new sign-on process for these five new settlements.

**Land use & planning: A fence by any other name...**would not be a fence if it is a battery-powered electric fence, in certain conditions. When those conditions are met, a bill mandates that a battery-charged electric fence is preempted from local regulations.

**New option proposed for critical area ordinances in most cities.** This bill represents a recommendation of the Growth Management Collaborative Roadmap Phase III Task Force, on which AWC serves as a representative.

**Pensions: PERS 1 COLAs on the schedule for week three.** Bills to institute another one-time, ad hoc cost of living adjustment (COLA) for PERS 1 retirees are both scheduled for hearings this week in the House and the Senate. Another bill to create a permanent PERS 1 COLA has been scheduled for a hearing as well.

**Public safety & criminal justice:** Bill would grant attorney general greater authority to investigate law enforcement misconduct. **HB 1445** is scheduled for a hearing and would give the attorney general the authority to address law enforcement and local corrections agency misconduct through investigations and legal actions.

**Firearms are a major topic of discussion during 2023 session.** The House heard five bills addressing firearms in the House Committee on Civil Rights & Judiciary, and all five are scheduled for a committee vote this Friday.

**Public works & infrastructure: Public works procurement bill to remove barriers for small and minority-owned businesses.** A new proposal from CPARB would modify small works roster requirements to address equity and efficiencies in public works bidding.

**Bill proposes to expand definition of “public work.”** Review the draft and send AWC your feedback by January 26.

**Transportation: “Zach’s Law” reappears for consideration this year, aims to deter bridge jumping.** The bill encourages cities and towns to erect informational signs on new and existing bridges.

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# Affordable housing

## Housing bills more focused on process than style

Contact: Carl Schroeder, Shannon McClelland

There are dozens of bills introduced so far this session that are proposing solutions to the housing crises. Although the bills focused on housing types tend to get all the media attention, a significant number of bills are attempting to alter the way housing development is approved and processed by local governments. The following is not an exhaustive list – just the ones scheduled for hearings this week.

### Permit streamlining

**HB 1296**, sponsored by Rep. Strom Peterson (D–Edmonds) and **SB 5290**, sponsored by Sen. Mark Mullet (D–Issaquah) are companion bills requested by Governor Inslee. Section one of the proposal would bar site plan review of interior alterations under certain conditions, including that the project does not add bedrooms. The rest of the bill is focused on a new grant program to local governments to streamline their permitting process, as well as creating a task force.

**SB 5412**, provided by Sen. Jesse Salomon (D–Shoreline), takes another approach. The bill focuses on two areas intended to reduce permitting workloads—design and environmental review. The bill requires that:

- Design review must be objective and logically integrated with consolidated project permit review process. Exempts heritage register structures from design review. May not include more than one public meeting or have the effect of discouraging housing through unreasonable cost, delay, or uncertainty.
- Provides categorically exemptions for housing if consistent with comprehensive plan.

### Parking requirements

Although the Legislature addressed parking requirements near transit just two years ago, **HB 1351** sponsored by Rep. Julia Reed (D–Seattle), repeals and amends that work (**HB 2343** (RCW 36.70A.620)). The 2020 law established minimum parking requirements for low-income, senior/supportive, and market rate multifamily housing within .25 mile of transit. The proposed bill strikes all of that and replaces it with the following:

- Prohibits minimum parking requirements for new residential or commercial within:
  - .5 mile from level 1 or 2 transit stops
  - .25 mile from a level 3 transit stop
- Allows exceptions for the above if written findings show by a preponderance of the evidence that the development would have a “substantially” negative impact on existing residential or commercial parking with .5 mile of the project. Unless:
  - The project dedicates at least 20% of the total housing units for 12 years to very low-income, low-income, or moderate-income households, students, the elderly, or persons with disabilities; or
  - The housing project is less than 20 units.
- Prohibits using lack of parking for such developments as a basis for a determination of significance for SEPA.
- Section 2 of the bill provides very detailed definitions of transit levels of service 1-6; yet only uses definitions in the proposed law for 1-3.

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## **Lot splitting**

**HB 1245**, sponsored by Rep. Andrew Barkis (R–Olympia), and **SB 5364**, sponsored by Sen. Noel Frame (D–Greenwood), are companion bills that intend to increase housing through lot splitting—allowing an existing residential lot to be split into two lots. The bill mandates that cities amend their codes and developments regulations to:

- Allow for lot splitting by July 1, 2024, or be preempted by the language in the bill.
- Require authorizing lot splitting within residential zones that allow for the development detached single-family homes if the statutory list of conditions are met, including that the resulting lots are at least 1,500 square feet and at least 40% of the size of the original lot.
- Not impose the following requirements on the split lots:
  - more than one off-street parking space per lot;
  - more than 20 feet of frontage width per lot;
  - easement widths of more than four feet for access to rear lots;
  - permitting requirements, design standards, or impacts fees on construction that are greater than those imposed on new residential construction generally within the same zone; or
  - dedications of rights-of-way or for the construction of off-site improvements.

These seem very prescriptive for state law. Please let Carl or Shannon know how these would impact your city, and whether the lot splitting concept with less prescription would receive your city's support.

## **Dates to remember**

**HB 1245** is scheduled for public hearing in the House Housing Committee on Thursday, January 26 at 8 am.

**HB 1296** and **HB 1351** are scheduled for public hearing in the House Local Government Committee on Wednesday, January 25 at 8 am and are scheduled for a vote in the same committee on Friday, January 27 at 10:30 am.

**SB 5412** and **SB 5364** are scheduled for public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on Thursday, January 26 at 10:30 am.

**SB 5920** is scheduled for public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on Tuesday, January 24 at 8 am.

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## More proposals on promoting alternative housing types

Contact: Carl Schroeder, Shannon McClelland

The contention that housing would be a focus of this Legislature is certainly proving to be true. This week will see hearings on several proposals related to promoting certain housing forms, from ADUs to middle housing to condominiums.

### ADUs

Last week we wrote (<https://wacities.org/advocacy/news/advocacy-news/2023/01/16/adu-preemption-proposal-emerges>) about **SB 5235** (Sen. Sharon Shewmake, D–Bellingham) which is a returning bill dealing with preempting cities on a variety of policies around accessory dwelling units (ADUs). It was rescheduled for public hearing on January 26, and the companion **HB 1276** (Rep. Gerry Pollet, D–Seattle) will be heard on January 23.

Additionally, we've seen the introduction and scheduling of an even more prescriptive and pre-emptive ADU proposal, **HB 1337** (Rep. Mia Gregerson, D–SeaTac). In addition to requiring two ADUs per lot as the bills propose, this bill goes further and limits city authority around the following areas:

- Cannot assess impact fees more than 50% of what would have been imposed on the primary unit.
- Cannot require owner occupancy.
- Cannot require off-street parking.

Restricts regulation of lot size, floor area ratio, setbacks, roof heights, how close the ADU can be to lot lines abutting alleys, etc.

Helpfully, it does provide an exemption from appeal under SEPA on the work required to make these changes to your local codes and developments regulations.

### Middle housing

The Senate will hear its version of the middle housing bill (**HB 1110**), **SB 5190**, on January 25. Senator Yasmin Trudeau's (D–Tacoma) bill got a little later start than the House because it was originally referred to the wrong committee. At this point the provisions are still identical to the proposal we wrote up previously (<https://wacities.org/advocacy/news/advocacy-news/2023/01/07/middle-housing-mandate-is-back-with-changes>) on the House bill.

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## Condominium reform

Among the most hoped-for reforms around housing from city officials might be reforms that could jump start the condominium market as a lower cost home ownership opportunity. Because of the additional liability facing condo developers, and the cost and availability of insurance to cover that liability, this market has been stalled for many years.

**SB 5258** (Sen. Sharon Shewmake, D–Bellingham) and **HB 1298** (Rep. Spencer Hutchins, R–Gig Harbor) are companion bills that tackle this problem head on with the Senate bill up for a hearing on January 23. These bills are highly technical, but some provisions include:

- Requiring more detail and a report under oath by a construction defect professional to assert a construction defect claim. This is to require claimants to be more specific about their exact contentions and provide information for the second element.
- A new “right to cure” opportunity for the developer to address any defects.
- A new exemption from the Real Estate Excise Tax to first time homebuyers who meet the eligibility for the Washington Housing Finance Commission first time homebuyer program.
- Direction for impact fees to be proportionate to the impact of new housing units, based on square footage on number of bedrooms, with a goal to proportionally lower impact fees for smaller housing units.
- Direction for cities to allow for unit-lot subdivision allowing separation of parent lots into individually owned separate lots.

Finally, a simpler approach is proposed in **SB 5058**, sponsored by Sen. Mike Padden (R–Spokane Valley). The bill exempts buildings with 12 or fewer units in two or fewer stories from certain standards which play into the condominium liability challenges. These units would be exempt from:

- A requirement to submit a building enclosure design document.
- Obtaining a building enclosure inspection during construction or at sale.

## Dates to remember

**HB 1276** is scheduled for public hearing in the House Housing Committee on Monday, January 23 at 1:30 pm.

**SB 5058** and **SB 5258** are scheduled for public hearing in the Senate Law & Justice Committee on Monday, January 23 at 10:30 am and are scheduled for a vote in the same committee on Thursday, January 26 at 8 am.

**SB 5190** is scheduled for public hearing in the Senate Housing Committee on Wednesday, January 25 at 1:30 pm.

**SB 5235** is scheduled for public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on Thursday, January 26 at 10:30 am.

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# Budget & finance

## Margin tax proposed to replace state B&O tax

Contact: Candice Bock, Sheila Gall

The proposal to replace the state B&O tax with a new margin tax is scheduled for a hearing in the Senate Business, Financial Services, Gaming & Trade Committee. **SB 5482** sponsored by Sen. Noel Frame (D–Seattle), represents one of the recommendations of the State Tax Structure Work Group. The proposed bill would not directly impact tax authority for cities that impose a local B&O tax, other than updating references to state B&O tax provisions that would be repealed.

The bill would impose a new 3.1966 percent margin tax on the gross revenues of businesses beginning in 2027. Businesses would be able to choose one of several deductions in calculating the tax on gross revenues:

- Cost of goods sold
- Amount of employee compensation
- A standard margin of 30 percent of gross revenues
- A standard deduction of \$1 million gross revenues

The proposal is modeled after a business tax in Texas, with some changes to definitions to align to federal IRS definitions for deductions like cost of goods sold and calculation of compensation.

Existing state B&O tax exemptions and deductions would be repealed.

Those businesses under a threshold of \$5 million per year that chose not to calculate any of the deduction options could elect to pay a reduced easy computation and rate of 1.75 percent on their gross revenues without the deductions.

For more information, see the State Tax Structure Work Group recommendations (<https://taxworkgroup.org/recommendations>). We continue to monitor these discussions due to the potential for impacts on local tax authority.

### Date to remember

**SB 5482** is scheduled for public hearing in the Senate Business, Financial Services, Gaming & Trade Committee on Thursday, January 26 at 10:30 am.

## Property taxes on the agenda for Senate Ways & Means

Contact: Candice Bock, Sheila Gall

Property taxes are the theme for an upcoming Senate Ways & Means hearing. Two of the proposals on the agenda would establish a state property tax exemption based on the first \$250,000 of a primary residence (**SB 5387**, **SB 5495**) and establish a credit for renters for the portion of rent attributable to property tax.

**SB 5387** and **SJR 8204**, sponsored by Sen. Lynda Wilson (R–Vancouver), would change the state constitution to provide a homestead exemption for the first \$250,000 of assessed value of residential property beginning with taxes levied for collection in 2025. The amount of the exemption would grow each year based on the percent increase in the state levy. Renters would also be able to apply to the Department of Revenue for a credit for two percent of rent for the portion of rent attributable to property taxes paid on the rental.

**SB 5495** and **SJR 8206**, sponsored by Sen. Patty Kuderer (D–Bellevue), would provide a process to apply for a refund of property taxes equivalent to state property taxes due on the first \$250,000 of assessed value of a primary residence beginning

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in 2027. The amount of the exemption would grow each year based on the increase between state levies from the prior two years. The state constitution would be amended to eliminate the uniformity provision for property tax in Article VII Section 1 and provide authority for the exemption. Renters would also be able to apply to the Department of Revenue for a credit for two percent of rent equivalent to property taxes.

**Date to remember**

The Senate Ways & Means hearing is scheduled for Tuesday, January 24 at 4 pm.

## Economic development

### Rural economic development sales tax credit reintroduced

Contact: Candice Bock, Sheila Gall

A proposal extending the rural county sales tax authority for public facilities (the 0.09 sales tax) to 2054 has been introduced again this session (**HB 1267**) and is scheduled for a hearing in the House Local Government Committee. Cities support this sales tax option and frequently partner with counties on economic development projects using the funds.

The sales tax authority is credited against the state sales tax and expires 25 years after imposition by counties that imposed the tax prior to August 1, 2009. The bill also clarifies that counties imposing the tax prior to August 1, 2009, but have a population that now exceeds the definition of rural, will also continue to be eligible to collect the tax.

The bill also requires the State Auditor to create a website to provide information from the reports it collects on uses of the funds.

**Date to remember**

The House Local Government Committee hearing is scheduled for Tuesday, January 24 at 10:30 am.

## Energy

### Waivers for municipal utility connection charges would be allowed under new bill

Contact: Brandy DeLange, Brianna Morin

Aiming to lessen the cost of providing services for low-income persons, a new proposal from Rep. Cortes (D-Everett) permits municipal utilities to waive connection charges for designated properties. As drafted, **HB 1326** allows municipal utilities to waive connection charges for properties used by a nonprofit organization, a public development authority, a housing authority, a local agency, or any other legal entity that provides emergency shelter, transitional housing, permanent supportive housing, or affordable housing.

According to the bill, "utility service" includes, but is not limited to, water, sanitary or storm sewer service, electricity, gas, other means of power, and heat.

AWC is currently working to clarify that utility connection waivers are only applicable to nonprofit organizations. Our request is intended to ensure the legislation avoids conflicts with restrictions on the gifting of public funds.

**Date to remember**

**HB 1326** is scheduled for public hearing in the House Local Government Committee on Tuesday, January 24 at 10:30 am.

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# General government

## Cities to oppose prejudgment interest bill for increasing city liability costs at hearing this week

Contact: Candice Bock, Matt Doumit

AWC is opposing a bill that increases the cost of tort claims damages awards against cities. The bill is scheduled for action this week in the Senate, so please contact your Senators to ask them to oppose this costly legislation.

**SB 5059**, sponsored by Sen. Patty Kuderer (D–Bellevue), requires interest on judgments against “public agencies” and other defendants for torts to accrue from the time the cause of action occurred (i.e. the time the plaintiff was injured or experienced a loss). This new standard would apply to arbitration awards and judgments entered after a trial. For all other judgments, interest would only begin to accrue after entry of judgment. AWC opposed similar bills (<https://wacities.org/advocacy/news/advocacy-news/2022/02/26/oppose-prejudgment-interest-costs-for-local-governments>) in 2021 and 2022, and they failed to pass (<https://wacities.org/advocacy/news/advocacy-news/2022/03/05/prejudgment-interest-is-dead>) the Legislature.

Under current law, interest on tort damages begins to accrue upon entry of judgment by the court. This is an important distinction, since tort litigation can take years to complete and for a judgment to be entered. On top of the litigation time, many types of torts also carry statutes of limitation of two years or more. For example, many personal injury claims carry a statute of limitation of three years. This means a claim could have years’ worth of interest accrued before a claim was even filed and a city even knew there was an injury or loss, let alone knew it had a financial obligation after a trial.

AWC is opposed to **SB 5059** for several reasons:

- Cities are already having a difficult time affording liability insurance, and this bill raises the stakes even higher so that insurance may become cost prohibitive for many cities. One mayor recently told AWC that their city expected to see a 61% increase in their liability insurance premiums in 2023 alone. Additional liability may simply render some cities uninsurable.
- This bill would make cities liable before they even knew there was a claim, or knew the city had a financial obligation to cover it after a trial. It would do nothing to bring actual relief to an injured plaintiff.
- Litigation can take years to complete, and much of that is due to overburdened courts. It is unfair to penalize defendants for timelines outside their control.
- Finally, the bill incentivizes plaintiffs to delay filing a claim and encourages plaintiffs’ attorneys to file additional claims.

Please reach out to your Senator (<https://wacities.org/Advocacy/legislator-directory>) and express your city’s opposition to **SB 5059**.

### Dates to remember

**SB 5059** is scheduled for a public hearing in the Senate Law & Justice Committee on Tuesday, January 24 at 10:30 am. It is also scheduled for a committee vote on Thursday, January 26 at 8 am.

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# Bill eliminates qualified immunity for police and increases liability for cities

Contact: Candice Bock, Matt Doumit

**HB 1025** is similar to previous proposals to increase legal liability for actions by police officers.

**HB 1025**, sponsored by Rep. My-Linh Thai (D–Bellevue), creates a private cause of action against police officers or their employers for injury of a person or property when the officer was acting under color of law, but in violation of state law or the state constitution. The bill also:

- Makes other officers liable if they failed to prevent or aided in causing the injury.
- Makes the police officer’s employer vicariously liable for the conduct if the injury was caused in the scope of the officer’s employment.
- Makes the employer independently liable if the officer “substantially complied” with their employer’s procedures, policies, or training, or the action was approved by a superior, unless the training was provided by the state Criminal Justice Training Center or the policy was model guidance from the state Attorney General.
- Makes the officer’s employer independently liable for failure to use reasonable care in hiring, training, retaining, supervising, or disciplining the officer, unless the employer can show it was not able to discipline the officer due to binding arbitration.

The bill explicitly ends qualified immunity by stating that it is no defense that the rights the plaintiff sues under were not “clearly established” at the time of the officer’s conduct. City police currently have a legal immunity known as “qualified immunity” that protects them and their cities from civil actions for injuries or violations of a plaintiff’s rights unless the right was “clearly established” according to the courts. Under the bill, it is also no defense if the officer or employer couldn’t have known whether their conduct was lawful or not. The bill also permits a plaintiff to be awarded actual damages plus attorney’s fees and costs, and sets a statute of limitations of three years.

AWC is opposed to **HB 1025** because of the drastic increase in liability it would bring down on cities. Cities already often already feel pressure to settle lawsuits regardless of the merits because the cost of litigating is so expensive. The bill will likely incentivize people to file a claim regardless of the merits of a case because of the high likelihood of receiving a monetary settlement. The rise in cases against cities and officers will increase the amount of settlements cities would pay out, and increase the risk of massive attorney fees for cases lost at trial. The increased liability will also contribute to the increased cost of liability insurance, which is quickly becoming a major expense to many cities. AWC opposed a similar bill last year for many of the same reasons (<https://wacities.org/news/2022/01/07/police-liability-bill-is-alive-and-moving>).

While AWC still opposes the bill, we would like to thank Rep. Thai and the bill proponents for making important efforts to reach out to stakeholders and for working with cities to address some of our concerns during the interim. Unfortunately, not enough substantive changes have been made at this point to end our opposition.

## Dates to remember

**HB 1025** is scheduled for public hearing in the House Civil Rights & Judiciary Committee on Wednesday, January 25 at 8 am.

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# HR & labor relations

## Bills on paying interns, providing info to unions, and employer political speech all up for hearings

Contact: Candice Bock, Matt Doumit

Several bills of interest to cities are up for hearing on Monday in the Senate Labor & Commerce Committee. They include bills requiring minimum wage for public sector interns, creating new requirements and deadlines for public employers to provide employee information to unions, and allowing workers to avoid their employer's speech on political or religious issues.

### **Paid interns**

**SB 5327** is sponsored by Sen. Karen Keiser (D–Kent). It requires state government, local governments, and nonprofits receiving public funds to pay interns at least minimum wage for hours worked in the internship, regardless of whether or not the intern received academic credit for the internship. The intern's wages would be enforceable through the state's regular wage & hour laws. The bill also authorizes the Department of Labor & Industries (L&I) to adopt rules to implement the new paid intern requirements.

### **Employee information**

**SB 5273**, sponsored by Sen. Javier Valdez (D–Seattle), requires public employers to provide certain records to a public employee's exclusive bargaining representative (i.e. the employee's union), including employee name and hire dates, contact information, and employment information like job title, worksite, and salary. It requires employers to provide the information to the union for new hires within 10 days of the hire, and every 90 days for all employees in each bargaining unit. The bill allows the union to bring a court action to enforce the information sharing requirements, and requires the public employer to pay costs and reasonable attorney fees for such actions.

There is a House companion, **HB 1200**, that was heard on January 20. It is scheduled for a committee vote later this week.

AWC has heard concerns about the work involved in providing this data with the frequency the bills require. We are working with proponents to explore a less frequent and thus onerous requirement.

### **Employer speech**

**SB 5417**, also sponsored by Sen. Keiser, prohibits employers from disciplining employees for their refusal to attend an employer-sponsored meeting to discuss employer's opinion regarding religious or political matters, or otherwise be forced to listen or view the employer's speech on such matters. The bill includes exceptions for communications the employer is required by law to communicate, information necessary to the employee's job or the employer's managerial or supervisory duties, and casual conversations at work, among others. The bill exempts religious organizations. And in what has become a theme in this year's employment policy arena, the bill's provisions are enforced by creating a civil cause of action that includes damages, attorney fees, and costs.

Cities already have limits to the types of religious and political speech that can be promoted in the city workplace, and public employers generally have First Amendment constitutional requirements for how to handle speech at work. However, the bill is fairly vague on what kinds of conduct is prohibited and what is allowed. This is especially relevant for elected officials (including city council members or even state legislators themselves) – whose job is literally to promote their political ideas – and how they can interact with their staff. AWC has reached out to seek clarification on this requirement. We

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believe the bill may have been drafted so that it inadvertently captures the situation where city staff couldn't be required to work on issues related to legislative proposals. We will continue to work on those clarifications.

### **Dates to remember**

**SB 5327, SB 5273, and SB 5417** are all scheduled for public hearings in the Senate Labor & Commerce Committee on Monday, January 23 at 10:30 am.

**HB 1200** is scheduled for a committee vote in the House Labor & Workplace Standards Committee on Friday, January 27 at 10:30 am.

## **Bill to repeal prohibition on ergonomic injury rules returns to the Senate**

Contact: Candice Bock, Matt Doumit

A bill that would allow the Department of Labor & Industries (L&I) to pursue rules preventing workplace ergonomic injuries like carpal tunnel and other "musculoskeletal" injuries is scheduled for a hearing in the Senate this week. A similar bill was passed out of the House last year but failed to pass the Senate before the end of the 2022 session.

As we wrote for the 2022 version (<https://wacities.org/advocacy/News/advocacy-news/2022/02/19/bill-to-repeal-19-year-ban-on-rules-preventing-ergonomic-injuries-going-to-the-senate>) of the bill, in 2000, L&I adopted workplace ergonomics regulations requiring employers to reduce their workers' exposure to practices that cause or contribute to musculoskeletal disorders. In 2003, Initiative 841 was passed, which repealed those rules and prohibited L&I from adopting similar rules or otherwise regulating workplace practices to prevent musculoskeletal disorders unless required by federal law.

**SB 5217** is sponsored by Sen. Manka Dhingra (D-Redmond) and repeals I-841, but still places limits on L&I's rulemaking abilities. It permits L&I to adopt rules regarding musculoskeletal injuries, up to one set of rules per year per industry or risk class. Rules may only be adopted for industries or risk classes where workers' comp claims are greater than two times the state average for musculoskeletal injuries over a recent five-year period. The bill requires L&I to report to the legislature when it intends to make ergonomic rules and include its criteria for choosing the industry or risk class for which the rules are being proposed. It also prohibits L&I from drafting ergonomics rules regulating in-home offices and permits the agency to provide funding to certain employers for purchasing equipment to comply with any new musculoskeletal injury rules.

In 2022 (<https://wacities.org/advocacy/News/advocacy-news/2022/02/19/bill-to-repeal-19-year-ban-on-rules-preventing-ergonomic-injuries-going-to-the-senate>), proponents of repealing I-841 argued that ergonomics have advanced since 2003 and that there are effective ways to prevent musculoskeletal disorders, especially in industries where such injuries make up the majority of the workers' comp claims. Opponents argued that new ergonomic rules would be costly and burdensome to employers, that previous rules were overly long and complicated, that the science of preventing musculoskeletal injuries is unsettled, and existing laws and rules cover most of these types of practices anyway.

### **Dates to remember**

**SB 5217** is scheduled for public hearing in the Senate Labor & Commerce Committee on Tuesday, January 24 at 10:30 am.

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## **New bill on flexible work hours for police**

Contact: Candice Bock, Matt Doumit

A bi-partisan bill would formally authorize police officers to serve part-time and departments to adopt flexible work policies, and updates mutual aid and pensions statutes to accommodate the changes.

**SB 5424**, sponsored by Sens. John Lovick (D–Mill Creek) and Jeff Holy (R–Spokane), both former law enforcement officers, removes references to “full time” from the relevant definitions of “officers” in the Mutual Aid Peace Officer's Powers Act and the LEOFF retirement system, allowing part-time officers to participate in LEOFF 2 and exercise full mutual aid powers. It also allows law enforcement agencies to adopt flexible work policies for police, including policies to allow officers to work less than full time when feasible and use alternative shifts and schedules. Agencies can limit flexible work to officers with certain levels of experience.

The bill had a hearing January 19 (<https://tvw.org/video/senate-labor-commerce-2023011232/?eventID=2023011232>), with proponents saying it would help increase diversity, retain female officers, and expand hiring pools. Amendments to incorporate retire/rehire and clarify collective bargaining of flexible schedules may come later in session.

There is a House companion, **HB 1413**, but it has not yet been scheduled for a hearing.

AWC does not see any major issues with this bill. It's our understanding that city police departments can already adopt flexible work policies for law enforcement through collective bargaining. AWC's perspective is that the bill's main change is that part time officers will be allowed to participate in the LEOFF 2 retirement system and in mutual aid between jurisdictions. During this difficult job market for police officers, this additional flexibility to hire or retain part time officers may help cities fill needed police vacancies.

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# Human services

## New process for new settlements from opioid litigation

Contact: Sheila Gall, Katherine Walton

In late December, Attorney General Bob Ferguson (AG) announced five resolutions with drug companies (<https://wacities.org/advocacy/news/advocacy-news/2023/01/06/attorney-general-announces-five-new-opioid-agreements-with-drug-companies>) totaling over \$400 million for Washington – split between the state and eligible Washington local governments.

Eligible cities will be contacted in the next few weeks by Rubris, a company hired to administer the sign-on process for these five new settlements. Although the list of eligible cities will remain the same, the process for the new settlements will be slightly different this time around.

Rubris will send out an introductory email, followed by Participation Forms for the five settlements the following week using the contact list from the last settlement agreement and any contacts that were added later.

Eligible cities will also need to sign an Allocation Agreement II, which will cover these five settlements and future agreements. The designated person for each city should watch for that document as well.

Unlike the distributor settlement, cities and counties will sign and return the Participation Forms and Allocation Agreement II using an electronic DocuSign process. The AG's office will be monitoring the sign-on progress.

AWC is facilitating the sharing of information between the AGO and cities. AWC is not part of the litigation and does not have a position on the pending litigation or the settlement offers. The information contained in this article is for informational purposes and should not be considered legal advice. Each city is encouraged to review the settlement information and determine its own course of action in consultation with its legal counsel.

For questions about the settlement, please visit the AGO's website (<https://www.atg.wa.gov/distributors-washington-settlement>) or contact Jeff Rupert (<mailto:jeffrey.rupert@atg.wa.gov>).

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# Land use & planning

## New option proposed for critical area ordinances

Contact: Carl Schroeder, Shannon McClelland

A short, straightforward bill would provide a new option for most of the cities in our state in how they address critical area ordinances (CAO). This bill represents a recommendation of the Growth Management Collaborative Roadmap Phase III Task Force, on which AWC serves as a representative.

**SB 5374** would do the following for cities under 25,000 in population:

- Allow the city to adopt the county's CAO by reference to satisfy the GMA planning requirement to designate and protect critical areas.
- Once adopted, the city must incorporate future amendments to the critical area policies and development regulations made by the county.
- Exempt from review and update of development regulations protecting critical areas under the comprehensive plan update process.

A city may only adopt a county's CAO that is not under appeal.

### Dates to remember

**SB 5374** is scheduled for public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on Tuesday, January 24 at 8:00 am and is scheduled for a vote in the same committee on Thursday, January 26 and 10:30 am.

## A fence by any other name...

Contact: Carl Schroeder, Shannon McClelland

Cities can and do regulate fences, including electric fences. A bill proposes to exempt battery-powered electric fences outside of residential areas from all local regulation, under certain conditions, to deter theft from commercial and industrial properties.

**HB 1304**, sponsored by Rep. David Hackney (D–Seattle), mandates that a battery-charged electric fence that meets all the following requirements is preempted from local regulations:

- Is not located on a property zoned or used exclusively for residential uses.
- Interfaces with an alarm system that allows the fence to trigger an alarm to summon law enforcement.
- Has an energizer driven by a battery.
- Uses a battery of 12 volts of direct current or less.
- Produces a charge on contact that is set by the International Electrotechnical Commission.
- Is surrounded by a non-electric fence or wall at least 5 feet high.
- Is under 10 feet in height or no more than 2 feet higher than the surrounding non-electric fence or wall.
- Is marked with warning signs at no more than 30-foot intervals.

We are working with proponents to find another approach to authorizing electric fences without the level of preemption and prescription in this proposal.

### Dates to remember

**HB 1304** is scheduled for public hearing in the House Local Government Committee on Tuesday, January 24 at 10:30 am and is scheduled for a vote in the same committee on Friday, January 27 at 10:30 am.

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# Pensions

## PERS 1 COLAs on the schedule for week three

Contact: Candice Bock, Matt Doumit

Companion bills to institute another one-time, ad hoc cost of living adjustment (COLA) for PERS 1 retirees are both scheduled for hearings this week in the House and the Senate. Another bill creating a permanent PERS 1 COLA has been scheduled for a hearing as well.

As a reminder, PERS Plan 1 did not account for cost-of-living adjustments while most PERS 1 participants were still working, so neither public employers nor employees contributed enough to PERS 1 to pay for automatic COLAs. Over the years, the purchasing power of PERS 1 benefits have gone down due to inflation, and the Legislature has tried to ease that impact in recent years by authorizing one-time ad hoc COLAs for PERS 1 retirees. Those ad hoc COLAs are completely funded by employers (since PERS 1 retirees are no longer contributing to the system) through the unfunded actuarially accrued liability surcharge (UAAL).

**HB 1057** and **SB 5350** are companion bills submitted at the request of the Select Committee on Pension Policy. They authorize a one-time ad hoc 3% COLA for PERS 1 retirees, capped at \$110 per month. The bills include legislative findings that PERS 1 retirees have lost purchasing power due to inflation, but that an automatic COLA could be cost prohibitive until the UAAL is reduced or no longer required. We wrote about the Select Committee's recommendation back in November (<https://wacities.org/advocacy/News/advocacy-news/2022/11/11/select-committee-on-pension-policy-considers-proposals-on-pers-1-cola-moving-911-operators-to-psers>). At that time, the committee decided to recommend the 3% ad hoc COLA for PERS 1 and then commit to considering a PERS 2/3-style permanent COLA for PERS 1 after the unfunded liability surcharge was paid off.

However, several other bills have been introduced in the legislature this year as part of this conversation, including a bill to sunset the UAAL that we wrote about last week (<https://wacities.org/advocacy/News/advocacy-news/2023/01/16/several-pension-bills-scheduled-for-hearings-in-week-2>), and a new bill introduced late last week to create a permanent PERS 1 COLA starting in July 2023: **HB 1459**. Sponsored by Rep. Drew Stokesbary (R–Auburn), **HB 1459** establishes an automatic annual COLA for TRS 1 and PERS 1 retirees capped at 3% and \$110 per month starting in July 2023. It also reduces the statutory investment rate of return assumption to 7.2% (down from 7.7%). The bill makes legislative findings that reducing the investment rate of return assumption, coupled with expected extraordinary investment returns, will balance the benefit increases with PERS 1's future funding needs.

AWC supports ending the UAAL, but we have concerns about the costs to cities' contribution rates associated with incorporating either ad hoc or a permanent COLA in PERS 1, especially since that plan never contemplated regular COLAs and the cost of COLAs is borne by public employers and current taxpayers, taking valuable resources away from current city budgets and services. The ad hoc Plan 1 COLA in **HB 1057 / SB 5350** alone is expected to cost local governments \$148.7 million over the next 10 years. A fiscal note is not yet available for **HB 1459's** automatic COLA, though it would likely build in pension cost increases for cities permanently to cover the increased benefits.

### Dates to remember

**SB 5350** is scheduled for a public hearing in the Senate Ways & Means Committee on Monday, January 23 at 4 pm.

**HB 1057** and **HB 1459** are both scheduled for a public hearing in the House Appropriations Committee on Thursday, January 26 at 4 pm.

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# Public safety & criminal justice

## Firearms are a major topic of discussion at 2023 session

Contact: Candice Bock, Katherine Walton

The House was busy on the topic of firearms last week, with public hearings for five bills addressing firearms in the House Committee on Civil Rights & Judiciary. All five bills are scheduled for a committee vote this Friday.

**A bill that would allow local governments to regulate firearms is on the table. HB 1178**, sponsored by Rep. David Hackney (D–Seattle), garnered significant support and raised some opponents as well. Its companion bill, **SB 5446** sponsored by Sen. Joe Nguyen (D–Seattle), has not yet been scheduled for committee. The bill would repeal the preemption that currently does not allow local jurisdictions from adopting laws relating to firearms and limiting local regulation of firearms.

**HB 1195**, sponsored by Rep. Tana Senn (D–Mercer Island), would **prohibit open carry in public parks and public hospitals**.

The House is also considering an **assault weapons ban**, which would prohibit the manufacture, importation, distribution, sale, or offer for sale of any assault weapon.

**HB 1240** is sponsored by Rep. Strom Peterson (D–Edmonds) and was requested by the Offices of the Governor and the Attorney General.

The House is also looking at two bills that would **require a permit to purchase firearms**:

- **HB 1143**, sponsored by Rep. Liz Berry (D–Seattle), was a Governor request bill and would require a permit to purchase firearms. The permit includes an enhanced background check with a 10-day waiting period and includes a requirement for proof of safety training. It has a companion bill, **SB 5211**, sponsored by Sen. Marko Liias (D–Edmonds), that has not been scheduled for a hearing yet.
- **HB 1144**, sponsored by Rep. Liz Berry (D–Seattle), would also require a permit to purchase firearms and includes a requirement that purchasers complete a safety training. Its companion bill, **SB 5232**, sponsored by Sen. Jesse Salomon (D–Shoreline), also has not been scheduled for a hearing in the Senate.

### In the Senate:

**SB 5078**, sponsored by Sen. Jamie Pedersen (D–Seattle), was a request bill from the Offices of the Governor and Attorney General. The bill would **establish firearm manufacturer responsibility**, requiring firearm industry members to establish, implement, and enforce reasonable controls regarding the manufacture, sale, distribution, import, use, and marketing of firearms and related products and would create a private right of action for individuals who suffered harm from a violation of these duties. It would also authorize the attorney general to investigate violations of industry members' duties. The bill passed out of the Senate Law & Justice committee.

An amended version of **SB 5006**, sponsored by Sen. Jamie Pedersen (D–Seattle), clarifying waiver of firearm rights was voted on last week. It would **create a new civil infraction for having a firearm after filing a voluntary waiver of firearm rights**.

A full list of all of the firearms bills introduced this session can be found on the Legislature's website (<https://app.leg.wa.gov/bi/report/topicalindex/?biennium=2023-24&topic=FIREARMS>).

### Dates to remember

**HB 1143, HB 1144, HB 1178, HB 1195, and HB 1240** are scheduled for executive session in the House Civil Rights & Judiciary Committee on Friday, January 27 at 10:30 am.

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## Three bills have been introduced addressing *Blake*

Contact: Candice Bock, Katherine Walton

Cities asked and the Legislature is now beginning to deliver. As we enter into week 3 of session, proposals responding to the Blake decision are being introduced. We anticipate the bills will be scheduled for public hearing sometime next week.

Rep. Jacquelin Maycumber (R–Republic) introduced **HB 1415**, making the knowing possession of a controlled substance a gross misdemeanor offense.

Rep. Jesse Salomon (D–Shoreline) introduced **SB 5467**, which also would make knowing possession of a counterfeit substance a gross misdemeanor offense but adds additional treatment alternatives. **SB 5467** focuses on substance use disorder treatment as its primary goal, proposing that individuals arrested for possession could be diverted into substance use disorder treatment prior to conviction. Convictions would be overturned and dismissed for individuals who complete treatment. This bill does not propose decriminalizing without consequences, however. If the individual willfully abandons or demonstrates a consistent failure to engage in treatment, the court would be required to impose at least 45 days of jail. Under this legislation, the treatment requirement would be subject to the availability of treatment and the availability of funding for it. If treatment or funding were not available, the court would not be allowed to sanction the person with jail time for noncompliance with treatment.

Sen. June Robinson (D–Everett) also introduced a bill late last week. Similar to the previous two bills that were filed, **SB 5536** would make knowing possession of a counterfeit substance a gross misdemeanor but with an emphasis on pretrial diversion. In lieu of jail booking and referral to the prosecutor, law enforcement would be encouraged to offer a referral to assessment and services. Courts would also be required to inform individuals of pretrial diversion programs and if the individual successfully completes the program, the law would require a dismissal of the charge(s). If the individual refuses assessment and services, or if the court determines that the individual will not successfully complete a pretrial diversion program, the court could terminate the program and proceed with a gross misdemeanor offense.

We will keep you updated as the Legislature moves forward.

### Need a refresher on *Blake*?

In 2021, the Supreme Court determined that the statute that penalized possession of a controlled substance was unconstitutional because it lacked the requirement that a person “knowingly” possessed the substance. During the 2021 session, the Legislature passed SB 5476 to provide a temporary solution to the ruling. As a part of the bill, they must enact a permanent fix by July 1, 2023.

You can read more about AWC’s *Blake* Legislative priority on our fact sheet ([https://wacities.org/docs/default-source/legislative/factsheetblake2023.pdf?sfvrsn=ae3d254f\\_8](https://wacities.org/docs/default-source/legislative/factsheetblake2023.pdf?sfvrsn=ae3d254f_8)).

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## Bills revising police vehicular pursuits restrictions introduced

Contact: Candice Bock, Katherine Walton

Updating the restrictions around vehicle pursuits is a 2023 legislative priority for cities. AWC has been working with sponsors on two vehicular pursuit bills that have a 'reasonable suspicion' standard, which is essential to address concerns about impacts to public safety and allow for effective and safe pursuit of suspects when there is an immediate threat to public safety.

**HB 1363**, sponsored by Rep. Alicia Rule (D–Blaine), and **SB 5352**, sponsored by Sen. John Lovick (D–Mill Creek), have a broad list of bipartisan co-sponsors.

Sen. Manka Dhingra, chair of the Senate Law and Justice Committee, told reporters last Tuesday that she is not open to scheduling the Senate version of the bill for a hearing and that she would have to see the House version.

During a Democratic Leaders media availability ([https://tvw.org/video/legislative-democratic-leaders-media-availability-2023011319/?eventID=2023011319&startStreamAt=1178&stopStreamAt=1339&utm\\_source=WhatCounts%20Email&utm\\_medium=Politics%20-%20Cornfield%20ReportAdvanced%20-%20Not%20Active%20Subs&utm\\_campaign=Cornfield%20Report](https://tvw.org/video/legislative-democratic-leaders-media-availability-2023011319/?eventID=2023011319&startStreamAt=1178&stopStreamAt=1339&utm_source=WhatCounts%20Email&utm_medium=Politics%20-%20Cornfield%20ReportAdvanced%20-%20Not%20Active%20Subs&utm_campaign=Cornfield%20Report)), she told reporters "I think that language is problematic because it takes us backwards to a time when we had innocent people dying because they just happened to be at the wrong place at the wrong time." She did indicate that she would be open to the Criminal Justice Training Commission (CJTC) studying best practices and national models across the country and coming back to the Legislature with a recommendation.

We have heard that the Chair of the House committee does plan to hear **HB 1363** sometime during the week of January 30.

We urge city officials to speak to your local legislators about the need for these revisions and ask them to talk with their caucus leadership urging them to consider these bills.

The bills:

- Reintroduce the reasonable suspicion standard: "... reasonable suspicion a person in the vehicle has committed or is committing a criminal offense and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances."

In order to engage in a pursuit, the law would require that:

- Officers must notify a supervising officer and together they must consider alternatives to the pursuit.
- Officers comply with agencies procedures designating the primary pursuit vehicle and determining the appropriate number of vehicles to conduct the pursuit.
- Someone (pursuing officer, supervisor, or dispatch) must notify neighboring agencies.
- The pursuing officer must be able to directly communicate with other officers engaging in the pursuit and the dispatch agency.
- The pursuing officer, supervising officer or agency develop a plan to end the pursuit through intervention (spike strips etc.).
- The pursuing officer has completed an emergency vehicle operator's course, updated emergency vehicle operator training within two years, and is certified in at least one pursuit intervention option.
- The bills do not prohibit cities from adopting more restrictive pursuit standards or limitations.

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62% of cities say that officers have experienced an increase in individuals fleeing law enforcement since the 2021 reforms passed, according to our 2022 City Conditions Survey.

Want to read more? Check out our fact sheet ([https://wacities.org/docs/default-source/legislative/factsheetpublicsafety2023.pdf?sfvrsn=a63d254f\\_6](https://wacities.org/docs/default-source/legislative/factsheetpublicsafety2023.pdf?sfvrsn=a63d254f_6)) on the topic.

## **Bill would grant Attorney General greater authority to investigate law enforcement misconduct**

Contact: Candice Bock, Katherine Walton

Representative Drew Hansen (D–Bainbridge Island) chairs the House Civil Rights & Judiciary Committee and has introduced and scheduled **HB 1445**, giving the Attorney General (AG) the authority to address law enforcement and local corrections agency misconduct through investigations and legal actions.

**HB 1445** would permit the Washington State Attorney General to investigate and bring action against law enforcement or local corrections agencies for violation of WA laws or constitution, including actions for insufficient accountability systems, training, and policies leading to violations. It also permits AG to seek attorney fees if they prevail.

As part of this process, starting July 1, 2024, the bill would require the AG (in consultation with law enforcement) to develop and publish model policies for law enforcement agencies and corrections agency accountability systems, including practices for serious claims of misconduct, investigations, discipline, and disciplinary appeals.

There are a number of model policies recently created by the Legislature, including the Criminal Justice Training Commission's (CJTC) duty to intervene model policy ([https://cjtc.wa.gov/docs/default-source/default-document-library/washington-state-criminal-justice-training-commission-duty-to-intervene-model-policy.pdf?sfvrsn=2c31bdc3\\_2](https://cjtc.wa.gov/docs/default-source/default-document-library/washington-state-criminal-justice-training-commission-duty-to-intervene-model-policy.pdf?sfvrsn=2c31bdc3_2)) and the AG's model use of force policy (<https://www.atg.wa.gov/news/news-releases/ag-ferguson-releases-model-use-force-policy-law-enforcement-agencies>).

AWC has shared concerns with the bill sponsor about the broad grant of authority to the AG with no limitations or consideration of the cost and impact on the jurisdiction. AWC also noted that this approach seems more focused on punitive action than helping a police department make improvements.

### **Dates to remember**

**HB 1445** is scheduled for public hearing in the House Civil Rights & Judiciary Committee on Wednesday, January 25 at 8 am.

*continued*

# Public works & infrastructure

## Public works procurement bill to remove barriers for small and minority owned businesses

Contact: Brandy DeLange, Brianna Morin

Several proposed changes to the public works procurement process are considered in legislation introduced by Rep. Steve Tharinger (D–Sequim) and Sen. Bob Hasegawa (D–Seattle). **HB 1306** (companion to **SB 5268**) modifies small works roster requirements to address equity and efficiencies in public works bidding.

The bill is consensus legislation put together by the Capital Projects Advisory Review Board (CPARB), which held a stakeholder process over the course of several months that included cities, counties, ports, labor, and other key stakeholders. AWC supports the bill.

**HB 1306** aims to remove barriers for small businesses to bid on public works projects and to achieve greater inclusion of women, minority, or veteran-owned businesses on small works rosters. It does this through various provisions, including:

- Updating the definition of small business to align with that of the Office of Minority and Women's Business Enterprises (OMWBE).
- Directing the Dept. of Commerce, through the Municipal Research and Services Center, to develop a statewide small works roster. Local governments are authorized to utilize the small works roster or create and maintain one or more of their own. Contractors on the small works roster must indicate if they meet the definition of women and minority-owned business, veteran owned business, or small business.
- Requiring that bid evaluations include past performance in utilization of business entities certified with OMWBE, including small businesses and business entities certified with the Dept. of Veterans Affairs. Evaluation factors must also include a proposer's inclusion plan for said businesses.
- Providing uniform small works roster provisions for awarding contracts to increase administrative efficiency.
- Requiring OMWBE to adopt rules governing a public works small business certification plan.
- Removing the requirement for the Department of Enterprise Services to survey which states provide a bidding preference on public works contracts for their resident contractors.
- Requiring the Capital Projects Advisory Review Board (CPARB) to review construction cost escalation data for Washington State.
- Requiring CPARB to make recommendations to the appropriate committees of the Legislature on adjustments to existing contracting thresholds.

### Date to remember

**HB 1306** is scheduled for public hearing in the House Innovation, Community & Economic Development, & Veterans Committee on Tuesday, January 24 at 10:30 am.

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## Bill proposes to expand definition of “public work”

Contact: Brandy DeLange, Brianna Morin

Sen. Steve Conway (D–Tacoma) has introduced a bill (**SB 5418**) that expands the definition of “public work” to include work supported by grants or loans of public dollars, or by tax deferral or reimbursement. The new definition means a broader range of projects would qualify as public works and gain the responsibilities and restrictions specific to such projects. The bill also excludes work for which no wage or salary compensation is paid and defines “ordinary maintenance” to provide clarity in the statute.

As currently drafted, the bill would create significant burden and constraints on cities receiving funds or authorizing a tax credit for projects such as affordable housing or other granting or tax-deferral programs intended to support low-income or infirmed individuals.

AWC seeks city feedback on the impacts of this draft legislation. **Please contact staff with your input by January 26.**

## Transportation

### “Zach’s Law” reappears for consideration this year, aims to deter bridge jumping

Contact: Brandy DeLange, Brianna Morin

The Legislature has re-introduced a bill from the 2022 session authorizing state and local agencies to install signs on or near bridges warning people of the dangers of diving or jumping off.

**HB 1004** (companion to **SB 5478**), from Rep. Peter Abbarno (R–Centralia), is known as “Zach’s Law.” The bill encourages cities, towns, and counties to erect informational signs on new and existing bridges providing location-specific information about the hazards of jumping. The signs are meant to be more than just a “no jumping” sign so that people can better understand the hazards related to a particular location. Signs may be erected in locations where people might otherwise think a location is safe for swimming.

Based on feedback from last session, the bill clarifies that the law may not be used to impose liability on the city or town if a sign has or has not been erected on its property. Any sign located along a state highway or the interstate system must be approved by Washington State Department of Transportation.

Additionally, the bill directs certain state agencies to consider, before entering a contract for the construction or replacement of a bridge, whether to require the installation of these informational signs as part of the contract.

AWC supports this bill.

#### Date to remember

**HB 1004** is scheduled for public hearing in the House Transportation Committee on Wednesday, January 25 at 4 pm.

*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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