



# Legislative bulletin

February 6, 2023

## Hot topics

**Act now! AWC is asking city leaders to sign on to a letter to legislators urging action on vehicular pursuits. Deadline is February 8**

Now is a crucial time to make your city's voice heard. Please sign on to AWC's letter to legislative leadership urging the Legislature to revise the restrictions of police vehicle pursuits.

### **Priority housing revenue bill up for hearing**

As prospects appear to dim for Governor Inslee's \$4 billion housing referendum proposal, the long-awaited introduction of an alternative proposal to provide significant new revenues for state and local governments for affordable housing purposes was very welcomed. We know that we need to increase housing supply across the board; but without additional revenue for housing for very low-income households, this type of housing will not be built by the private sector. And that is just half our housing need. **HB 1628** will create a new state and local REET to support housing – please sign in with your support!

### **AWC needs your help to oppose costly prejudgment interest bill this week**

Red alert! Contact your senators to oppose **SB 5059**, a bill that could dramatically increase the price of tort claims against a city by requiring interest on damages going back to before the city even knew there was an injury. It is scheduled for a public hearing in the Senate Ways & Means Committee on Tuesday at 4pm. The bill passed out of the Senate Law & Justice Committee on a party-line vote, so we need your help to slow this costly legislation down.

## Media time

### **Read our newest research highlighting city infrastructure**

AWC's State of the Cities: Washington's interconnected infrastructure looks at city infrastructure across Washington to examine the present condition of our infrastructure systems, how cities are overcoming barriers to improvement, and what more can be done to support the statewide network. Read the press release.

## View from the hill

### **Cutoff countdown commences**

The first cutoff deadline of session is in less than two weeks: February 17 marks the date when bills must have been voted out of their policy committees or they are likely dead for the remainder of the session. The next cutoff is for bills to pass out of their fiscal committees; it follows shortly after on February 24. With nearly 1,500 bills floating around somewhere in the legislative process, this week kicks off the crunch time to either advance bills out of committee or stop them before they move. Want to better understand what cutoff means? Watch this short video. Want to see which bills AWC is watching closely as cut-off nears? Check out AWC's Bill Hot Sheet for the long list of bills we are supporting and working to advance, and the few bills we are trying to keep from passing these critical deadlines.

### **AWC city action calls**

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

Join our city action calls each Friday at 12:30 pm to hear updates directly from your team of AWC lobbyists 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.

## Action items

### **City Action Days is next week!**

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

We've been saying it, and it's true: City Action Days is nearly sold out at 96% full! We have just a few spots left. Check out the updated agenda and register now before it's too late. We can't wait to see everyone in Olympia next week.

If you are planning to attend and haven't yet scheduled meetings with your legislators, do it today! Also, don't forget to invite them to attend the legislative reception on Wednesday, February 15.

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## **Check out the Washington cities that won SS4A funding; prepare to apply for the next round**

Last week, the U.S. Department of Transportation announced \$800 million in grant awards for hundreds of local road safety projects through the new Safe Streets and Roads for All (SS4A) grant program. Sixteen communities in Washington were awarded funding, including five cities, for a total of \$9.2 million heading to our state. Learn about the program and winning Washington projects.

This is the first of likely five rounds of funding through the program. The next round of awards will open in April. Interested applicants should start preparing now. Check out the program webpage and sign up to attend a Local Infrastructure Bootcamp. The National League of Cities has launched a Safety First Challenge, open to any city committed to working on road safety. The sign-up form is simple and open to all.

## **What you need to know**

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

Although no new bills were added to the housing proposal chart this week, ongoing and productive discussions with the sponsors of the zoning preemption bills continue. We hope to add bill numbers to the zoning portions of the proposal soon.

**Tax amendment bills that support housing.** In a sea of complex and lengthy bills to address the housing crises (and yes, that is plural crises), here are two good little bills that offer what is needed most – direct support for funding housing.

**Two more lengthy bills focused on permit processing.** For the avid readers out there, you will recognize these bills as an approach tried for the last few sessions – changing what constitutes project permit “completeness.” There’s a lot to unpack with these extremely similar bills – your feedback is appreciated.

**Broadband & telecommunications: Washington may soon have a state broadband map showing high-speed internet coverage statewide.** A bill directing the State Broadband Office to develop the map is up for a hearing this Wednesday at 8 am.

**Budget & finance: Senate proposal linking cap on property taxes to inflation and population introduced.** We hope both the House and Senate bills will be scheduled for hearing soon, and we encourage city officials to talk to your legislators about the need for this local revenue flexibility.

**TSWIFT consumer protection act seeks to protect ticket buyers but could impact local admissions tax.** AWC is seeking feedback on potential impacts of **HB 1648**, which is intended to provide concert ticket buyers with additional protection from electronic bots that circumvent online ticket sales security and increase costs from ticket resellers. But it also includes a preemption of local ordinances related to ticket sales.

**Cannabis: House attempts to preempt local authority to prohibit cannabis businesses.** A new bill requiring voter approval for local government prohibitions on the operation and siting of cannabis businesses has been introduced and heard in the House. **HB 1650**, sponsored by Rep. Sharon Wylie (D–Vancouver), removes local elected decision-making authority and attempts to reopen an issue that has long been settled.

**Economic development: Rural county sales tax extension keeps moving through process.** Both bills would extend authority for the .09 sales tax to 2054 and are scheduled for hearings in their respective committees on February 7.

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**Federal: How the debt ceiling impacts cities:** NLC explains how the debate around the federal debt ceiling impacts local government.

**General government: Bill to limit city liability for police dogs gets a hearing.** A bill to limit liability for use of trained police dogs to detect fentanyl is scheduled for a hearing this week in the House.

**HR & labor relations: Round-up of HR bills includes a new holiday.** Several bills potentially impacting city workforces are scheduled for hearings this week. They include banning employee vehicle searches, expanding qualifications for police officer applicants, and a possible new legal holiday for Lunar New Year.

**Land use & planning: Planning bills not aimed at housing? They still have those? And relief for small cities?** After reviewing so many bills proposing to change the ways our cities evolve and grow with a particular focus on housing supply, it feels like a bit of a vacation to see some proposals dealing with other aspects of city planning responsibilities.

**Public safety & criminal justice: Blake bills scheduled in Senate Law & Justice Committee.** We urge you to reach out to your legislators on the Senate Law & Justice Committee with support for **SB 5536** and **SB 5467**, making 'knowing' possession of a controlled substance a gross misdemeanor and encouraging individuals to participate in treatment programs in lieu of criminal penalties. Both bills had public hearings on Monday morning, and we appreciate the city officials who testified in support.

**Senate hears bill authorizing criminal justice sales tax. SB 5361**, sponsored by Jeff Holy (R-Spokane), is a bipartisan effort to address the shortage of law enforcement officers in Washington.

**Bill raising the age of the juvenile court's jurisdiction scheduled.** The House Human Services, Youth, & Early Learning committee will hear a bill raising the age that a child can be involved in the juvenile court system, barring certain circumstances.

**Public works & infrastructure: Bill proposes to expand definition of "public work."** **SB 5418** is scheduled for public hearing in the Senate State Government & Elections Committee on Friday, February 10, at 8 am.

**Transportation: Changes to pedestrian crossing laws could reduce jaywalking infractions, increase safety risks.** A new proposal to decriminalize jaywalking has laudable intentions yet raises safety and liability concerns for cities.

**Washington sets rules of the road for fully autonomous vehicles.** New legislation, as written, preempts city authority over the vehicles. AWC seeks city feedback on the bill, **SB 5594**, which is scheduled for public hearing on Tuesday, February 7, at 4 pm.

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# Affordable housing

## Two more lengthy bills focused on permit processing

Contact: Carl Schroeder, Shannon McClelland

For the avid readers out there, you will recognize these bills as an approach tried for the last few sessions—changing what constitutes project permit “completeness.” The Senate bill just had a hearing, and the House bill will be heard this week. There’s a lot to unpack with these extremely similar bills – your feedback is appreciated.

**HB 1519**, sponsored by Rep. Andrew Barkis (R–Olympia), amends existing law that regulates how local governments must timely process project permits by first changing the definition of “project permit” to exclude building permits and site-specific re-zones that do not require a comprehensive plan amendment. The bill then:

- Require local governments to outline procedurally complete requirements on the permit application itself but allows for additional information or studies beyond the procedural review to not bar issuance of completeness.
- Requires local government to outline, in the case of an incomplete submittal, what would make the application procedurally complete in the written determination of completeness.
- Allows the written determination to be emailed.
- Requires that an application is deemed complete if the application meets submission requirements and incomplete if it doesn’t.
- Requires the permit to default to complete on the 29 day if the jurisdiction hasn’t provided a written determination. Stipulates how days are counted as weekdays and not holidays or weekends.
- Requires the notice of application under RCW 36.70B.110 to be provided in 14 days, although it appears that statute already requires a notice in 14 days. More amendments are made to this statute in Section 8—we would appreciate your feedback on these.

Section 4 of the bill repeals the 120 days permit review timeline, then details very prescriptive permit review deadlines; but these are only the default if a local government does not adopt an ordinance to amend and establish their own timelines. The bill requires a local government to refund permit fee portions if the timeline is not met and if they have not adopted at least three of the expediated permit processing encouraged options in RCW 36.70B.160(1). These options are relatively reasonable policies if a city does not want the refund provisions to apply:

- Expediting review for project permit applications for projects that are consistent with adopted development regulations
- Imposing reasonable fees
- Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources
- Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly
- Having new positions budgeted that are contingent on increased permit revenue
- Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute
- Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal

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- Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted
- Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license
- Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.

Finally, **HB 1519** added several provisions to the optional but encouraged expediated permit processing statute; but then requires governments to adopt additional measures after January 1, 2026, during their comprehensive plan update if both apply:

1. The city adopted at least three of the “encouraged” streamlining provisions more than five years ago
2. The city is not meeting its permitting deadlines at least half the time since it’s last comprehensive plan update

**SB 5473**, sponsored by Sen. Chris Gildon (R–Puyallup), is very similar to **HB 1519**.

Here’s how it differs from the above:

- Shortens the written determination deadline from 28 days (current law) to 20 days
- The permit timeline changes (Section 3) take affect January 1, 2025, instead of the effective date of the bill.
- Amends the annual permit performance reporting requirements and focuses on housing permits only; and, starting in 2025, requires posting on the jurisdiction’s website and submittal to the Department of Commerce.
- Under the optional but encouraged expediated permit actions, it takes a different approach: Where measures have been taken and permit timelines are not meeting those at least 50 percent of the time, the city or county shall, as part of the periodic update, adopt new measures aimed at reducing permit timelines. If new measures are not adopted, then RCW 36.70B.080(2)(a) (i) and (ii) shall apply. The city or county shall average the timelines for permit applications using years three through six after the last periodic update to determine if additional measures must be taken.
- Does not make amendments to RCW 36.70B.110

We know these proposals look complicated and different. The source behind each, however, is the same—the GMA Roadmap process in 2022. Although there are some elements that may seem problematic, there is also a lot of flexibility and authority for cities determine their own approaches. We would greatly appreciate feedback on if this will work for your city or how you would improve it.

### **Date to remember**

**HB 1519** is scheduled for public hearing in the House Local Government Committee on Tuesday, February 7, at 10:30 am and is scheduled for a vote in the same committee on Friday, February 10 at 10:30 am.

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## Tax amendment bills that support housing

Contact: Carl Schroeder, Shannon McClelland

In a sea of complex and lengthy bills to address the housing crises (and yes, that is plural crises), here are two good bills that offer what is needed most – direct support for funding housing.

Many of you may recognize a bill number from the 2019 session – **HB 1406**. That's the bill that established a local revenue sharing program to support affordable housing (Affordable Housing Sales Tax Credit). **SB 5604**, removes the population limitations on how cities spend the money. Now all jurisdictions can use the funds for all uses:

- Acquiring, rehabilitating, or constructing affordable housing;
- Funding the operations and maintenance costs of affordable or supportive housing; and
- Providing rental assistance.

AWC appreciates Sen. June Robinson (D–Everett) for sponsoring this helpful change.

The other bill, **SB 5613**, amends a rural county tax (RCW 82.14.370) but is one which the county must coordinate with the city when deciding how to spend the revenue. The bill, sponsored by Sen. Liz Lovelett (D-Anacortes), repeals the sunset of 25 years, and extends it to December 31, 2054. Affordable workforce housing was added in 2022 (**SB 5868**) as an eligible use of these funds. A good little bill.

### Dates to remember

**SB 5613** and **SB 5604** is scheduled for public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on Tuesday, February 7 at 8 am.

## Priority housing revenue bill up for hearing

Contact: Carl Schroeder, Shannon McClelland

As prospects appear to dim for Governor Inslee's \$4 billion housing referendum proposal, the long-awaited introduction of an alternative proposal to provide significant new revenues for both the state and local governments for affordable housing purposes is very welcome.

**HB 1628** from Rep. Frank Chopp (D–Seattle) has two primary components:

- Creates a new tier of real estate excise tax (REET) collected by the state, increasing the current tax for the portions of property value exceeding \$5,000,000 from 3% to 4%. That provision is projected to raise \$200 million per year, with the bill allocating those funds to the Housing Trust Fund, the Apple Homes and Health Program, housing for those with developmental disabilities, and for operations & maintenance of permanent supportive housing facilities.
- Authorizes cities and counties to levy a new .25% local REET by council vote. At least 50% of funds must be used on capital construction or acquisition of new affordable housing units, and up to 50% can be used for operations and maintenance and services directly tied to permanent affordable housing purposes, and not for transitional, temporary or shelter services. Look at this spreadsheet ([https://wacities.org/docs/default-source/legislative/reetincreasebycity.pdf?Status=Master&sfvrsn=4b14264f\\_3](https://wacities.org/docs/default-source/legislative/reetincreasebycity.pdf?Status=Master&sfvrsn=4b14264f_3)) to see projections from the Department of Revenue on how much this option could raise for your city.
- The income limits are projects serving 60% or less of the area median income (AMI) for rental housing, and 80% AMI for ownership housing.

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We are also working to include authorization for some of these dollars to be used on infrastructure to support housing, and to harmonize the slightly different authorities with the underlying local REET eligible uses.

We know that we need to increase housing supply across the board; but without additional revenue for housing for the very low income, this type of housing will not be built by the private sector. And that is half our housing need.

Please sign in (<https://app.leg.wa.gov/CSI/Testifier/Add?chamber=House&mld=30678&ald=150794&cald=21271&tld=3>) favorably on this bill before the hearing at 10:30 am on Tuesday, February 7. Please also share your support with your House members.

#### **Dates to remember**

**HB 1628** is scheduled for public hearing in the House Local Government Committee on Tuesday, February 7 at 10:30 am.

## **Broadband & telecommunications**

### **Washington may soon have a state broadband map showing high-speed internet coverage statewide**

Contact: Brandy DeLange, Brianna Morin

With millions of dollars in federal funding for Washington dependent on broadband mapping data, the need for accurate information about broadband coverage in our state has never been more important. Legislation from Rep. Cindy Ryu, (D–Shoreline) aims to double down on ongoing mapping efforts by directing the State Broadband Office (WSBO) to create a state broadband map.

**HB 1746** authorizes WSBO to develop and maintain a state broadband map indicating the address of serviceable locations and capability of broadband service in Washington. The office must make the initial map available by July 1, 2024 and must update the map at least twice per year.

Broadband service providers, called “covered entities,” in the state must submit updated data to WSBO twice per year to assist the office in developing and maintaining the state map. The information provided to the office must include detailed end-user location address information and any information that is required to be submitted to the Federal Communications Commission.

The map’s data will be useful to the state in many ways. One important function is its use in applications for broadband infrastructure project funding. Thus, **HB 1746** updates rules governing the Public Works Board’s (PWB) broadband infrastructure funding programs. Specifically, it updates the funding application requirements such that applicants must include detailed end-user location address information for each connection (presumably sourced by the state broadband map). The bill also modifies the process by which existing service providers near a proposed project area submit what’s called a “challenge” or objection to WSBO, demonstrating that broadband service is already provided in the area. Providers challenging a project must have submitted broadband mapping data to WSBO within the previous year. Finally, the PWB is authorized to prioritize applicants that have submitted broadband mapping data to WSBO within the previous year.

#### **Date to remember**

**HB 1746** is scheduled for public hearing in the House Innovation, Community & Economic Development, & Veterans Committee on Wednesday, February 8 at 8 am.

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# Budget & finance

## Senate proposal linking cap on property taxes to inflation and population

Contact: Candice Bock, Sheila Gall

**SB 5618** sponsored by Sen. Kuderer (D–Bellevue) revises the property tax cap for local governments to account for inflation and population growth up to three percent. It takes a similar approach to **HB 1670** and we hope both bills will be scheduled for hearing soon and encourage city officials to talk to your legislators about the need for this local revenue flexibility.

Changing the cap on property taxes to tie it to inflation and population growth would help cities keep up with the increasing costs of services and was a recommendation of the State Tax Structure Work Group.

This proposal takes a slightly different approach. It would allow local governments under 10,000 population to increase property tax by three percent. For local governments over 10,000 population, the cap would be the lesser of growth in inflation and population or three percent, or three percent with a finding of substantial need. Unlike the house version of the bill, **SB 5618** is tied to passage of **SB 5495**, the homestead property tax exemption.

In a recent public opinion survey commissioned by AWC, 72% of respondents indicated support for a 3% cap on property taxes.

## TSWIFT consumer protection act seeks to protect ticket buyers, but could impact local admissions tax

Contact: Candice Bock

AWC is seeking feedback on potential impacts of **HB 1648**, which is intended to provide concert ticket buyers with additional protection from electronic bots that circumvent online ticket sales security and increased costs from ticket resellers. It stems from a recent incident involving concert ticket sales – hints for which one in song lyrics that might be included in some of the bill text.

The bill takes a number of steps to protect event ticket consumers by:

- Creating a new consumer protection act violation for circumventing ticket seller security measures
- Establishing a ticket sales license for ticket sellers or resellers
- Requiring ticket sellers and resellers to make certain disclosures to admission tickets consumers
- Limiting ticket delivery fees and "dynamic pricing" on tickets

However, section 10 of the bill includes a broad preemption for "all existing or future laws enacted by a county, city, town, or other political subdivision" regarding the sale of admission tickets to events. Some cities have expressed concern that this could impact authority for local ordinances on ticket sales such as the local five percent admissions tax imposed by many cities and public facilities districts.

If you have additional examples of local impacts, please let us know.

### Date to remember

**HB 1648** is scheduled for a hearing in the House Consumer Protection & Business Committee on Wednesday, February 8 at 1:30 pm.

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# Cannabis

## House attempts to preempt local authority to prohibit cannabis businesses

Contact: Candice Bock, Sheila Gall, Katherine Walton

A new bill requiring voter approval for local government prohibitions on the operation and siting of cannabis businesses has been introduced and heard in the House. **HB 1650**, sponsored by Rep. Sharon Wylie (D–Vancouver), removes local elected decision-making authority and attempts to reopen an issue that has long been settled.

The bill would prevent local governments from prohibiting cannabis retail businesses in their jurisdiction after July 1, 2027 unless a majority of voters in the jurisdiction voting in a general election vote after July 1, 2023 to approve an ordinance prohibiting cannabis retailers. This means that even cities that had previously submitted the issue to voters would need to resubmit the ban to a vote. Currently about 80 cities out of 281 have some kind of prohibition on cannabis retail businesses.

The bill also establishes state preemption of the regulation of cannabis retail businesses except for existing zoning authority for siting, ordinances of general application, or the authorization for voter-approved bans. This regulatory preemption will likely impact cities that currently allow the siting of cannabis retailers forcing them to revise their requirements.

Finally, the bill tries to allocate cannabis excise tax revenues from certain new cannabis retail outlets located in jurisdictions that had prohibitions that were not reimposed by voter approval until July 1, 2032 to support substance abuse disorder prevention treatment services as well as cannabis research.

AWC testified in opposition to the bill and several cities also expressed opposition due to the preemption issues as well as the confusion created by the redirection of cannabis revenues. We would appreciate your feedback on this bill. Please email Candice Bock or Katherine Walton.

MSRC has published this helpful resource to see local cannabis zoning ordinances across the state (<https://public.tableau.com/app/profile/mrsc/viz/shared/X9CZ7FSPG>).

## Economic development

### Rural county sales tax extension keeps moving through process

Contact: Candice Bock, Sheila Gall

Companion bills that would extend the current rural county economic development sales tax (.09 sales tax) until 2054 are moving through the process. **HB 1267** passed out of the House Local Government Committee and is scheduled for a hearing in the House Finance Committee. The Senate version, **SB 5613**, is also scheduled for a hearing in the Senate Local Government Committee.

AWC supports extending the .09 sales tax, which is set to expire in counties that are close to the limit of 25 years after imposition. It is an important tool for development partnerships in rural cities and counties.

#### Dates to remember

**HB 1267** is scheduled for a hearing in the House Finance Committee on Tuesday, February 7 at 8 am.

**SB 5613** is scheduled in the Senate Local Government Committee on Tuesday, February 7 at 8 am.

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# General government

## AWC calling on cities to oppose costly prejudgment interest bill this week

Contact: Candice Bock, Matt Doumit

Red alert, all hands to battle stations, the sky is falling, we really mean it this time! AWC is asking cities to contact their Senators to oppose a costly bill that could dramatically increase the price of tort claims against a city. It is scheduled for a public hearing in the Senate Ways & Means Committee Tuesday. The bill already passed out of the Senate Law & Justice Committee on a party-line vote.

As we wrote last month (<https://wacities.org/advocacy/news/advocacy-news/2023/01/20/cities-to-oppose-prejudgment-interest-bill-for-increasing-city-liability-costs-at-hearing-this-week>), **SB 5059** 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.

This means interest would start to accrue **before a claim was filed** and before a city was made aware of the injury or loss. Between the time it takes for a plaintiff to file a claim and the time to litigate the case, years’ worth of interest would be added on before a court even has a chance to weigh in on the merits of a tort claim. Current law provides that interest begins to accrue on the date a judgment is entered by a court.

**AWC encourages you to contact your senators and tell them** (<https://wacities.org/advocacy/legislator-directory>):

- This bill will further increase the cost of city liability insurance and may drive some insurers out of the state altogether.
- Judges already have the ability to factor in pre-judgment costs when they make an award. This will only add on extra litigation costs before cities even knew there was a claim.
- This bill will penalize cities for timelines outside of their control. Courts are already overburdened; sometimes it can take years for a case to come to trial.
- This bill creates additional financial incentives for parties to delay filing a cause of action and for trial attorneys to file additional claims.

You can also sign in here (<https://app.leg.wa.gov/csi/Senate>) to testify or simply note your opposition on **SB 5059** (either in person or remotely) or submit written comments.

The House has a similar bill, **HB 1649**. AWC opposes both **SB 5059** and **HB 1649**.

If you have any questions about the bill or how to contact your legislators (<https://wacities.org/Advocacy/Legislator-directory/Legislator-list?By=1aKRwngbLLM%3d&Type=>), please contact Candice Bock or Matt Doumit.

### Dates to remember

**SB 5059** is scheduled for public hearing in the Senate Ways & Means Committee on Tuesday, February 7 at 4 pm.

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## **Bill to limit city liability for police dogs gets a hearing**

Contact: Candice Bock, Matt Doumit

A bill to limit liability for use of trained police dogs to detect fentanyl is scheduled for a hearing this week in the House.

**HB 1635** is sponsored by Rep. Gina Mosbrucker (R–Goldendale). It grants civil suit immunity to local governments for use of police dogs to detect fentanyl if the dog was trained according to Criminal Justice Training Commission (CJTC) standards, the dog was handled by a law enforcement officer in the scope of their employment, and damages were not due to gross negligence or willful or wanton misconduct. The bill also requires the CJTC to develop model standards for training police dog teams to detect fentanyl.

Current law already grants immunity from civil action for police and police dogs in the line of duty for other types of law enforcement activities. Drug detection dogs require specific evaluations and performance testing, including testing to determine if the dog can detect specific odors of drugs like heroin, cocaine, and methamphetamine. In 2021, the CJTC was required to develop model policies for use of police dogs, and canine teams in Washington must be certified according the CJTC standards.

### **Dates to remember**

**HB 1635** is scheduled for a public hearing in the House Community Safety, Justice, & Reentry Committee on Monday, February 6 at 1:30 pm.

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# HR & labor relations

## More HR bills with hearings in week five

Contact: Candice Bock, Matt Doumit

Several bills potentially impacting city workforces are scheduled for hearings this week. The bills include employee vehicle searches, qualifications for police, and a possible new legal holiday for Lunar New Year.

### Employee vehicle searches

**HB 1491**, sponsored by Rep. Ed Orcutt (R–Kalama), prohibits employers from searching an employee's privately owned vehicle located on the employer's premises. It also specifies that employees are permitted to keep any legal private property in their vehicle while on the employer's premises. Under the bill, employees can file complaints with the Department of Labor & Industries and the department can impose civil penalties for violations.

The bill includes a list of exceptions, including:

- employer-owned or leased vehicles
- lawful searches by law enforcement
- to prevent an imminent threat to health or safety
- employee consents to a search for employer property or controlled substances
- security inspections on state or federal military facilities
- vehicles located at a correctional facility
- other employer areas subject to searches under state and federal law

Rep. Orcutt had a very similar bill in 2021 that passed out of committee but never got a vote on the House floor. You can read our write up here (<https://wacities.org/news/2021/01/30/bill-to-ban-unjustified-employee-vehicle-searches>).

### Police and prosecutor qualifications

**HB 1530** is sponsored by Rep. Julio Cortes (D–Everett). It permits general and limited authority law enforcement agencies to consider US citizens and lawful permanent residents for employment in any position within their agency. Similarly, the bill allows the hiring of deputy prosecutors that are either a US citizen or lawful permanent resident, and need not be an elector in the county they serve.

A similar bill, **SB 5274**, also allows hiring of lawful permanent residents as police or prosecutors. That bill also eliminates English language proficiency requirements for applicants to city fire departments, city police departments, and other agencies. That bill is waiting for vote on the Senate floor.

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### **Lunar New Year holiday**

**HB 1516**, sponsored by Rep. My-Linh Thai (D–Bellevue), establishes a new state legal holiday for the Lunar New Year on the Saturday before the beginning of the Lunar New Year (the second new moon following winter solstice, or the third new moon in a leap year according to the lunar calendar ). The bill specifies that the Lunar New Year holiday is observed on Saturday, not on preceding Friday as with other state holidays that fall on Saturday.

Cities can recognize their own list of holidays (<http://mrsc.org/Home/Explore-Topics/Legal/Personnel/State-Legal-Holidays.aspx>) through adoption of ordinances, personnel policies, or including them in collective bargaining agreements. Lunar New Year would be the 12th state legal holiday.

### **Dates to remember**

**HB 1491** is scheduled for a public hearing in the House Labor & Workplace Standards Committee on Wednesday, February 8 at 8 am.

**HB 1530** is scheduled for a public hearing in the House Community Safety, Justice, & Reentry on Monday, February 6 at 1:30 pm.

**HB 1516** is scheduled for public hearing in the House State Government & Tribal Relations Committee on Wednesday, February 8 at 1:30 pm. It is also scheduled for a committee vote on Friday, February 10 at 8 am

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# Land use & planning

## Planning bills not aimed at housing? They still have those? And relief for small cities?

Contact: Carl Schroeder, Shannon McClelland

After reviewing so many bills proposing to change the ways our cities evolve and grow with a particular focus on housing supply, it feels like a bit of a vacation to see some proposals dealing with other aspects of city planning responsibilities.

This week several proposals of this sort are planned for hearing or for committee vote.

### Integration of climate change considerations in the Growth Management Act

Long-time readers will recall the evolution and work that has gone into this proposal over the last several years. In the 2022 legislative session a fully agreed-to compromise bill was poised for passage until the clock ran out on Sine Die.

Despite this setback, the proposal is back for one more try—this time in the form of **HB 1181** (Rep. Duerr, D–Bothell) and **SB 5203** (Sen. Lovelett, D–Anacortes), and with the boost of being requested by Governor Inslee.

The companion bills continue to evolve slightly. If you are tracking these bills please review the new language on environmental justice and Americans with Disability Act planning.

AWC continues to support this bill.

### Speaking of environmental justice...

Continuing on that theme, Senator Lovelett has also introduced **SB 5651** which adds a new environmental justice goal and element to comprehensive plans required under the Growth Management Act (GMA). AWC has a commitment to advancing equity and inclusion and we are working with the proponents to try to make this approach workable—and to ensure necessary planning resources are provided.

The requirements would be:

- Specifically engage with vulnerable populations and overburdened communities.
- Adds a goal to the GMA to develop and apply fair land use and environmental policy based on respect and justice for all peoples. Identify and plan for the reduction and prevention of environmental and health disparities and work towards eliminating disparate harms and disproportionate environmental and health impacts by prioritizing vulnerable populations and overburdened communities and the equitable distribution of resources and benefits.
- The new environmental justice element would include:
  - Goals, objectives, timelines, policies, and measures, and their application in appropriate elements that reduce environmental harms, that create environmental benefits, that work toward eliminating environmental health disparities, and that promote public participation in decision making by vulnerable populations and overburdened communities.
  - A requirement to identify overburdened communities and vulnerable populations within the planning area using guidance developed by the Department of Commerce.
  - The element must address how all other mandatory element of city comprehensive plans individually—and how the entirety of the comprehensive plan collectively—reflects considerations of environmental justice, addresses

*continued*

any cumulative environmental health impacts faced by vulnerable populations or overburdened communities, and how the elements and overall plan advance the equitable distribution of environmental benefits.

- The environmental justice element may address subjects including, but not limited to, regulations, decisions on siting and permitting, resource allocations, enforcement, and the monitoring and reporting of exposures to environmental health hazards.
- The bill also provides definitions of these terms.

We need your feedback about this proposal and whether it is workable or how it could be improved.

### **Helping the smallest cities**

Rounding out this week's trio is the quintessential "good little bill." A recommendation of the GMA Roadmap process, Sen. Shelly Short (R-Addy) has introduced **SB 5457** which allows the smallest cities in the state to have vastly streamlined growth management responsibilities.

Cities with a population under 500, who have experienced less than 10% growth over the preceding decade would be allowed to update only two elements of their comprehensive plan – rather than the full extensive review. By focusing only on critical areas and capital facility planning, these smaller communities will be able to ensure that their environmental protections and infrastructure plans are current.

Combined with Senator Short's other proposal, **SB 5374**, that would allow cities under 25,000 to adopt the county critical area ordinances by reference, the smallest cities will be getting significant relief.

### **Dates to remember**

**SB 5203** is scheduled for a committee vote in the Senate Local Government Committee on Thursday, February 9 at 10:30 am.

**SB 5651** is scheduled for public hearing in the Senate Local Government Committee on Tuesday, February 7 at 8 am.

**SB 5457** is scheduled for a committee vote in the Senate Local Government Committee on Tuesday, February 7 at 8 am.

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# Public safety & criminal justice

## Act now! AWC asking city leaders to sign-on to letter to legislators urging action on vehicular pursuits

Contact: Candice Bock, Katherine Walton

The House Community Safety, Justice & Reentry committee heard **SB 1363**, sponsored by Rep. Alicia Rule (D–Blaine), last week and 11 mayors, deputy mayors, and city councilmembers signed up to testify in support. Many more signed in support of the bill. Thank you to all of those who participated in the hearing. You can watch the hearing on TVW (<https://www.tvw.org/watch/?clientID=9375922947&eventID=2023011779&startStreamAt=3120>). **HB 1363** revises statute to include a ‘reasonable suspicion’ standard and strikes an appropriate balance between providing law enforcement with the tools needed to pursue dangerous suspects while focusing on appropriate and necessary safety standards.

The Senate Law & Justice Committee also heard **SB 5533**, sponsored by Sen. John Lovick (D–Mill Creek), which creates a model vehicle pursuit policy work group within the Criminal Justice Training Commission (CJTC) as well as a law enforcement technology grant program that allows agencies to purchase modern vehicle pursuit management technology.

AWC supports both bills – Washingtonians need a reasonable suspicion standard fix now to the vehicular pursuit law and more funding and best practices for law enforcement departments to use.

Now is a crucial time for city leaders to act. Please sign on to this letter ([https://wacities.org/docs/default-source/legislative/hb1363signonletter2023.pdf?Status=Master&sfvrsn=6d14264f\\_3](https://wacities.org/docs/default-source/legislative/hb1363signonletter2023.pdf?Status=Master&sfvrsn=6d14264f_3)) outlining the need to revise the restrictions of police vehicle pursuits. If you would like to add your name as an individual city leader, please follow this link ([https://forms.office.com/Pages/ResponsePage.aspx?id=cL1JyzCFxEipYy\\_46MPSMjZX3u4R0SFBhoPweul5m51UM0pKTDZVN0hPUDJPM1haQ1INVEJWNjJHMiQIQCN0PWcu](https://forms.office.com/Pages/ResponsePage.aspx?id=cL1JyzCFxEipYy_46MPSMjZX3u4R0SFBhoPweul5m51UM0pKTDZVN0hPUDJPM1haQ1INVEJWNjJHMiQIQCN0PWcu)) and complete the form. No need to send an electronic signature: by filling out the form, you give us permission to add your name to the letter. **The deadline to sign on is noon on Wednesday, February 8.**

If you have questions or comments to share with AWC, please contact Candice Bock directly at [candiceb@awcnet.org](mailto:candiceb@awcnet.org).

### Need a refresher?

Check out last week’s article (<https://wacities.org/advocacy/news/advocacy-news/2023/01/27/bills-related-to-police-vehicle-pursuits-up-for-hearing-this-week>) that goes into more depth on both bills.

### Dates to remember

**HB 1363** is scheduled for a vote in the House Committee on Community Safety, Justice, & Reentry on Thursday, February 9 at 8 am.

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## **Blake bills scheduled in Senate Law & Justice Committee**

Contact: Candice Bock, Katherine Walton

We urge you to reach out to your legislators on the Senate Law & Justice Committee (<https://leg.wa.gov/Senate/Committees/LAW/Pages/MembersStaff.aspx>) with support for **SB 5536** and **SB 5467**, making 'knowing' possession of a controlled substance a gross misdemeanor and encouraging individuals to participate in treatment programs in lieu of criminal penalties. Both of these bills had public hearings on Monday morning, and we appreciate the city officials who testified in support.

Your legislators needs to hear from cities that:

- **The current system isn't working.** The current two-referral requirement has created legal uncertainty and, in some cases, impedes individuals from accessing treatment. **SB 5536** and **SB 5467** create clear criminal penalties while focusing on getting individuals into treatment.
- **There need to be more treatment alternatives** for individuals struggling with substance use disorder or have unmet behavioral health needs.
- **Cities need funding to implement solutions.** We urge the legislature to provide additional funding to help develop new therapeutic courts and alternative response programs that provide access to treatment and options beyond law enforcement for responding to situations.

We believe both of these bills address some of the issues that cities are currently facing and help add treatment options without compromising public safety. They have similar intents with different approaches to treatment based diversion. We understand that **SB 5536** is the bill that will likely advance. We will continue to work with the sponsors to explore combining some of the concepts from both bills into the bill that moves forward.

### **Want more?**

**SB 5536** also designates substance use disorder treatment programs as essential public facilities. Need help remembering what that means for your city? MSRC just published this helpful guide (<https://mrsc.org/stay-informed/mrsc-insight/january-2023/what-is-an-essential-public-facility>) on essential public facilities.

AWC has published several articles about the Blake bills. You can find the most recent article here (<https://wacities.org/advocacy/news/advocacy-news/2023/01/23/three-bills-have-been-introduced-addressing-blake>).

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)).

### **Dates to remember**

**SB 5536** and **SB 5467** are scheduled for public hearing in the Senate Law & Justice Committee on Monday, February 6 at 10:30 am and for executive session in the same committee on Thursday, February 9 at 8 am.

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## Bill raising the age of the juvenile court's jurisdiction scheduled

Contact: Candice Bock, Katherine Walton

The House Human Services, Youth, & Early Learning committee will hear a bill raising the age that a child can be involved in the juvenile court system, barring certain circumstances. **HB 1440**, sponsored by Rep. My-Linh Thai (D–Bellevue), changes youth court jurisdiction to 14-17 years of age (it currently stands at 8-17) and presumes that children 13 and younger are presumed to be less capable of making fully informed, reasoned decisions and thus are not capable of committing a crime. There would be an exception for children 13 and younger who are charged with murder and show clear and convincing evidence that they have sufficient capacity to understand and know it was wrong.

The bill also creates a juvenile justice task force to provide recommendations and an implementation plan to expand juvenile court jurisdiction to also include 18-, 19-, and 20-year-olds.

This proposal is based off a review by the Washington State Board of Health (<https://sboh.wa.gov/sites/default/files/2022-01/HIR-2021-04-SB5122..pdf>) that looked at the potential health impacts of raising the age of the juvenile court's jurisdiction, finding evidence that doing so could decrease juvenile recidivism and improve health outcomes, access to employment opportunities, housing access, and economic stability.

Some have expressed concerns that this might inadvertently push more children into crime as gangs could end up targeting younger children who wouldn't be likely to be charged with a crime.

We would appreciate your feedback.

### Dates to remember

**HB 1440** is scheduled for public hearing in the House Human Services, Youth, & Early Learning committee on Wednesday, February 8 at 1:30 pm.

## Senate hears bill authorizing criminal justice sales tax

Contact: Candice Bock, Sheila Gall, Katherine Walton

The Senate Law & Justice committee heard a bill that would allow cities to impose a sales tax to fund employment of additional law enforcement officers.

**SB 5361**, sponsored by Jeff Holy (R–Spokane), is a bipartisan effort to address the shortage of law enforcement officers in Washington. Cities employ the most law enforcement officers in Washington state and are struggling to keep up with community needs.

This bill would authorize cities to impose an additional 0.1% sales tax for employing additional commissioned law enforcement officers. All of the revenues would need to go toward employing additional officers unless the local commissioned rate (number of officers per 1000 population) is greater than the national average, in which case the tax dollars could go towards "criminal justice purposes." Criminal justice purposes would include activities that have a reasonable relationship to reducing the number of people interacting with the criminal justice system – such as reducing homelessness and improving community behavioral health.

The bill also eliminates the 25% cost-sharing requirement by the Criminal Justice Training Commission (CJTC) for law enforcement training and would require the CJTC to provide up to 25 basic law enforcement training classes per fiscal year beginning in FY 2024 and up to 27 classes in FY 2025.

**SB 5361** passed out of committee and was referred to Ways & Means.

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# Transportation

## Changes to pedestrian crossing laws could reduce jaywalking infractions, increase safety risks

Contact: Brandy DeLange, Brianna Morin, Matt Doumit

A new proposal to decriminalize jaywalking has laudable intentions yet raises safety and liability concerns for cities.

**HB 1428** (companion to **SB 5383**) allows pedestrians to cross a roadway at any point unless a “reasonably careful person would realize there is an immediate danger of a collision” with a moving vehicle, bike, or personal delivery device. The bill, introduced by Rep. Emily Alvarado (D–Seattle), supersedes, and preempts local rules and regulations on jaywalking.

Aiming to reduce pedestrian profiling of people of color and of low socio-economic status, the bill would decrease the number of jaywalking infractions issued by law enforcement officers. Cities agree with the intent of the legislation; however, as written, the bill creates the potential for serious safety risks and contains several points in need of clarification.

**HB 1428** permits pedestrians to cross roadways not only mid-block, but also at signalized intersections. This could lead to catastrophic consequences along busy or high-speed roads. Many signalized locations are highly complex and designed to improve safety for drivers and pedestrians alike, as compared to unsignalized crossings. Furthermore, safety conditions are worse at night and during unfavorable weather, decreasing a pedestrian’s ability to accurately assess the roadway. This could lead to an increase in collisions, injuries, and fatalities. It is unclear how these kinds of factors would be interpreted given the bill’s “reasonably careful person” standard for jaywalkers.

The bill will also impact governments’ ability to enforce other safety laws related to limited access highways, emergency vehicles, pedestrians soliciting rides, pedestrians under the influence of alcohol or drugs, and obstruction of rights of way.

While **HB 1428** “does not relieve a pedestrian from the duty of exercising due care for their safety” or relieve a driver or cyclist from exercising due care for pedestrians, it does not go far enough to clarify issues of liability. As a result, all drivers (including those in city-owned vehicles) are likely to have a greater duty to protect pedestrians, making drivers more likely to be at risk of being held liable in the event of a collision with a pedestrian, and potentially leading to increases in automobile insurance. It is also unclear if this bill would eventually result in greater liability to cities for right-of-way maintenance, additional designated pedestrian crossings, or speed limits, among other issues.

AWC intends to raise some of these unanswered questions and concerns with the bill sponsor and proponents.

### Date to remember

**HB 1428** is scheduled for public hearing in the House Transportation Committee on Wednesday, February 8 at 4 pm.

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## Washington sets rules of the road for fully autonomous vehicles

Contact: Brandy DeLange, Brianna Morin

As autonomous vehicles continue to be developed and tested, questions abound regarding safety, operations, and enforcement of the vehicles on public roadways. Sen. Matt Boehnke (R–Kennewick) has introduced legislation establishing the rules and regulations governing the operations of fully autonomous vehicles in Washington.

**SB 5594** establishes that fully autonomous vehicles and automated driving systems are governed exclusively by the state and that the state Department of Transportation is the sole agency that may implement the proposed law. As written, no other governing body, including cities, may prohibit the operation of fully autonomous vehicles, or impose upon them taxes, fees, or other requirements.

The bill outlines the conditions under which people may operate fully autonomous vehicles without a human driver on the state's public roadways. It also defines terminology related to automated driving systems, vehicles, and their operators, given the highly technical nature of the subject. Of note, the bill stipulates that when the automated driving system is engaged, the automated driving system is considered the driver or operator, for the purpose of assessing compliance with applicable traffic or motor vehicle laws.

The bill outlines several regulatory elements, including:

- Compliance with traffic and motor vehicle safety laws
- Requirements for the vehicle in the event of an accident or collision
- Operational safety planning
- Communication with law enforcement agencies with jurisdiction over the areas in which a vehicle will operate

Noting that fully autonomous vehicles may soon be more prevalent on the roads, AWC opposes any preemption that would limit cities' ability to appropriately regulate vehicles within their jurisdictions.

If your city has feedback to share about this bill, please contact AWC staff.

### **Date to remember**

**SB 5594** is scheduled for public hearing in the Senate Transportation Committee on Tuesday, February 7 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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