



Legislative bulletin

March 6, 2023

Hot topics

Transit-oriented density bill passes the Senate

Several housing density bills include provisions specific to transit, but one housing bill, **SB 5466**, is solely focused on transit-oriented development (TOD). It has become the vehicle for the conversation about how to maximize housing opportunities near transit – a pillar of the proposal put forward by the AWC Housing Solutions Group. **SB 5466** contains other elements that are more challenging, however, especially the restrictions on authority to provide for parking, displacement concerns, and transit application.

Ask House members to support HB 1670, the property tax cap fix

Time is short for the House to pass **HB 1670**, which changes the arbitrary 1% property tax cap to tie it to your city's cost drivers – inflation and population up to 3%. Contact your House members and share with them how the 1% cap impacts your community and your ability to provide needed services.

Cities from Anacortes to Zillah sign on to support the Affordable Homes Act!

Thank you to all the city leaders that answered the call to sign on to the support letter for **HB 1628** – the Affordable Homes Act. A broad cross section of cities from every region of the state understands the critical funding tool that **HB 1628** would provide through two new real estate excise tax (REET) sources – one councilmanic local option, .25% REET (REET 3), and a new state REET tier for the portion of property value exceeding \$5 million. The state provision is projected to raise \$200 million per year for state housing programs. If you overlooked the Action Alert to join your colleagues, it's not too late! We still have weeks of work to do to get this bill across the finish line. Add your name now to lend your support for the bill when it gets to the Senate.

View from the hill

Session moves fast

Things can move quickly during the floor action period of session – don't miss the chance to make your voice heard when it counts. Bills are now being brought up for votes. To remain viable or alive, a bill must pass out of its original house (i.e., house of origin) by 5 pm Wednesday, March 8. The process then starts over on Thursday with bills that survived this major cutoff needing a committee hearing in the opposite house. We provide updates on the progress of key bills in this week's Bill Hot Sheet. We will continue to provide updates as we learn more. Join us on Friday for our city action call to get the latest updates after floor cutoff.

AWC city action calls – Members only Fridays at 12:30 pm | Online

Join our city action calls for AWC members each Friday to hear updates directly from your team of 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

Prepare to apply for pollution reduction grant dollars and attend an informational webinar

The Environmental Protection Agency has released program guidance for the Climate Pollution Reduction Grant program funding under the Inflation Reduction Act. The two-stage program – with \$250 million in noncompetitive planning grants, followed by \$4.6 billion in competitive implementation grants – will encourage states, municipalities, and others to create and implement comprehensive climate pollution plans that ensure reductions and maximize benefits for all. The next installment in a series of informational webinars will be held Tuesday, March 7 at 2 pm ET. Learn more and register now.

Submit comments on new Build America, Buy America regulations

The federal Office of Management and Budget (OMB) is seeking feedback on the Build America, Buy America provision included in the Bipartisan Infrastructure Law. Fill out this form from the National League of Cities (NLC) to provide your feedback on the proposed rule, which will inform NLC's comments to the OMB. Deadline to submit is Wednesday, March 8.

Submit suggestions for reforms to the Uniform Guidance

The Office of Management and Budget (OMB) is seeking comments on how to reform 2 CFR 200 – more commonly known as the Uniform Guidance. NLC wishes to collect city feedback via this survey to incorporate into their filing with the Federal Register. Complete the survey by the March 8 deadline to make suggestions for one or more of the following:

- Guidance to incorporate statutory requirements and administration priorities;
- Guidance to reduce agency and recipient burden;
- Clarification for sections that recipients or agencies have interpreted in different ways; and
- Rewriting applicable sections in plain English, improving flow, and addressing inconsistent use of terms.

continued

Media time

Top 10 tips for working with the media

The Mayors Exchange in January wasn't just a great networking event. AWC also had the honor of hosting award-winning journalist Meeghan Black (also of Evening Magazine and Gardening with Ciscoe) to present tips on how city officials can work with the media. Meeghan, now the Public Information Officer for the Bellevue Police Department, shared a host of timeless gems—ideas and tools you can use today, and practice into the future, to respond to media requests and get your messages out into your community.

Watch as City Inside/Out unwraps the WRAP Act

Recycling rates have stalled in Washington, and lawmakers are considering an ambitious plan to hold businesses financially responsible for their packaging as well as create a bottle deposit system like Oregon's. Watch this video that unwraps the details of the WRAP (Washington Recycling and Packaging) Act. Prefer a quick read instead? Check out this op-ed piece by Rep. Liz Berry (D-Seattle), a sponsor of the WRAP Act.

What you need to know

Affordable housing: Very prescriptive and overlapping ADU bills continue to move. Two bills attempting to regulate accessory dwelling unit (ADU) ordinances in planning cities have passed out of their originating chamber well ahead of the March 8 deadline. The stated intent of both is to provide affordable housing, but neither substantively addresses the construction financing hurdles of building ADUs.

Cannabis: Senate passes bill promoting social equity in cannabis. SB 5080, expanding the Social Equity in Cannabis program, passed the Senate and is waiting to be scheduled in the House Regulated Substances & Gaming Committee. The policy was recommended by the Social Equity in Cannabis Task Force.

Energy: Extreme heat utility shutoff bill simplified, re-aligned with existing statute. While the new version of the bill replaces the previous iteration, changes advocated by AWC remain.

Federal: Following the train derailment in East Palestine, OH, a group of bipartisan Senators respond with the Railway Safety Act of 2023. Add your city to this NLC sign-on letter to Congress to act on rail safety

AWC releases 2023 Federal Priorities. AWC has updated Federal Priorities for 2023. Our priorities complement NLC's Federal Advocacy 2023 Action Agenda. We are looking forward to nearly 100 Washington state city officials heading to D.C. for the NLC City Congressional Conference later this month to share these priorities with our Congressional delegation.

General government: Prejudgment interest is likely dead for session. SB 5059, imposing prejudgment interest on tort claims up to the date of injury, failed to pass out of the Senate Ways & Means Committee ahead of cutoff and is likely dead for 2023. Thanks to all the cities that contacted their Senators opposing this costly bill.

Where do city liability bills stand at the mid-session cutoff? Here we review a few of the liability-related bills that have, so far, made it past the mid-session cutoffs. A few bills are still pending – we'll keep you up to date on developments.

Bill allowing cities to switch to even-year elections up again this year. This policy proposal has come up in the Legislature several times in the past few years, but **SB 5723** allows for more local control than prior bills.

continued

Bill increasing contract limits between cities and community service organizations passes through the House. After languishing in the Senate for a month, **HB 1086** is finally scheduled for a public hearing this week. The bill increases the contract limit between cities and community service organizations from \$25,000 to \$75,000.

Adult entertainment bill limiting city regulations passes the Senate. SB 5614 establishes various provisions relating to adult entertainment establishments in Washington, including prohibiting local laws or ordinances related to entertainers.

No advisory vote on your next ballot? Senate moves to abolish confusing advisory votes. Advisory votes first appeared on Washington ballots after Initiative 960 was approved in 2008. The version of the bill that passed the Senate would replace advisory votes with a QR code on voter's pamphlets linking to a website with summaries of government spending.

HR & labor relations: HR & labor relations bills making it past the halfway point. Here we review a few of the HR & labor relations bills that have made it past the House of Origin cutoff. Bills that are still pending have until March 8 at 5 pm to be sent to the other chamber.

Land use & planning: Lot splitting bill passes chamber. The proposal to allow for expedited lot splitting has passed the House, with significant amendments along the way.

Bill implementing several AWC regulatory reform recommendations moves forward. **HB 1293** contains provisions regarding SEPA reform that are consistent with the AWC proposal, and another on objective design review that may still need work.

Open government: Bill aimed at reducing impacts of redacting and releasing body-worn camera footage passed out of House. HB 1080 allows law enforcement and corrections agencies to charge for the cost of redactions or edits to body and dash camera footage if a public records request is made by a party to a criminal or civil case concerning the recorded incident.

Pensions: Yeehaw, it's another pensions policy roundup: Cutoff edition. Here we review a few of the pensions-related bills that have or have not (yet) made it past the House of Origin cutoff deadline on March 8 – the deadline for bills to be voted out of their chamber of origin and sent across the rotunda.

Public safety & criminal justice: Vehicular pursuits bill only has until March 8 for House floor vote. HB 1363 received a mixed vote in the House Transportation Committee and continues to face a tough road ahead. AWC urges cities to continue to reach out to your legislators and ask them to support this bill.

Nearly unanimous support in Senate for bill to curb illegal street racing. SB 5606 creates definitions for "off-street facilities" and "drifting" and encourages law enforcement agencies to undertake a public education campaign to inform the public of the unlawful nature of illegal racing. The bill also allows law enforcement to impound vehicles used in street racing.

Public works & infrastructure: Apprenticeship utilization expansion bill scaled back, loses subcontracts provision. An amendment to **HB 1050** removed the requirement that subcontracts with an initial price of \$350,000 or more require that at least 15% of the labor hours be performed by apprentices.

Changes to prevailing wage law pass the Senate, head to the House, and may be on their way to cities. Modifications to the process for setting the prevailing wage, contesting it, and reflecting it in public works contracts were revised and refined again last week, then unanimously adopted by the Senate.

Transportation: New use for transportation impact fee revenue may be within cities' sights. A proposal that clarifies how cities may use impact fees to fund improvements to bicycle and pedestrian facilities moves one step closer to the Governor's desk.

continued

Affordable housing

Very prescriptive and overlapping ADU bills continue to move

Contact: Carl Schroeder, Shannon McClelland

Two bills attempting to regulate accessory dwelling unit (ADU) ordinances in planning cities have passed out of their originating chamber well ahead of the March 8 deadline. The stated intent of both is to provide affordable housing but neither substantively address the construction financing hurdles of building ADUs—many of which end up on short-term rental platforms because those provide the biggest return on the significant investment required to build.

SB 5235 has only had a minor amendment to clarify that it applies within urban growth boundaries only. To see the provisions of the bill, check out our first article on the bill (<https://wacities.org/advocacy/news/advocacy-news/2023/01/16/adu-preemption-proposal-emerges>). These requirements would take effect by the time of the city's next comprehensive plan update, including those Puget Sound cities already under way.

Not far behind in the legislative process is an even more prescriptive and pre-emptive ADU proposal, **HB 1337** (Rep. Mia Gregerson, D–SeaTac). **HB 1337** applies to all GMA planning cities and those cities would have until six months after their next comprehensive plan update to comply with the changes.

The bill has not been amended since introduced but here's a reminder of what the bill does:

- Restricts regulation of lot size, floor area ratio, setbacks, roof heights, how close the ADU can be to lot lines abutting alleys, etc.
- Requires allowing conversions from other structures and condo-izing ADUs.

In addition, cities would have to comply with at least three of the four mandates:

- Allowing at least two ADUs per lot, attached or detached or a combination.
- Not assessing impact fees more than 50% of what would have been imposed on the primary unit.
- Not requiring owner occupancy.
- Not requiring off-street parking.

The bill does allow regulating ADUs used as short-term rentals. Otherwise, applicable environmental and health and safety regulations would still apply. On the bright side, **HB 1337** provides a helpful SEPA and GMA appeals safe harbor.

Date to remember

SB 5235 is scheduled for public hearing in the House Housing Committee Thursday, March 9 at 8 am.

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Transit-oriented density bill passes the Senate

Contact: Carl Schroeder, Shannon McClelland

Several housing density bills include provisions specific to transit, but **SB 5466** is solely focused on transit-oriented development (TOD). It has become the vehicle for the conversation about how to maximize housing opportunities near transit – a pillar of the proposal put forward by the AWC Housing Solutions Group. **SB 5466** has other elements that are more challenging, however, especially the restrictions of authority to provide for parking.

The key components of the bill as amended and passed out of the Senate are as follows:

- Establishes TOD density as floor area ratio of four or more for a “station area” and six or more for a “station hub.”
- Station area is defined as all parcels within a UGA and within $\frac{3}{4}$ walkable mile from major transit or $\frac{1}{2}$ mile walking distance of a “frequent bus stop.”
- Station hub is defined all parcels within UGA and within $\frac{1}{4}$ walkable mile from major transit.
- Major transit is defined as:
 - High-capacity transit
 - Light rail
 - Commuter rail
 - Transitways
 - A route that runs on high occupancy vehicle lanes
- “Frequent bus stop” means a stop served by transit operating seven days a week, at least three times per hour, for 10 hours during weekdays.
- Minimum standards:
 - Can't prohibit multifamily residential in station area where other residential use is allowed.
 - Must include density bonus in TOD areas of 50% for 60% AMI or below, for permanent supportive housing, or long-term in-patient care.
 - No maximum floor area ratio allowed that is less than that prescribed. Allows an exemption if average minimum floor area ratio of TOD area meets the minimum AND no part of a station hub is subject to a maximum floor area ratio that is less than 1.0, AND no part of a station area is subject to a maximum floor area ratio that is less than 0.5.
 - No maximum density allowed in TOD.
 - Prohibits requiring off-street parking in station area.

The proposal has been on a fast track in the Senate, with acknowledgement that more work is needed in the House. There are a lot of areas that need clean up and refinement.

Some areas that AWC is continuing to work on include:

- Clarifying the intent and application of these provisions to ensure successful implementation. The variety of transit service implicated is confusing and will be a challenge to implement.
- The bill also gives a parental oversight role to the Department of Transportation to determine if a city's claim that the lack of parking requirements mandated by the bill would make parking infeasible or unsafe.
- Finding ways to maximize the delivery of affordable housing units and minimization of displacement as part of this proposal. We still have concerns that the existing provisions will not achieve that. Furthermore, there are concerns that this may inadvertently undermine existing affordable housing incentive programs.
- Additionally, we are concerned that there still has not been mapping provided to clearly identify where this bill will apply and how this bill would intersect with **HB 1110** – should both pass.

continued

Budget & finance

Ask House members to support HB 1670 the property tax cap fix

Contact: Candice Bock, Sheila Gall

Contact your House members (<https://wacities.org/advocacy/legislator-directory>) – just a quick phone call, text, or email – and ask them to vote for **HB 1670** a modest proposal to revise the arbitrary property tax cap.

Share with them how the 1% cap impacts your community and your ability to provide needed services. Talk with them about how your community might use this tool to fund critical services.

Time is short for the House to pass **HB 1670**, which changes the arbitrary 1% property tax cap to tie it to your city's cost drivers – inflation and population up to 3% – before Wednesday's floor cutoff. That means House members need to hear strong support from local governments.

Remind them that local officials can be trusted to make good decisions to address the needs of the communities they are elected to represent.

See AWC's property tax fact sheet (https://wacities.org/docs/default-source/legislative/factsheetpropertytax2023e1284649b78160ed9eadff0000bbe4eb.pdf?sfvrsn=a9a9264f_3) for more information.

Cannabis

Senate passes bill promoting social equity in cannabis

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

SB 5080, expanding the Social Equity in Cannabis program, passed the Senate and is waiting to be scheduled in the House Regulated Substances & Gaming Committee. The policy was recommended by the Social Equity in Cannabis Task Force final report ([https://healthequity.wa.gov/sites/default/files/2022-12/SECTF Final Report.pdf](https://healthequity.wa.gov/sites/default/files/2022-12/SECTF%20Final%20Report.pdf)).

The bill would:

- Broaden and amend definitions of disproportionately impacted area, social equity applicant, and social equity plan in the law.
- Extend the program until July 1, 2032.
- Provide a one-time, one-license annual fee reimbursement to any current cannabis licensee who submits a social equity plan to the Liquor and Cannabis Board (LCB).
- Modify the time period when cannabis licensees must have been issued a cannabis license to qualify for a Social Equity Technical Assistance Grant from the Department of Commerce.
- Require the Joint Legislative Audit and Review Committee (JLARC) to review cannabis production against market demand and capacity by June 30, 2025.

AWC is encouraged that **SB 5080** does not attempt to preempt local government's authority to prohibit cannabis businesses. In fact, **SB 5080** would specifically require the Liquor Cannabis Board to ensure geographic disbursement in new equity licenses and would allow for an opportunity for the local government to object to a new license.

continued

Unfortunately, another bill, **HB 1650**, would limit local government authority by preventing local prohibitions of 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 **HB 1650** and several cities also expressed opposition due to the preemption issues as well as the confusion created by the redirection of cannabis revenues. AWC urges cities to reach out to their legislators with concerns.

Energy

Extreme heat utility shutoff bill simplified, re-aligned with existing statute

Contact: Brandy DeLange, Brianna Morin

Rep. Sharlett Mena's extreme heat utility shutoff proposal received additional updates before passing out of the House and heading to the Senate. **HB 1329** was heard on the House floor last week where a striking amendment (removing everything after the title and inserting a whole new bill) was introduced and approved. For background, check out AWC's previous summaries of the bill as introduced (<https://wacities.org/news/2023/01/06/water-and-electric-utility-shutoff-during-extreme-heat-prohibited-under-new-bill>) and the amended version (<https://wacities.org/news/2023/02/10/implementation-of-extreme-heat-utility-shutoff-proposal-clarified-and-improved>).

While the new version of the bill replaces the previous iteration, re-aligning it with existing statute covering utility shutoffs, changes advocated by AWC remain. As it stands now, **HB 1329**:

- Restores the current statutory language that requires utility bill repayment plans associated with utility shutoffs not to exceed 7% of household income.
- Requires every electrical company and water company regulated by the Utilities and Transportation Commission (UTC) to follow the terms of an existing UTC tariff that prohibits the company from effecting, due to lack of payment, an involuntary termination of service to any residential user on any day that temperatures are predicted to be 90 degrees or above.
- Requires said companies to utilize the existing UTC process to inform customers of the ability to seek reconnection in the event that a heat-related alert is issued.

HB 1329 currently awaits a hearing in the Senate Environment, Energy & Technology Committee.

continued

General government

Where do city liability bills stand at the mid-session cutoff?

Contact: Candice Bock, Matt Doumit

Here we review a few of the liability related bills that have (so far) made it past the mid-session cutoffs. Wednesday, March 8, is the “House of Origin” cutoff, where most House bills must be voted out of the House and most Senate bills voted out of the Senate and sent to the opposite chamber to remain “alive” for the remainder of session. While some bills are still pending, here we review some of the bills that have made it so far.

Bills that have passed their house of origin

Anti-doxing: HB 1335 creates a new civil action against “doxing,” or publishing a person’s personal identifying information when the publication was made without permission, was intended to harm or there was reckless disregard for the person identified, and the person identified suffered some harm. It passed out of the House on February 27 on a 79-16 vote.

Labor law violations: SB 5110 establishes default penalties of \$500 to \$1,000 – plus attorney fees, injunctive relief, and actual damages – for violations of certain prohibited labor practices that otherwise don’t already have criminal or civil penalties provided for. It passed out of the Senate on February 15 on a 28-21 vote.

Pending bills

Union-employee privilege: HB 1187 creates a new legal privilege between union members and their unions, similar to attorney-client privilege. Some employers are concerned that it could interfere with their ability to manage and supervise their staff and defend themselves in court. AWC asked that the bill be narrowed and address implications with the Public Records Act (PRA), and the bill has been amended in committee to address our PRA concerns.

Police liability & qualified immunity: HB 1025 eliminates qualified immunity for law enforcement and creates a civil cause of action against police and police departments for conduct that violates the state constitution or certain state laws. Police departments would also be liable for negligent hiring or retention of problem officers. AWC opposes this bill.

AGO police investigations: HB 1445 authorizes the Attorney General’s Office to investigate and bring actions against law enforcement and corrections agencies for violations of the state Constitution or state law. It also requires the AGO to publish model policies in consultations with various agencies and entities. AWC opposes this bill. We have suggested amendments to address our concerns about the broad authority granted in the proposal.

Police dog liability: HB 1635 grants civil suit immunity to local governments for use of police dogs to detect fentanyl if the dog was trained according to 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. AWC supports this bill.

continued

Protecting police: SB 5299 enhances penalties for assaulting on and off-duty police officers and requires law enforcement agencies to report incidents where officers are physically harmed in performance of their duties. An early version of the bill created a civil action for “doxing” a police officer.

Dead bills (due to earlier cutoffs)

Prejudgment interest: SB 5059 would have imposed prejudgment interest on tort claims up to the date of the plaintiff’s injury. It failed to pass out of Senate Ways & Means. You can read more here (<https://wacities.org/advocacy/News/advocacy-news/2023/03/03/the-end-for-now-prejudgment-interest-is-dead-for-session>). AWC opposed this bill.

The end, for now: Prejudgment interest is dead for session

Contact: Candice Bock, Matt Doumit

SB 5059, which would have imposed prejudgment interest on tort claims all the way up to the date of a plaintiff’s injury, failed to pass out of the Senate Ways & Means Committee ahead of the February 24 fiscal committee cutoff deadline. A similar bill, **HB 1649**, also died in committee, never receiving a hearing or committee vote.

SB 5059 is now dead for the remainder of session. The bill cannot be considered again until 2024 unless the Legislature takes extraordinary action to revive the bill this year, which we think is unlikely. We expect the bill’s proponents will most likely renew the push for prejudgment interest next year. AWC will keep you up to date on any developments.

Cities joined public and private sector organizations from across the state to oppose the bill, which would have greatly increased liability exposure for cities, driven up settlement and litigation costs, and made liability insurance more expensive. AWC thanks all the cities that contacted their legislators to oppose the bill. Your engagement was an important part of why the Senate rejected this damaging policy and is yet another example of how when cities speak, legislators listen.

No advisory vote on your next ballot? Senate moves to abolish confusing advisory votes

Contact: Candice Bock, Katherine Walton

SB 5082 abolishes advisory votes on ballots. Advisory votes first appeared on Washingtonian ballots after Initiative 960, backed by Tim Eyman, was approved in 2008. The initiative created a process for Washington citizens to provide an advisory vote on whether a legislative tax increase should be repealed or maintained.

Supporters of **SB 5082** say that advisory votes are confusing and are worded to intentionally mislead voters while critics hold that advisory votes educate the public and allow them to have a voice in the legislative process.

The version of the bill that passed the Senate would replace advisory votes with the creation of a public website with summaries of government spending. A QR code linking to that website would be added to voter’s pamphlets.

Dates to remember

SB 5082 is scheduled for public hearing in the House State Government & Tribal Relations Committee on Friday, March 10 at 8 am.

continued

Adult entertainment bill limiting city regulations passes the Senate

Contact: Candice Bock, Linsey Hueer, Katherine Walton

SB 5614, sponsored by Sen. Rebecca Saldaña (D–Seattle), passed out of the Senate last week. The act establishes various provisions relating to adult entertainment establishments in Washington. Pertaining to cities, the bill would prohibit local laws or ordinances related to entertainers. Cities would not be able to adopt laws, rules, ordinances, or regulations that limit or prohibit entertainers from collecting payment from customers, that regulate exposure, or prohibit physical contact with another person that would otherwise be lawful outside of the establishment.

The bill contains several provisions intending to protect entertainers' safety, including requiring training for employees to support entertainers in times of conflict and requiring that establishments provide security.

The bill would also allow establishments to apply for a liquor license and would exclude establishments from certain criminal laws including indecent exposure and prostitution.

SB 5614 now awaits a public hearing in the House Labor & Workplace Standards Committee.

Bill increasing contract limits between cities and community service organizations passes through the House

Contact: Candice Bock, Jacob Ewing

After successfully passing out of the House, a bill tripling city contract limits with community service organizations now faces the Senate.

HB 1086 passed through the House on a vote of 84-9 on February 6. After languishing in the Senate Local Government, Land Use & Tribe Affairs Committee for a month, it is now scheduled for a public hearing this week. The bill received only minor amendments in the House Local Government Committee rewriting a few sentences in the intent statement of the bill; however, the newly proposed contract limit of \$75,000 remains in place.

As a reminder, under RCW 35.21.278, cities have had the ability to bypass competitive bidding laws and contract directly with community service organizations on projects to preserve, maintain, and enhance local parks, trails, and open spaces. Since 1988, these contracts have been limited to \$25,000 or two dollars per resident within the city limits, whichever is greater. **HB 1086** increases the contract limit to \$75,000 or two dollars per resident, whichever is greater. This increase will be beneficial to cities with a population under 12,500 as it will greatly expand the scope of projects which with they can partner with community service organizations.

Dates to remember

HB 1086 is scheduled for a public hearing in the Senate Local Government, Land Use & Tribe Affairs Committee on Thursday, March 9 at 10:30 am.

continued

Bill allowing cities to switch to even year elections up again this year

Contact: Candice Bock, Katherine Walton

SB 5723, sponsored by Sen. Javier Valdez (D–Seattle), establishes procedures for cities and towns in Washington to switch to even-numbered year elections. This policy proposal has come up in the legislature several times in the past few years, but **SB 5723** allows for more local control than prior bills.

To transition to even-year elections, cities and towns would need to pass an ordinance or get voter approval of a referendum. The adoption of even-year elections would be irrevocable.

Unlike versions we've seen in past years, this bill maintains local control. Previous versions of this legislation required cities to switch to even year elections – **SB 5723** provides cities the choice.

Proponents suggest several benefits for even year elections, including:

1. It could reduce election costs for cities. Election costs are shared across all agencies who have candidates or initiatives on a ballot. By switching to even years, cities could potentially lower their costs for elections.
2. Increased voter participation – Roughly 25% more people vote in even years compared to odd years.

Some concerns regarding even year elections:

1. Crowded ballots – including city elections on general election ballots will force city elected positions and city initiatives close to the bottom of ballots. This could have a negative impact on the number of people voting on local issues due to “down ballot fatigue.”
2. Inability for elected officials to run for other offices – Current laws prohibit a candidate from appearing twice on the same ballot for elected offices. It is not uncommon to have city councilmembers run for county, state, or other elected positions in off years. This allows them to run for office without vacating their seat. As the bill is written, there are no provisions for this issue.

The bill is currently awaiting floor action by the Senate.

continued

HR & labor relations

HR & labor relations bills past the halfway point

Contact: Candice Bock, Matt Doumit

Here we review a few of the HR & labor relations related bills that have made it past the House of Origin cutoff so far.

At 5 pm this Wednesday (March 8), the Legislature will pass the procedural halfway point of session, the “House of Origin” cutoff. That is the deadline by which most House bills must be voted out of the House and most Senate bills voted out of the Senate and sent to the opposite chamber to remain “alive” for the remainder of session. While some bills are still pending, here we review some of the bills that have made it so far.

Bills that have passed their house of origin

Independent medical exams: HB 1068 allows an injured worker to make an audio and video recording of an independent medical examination, and to have one person of the worker’s choosing present during the examination. It passed out of the House on a 65-33 vote on February 15.

PFML premiums: SB 5286 adopts the recommendations of the PFML premiums task force and changes the formula used for calculating PFML premiums, raises the premiums cap to 1.2%, makes other changes. The bill passed out of the Senate on February 1 with a unanimous vote.

PFML claims data: SB 5586 permits ESD share certain records on an employee’s PFML claim with “interested parties” (like employers) including: the type of leave taken, approved dates/duration of leave, the employee’s remaining hours of leave left, their weekly benefit amount, and actual benefits paid/hours claimed. AWC supports this bill. The bill passed out of the Senate on March 1 with a unanimous vote.

“Good faith” for self-insured employers: HB 1521 creates a duty of “good faith” for self-insured employers and their third-party administrators towards workers in self-insured workers’ compensation programs, with penalties for violating good faith. They also allow L&I to write rules outlining those duties and require L&I to investigate and order resolution of claims. AWC opposes these bills. The Senate companion, SB 5524, was amended to only apply to municipal self-insured employers but has not yet come up for a Senate floor vote. **HB 1521** passed out of the House on March 1 with a 69-27 vote.

Ergonomic injuries rules: SB 5217 repeals I-841 (2003) and permits L&I to adopt rules regarding musculoskeletal injuries, up to one set of rules per year per industry or risk class. The bill includes limits on L&I’s rulemaking authority to prevent rapid adoption of rules in industries that didn’t previously have them. The bill passed out of the Senate on a 27-21 vote on March 1.

Employee personnel records: HB 1320 requires employers to turn over a complete copy of an employee’s personnel records (or a statement of discharge) to current or former employees on request within 14 calendar days and establishes penalties for failure to do so. AWC has concerns but has been working to improve the bill – we continue to ask for a longer time frame to comply. We have asked for at least 30 calendar days. It passed out of the House on March 1 with a 56-40 vote.

Providing employee info to unions: HB 1200 requires public employers to provide certain employee records to public employee unions. Employers have 21 days to provide information on new hires, and every 120 days for all employees in each bargaining unit. AWC had concerns about the early bill drafts but was able to improve the bill in committee. It passed out of the House on a 56-41 vote on March 2.

continued

Cannabis use & hiring: SB 5123 prohibits employers from “discriminating against a person in the initial hiring” for the job candidate’s off-the-job, out-of-the-workplace cannabis use or for failing an employer-required drug test for cannabis. It also provides a number of exemptions. The bill passed out of the Senate on February 22 on a 28-21 vote.

Employee vehicle searches: HB 1491 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. The bill includes a list of exceptions. It passed out of the House on an 87-10 vote.

Voluntary separations: HB 1106 expands access to unemployment insurance benefits by adding circumstances where a person may voluntarily quit for good cause, including the death, illness, or disability of a family member, or for inability to access care for a child or vulnerable adult.

Wage complaints: HB 1217 permits L&I to demand all wages owed plus 1% per month interest upon receipt of an employee wage complaint. Interest is mandatory unless waived by the employee. It also establishes an L&I workgroup on wage theft.

Pending bills

Police and prosecutor qualifications: HB 1530 permits law enforcement agencies prosecutor offices to consider US citizens and lawful permanent residents for employment as police officers and deputy prosecutors. A similar bill, SB 5274, allows hiring of lawful permanent residents and also eliminates English language proficiency requirements for city fire departments, city police departments, and other agencies.

Employer political and religious speech: SB 5417 prohibits an employer from disciplining or discharging an employee for refusal to attend an employer-sponsored meeting, listen to speech, or view communications, when the primary purpose of which is to communicate the employer’s opinion concerning religious or political matters.

Reimbursement of employees: HB 1136 requires employers to reimburse employees for all necessary expenditures and losses incurred in direct consequence of their duties within 30 days and makes failure to do so a Wage Payment Act violation enforced by L&I.

Dead bills (due to earlier cutoffs)

Repealing WA Cares Fund: HB 1011 would have repealed the new WA Cares Fund long term care program, premiums for which start in July. The bill never received a hearing or committee vote and died.

COVID-19 as an occupational disease: HB 1785 would have made pandemic emergency-era COVID-19 a presumptive occupational disease for the purposes of workers’ compensation if a worker could show their employment conditions lead to their infection. The bill was never voted out of committee.

Lunar New Year holiday: HB 1516, would have established a new state legal holiday for the Lunar New Year. The bill was never voted out of House Appropriations.

Childcare as a travel expense: SB 5485 would have permitted state and local governments to reimburse employees for reasonable childcare or adult dependent care expenses incurred while doing reimbursable work-related travel. The bill was never voted out of Senate Ways & Means.

Paid interns: SB 5327 would have required state & local governments and certain nonprofits to pay interns at least minimum wage, regardless of whether the intern received academic credit. The bill was never voted out of committee.

continued

Land use & planning

Lot splitting bill passes chamber

Contact: Carl Schroeder, Shannon McClelland

The proposal to allow for expedited lot splitting has passed the House, with significant amendments along the way.

HB 1245 now requires cities to allow, within any residential zone that allows detached single-family housing, the splitting of a residential lot into two lots if the following conditions are met:

- The resulting lots are at least 2,000 square feet
- The lots are at least 40% the size of the original lot
- The lots are consistent with “minimum review standards under RCW 58.17”
- The original lot were not the result of a lot splitting
- The lot split would not result in demolition or alteration of any housing that has had a market rate tenant within the last 12 months or any rent restricted housing

Cities may not:

- Require more than one parking space per lot
- Require more than 20 feet of frontage per lot
- Impose permitting requirements, design standards or impact fees on construction on the second lot that are greater than what would be imposed on other new residential construction
- Impose dedication of rights-of-way for off-site improvements unless site-specific conditions require otherwise
- Require easement widths of more than five feet for access to rear lots unless site-specific conditions require otherwise

AWC still has concerns that **HB 1245** is not balanced with **HB 1110**, the bill proposing mandatory minimum densities. If there isn't alignment between the two, this bill has to potential to act as multiplier of **HB 1110**—doubling the required density. For instance, if the middle housing bill requires four units per lot as written, **HB 1245** would then allow that lot to be split and then four units required on each. Now that lot would have the impact of eight housing units on water, transportation, wastewater, and stormwater infrastructure.

continued

Bill implementing several AWC regulatory reform recommendations moves forward

Contact: Carl Schroeder, Shannon McClelland

AWC developed a housing solutions proposal (<https://wacities.org/advocacy/news/advocacy-news/2023/02/06/update-on-awc-s-housing-solutions-group-proposal>) this interim that included a regulatory reform component. **HB 1293** contains provisions regarding SEPA reform that are consistent with the AWC proposal, and one on objective design review that may still need work. **HB 1293**, as amended, passed off the House floor and is en route to the Senate.

On SEPA, the bill provides a categorical exemption for any residential development that:

- Is consistent with all development regulations implementing a city's comprehensive plan.
- The city's comprehensive plan has been subject to environmental review under SEPA.
- The city has undertaken an EIS that considers proposed use, density and intensity of use, and addresses transportation impacts.

Cities must also consult with the Department of Transportation on impacts to the state transportation system, and these exemptions do not apply in areas with existing or anticipated transportation safety or operational deficiencies.

These exemptions would become effective six months after the city's next comprehensive plan update.

Design review

This bill only touches on design standards relating to buildings that, oddly, do not contain residential housing. Cities may apply only clear and objective design regulations, defined as:

- Including one or more ascertainable guideline, standard, or criterion by which an applicant can determine whether a given building design is permissible under that development regulation; and
- May not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone.

AWC is supporting similar language around residential design review, but some cities desire to retain commercial design review options.

Finally, **HB 1293** encourages voluntary adoption of expedited permit review procedures for a variety of low- and moderate-income housing units.

continued

Open government

Bill aimed at reducing impacts of redacting and releasing body worn camera footage passed out of House

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

HB 1080 allows law enforcement and corrections agencies to charge for the cost of redactions or edits to portions of body and dash camera footage if a public records request for the video is made by a party to a criminal or civil case concerning the recorded incident.

Currently, defense attorneys will often request law enforcement body worn camera footage for a legal case through both a discovery process and the Public Records Act. Footage provided through the discovery process is unredacted while footage requested through the Public Records Act must be redacted. This law would allow city staff to at least recoup the cost of providing the redacted video footage.

The bill has been referred to the Senate Law & Justice Committee for consideration.

Pensions

Yee haw, it's a pensions policy roundup: Cutoff edition

Contact: Candice Bock, Matt Doumit

Here we review a few of the pensions related bills that have or have not (so far) made it past the House of Origin cutoff deadline on Wednesday, March 8, which is the deadline for bills to be voted out of their respective chambers of origin and sent to the other chamber.

Bills that have passed their house of origin

Ad hoc PERS 1 COLA: HB 1057/SB 5350 authorize a one-time, ad hoc 3% cost-of-living-adjustment for PERS 1 retirees, capped at \$110 per month. The bills direct the Select Committee on Pension Policy to study and recommend a permanent plan 1 COLA. **HB 1057** was amended to delay the impact of the COLA on contribution rates until 2027 and specify that supplemental contribution rates won't be charged to pay for the COLA. Both bills passed out of their respective chambers with unanimous votes.

UAAL sunset: SB 5294 establishes a June 30, 2025 end date for the PERS 1 unfunded actuarial accrued liability surcharge (UAAL). After that it sets a UAAL employer contribution rate of 0% until 2029 to supersede other statutory references to the UAAL. The UAAL is an employer-paid surcharge added to Plan 2/3 contribution rates to pay for unfunded costs to PERS 1 that have accumulated over the years. The bill passed out of the Senate unanimously on February 27. House companion, **HB 1201**, is waiting for a vote in the House. AWC supports these bills.

continued

Interruptive military service: HB 1007/SB 5296 expand the definition of “veteran” to include those receiving an expeditionary badge for participation in an armed conflict, for the purposes of civil service laws and military service credit in public sector pensions. HB 1007 has an amendment making the change retroactive. Interruptive military service is where an employee is called away from work for military service, and a service credit gives “veterans” pensions credit for their time away in military service. Both bills passed out of their respective chambers with unanimous votes.

Retire/Rehire: HB 1056 permits PERS 2 & 3 retirees that retired under the 2008 early retirement factors to return to public employment as an employee or contractor for up to 867 hours per year without losing retirement benefits. It was voted out of the House on February 6 with a unanimous vote. Senate companion **SB 5349** is waiting for a vote in the Senate. AWC is supportive of this proposal.

Flexible work for police: SB 5424 allows part-time officers to participate in LEOFF 2 and exercise full mutual aid police powers. It also allows law enforcement agencies to adopt flexible work policies for police. The bill passed out of the Senate on March 2 on a unanimous vote.

Pending bills

911 operators to PSERS: HB 1055/SB 5328 expands eligibility for PSERS membership and gives current public safety telecommunicators (like 911 operators) the option to remain in PERS or join PSERS 2 as a dual member of PERS and PSERS. New public safety telecommunicators will automatically be enrolled in PSERS.

Dead bills (due to earlier cutoffs)*

*Many bills regarding pensions impact state spending or revenue and could be considered “necessary to implement the budget” (NITB), and thus be exempt from cutoffs.

Permanent PERS 1 COLA: HB 1459 would have established an automatic annual COLA for PERS 1 retirees capped at 3% and \$110 per month starting in July 2023, and would have relied on extraordinary investment returns to pay for it. The bill had a public hearing, but we never voted out of the House Appropriations Committee.

continued

Public safety & criminal justice

Nearly unanimous support in Senate for bill to curb illegal street racing

Contact: Candice Bock, Lindsey Hueer, Katherine

SB 5606 attempts to curb illegal street racing received nearly unanimous support as it passed the Senate last week.

This bill arose from specific concerns in the cities of Kent and Tacoma where they have experienced an increase in dangerous illegal street racing. **SB 5606** creates definitions for “off-street facilities” and “drifting” and encourages law enforcement agencies to undertake a public education campaign to inform the public of the unlawful nature of illegal racing. The bill also allows law enforcement to impound vehicles used in street racing and creates procedures for impoundment. The bill would allow law enforcement to act in certain circumstances when individuals outside the city’s jurisdiction are encouraging or organizing street racing within the city.

AWC supports this effort to curb this unsafe and illegal activity.

The bill now awaits action by the House Civil Rights & Judiciary Committee.

Vehicular pursuits bill only has until March 8 for House floor vote

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

HB 1363 faced a mixed vote in the House Transportation Committee and continues to face a tough road ahead. **AWC urges cities to continue to reach out to your legislators and ask them to support this bill.**

The current version of the bill includes a sunset provision for July 1, 2025. While this means the debate will resume in Olympia in two years, the bill still does provide immediate action and allows for two years to collect data demonstrating that this fix works.

The bill would allow vehicular pursuits when there is reasonable suspicion that a person in the vehicle has committed or is committing one of the following crimes:

- A violent offense
- A sex offense
- A vehicular assault
- Assault involving domestic violence
- An escape
- A DUI

HB 1363 would limit vehicular pursuits to situations when the person being pursued poses a serious risk of harm to others and is necessary for the purpose of identifying or apprehending the person being pursued. Additionally, the amended bill requires jurisdictions with 10 or more commissioned officers to notify and coordinate with a supervising officer. Jurisdictions with less than 10 commissioned officers would be required to notify the on-call supervisor.

Dates to remember

HB 1363 needs to pass the full House before the March 8 house of origin cut-off deadline.

continued

Public works & infrastructure

Changes to prevailing wage law pass the Senate, head to the House, and may be on their way to cities

Contact: Brandy DeLange, Brianna Morin

Proposed changes to the process for setting the prevailing wage, contesting it, and reflecting it in public works contracts were revised and refined again last week, then unanimously adopted by the Senate.

Among several other provisions, **SB 5726** requires that wages paid to laborers of public works will be no less than the latest prevailing wage rate in effect at the time the work is performed. For background, check out our previous summary of the bill (<https://wacities.org/news/2023/02/27/prevailing-wage-proposal-fails-to-make-cutoff-in-one-bill-makes-it-past-deadline-in-another>).

During consideration of the bill on the Senate floor last week, the sponsor, Sen. Curtis King (R–Yakima), proposed a suite of changes that were subsequently adopted. In its present form, **SB 5726** provides that:

- The industrial statistician must consider the applicable collective bargaining agreements and may seek input from the labor management signatory parties regarding which rate is the majority rate, or the rate representing the most workers in the same occupation in the event there is no majority.
- An interested party may appeal a determination by the industrial statistician using evidence that the actual rate used in the determination is not the rate representing the majority of workers in the same occupation under the collective bargaining agreements.
- Except for small works roster contracts, public works contracts must stipulate that the wage rate be adjusted to no less than the latest rate in effect at the time the work is performed.
 - This requirement does not apply to housing projects where at least 50% of the residential units are made available for low-income housing, or to residential construction.
- Through the end of 2029, cost increases directly resulting from wage adjustments of the prevailing wage under the bill are a good cause justification for the contractor of any level affected by the increase to require a financial adjustment to their contract for the following scopes of work:
 - Carpenters
 - Cement masons
 - Laborers
 - Power equipment operators
 - Teamsters

The amendments reflect negotiations between labor and contractor advocates. AWC and other local government stakeholders continue to advocate for remedies that address concerns related to excessive change orders that would result from the legislation.

Having passed off the Senate floor, **SB 5726** is next slated for a hearing in the House.

continued

Apprenticeship utilization expansion bill scaled back, loses subcontracts provision

Contact: Brandy DeLange, Brianna Morin

This year's apprenticeship utilization expansion bill has changed shape once again during its House floor hearing last week. **HB 1050**, from Rep. Marcus Ricelli (D–Spokane), was amended to remove the requirement that subcontracts with an initial price of \$350,000 or more require that at least 15% of the labor hours be performed by apprentices.

The bill will still require contractors hired for municipal public works projects costing \$1,000,000 or more to have at least 15% of the labor hours performed by apprentices. The provision that no contractor or subcontractor is accountable for the failure of any other contractor or subcontractor to comply with the apprenticeship utilization requirements also remains.

AWC previously wrote about the bill as introduced (<https://wacities.org/news/2023/01/13/workforce-development-a-top-priority-for-the-legislature-as-it-eyes-requirements-to-expand-apprentice-utilization-in-public-works-contracting>) and the amended version (<https://wacities.org/news/2023/02/24/apprenticeship-utilization-expansion-amended-improved-for-cities>).

HB 1050 as amended passed off the House floor and is en route to the Senate.

continued

Transportation

New use for transportation impact fee revenue may be within cities' sights

Contact: Brandy DeLange, Brianna Morin

A proposal that clarifies how cities may use impact fees to fund improvements to bicycle and pedestrian facilities takes one step further towards the Governor's desk. **SB 5452** (companion to **HB 1135**), allowing cities to use transportation impact fees on bicycle and pedestrian facilities not within road right-of-way, successfully passed off the Senate floor last week.

Recognizing that increasing numbers of people are utilizing transportation and commuting options not on public roadways, and that the resources available to local governments for these facilities are limited, the bill aims to provide increased flexibility, so that cities have the funding and facilities necessary for the continued growth and success of alternative commuting options.

The bill, sponsored by Sen. Sharon Shewmake (D-Bellingham), avoided a limiting amendment before passing with 34 votes in favor, 14 against. It now awaits a hearing in the House.

AWC supports this bill.

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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