



Legislative bulletin

March 13, 2023

Hot topics

Surprise move from the Senate keeps vehicular pursuits bill alive

With the House stalling on its law enforcement vehicular pursuits legislation, the Senate took decisive action to pass **SB 5352** just before last Wednesday's deadline, pulling the dormant bill to the floor for a vote. The version of the bill that passed is virtually identical to the most recent version of the House bill, including limiting the types of crimes that warrant a pursuit. The amended Senate bill adds vehicular assault and certain domestic violence offenses to the list of crimes for which police are authorized to pursue. Notably, **SB 5352** does not include the 2025 sunset date seen in **HB 1363**.

Both major housing density bills receive an early hearing in opposite chamber

The two big housing density bills of the session – one focused on middle housing on all residential lots and the other on upzoning near transit corridors – passed their respective chambers with a clear margin and will be heard in the opposite chamber this week. Although both bills continue to evolve as the session wears on, neither aligns in lockstep with the AWC Housing Solutions proposal. But, as anyone involved in contentious policy debates will tell you is necessary, compromises are being made on both sides.

A murky future for proposed Public Works Revolving Account

Washington cities' hopes for constitutional protection of a vital source of local infrastructure funding have been dashed, for now. Senate Joint Resolution 8201, which would have amended the state constitution to establish the Public Works Revolving Account, to be used strictly for the purpose of providing loans and grants to local infrastructure projects, failed to make last week's cutoff deadline. However, the resolution's accompanying implementation bill, **SB 5303**, remains alive and awaits a hearing in the House. The existing Public Works Assistance Account remains intact; AWC believes this account will likely be funded in the proposed budgets due out next week.

View from the hill

Legislative bills need a little luck and a lot of work

AWC wishes you a lucky week and a Happy St. Patrick's Day. Some bills may need a little more luck than others now that the Legislature is hearing bills that passed out of their house of origin last week. The House passed 331 bills and the Senate passed 280 bills before the March 8 deadline. While there were a few surprises, the great news is we still have several priority and support bills on our Hot Sheet that are alive and moving through the process, and just two bills that we oppose. A host of bills still need to be amended to address issues and concerns. Having a successful session takes a little luck and a lot of hard work, so keep up your engagement with legislators. If you haven't recently, check in and remind them of your legislative priorities.

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

Sign on to NLC's letter asking Congress to act on rail safety

Following the train derailment in East Palestine, Ohio, a bipartisan group of U.S. Senators has introduced the Railway Safety Act of 2023. This legislation includes several proposals to prevent derailments and make the country's rail network safer for communities and railroad workers. The National League of Cities (NLC) recently sent a letter to Congress with recommendations for improving rail safety. NLC invites city officials to sign on and to share the letter with your city colleagues. Read the letter and add your city. Then check out this blog post to learn what cities can do to promote rail safety.

Attend a free webinar to learn about new climate pollution reduction funding

The EPA's new \$5 billion Climate Pollution Reduction Grants (CPRG) Program, established in the Inflation Reduction Act (IRA), will award funds to state and local governments to develop and implement climate action plans to reduce greenhouse gas emissions. Co-hosted by the National Association of Counties (NACO), and the National League of Cities (NLC), the webinar will discuss strategies and best practices local governments can leverage to execute planning grants successfully and best position themselves to apply for the competitive implementation grants. Learn about the grant program and register now. (NACO membership not required to attend.)

continued

Media time

CityVoice Podcast—Deep dive into city infrastructure

Washington's infrastructure system is a complex network that supports daily life in our communities and cities are working hard to maintain and improve the statewide system through unique and innovative approaches. This week's *CityVoice Podcast* takes a deep dive into AWC's 2023 publication, *State of the Cities: Washington's interconnected infrastructure*. We visit with the mayor of Othello and the public works directors from Pasco and Cheney—to talk about their projects and discuss the state of infrastructure in cities throughout Washington, in a landscape of shifting climate change priorities and expanded federal support. Listen now.

What you need to know

Affordable housing: Several lower-profile bills advance and receive hearings. As our regular readers know, what has been termed by some as the “year of housing” has spawned dozens of bills on the topic, several of which have survived cutoff. A few other planning-related bills are also moving along.

Budget & finance: Property tax cap fix stuck in House, with hopes it could become part of a budget deal. Thanks to all the city officials who asked legislators to move **HB 1670**, the property tax cap fix, to a floor vote by last Wednesday's cutoff. Unfortunately, the bill did not advance and is stuck in the House. AWC has supported the bill as a modest proposal to revise the arbitrary 1% cap on property taxes.

Rural county development sales tax scheduled in Senate. The extension of the rural county sales tax (.09 sales tax) passed the House unanimously and is set for executive session in the Senate Local Government Committee.

Economic development: Fixes to the Tax Increment Financing (TIF) program pass the House. On a vote of 80-15, **HB 1527** made it out of the House unamended. The bill will bring several needed fixes to TIF, making the program more beneficial to cities.

Emergency management & cybersecurity: Extreme weather grants bill passes out of the House. A bill creating a grant program to assist local governments with costs of responding to extreme weather events passed out of the House and is now scheduled for hearing in the Senate.

Energy: City confidentiality protected in latest updates to clean energy siting proposal. The governor request bill has not slowed down since its introduction in January, receiving several rounds of amendments in the House. **HB 1216** is scheduled for public hearing in the Senate Environment, Energy & Technology Committee this Wednesday.

Federal: New federal fact sheets highlight cities' work with ARPA and BIL funds. Curious about how cities across Washington are using federal funding? Two new AWC fact sheets show what cities are doing with federal funds to support and grow their communities.

General government: Bill expanding the Washington Voting Rights Act passes House, scheduled in the Senate. Though AWC strongly supports voting rights and ensuring appropriate representation in all levels of government, **HB 1048** presents concerns regarding fiscal impacts on cities related to the potentially unlimited recovery of costs in cases where a group does not prevail.

Union-member privilege bill survives cutoff. HB 1187, creating a new legal privilege between unions and union members, passed out of the House last week. AWC's position on the bill is “other,” and we are working to address concerns through amendments in the Senate.

continued

TSWIFT consumer protection bill on ticket sales left in the House. HB 1648, the TSWIFT consumer protection act, would have imposed new protections on event ticket sales and violations for bypassing ticket sales security technology.

HR & labor relations: One bill imposing “good faith” on self-insured cities survives cutoff. A problematic bill for cities that self-insure for workers’ compensations claims, **HB 1521**, survived last week’s cutoff and is scheduled for a hearing in the Senate this week.

Bills requiring employers to provide employee information up for hearings in the Senate. HB 1320 changes how employers respond to requests for personnel files, and **HB 1200** sets specific requirements for supplying unions with information on employees.

More HR bills on the week 10 hearing schedule. Several HR & labor relations bills of interest survived cutoff and are on this week’s committee action calendar. Read a review of those bills.

Tell AWC about your city’s success stories with recruitment and retention. Nearly every city is experiencing hiring and retention challenges. But cities are creative, great places to work, and we want to hear about your challenges and how you’re addressing them.

Human services: Trueblood bill amended, removing costly provisions for cities. Last week, **SB 5440** moved out of the Senate without provisions that were potentially very costly to cities. The bill seeks to address significant wait times for competency evaluations and restoration services.

Open government: Bill exempting domestic violence survivors from the PRA passes House. HB 1533 exempts certain identifying information from the Public Records Act for state agency and K-12 employees who are survivors of domestic violence, sexual abuse, harassment, and stalking.

Pensions: PERS 1 changes are back on the hearing schedule. Several bills addressing PERS 1, including changes to the UAAL and cost-of-living adjustments, survived cutoff and either had hearings late last week or are scheduled for hearings this week.

Public safety & criminal justice: Blake fix passes Senate, needs your support in the House. The Senate passed **SB 5536**, which makes knowingly possessing drugs a gross misdemeanor with many off-ramps for treatment and services. The debate regarding the permanent solution rests with the House, and AWC urges cities to contact your legislators to express support for **SB 5536**.

A bill establishing an Office of Independent Prosecutions (OIP) in the Attorney General’s Office passes House. The OIP would have jurisdiction concurrent with county prosecuting attorneys to review investigations and conduct prosecutions of deadly use of force by law enforcement officers.

Police liability bills dead after mid-session cutoff. Two problematic bills, **HB 1025** and **HB 1445**, would have greatly expanded liability for cities with police departments but failed to pass out of the House prior to the March 8 House of Origin cutoff.

Public works & infrastructure: Washington to see a statewide small works roster and greater equity in public works procurement in Senate bill now moving through the House. Consensus legislation proposed by the Capital Projects Advisory Board will be heard tomorrow morning in the House Innovation, Community & Economic Development, & Veterans Committee.

Transportation: Get up to speed with these key transportation bills traveling through the Senate. Then consider testifying and contacting your legislators this week in support of **SB 5452**, authorizing cities to use transportation impact fees on bicycle and pedestrian facilities.

continued

Affordable housing

Several lower profile bills continue to advance and receive hearings

Contact: Carl Schroeder, Shannon McClelland

As all of our regular readers know, what has been termed by some the “year of housing” has spawned dozens of bills on the topic, and several continued past cutoff to move to the opposite chamber. There have also been a few other planning-related bills moving along.

The Senate ADU bill, **SB 5235**, has been scheduled for a hearing on March 13. You can refresh yourself on the status of the bill in our previous article (<https://wacities.org/news/2023/03/03/very-prescriptive-and-overlapping-adu-bills-continue-to-move>).

The proposal we termed the “housing grab bag” has gone through some refinement. **HB 1167** addresses many issues that cities raised. It also had a few additional items inserted into the grab bag. The bill contains elements requiring administrative design review, state developed ADU plans for cities to use, direction to the Washington State Building Code Council to facilitate middle housing codes, single stairwell buildings, and optional plan sets for meeting energy codes. Finally, it contains a version of the policy found in multiple bills this session that directs cities to treat middle housing developments consistent with their regulations on detached single family homes.

The bill integrating climate change considerations into the Growth Management Act (GMA) (**HB 1181**) probably wouldn’t count as a low profile bill in any other session, but since it’s largely the same bill we have been supporting since last year (then **HB 1099**) it hasn’t garnered a lot of attention. That is, until it took four hours to pass off the floor of the House in one of the longer floor fights of the session. It will receive its first Senate hearing this week.

A GMA Collaborative Roadmap Phase III recommendation to allow smaller cities (under 25,000 in population) to adopt the county critical area ordinance by reference, **SB 5374**, passed its chamber and is scheduled in the House.

The following bills have passed the first chamber but haven’t yet been scheduled:

- **SB 5412** would implement two recommendations of the AWC Housing Solutions Group: providing a categorical SEPA exemption to residential developments that are consistent with a city comprehensive plan and restricting design review to objective standards applied administratively.
- **SB 5290** was originally the Governor request bill to provide grants to cities for permitting improvements and technical assistance. The Senate also added the permit timeline reform bill (<https://wacities.org/news/2023/02/03/two-more-lengthy-bills-focused-on-permit-processing>) that was a result of the GMA Roadmap process.
- A modest revenue tool for cities also passed the Senate. **SB 5334** authorizes up to a 10% special excise tax on short-term rental lodging with funds to be used for affordable housing purposes.

Dates to remember

SB 5235 is scheduled for a public hearing in the House Housing Committee on Monday, March 13 at 1:30 pm. It is also scheduled for a committee vote on Thursday, March 16 at 8 am.

HB 1167 and **HB 1181** are scheduled for a public hearing in the Senate Local Government Committee on Tuesday, March 14 at 8 am. They are also scheduled for a committee vote on Thursday, March 16 at 10:30 am.

SB 5374 is scheduled for a public hearing in the House Local Government Committee on Wednesday, March 15 at 8 am. It is also scheduled for a committee vote on Friday, March 17 at 10:30 am.

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Both major housing density bills receive an early hearing in opposite chamber

Contact: Carl Schroeder and Shannon McClelland

The two big housing density bills—one focused on middle housing on all residential lots and the other around upzoning near transit corridors—passed each chamber with a clear margin and will be heard the first week after cutoff. Although both bills continue to evolve as the session wears on, neither aligns in lock step with the AWC Housing Solutions proposal. But, as anyone involved in contentious policy debates with you is necessary, compromises are being made on both sides.

SB 5466 is the transit-oriented density bill and is exceptionally convoluted, as drafted. While we work on that, check out last week's article (<https://wacities.org/news/2023/03/03/transit-oriented-density-bill-passes-the-senate>) and see how the bill's provisions compare to the **AWC Housing Solutions Proposal – Maximize density and affordability around regional transit assets**:

All cities with rapid transit:

- No maximum density allowed within ½ mile walking distance of rapid transit (rail-based and bus rapid transit), if 20% of units are affordable at 80% of AMI or below for fifty years.
- Cities may set minimum density and higher affordability standards.
- Cities may otherwise regulate through local development standards including height and envelope limitations.

HB 1110, the middle housing bill, has undergone significant changes as it works its way through the gauntlet (aka the legislative process). Check out this table (https://wacities.org/docs/default-source/legislative/030823hsghb1110densitycomparison.pdf?Status=Master&sfvrsn=9c4c264f_3) to see how the original version and the House-passed version compare to each other and to the AWC Housing solutions proposal.

The summary ([https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bill Reports/House/1110-S2.E HBR APH 23.pdf?q=20230310095306](https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bill%20Reports/House/1110-S2.E%20HBR%20APH%2023.pdf?q=20230310095306)) of **HB 1110** runs five pages, indicating the level of statutory changes this bill would make. One new concerning change is a new lot-splitting provision referencing **HB 1245**. The provision was posed to address the implications of the lot splitting bill doubling the impact of the middle housing bill, as each lot would be required to allow the middle housing forms. Unfortunately, the provision that was added only allows cities to limit to two units on lots less than 2,000 square feet, which **HB 1245** already allows cities to preclude. The provision needs to allow cities to restrict to two units on lots larger than 2,000 square feet when the result of a lot split. Speaking of the lot-splitting bill, **HB 1245** is on the fast track and is scheduled to be heard and voted on this week.

Dates to remember

HB 1245 is scheduled for public hearing in the Senate Local Government, Land Use & Tribal Affairs on Tuesday, March 14 at 8 am and scheduled for a vote in the same committee on Thursday, March 16 at 10:30 am.

SB 5466 is scheduled for public hearing in the House Housing Committee on Thursday, March 16 at 8 am.

HB 1110 is scheduled for public hearing in the Senate Housing Committee on Friday, March 17 at 10:30 am.

continued

Budget & finance

Property tax cap fix stuck in House, with hope it could become part of a budget deal

Contact: Candice Bock, Sheila Gall

Thanks to all the city officials who asked legislators to move **HB 1670** the property tax cap fix to a floor vote by Wednesday's floor cutoff. Unfortunately, the bill did not advance and is stuck in the House. As we reported last week, this is a difficult proposal because it is considered a "tax" vote for legislators. House members were reluctant based on a belief that the bill would not succeed in the Senate.

AWC is hopeful that the bill could be deemed related to the budget and acted on before the session adjourns. But there is no guarantee that would be the case.

AWC has supported the bill as a modest proposal to revise the arbitrary 1% cap on property taxes. Revising it to inflation and population growth up to 3%, as recommended by the State Tax Structure Work Group, would allow local elected officials the option to better meet the needs of their residents.

Rural county development sales tax scheduled in Senate

Contact: Candice Bock, Sheila Gall

The extension of the rural county sales tax (.09 sales tax) passed the House unanimously and is set for executive session in the Senate Local Government Committee. Cities partner with counties to use this revenue for economic development projects.

HB 1267 would clarify eligibility for counties that exceeded the population threshold after imposition and extend authority to impose the tax until 2054. Some counties are getting close to the expiration of the tax which is currently set at 25 years after imposition.

Date to remember

HB 1267 is scheduled for executive session in the Senate Local Government, Land Use & Tribal Affairs Committee on Tuesday, March 14 at 8 am.

Economic development

Fixes to the Tax Increment Financing program pass through the House

Contact: Candice Bock, Jacob Ewing

It was the Senate that started the push for much-needed fixes to Tax Increment Financing (TIF) program; however, it was the House that got their bill through the chamber before the March 8 cut off.

Back in February, the Senate took big strides in moving TIF fixes forward via **SB 5539**, a bipartisan bill requested by the State Treasurer. By mid-February, however, efforts with that bill stalled in the Ways & Means Committee rendering the bill dead. Except, the House had a companion bill ready that they quickly moved through the House Finance Committee in mid-February. On March 6, **HB 1527**, sponsored by Reps. Sharon Wylie (D-Vancouver) and Bryan Sandlin (R-Zillah), passed through the House unamended on a vote of 80-15. Let's hope that the Senate can finish the job this time around.

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As a reminder, Tax Increment Financing (TIF) captures a property's appreciated value by using its increased property taxes to finance infrastructure improvements that benefit a designated area. Local jurisdictions that utilize TIF benefit from improved public infrastructure, increased economic development, and local job growth. For a recent example of a city using TIF, check out this story from Wenatchee (https://www.wenatcheeworld.com/news/wenatchee-creates-tax-increment-financial-district-for-its-north-wenatchee-redevelopment-plan/article_7ffba790-b6e7-11ed-aa8d-b35e0359a70c.html).

As written, the TIF fix bill would:

- Ensure private investments made on government-owned lands are included in the calculated increment value.
- Establish that the relocation and construction of a government-owned facility would be included as an eligible project.
- Clarify the definitions of 'increment value' and 'tax allocation base value' to be in-line with current law regarding add-on levies.

Dates to remember

HB 1527 is scheduled for executive session in the Senate Business, Financial Services, Gaming & Trade Committee on Tuesday, March 14 at 8 a.m.

Emergency management & cybersecurity

Extreme weather grants bill passes out of the House

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

A bill creating a grant program to assist local governments with costs of responding to extreme weather events passed out of the House and is now scheduled for hearing in the Senate. **HB 1012** would task the Washington Military Department with creating an extreme weather response grant program for communities with a demonstrated lack of resources to address community needs, especially for those communities seeking to secure funding for programs that will benefit vulnerable populations.

The grant funds could cover costs associated with:

- Warming and cooling centers.
- Transporting people and their pets to warming and cooling centers.
- Supplies needed to cool congregate living settings.
- Providing emergency temporary housing.
- Retrofitting or establishing pet friendly facilities within warming and cooling centers.
- Other things that are necessary for life safety during extreme weather events, including in situations where wildlife smoke creates severe air quality.

AWC supports this bill.

Dates to remember

HB 1012 is scheduled for public hearing in the Senate State Government & Elections Committee at 1:30 pm on Tuesday, March 14 and for a vote in the same committee on Friday, March 17 at 8 am.

continued

Energy

City confidentiality protected in latest updates to clean energy siting proposal

Contact: Brandy DeLange, Brianna Morin

This year's clean energy siting bill has not slowed down since its introduction in the House in early January. It recently moved into the Senate, after picking up a third set of amendments on the House floor, with a small improvement for cities.

AWC has been closely tracking **HB 1216** and the several iterations the bill has taken while moving through the Legislature. You can find our previous coverage of the bill here (<https://wacities.org/news/2023/01/16/clean-energy-siting-coordinating-council-established-in-new-bill-contact-awc-with-your-feedback>) and here (<https://wacities.org/news/2023/02/24/energy-project-siting-legislation-governs-city-participation>).

The latest round of amendments adds local governments and federally recognized Indian Tribes to the entities that may not be prohibited from entering into a nondisclosure agreement when participating in the coordinated permitting process. This allows cities to protect confidential business information, trade secrets, financial information, or other proprietary information.

Other amendments further address the state's interactions throughout the siting process with federally recognized Tribes, update requirements for counties and make definitional changes within the bill.

HB 1216 is scheduled for public hearing in the Senate Environment, Energy & Technology Committee on Wednesday, March 15 at 8 am.

Federal

New federal fact sheets highlight cities' work with ARPA and BIL funds

Contact: Candice Bock, Brianna Morin, Jacob Ewing

Are you curious about how cities across Washington are using federal funding? Be sure to check out our two new fact sheets on the Bipartisan Infrastructure Law (BIL) and the American Rescue Plan Act (ARPA).

March marks three years since COVID-19 lockdowns began. It also marks the start of an unprecedented amount of available federal funding for cities. First came the Coronavirus, Relief, and Economic Security (CARES) Act in 2020 that sent \$184 million via the state to Washington cities. Then in early 2021, the American Rescue Plan Act (ARPA) brought roughly \$1.1 billion in direct federal funding to cities. Later in 2021, the Bipartisan Infrastructure Law (BIL) passed, unlocking billions in federal funding for critical infrastructure projects across the country.

To celebrate some of the many achievements of Washington's cities and towns, AWC staff have collected examples of cities putting federal dollars to work in their communities and feature them here:

- Read the ARPA federal funding fact sheet (https://wacities.org/docs/default-source/legislative/factsheetarpa2023.pdf?sfvrsn=914b264f_3)
- Read the BIL federal funding fact sheet (https://wacities.org/docs/default-source/legislative/factsheetbilinfrastructure2023.pdf?sfvrsn=924b264f_3)

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Here are a few examples from the fact sheets:

City of Cheney (BIL)

Award & source: \$5.4 million | WaterSMART grant, U.S. Bureau of Reclamation

Population: 13,255 | 5th District

Project: Facing increasing demand for water and a declining supply, Cheney has worked for years to create sustainable processes for its water management system. One such approach is the Cheney Purple Pipe to Parks and Playgrounds Project, the city's water reuse program. It treats wastewater effluent to Class A reuse water, providing it for irrigation on park and playfield green spaces. The \$21.8 million project is a successful model for building climate resilience and sustainability within a community.

City of Grandview (ARPA)

Population: 11,020 | 4th District

Project: Downtown Revitalization – Grandview is investing 25% of their ARPA award to revitalize their downtown. A part of their plan includes providing five \$10,000 grants to small, local, independent businesses to relocate to the city's downtown. In 2022, the city distributed \$385,000 in funding to dozens of existing local businesses.

Cities of Hoquiam and Aberdeen (BIL)

Award & source: \$84.6 million | Building Resilient Infrastructure and Communities (BRIC) grant, FEMA

Combined population: 25,731 | 6th District

Project: The Aberdeen-Hoquiam Flood Protection Project will construct two levees, totaling eight miles, to safeguard the region's low-lying areas against repeated, destructive flooding. The project will improve storm drainage and protect 5,100 properties and 1,354 businesses from flood-related damage, providing stability to the local economy and eliminating burdensome and costly flood insurance requirements for residents and business owners.

City of Dayton (ARPA)

Population: 2,445 | 5th District

Project: Broadband Infrastructure – Dayton partnered with the Port of Columbia to use \$335,000 of the city's ARPA funds to secure a \$2 million state grant to build out local broadband infrastructure. Because of the city's investment, over 1,100 households and 140 businesses will have access to 1 Gbps speeds.

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General government

Bill expanding the Washington Voting Rights Act passes House, scheduled in the Senate

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

HB 1048 would amend the Washington Voting Rights Act (WVRA) in two significant ways. First, the bill would allow a person or organization to be awarded up to \$50,000 for costs incurred prior to submitting their notice of intent to file a lawsuit against a local government alleging polarized voting if they prevail. Second, the bill gives standing to organizations and tribes to challenge election systems on behalf of at least one member residing within the jurisdiction. The bill also allows an organization to recover reasonable costs for work prior to filing a claim even if they don't prevail with no cap on those costs.

AWC strongly supports voting rights and ensuring appropriate representation in all levels of government. However, we have concerns about the potential fiscal impact on cities related to the potentially unlimited recovery of costs in cases where a group does not prevail. We continue to try to minimize these impacts while supporting voting rights.

Need a refresher on the WVRA? AWC maintains an implementation webpage (<https://wacities.org/data-resources/voting-rights-act-implementation>).

Dates to remember

HB 1048 is scheduled for public hearing in the Senate State Government & Elections Committee on Tuesday, March 14 at 1:30 pm and for a vote in the same committee on Friday, March 17 at 8 am.

Police liability bills dead after mid-session cutoff

Contact: Candice Bock, Matt Doumit, Katherine Walton

Two problematic bills that would have greatly expanded liability for cities with police departments failed to pass out of the House prior to the mid-session House of Origin cutoff on March 8.

Both **HB 1025** and **HB 1445** are now dead for the remainder of session. Neither bill can be considered again until 2024 unless the legislature takes extraordinary action to revive them this year (which is uncommon, but not unheard of). AWC will keep you up to date on any developments.

As a reminder, **HB 1025** would have ended qualified immunity for police and created a new civil cause of action against police and police departments for conduct violating the state Constitution or certain state laws. **HB 1445** would have authorized the Attorney General to investigate and bring actions against police departments for violations of the state Constitution or state law, and also required the AGO to publish model policies on police conduct.

AWC and cities across the state opposed these bills, which would have greatly increased liability exposure for cities, driven up settlement and litigation costs, made liability insurance more expensive, and unfairly punished cities without offering less adversarial means to actually fix police misconduct. AWC thanks all the cities that contacted their legislators to oppose these bills. Your engagement was an important part of why the House set aside these policies and is once again an example of how when cities speak, legislators listen.

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TSWIFT consumer protection bill on ticket sales still in the House

Contact: Candice Bock, Sheila Gall

Another bill that did not pass the House before cutoff was **HB 1648**, the TSWIFT consumer protection act. The amended version no longer included provisions of concern to cities that would have preempted local government regulation and potentially impacted to city and PFD admissions tax authority.

The bill would have imposed new protections on event ticket sales and violations for bypassing ticket sales security technology. It also would have established new licensing requirements for ticket sellers.

Union-member privilege bill survives cutoff

Contact: Candice Bock, Matt Doumit

A bill creating a new legal privilege between unions and union members passed off the House floor last week with a unanimous vote. AWC is “other” on the bill because while some level of privilege may be appropriate in some circumstances, there is concern about the broad grant of privilege to labor organizations that isn’t comparable to anything elsewhere. We are still working to get some concerns addressed with amendments.

HB 1187 creates a new legal privilege between an employee and their union. We last wrote about the bill here. The version of the bill that passed out of the House prevents both the union and the employee from being examined in a court proceeding about their communications made with each other or between union representatives during the course of union representation. “Union representation” includes a union’s actions on behalf of an employee’s employment relationship with their employer, like personnel matters, grievances, labor disputes, wages and pay rates, employment hours, working conditions, and collective bargaining.

The bill contains several exceptions where the privilege would not apply:

- Where examination or disclosure is necessary to prevent commission of a crime likely to result in an imminent risk of serious physical injury.
- In civil or criminal actions where the employee is accused of a crime or assault or battery.
- In civil or criminal actions where a union member is a party, the member may obtain a copy of their statements to the union or elicit testimony from the union concerning the subject matter of the action. The exception explicitly states that such statements are not discoverable by other parties.
- In civil, criminal, or regulatory actions against the union or its affiliated organizations or their agents.
- When a union member admits to a crime, or intent to engage in a crime, to their union.
- When the communication record would otherwise be subject to the Public Records Act.

An early version of the bill expressly allowed the union to unilaterally waive the privilege, but that section has since been removed. However, given the current language of the bill it is unclear whether the employee or the union (or both) hold the privilege and who would have the authority to waive it and to what extent. It is also unclear if there is a distinction between “employees” who aren’t necessarily members of the union and “union members” in the operation of the proposed privilege or exceptions.

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For those unfamiliar with the legal process, “discovery” refers to the compulsory disclosure of relevant documents by one party in a legal action to the other party on request. Parties routinely request documents relating to the other side’s witnesses as part of the discovery process. A legal privilege protects certain confidential communications from disclosure to maintain certain professional and personal relationships where privacy is critical to the work or relationship involved, and where society recognizes the relationship as important enough justify keeping relevant evidence out of court.

There are currently 10 statutory legal privileges in Washington, including well known privileges like attorney-client, doctor-patient, and clergy-penitent, among others.

How other legal privileges work

By way of comparison, Washington courts (<http://courts.mrsc.org/appellate/019wnapp/019wnapp0182.htm#:~:text=%5B1%5D%20We%20believe,SUPRA%20at%20513.>) have found that when a client testifies, or has their lawyer testify, about part of a privileged communication between the client and lawyer, the client has waived attorney-client privilege as to the whole of that communication – making it discoverable by the other side. Likewise, a client offering up their attorney’s testimony on a specific communication could also waive privilege for other communications on the same subject matter. This is so the court can be given all the relevant evidence from witnesses in context so it can render a fair decision based on all the facts, rather than only getting part of the story. Generally, clients are discouraged from calling their own attorney as a witness to preserve attorney-client privilege.

Similarly, in the statute creating a doctor-patient privilege, there is an exception ([https://app.leg.wa.gov/rcw/default.aspx?cite=5.60.060#:~:text=\(b\)%20Ninety%20days,to%20court%20rules.](https://app.leg.wa.gov/rcw/default.aspx?cite=5.60.060#:~:text=(b)%20Ninety%20days,to%20court%20rules.)) that waives privilege and allows an opposing party to discover medical records and examine a patient’s doctor when the patient has filed a civil action for personal injury or wrongful death. The thought behind this is that when a patient files a personal injury case, they have put their health and the cause of their injuries into question and the court needs to see all the relevant medical information and hear from all the relevant doctors to make a fair decision in the case.

Finally, while most would agree that the relationship between children and their parents is a socially important one, only a very narrow (<https://app.leg.wa.gov/rcw/default.aspx?cite=5.60.060#:~:text=A%20parent%20or%20guardian%20>) legal privilege exists for communications between parents and children. The parent-child privilege exists only for preventing testimony about communications between a minor child and the child’s attorney after the child has been arrested for a crime. Generally, Washington does not recognize a parent-child testimonial privilege (<https://law.justia.com/cases/washington/supreme-court/1988/54407-7-1.html>).

continued

AWC continues to seek amendments

HB 1187's proponents argue (<https://www.tvw.org/watch/?clientID=9375922947&eventID=2023031211&startStreamAt=4217>) that it returns the state to the status quo prior to a 2021 case that for the first time litigated the union-member privilege issue and found that Washington had no union-member privilege. No Washington courts had ruled on the union-member privilege issue prior to that case. AWC took a position of "other" on the bill because we agree that there should be some confidentiality protections for communications between unions and their members made during representation. However, we are still concerned what the broad union-member privilege in the bill could mean for cities. The bill could limit cities' ability to adequately investigate and take action in misconduct situations (like harassment or discrimination claims) that cities could ultimately be liable for.

AWC is also concerned with the fairness of allowing a broad privilege against discovery for witnesses called to testify against a city at trial, hindering a city's chances to fairly defend itself in court. As currently drafted, **HB 1187** would favor union representation communications more than attorney-client or doctor-patient privileges by allowing a union representative to testify for the union member without being subject to discovery or effective cross examination. The same is not true if a client were to call their attorney to testify, nor if a patient places their health at issue by filing a personal injury claim. Courts should be able to hear all the relevant evidence submitted at trial so they can ascertain the truth, not just select bits and pieces. Courts are also the best place to decide what information is relevant vs. what should remain protected in a particular case.

We also remain concerned that the privilege created by the bill may run with the union organization and not the employee, unlike most other privilege relationships where the privilege lies with the individual. We understand that this is because a union may represent multiple members on a matter, and we agree that one union member should not get to waive privilege on behalf of everyone else. But this scenario should be more clearly addressed in the language of the bill.

AWC appreciates the House's earlier amendments to clarify how the privilege would intersect with the Public Records Act. However, AWC will continue to work on amendments in the Senate to narrow the bill and allow discovery when the union member chooses to call their union representative to the stand. The privilege would still protect against employers seeking union-member communications records on their own and only make relevant communications eligible for discovery when the employee has chosen to put them in play by calling the union as a witness, similar to how attorney-client and doctor-patient privileges work.

continued

HR & labor relations

One bill imposing “good faith” on self-insured cities survives cutoff

Contact: Candice Bock, Matt Doumit

A problematic bill for cities that self-insure for workers’ compensations claims survived last week’s cutoff and is scheduled for a hearing in the Senate this week.

HB 1521 creates a duty of “good faith and fair dealing” for self-insured employers and their third-party administrators (TPAs) towards workers in self-insured workers’ compensation programs, with penalties for violating “good faith.” We last wrote about the bill here (<https://wacities.org/advocacy/news/advocacy-news/2023/02/20/bills-imposing-good-faith-on-self-insured-cities-and-third-party-administrators-amended-voted-out-of-committee>). The bill automatically makes it violation of the duty if a self-insured employer or TPA coerces an injured worker to accept less than the compensation due under state industrial insurance laws or otherwise acts in bad faith. The bill also allows Department of Labor & Industries (L&I) to write rules further outlining “good faith” duties and requires L&I to investigate and order resolution of claims. It passed out of the House on a 69-27 vote.

Amendments in the House reduced the timelines for TPAs to respond to complaints from 14 to 10 working days and require the L&I to order resolutions of complaints after 30 days even without hearing the TPA’s response to a complaint. Those amendments also drastically increased the penalties for alleged violations of the duty of “good faith.”

AWC opposes this bill because of the vague and undefined new standard, reduced timelines for compliance, increased penalties, and requirements to impose penalties. L&I has only recently implemented new rules based on legislation negotiated in 2020 that are supposed govern TPA licensing and certification, and there has not yet been enough time to know how effective those new rules might be in addressing the concerns raised by **HB 1521**’s proponents. The current bill appears to be based on anecdotes from small number of unique situations and possibly a misunderstanding of how presumptive workers’ compensation claims are actually handled, not on any data showing systemic violations of L&I rules by self-insured cities or TPAs.

The Senate companion, **SB 5524**, which was amended to only apply to municipal self-insured employers, didn’t survive the House of Origin cutoff.

We encourage self-insured cities to review this bill and provide feedback.

Dates to remember

SB 1521 is scheduled for a public hearing on Tuesday, March 14 in the Senate Labor & Commerce Committee at 10:30 am.

continued

Two bills focused on requiring employers provide employee information up for hearings

Contact: Candice Bock, Matt Doumit

Two bills on providing employee information that survived last week's cutoff are up for hearings this week in the Senate. They were included in last week's roundup of bills (<https://wacities.org/advocacy/News/advocacy-news/2023/03/03/hr-labor-relations-bills-past-the-halfway-point>).

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. We last wrote about the bill here (<https://wacities.org/advocacy/News/advocacy-news/2023/02/27/bill-on-sharing-personnel-records-with-employees-amended-voted-out-of-committee>).

In the House committee, the bill was amended to clarify that while an employee request for their personnel records is treated as a request under the bill and not the Public Records Act, investigation records for labor law or other violations can be redacted. On the House floor, an amendment was added that public employers bear the burden of proving that such redactions were made in good faith, and that public employers could be liable under the bill for bad faith redactions. It passed out of the House on March 1 with a 56-40 vote.

AWC has concerns but has been working to improve the bill – we will continue to ask for a longer time frame to comply (at least 30 days) to make it more manageable for smaller cities with limited capacity to handle such potentially large requests.

Providing employee info to unions

The current version of **HB 1200** requires public employers to provide certain employee information – including work and personal contact information, date of hire, salary, and jobsite location – to public employee unions. Employers have 21 days to provide information on new hires, and must provide it again every 120 days for all employees in each bargaining unit. There is no provision for an employee to opt out of having their information shared.

Most of the information covered in the bill was already required to be shared with unions under current law, but current requirements don't have as many formal deadlines or lists of what needs to be included – leaving that up to negotiation between the employer and union. AWC had concerns about the early bill drafts but was able to improve the bill in the House to contain more reasonable and attainable timelines for updating unions with employee information. The bill passed out of the House on a 56-41 vote on March 2.

Dates to remember

HB 1320 and **HB 1200** are both scheduled for public hearings in the Senate Labor & Commerce Committee on March 16 at 8 am.

continued

More HR bills on the week 10 hearing schedule

Contact: Candice Bock, Matt Doumit

Several more HR & labor relations bills of interest survived cutoff and are on the week 10 committee action calendar. We review some of those bills below.

Ergonomic injuries rules

SB 5217 repeals I-841 (the 2003 initiative banning ergonomics regulations to prevent musculoskeletal injuries) and permits L&I to adopt rules regarding musculoskeletal injuries, up to one set of rules per year per industry or risk class with musculoskeletal workers compensation claims rate at least two times the state average over a five-year period. The bill includes limits on L&I's rulemaking authority to prevent rapid adoption of rules in industries that didn't previously have them and requires L&I to consider options to allow employers to demonstrate alternative control methods. L&I would also be required to convene an advisory committee of impacted employers and workers when developing rules for an industry or rate class.

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 several exemptions from the cannabis discrimination ban, including exemptions for positions that require a federal background check, "safety sensitive" positions where impairment presents a substantial risk of death, and maintaining employer rights and obligations to maintain a drug and alcohol-free workplace. We last wrote about the bill here (<https://wacities.org/advocacy/news/advocacy-news/2023/02/24/bill-banning-hiring-discrimination-against-cannabis-users-passes-senate>) after it passed the Senate.

PFML premiums

SB 5286 adopts the unanimous recommendations of the PFML premiums task force and changes the formula used for calculating PFML premiums to create a three month reserve fund, raises the premiums cap to 1.2%, and makes other changes to help the PFML program avoid the persistent solvency issues its faced over the past year. The bill passed out of the Senate on February 1 with a unanimous vote. We last wrote about the bill here (<https://wacities.org/advocacy/news/advocacy-news/2023/01/16/bill-on-fixing-pfml-premiums-gets-a-hearing-in-the-senate>) and here (<https://wacities.org/advocacy/news/advocacy-news/2023/02/09/pfml-program-gets-attention-early-in-legislative-session>).

Flexible work for police

SB 5424 allows part-time officers to participate in the LEOFF 2 pension system and exercise full mutual aid police powers as either general or limited authority peace officers. It also allows law enforcement agencies to adopt flexible work policies for police, including allowing less than full time work or on alternative schedules, supplement peak hours with part-time officers, and can require flexible work officers to meet certain experience or training thresholds. Flexible work policies can't reduce the number of full-time officers employed and can't alter department collective bargaining agreements or the duty to bargain. Full-time and part-time officers must be considered part of the same bargaining unit. AWC is supportive of this policy change.

Dates to remember

SB 5217, **SB 5123**, and **SB 5286** are scheduled for a public hearing in the House Labor & Workplace Standards Committee on Tuesday, March 14 at 10:30 am. **SB 5217** and **SB 5286** are also scheduled for committee votes on Friday, March 17 at 10:30 am.

SB 5424 is scheduled for public hearing on Monday, March 13 in the House Community Safety, Justice, & Reentry Committee at 1:30 pm.

continued

AWC wants to hear your city's success stories when it comes to recruitment and retention

Contact: Candice Bock, Matt Doumit

Nearly every city in the state is experiencing challenges with recruitment and retention in the current job market. Low unemployment means there are fewer job seekers out looking for work, and other potential workers have left the workforce altogether for a host of reasons.

AWC knows that cities are creative in finding ways to serve their residents, in addition to just being great places to work. We want to hear from you about some of the recruiting and retention challenges you've faced and the ways that your city is addressing them. We'd like to collect some of your city's recruitment and retention success stories to share with other cities across the state.

AWC is also working on content for the upcoming 2023 Labor Relation Institute (<https://wacities.org/events-education/conferences/labor-relations-institute>) in May related to local government recruitment and retention issues, and we'd love for our city HR staff to be a part of it.

Please let us know your city's recruitment and retention success stories and if you'd like to learn more about participating in recruitment/retention related content for LRI. You can send your thoughts to matt@dawcnet.org.

Human services

***Trueblood* bill amended, removing costly provisions for cities**

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

Last week, **SB 5440** moved out of the Senate substantively different than it started, and importantly, without the provisions that potentially were very costly to cities. The bill seeks to address the significant wait times for competency evaluations and restoration services. The original bill, requested by the Governor, would have deferred state responsibility for restorations to local governments without providing funding to support the new responsibility. The bill sponsor introduced a lengthy striking amendment that removed all references to clinical intervention units and ensuring that the state retains the responsibility for competency evaluation and restoration services. The new version of the bill now adds positive changes to the system without placing undue burden on cities.

SB 5440:

- Requires a court to determine if there is a genuine doubt about a defendant's competency before ordering an evaluation.
- Requires jails to allow clinical intervention specialists to provide direct services and consultation for defendants waiting for competency services, allowing them to stand trial.
- Prohibits jails from substituting or discontinuing medication for a serious mental health disorder.
- Requires courts to dismiss nonfelony charges and refer defendants for services if the court finds that the defendant is amenable to services and can safely receive services in the community. This would be overseen by a forensic navigator.

The bill is now scheduled for public hearing in the House Civil Rights & Judiciary Committee.

Dates to remember

SB 5440 is scheduled for public hearing in the House Civil Rights & Judiciary Committee on Tuesday, March 14 at 10:30 am and for a vote in the same committee on Friday, March 17 at 10:30 am.

continued

Open government

Bill exempting domestic violence survivors from the PRA passes House

Contact: Candice Bock, Matt Doumit

A bill that would exempt certain identifying information from the Public Records Act for state agency and K-12 employees who are survivors of domestic violence, sexual abuse, harassment, and stalking passed the House last week on an 80-15 vote.

HB 1533, sponsored by Rep. Sharlett Mena (D–Tacoma), exempts a certain personal identifying information for state agency and K-12 school employees from Public Records Act (PRA) disclosure if the employee can demonstrate that they (or their dependent) are a survivor or domestic violence, sexual abuse, stalking, or harassment. To have their information exempted from PRA disclosure, an employee would need to submit to their employing agency a signed, sworn statement (under penalty of perjury) attesting to their status as a survivor or that they have a reasonable basis to believe they are at risk of domestic violence, sexual abuse, stalking, or harassment. Such sworn statements would expire after two years but could be renewed.

The bill also allows those employees to present proof that they or their dependent are participating in a victim address confidentiality program under RCW 40.24 in lieu of a sworn statement. The employing agency’s documentation of sworn statements or evidence of program participation would also be confidential and non-disclosable under the PRA.

AWC signed on to a letter urging the legislature to take action on **HB 1533**. While the bill doesn’t impact city government employees, it is a commonsense measure that ensures bad actors can’t abuse the Public Records Act to access their victims’ personal information and continue to harass survivors just because they happen to be public employees. Current law would require the public employee to go to court to seek an injunction against disclosure on a case-by-case basis, which is a time consuming and expensive process.

continued

Pensions

PERS 1 changes back on the hearing schedule

Contact: Candice Bock, Matt Doumit

Several bills addressing PERS 1, including changes to the UAAL and cost-of-living adjustments (COLAs), survived cutoff and either had hearings late last week or are scheduled for hearings this week.

Reducing the UAAL

SB 5294 sunsets the existing PERS 1 unfunded actuarial accrued liability surcharge (UAAL) rates in fiscal year 2023, and sets a schedule of new lower UAAL rates until 2027 for PERS 1 and PSERS 1. The bill passed out of the Senate unanimously. The UAAL rate schedule would look like this:

SB 5294 schedule of new UAAL rates for PERS 1				
FY ending June 30	2024	2025	2026	2027
New rate	2.5%	2.0%	1.5%	0.5%

After July 1, 2027, a new minimum UAAL rate of 0.5% (down from 3.5%) is set for PERS and PSERS that will go into effect only if the PERS 1 account is less than 100% funded. Current projections expect PERS 1 to be fully funded by 2027. Previous versions of the bill sunset the UAAL entirely in 2025. The House companion, **HB 1201**, did not get a vote in the House last week, though that bill is likely not subject to cutoff as it impacts the budget.

The UAAL surcharge is a public employer-paid surcharge added to Plan 2/3 contribution rates to pay for unfunded costs to PERS 1 that have accumulated over the years, in part due to unfunded ad hoc PERS 1 COLAs approved by the Legislature in recent years.

AWC supports any action to reduce or eliminate the UAAL and the impact it has on current city budgets. AWC testified in support of **SB 5294** at its public hearing on March 9 in the House Appropriations Committee.

Ad hoc PERS 1 COLA

HB 1057 and **SB 5350** each authorize a one-time, ad hoc 3% cost-of-living adjustment for PERS 1 retirees, capped at \$110 per month and the bills both 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 specifies that supplemental contribution rates won't be charged to pay for the COLA.

Both bills passed out of their respective chambers with unanimous votes. **SB 5350** had a hearing on March 9 in the House Appropriations Committee.

While we do not oppose COLAs for PERS 1 retirees to lessen the impact of inflation on their benefits, AWC has traditionally been opposed to PERS 1 COLA plans funded by the UAAL surcharge since they impact current local government budgets to pay for unplanned benefits increases, to the tune of hundreds of millions of dollars over time.

Dates to remember

HB 1057 is scheduled for a public hearing on Monday, March 13 in the Senate Ways & Means Committee at 4 pm.

continued

Public safety & criminal justice

A bill establishing an Office of Independent Prosecutions in the Attorney General's Office passes House

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

HB 1579 aims to increase police accountability in Washington. The bill would establish an Office of Independent Prosecutions (OIP), led by an independent counsel, within the Attorney General's Office (AGO). The OIP would have jurisdiction concurrent with county prosecuting attorneys to review investigations and conduct prosecutions of deadly use of force by law enforcement officers.

The OIP would receive notification of potential cases from the Office of Independent Investigations (OII), created by the Legislature in 2021 (<https://wacities.org/news/2021/04/16/legislation-establishing-office-of-independent-investigations-awaits-governor-s-signature>) and would then make charging decisions. If both the OIP and the county prosecuting attorney filed charges in a particular case, a court would determine whose prosecution of the case would best promote justice. However, functionally, the bill creates a virtual presumption that a county prosecuting attorney would have a conflict of interest in the prosecution of a local law enforcement officer.

The bill was referred to the Senate Law & Justice Committee.

Surprise Senate move keeps vehicular pursuits bill alive

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

With the House stalling on their law enforcement vehicular pursuits legislation, the Senate took decisive action to pass **SB 5352** just before the Wednesday deadline, pulling their dormant bill straight to the floor for a vote.

For most of the session, **HB 1363** has been the vehicle for revising the police pursuits statute to include a "reasonable suspicion" standard, striking a more appropriate balance between providing law enforcement with the tools needed to pursue dangerous suspects while focusing on appropriate and necessary safety standards. But the bill became bogged down after some legislators tied it to **HB 1513**, which restricts when police can make traffic stops for non-moving violations. It looked like it would take a lot to get anything on vehicular pursuits done in the House by Wednesday's 5 pm House of Origin cutoff deadline.

With just hours to go before the deadline, the Senate – in a rarely used procedural move – pulled their previously dead companion of the vehicular pursuits bill straight to the floor for a vote. **SB 5352** had never been scheduled for a hearing prior to the floor vote. Senator Dhingra introduced a striker that is virtually identical to the most recent version of **HB 1363**, including limiting the types of crimes that could warrant a pursuit. The amended bill adds vehicular assault and certain domestic violence offenses to the list of crimes for which police are authorized to pursue. Notably, **SB 5352** does not include the 2025 sunset date that we had seen in **HB 1363**.

SB 5352 passed in a close 26-23 vote (with mixed Democratic and Republican votes both for and against) and now heads to the House. AWC needs cities to reach out to your House members to urge them to support **SB 5352** and ask their leadership to ensure the bill will be voted on. While we are encouraged by the Senate's last-minute actions, the bill still has a considerable way to go if it will be enacted into law this session.

continued

Public works & infrastructure

WA to see a statewide small works roster and greater equity in public works procurement in Senate bill now moving through the House

Contact: Brandy DeLange, Brianna Morin

Consensus legislation proposed by the Capital Projects Advisory Board (CPARB) and modifying small works roster requirements has successfully passed the Senate and will next be heard in the House. **SB 5268**, introduced by Sen Bob. Hasegawa (D–Seattle), addresses issues of equity in public works procurement and revises the small and limited works roster process to increase administrative efficiency.

AWC previously wrote (<https://wacities.org/news/2023/01/20/public-works-procurement-bill-to-remove-barriers-for-small-and-minority-owned-businesses>) about the House companion bill, **HB 1306**. The Senate version was the one to pass its house of origin cutoff deadline. It received a unanimous vote of approval on the floor before moving to the opposite chamber.

The Legislature amended **SB 5268** along the way, making mostly administrative corrections to the bill. As it stands, the legislation:

- Updates the definition of small business to align with that of the Office of Minority and Women's Business Enterprises (OMWBE); that is, a business that meets certification criteria for size, ownership, control, and personal net worth adopted by OMWBE in accordance with RCW 39.19.030.
- Directs the Department of Commerce, through the Municipal Research and Services Center, to develop a statewide small works roster. Local governments are authorized to utilize the small works roster or create and maintain one or more of their own. Contractors on the small works roster must indicate if they meet the definition of women and minority-owned business, veteran owned business, or small business.
- Requires that bid evaluations include past performance in utilization of business entities certified with OMWBE, including small businesses and business entities certified with the Dept. of Veterans Affairs. Evaluation factors must also include a proposer's inclusion plan for said businesses.
- Provides uniform small works roster provisions for awarding contracts to increase administrative efficiency.
- Requires OMWBE to adopt rules governing a public works small business certification plan.
- Removes the requirement in existing statute that the Department of Enterprise Services survey which states provide a bidding preference on public works contracts for their resident contractors.
- Requires the Capital Projects Advisory Review Board (CPARB) to review construction cost escalation data for Washington State.
- Requires CPARB to make recommendations to the appropriate committees of the Legislature on adjustments to existing contracting thresholds.

SB 5268 is scheduled for public hearing in the House Innovation, Community & Economic Development, & Veterans Committee next Tuesday, March 14 at 10:30 am.

continued

A murky future for proposed Public Works Revolving Account

Contact: Brandy DeLange, Brianna Morin

Washington cities' hopes for constitutional protection of a vital source of local infrastructure funding have been dashed, for now.

Senate Joint Resolution 8201 would have amended the State Constitution to establish the Public Works Revolving Account in the state Treasury, to be used strictly for the purpose of providing loans and grants to local governments for infrastructure projects. The existing Public Works Assistance Account (PWAA) would have remained intact; however, all moneys received from local governments in the repayment of loans made under both accounts would be paid into the revolving account. This would have ensured that loan repayment dollars from local governments were used solely for future local infrastructure loans and could not be directed to other funds by the Legislature.

In a strange twist of events, **SB 5303**, the implementation bill accompanying the Senate Joint Resolution moved ahead on its own. The bill would amend state law to recognize the creation of the revolving account and confer governing authority over the new account to the Public Works Board.

AWC is committed to working with the bill sponsor, the Public Works Board, and other stakeholders to refine **SRJ 8201** for consideration next session.

SB 5303 passed off the Senate floor with 46 votes in its favor, three against, and now heads to the House Appropriations Committee.

Transportation

Catch up to speed with these key transportation bills traveling through the Senate

Contact: Brandy DeLange, Brianna Morin

Throughout this session, AWC has tracked several transportation bills with impacts for cities that have now passed from the House chamber into the Senate. We provide a roundup of those bills here.

Transportation impact fee revenue

SB 5452, from Sen. Sharon Shewmake (D-Bellingham), authorizes cities to use transportation impact fees on bicycle and pedestrian facilities not within road right-of-way. 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. We last wrote about the proposal here.

AWC supports the bill. We encourage cities to consider testifying and to **contact your legislators this week, while the bill is in committee, to express your support** for this expanded use of city revenue.

SB 5452 is scheduled for a public hearing in the House Local Government Committee on Tuesday, March 14 at 10:30 am. It is then scheduled for executive session in the same committee on Friday, March 17 at 10:30 am.

continued

Transportation revenue forecast

A new bipartisan bill from the chairs of the House Transportation Committee, Reps. Jake Fey (D–Tacoma) and Andrew Barkis (R–Olympia), transfers the responsibilities for the transportation revenue forecast for the transportation budget to the Economic and Revenue Forecast Council (ERFC).

HB 1838 requires ERFC to prepare and approve the transportation revenue forecast beginning with the September 2024 forecast. Legislators from the Transportation Committee and the Director of the Department of Licensing are added as Council members that would sit with the ERFC when the Council is considering and approving the transportation revenue forecast.

The bill also directs that the ERFC chair, when conducting transportation business, be selected from among the four Transportation Committee legislators and that the transportation forecast be a six-year forecast.

Further amendments were adopted in committee and on the House floor that change the makeup of the Council when it considers the forecast for the state's operating budget.

HB 1838 passed off the House floor on a unanimous vote and currently awaits a reading in the Senate.

Freight mobility

HB 1084 makes several changes to the state's Freight Mobility Strategic Investment Board (FMSIB). The bill, introduced by Rep. Jake Fey (D–Tacoma), removes the Board's authority related to the selection and finance of freight projects, instead directing the Board to identify a six-year program of the highest priority freight mobility investments for the state and identify critical emerging freight issues. The bill also moves the Board's focus towards impacts of freight transportation on overburdened communities. AWC worked with Rep. Fey to address key issues earlier in the session. You can find our initial summaries of the bill's many proposed changes to the Board here (<https://wacities.org/news/2023/01/16/proposal-to-reshape-the-freight-mobility-board-to-be-heard-in-committee>) and here (<https://wacities.org/news/2023/02/10/stakeholder-input-helps-shape-freight-mobility-board-s-new-path>).

AWC supports the bill as amended.

HB 1084 received a unanimous vote of approval on the House floor and will next be heard in the Senate Transportation Committee.

Deterring bridge jumping

Known as "Zach's Law," **HB 1004** encourages cities, towns, and counties to erect informational signs on new and existing bridges providing location-specific information about the hazards of jumping. The bill, introduced by Rep. Peter Abbarno (R–Centralia), intends for the signs to be more than just "no jumping" signs so that people can better understand the hazards related to a particular location.

AWC supports this bill and wrote more about it here (<https://wacities.org/news/2023/01/20/zach-s-law-reappears-for-consideration-this-year-aims-to-deter-bridge-jumping>).

HB 1004 also received a unanimous vote of approval on the House floor; it's next stop is the Senate Transportation Committee.

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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