



Legislative bulletin

April 3, 2023

Hot topics

Senate and House Transportation budgets ain't half bad, acknowledge city priorities

Facing a mixed transportation revenue forecast, both bills assume slightly reduced revenues while also relying on millions from projected carbon emissions auction earnings. Many city priorities are funded through traditional programs such as TIB, Safe Routes to Schools, and bicycle and pedestrian safety, with added support for alternative fuel and zero emissions infrastructure. Learn what the budgets have in store for culvert removal, truck parking and freight mobility, and state-local partnerships.

New budget summary highlights best versions of budgets for cities

Check out AWC's comparison of preferred funding options impacting cities in the House and Senate budget proposals. Find out which proposals get the green check mark and which need some work. Take the time to share city budget priorities with your legislators as budget leaders work towards a deal before adjourning on April 23.

Legislators hear from cities that passing pursuits bill is a priority this session

AWC sent legislative leadership a letter signed by over 160 city leaders from nearly 100 cities urging the passage of **SB 5352**, revising the police pursuits statute to include a "reasonable suspicion" standard for certain crimes. Thank you to everyone who signed the letter. If you missed the chance to add your name, contact your House Representatives now and urge them to support **SB 5352**. Your Representatives will play a key role in whether the Legislature revises the restrictions of police vehicle pursuits.

Media time

City perspective interview with Senate Majority Leader Andy Billig

Last week Senator Andy Billig (D-Spokane) sat down with AWC to share his perspective on some key city issues, including housing affordability, funding resources, infrastructure, and how to work toward finding bipartisan solutions. He also offered advice on how city officials can get engaged in the legislative process. Watch the five-minute video.

View from the hill

Capitol cherry blossoms are peaking

Washington state is fortunate to have such a beautiful capital. One of the best features this time of year is the gorgeous collection of cherry blossom trees that are reaching peak bloom. The legislative session is also approaching its peak, with final action on key policy bills nearing. Bills have until April 12 to pass out of the opposite house, and negotiations on the final biennial budgets are now under way. Find out more about which bills are still in the works with this week's Hot Sheet.

Cherry blossoms also come to mind following the trip we took to Washington, D.C. last week with nearly 100 Washington city officials for the National League of Cities City Congressional Conference (NLC CCC). It was well timed with the D.C. cherry blossom trees also in full bloom. NLC CCC was a great opportunity to connect with our congressional delegation and share the good work cities are doing with ARPA and BIL funds.

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

Save the date for the 2023 Legislative Session recap webinar

May 18 | Online at 1:30 pm

Curious how the legislative session will turn out for cities? Save the date for the 2023 Legislative Session recap webinar where your AWC advocacy team will provide an informative recap of city-related issues. Watch here for registration information soon.

Schedule post-session legislator meetings—it's not too early

Now is an ideal time to schedule meetings with your legislators during interim for a debrief on all that happened during session. This is a valuable opportunity to hear directly from your legislators and share feedback on how your city was impacted. AWC materials and fact sheets are always available for your use.

continued

What you need to know

Affordable housing: Two ADU bills positioned for floor vote. Prescriptive ADU bills have two hurdles to go: floor vote, then consensus from their house of origin.

Transit-oriented density bill restructured. The House Housing Committee passed amendments to restructure and clarify the exceptionally complex and convoluted transit-oriented development bill.

Budget & finance: 2023-25 House budgets use bond and climate dollars to fund programs for cities. The House operating, capital, and transportation budget proposals for 2023-25 were released on March 27. Check out the updated matrix of city impacts. (link cityvoice article)

Lodging tax expenditure reporting due April 20. If you are one of the 148 cities and counties that have not yet filed, log on to JLARC's lodging tax reporting system to submit the report.

HR & labor relations: Continued saga of "good faith" for self-insured cities. HB 1521, creating a vague "good faith" standard for cities that self-insure for workers' comp, continues through the Senate. AWC opposes this costly bill and is working on amendments to improve it.

AWC works on improving union privilege bill. The bill to create a new legal privilege between unions and union members advanced last week. Hope remains that final amendments will be included to address AWC's concerns.

Human services: Legislature prioritizes investments and policy changes to state's behavioral health system. Both House and Senate proposed budgets make substantial investments in community behavioral health supports and forensic competency restoration. **SB 5440**, addressing *Trueblood*, received a major revision.

Open government: Bill adding requirements to public comment periods receives amendments. HB 1105 requires public agencies that solicit public comment for statutorily specified periods of time to provide notice of specific dates and times in which public comment will be accepted. Agencies that fail to do so would be subject to civil penalties.

Pensions: Senate plan gaining lift for "glide path" from unfunded liability surcharge. SB 5294 aims to reduce the added-on costs to city pension contributions. The Senate Budget incorporates the changes to the unfunded liability surcharge and lowers the public employer pension contribution rates effective later this year.

Public safety & criminal justice: Blake bill passes out of House committee with significant changes. SB 5536, passed out of the House Community Safety, Justice, & Reentry Committee with changes that fundamentally shifted the intent of the bill.

Public works & infrastructure: Procurement standards bill amended to include policy review by CPARB. In response to criticism that the proposal lacked CPARB involvement, legislators updated **HB 1621**, delaying its implementation until the Board formally reviews the legislation.

Cities permitted to phase in apprenticeship utilization through 2028. Recent changes to **HB 1050** direct L&I and MRSC to support municipalities in complying with the bill and commission a study of public works outcomes related to the new requirements.

continued

Affordable housing

Both ADU bills positioned for floor vote

Contact: Carl Schroeder, Shannon McClelland

With all the attention going to the two major density bills—middle housing and transit-oriented density—you may have missed our last update (<https://wacities.org/advocacy/news/advocacy-news/2023/03/03/very-prescriptive-and-overlapping-adu-bills-continue-to-move>) that the two prescriptive accessory dwelling unit (ADU) bills continue to clear each obstacle in the legislative process. Conceivably, they have two hurdles to go before passing the Legislature: floor vote and then agreement, or not, from their house of origin on amendments. Unless something very strange happens, the Legislature will soon choose which bill passes the finish line.

Neither bill was sent to a fiscal committee, and each was referred to Rules to await being pulled to the chamber floor. Here's where they each stand coming out of their respective policy committee:

SB 5235 mandates that by the time of their next comprehensive plan update, cities:

- Must allow:
 - One attached and one detached ADU on all residentially zoned lots larger than 4,500 square feet. If the lot already allows two units, then only one ADU is required. If the lot already allows three units, it does not have to further densify.
 - One attached or detached ADU on all residential lots smaller than 4,500 square feet, unless that lot already allows two units.
- May not:
 - Prohibit the construction of ADUs on residentially zoned lots within the urban growth area.
 - Require any owner occupancy requirements unless:
 - the ADU is used as a short-term rental, or
 - the city already provides a waiver or reduction of impact fees and costs associated with ADUs if they are offered at or below 80% of the area median income.
 - Require off-street parking requirements for any ADU within ¼ mile of a major transit stop (rail, bus rapid transit, regular bus operating at least every 15 minutes for five peak hours). Cities are authorized to make specific findings to allow for on-site parking.
 - Prohibit the sale of a condominium unit solely because the unit was originally built as an ADU, so long as it is independently connected to utilities.
 - Apply development regulations that are more restrictive than those for detached single-family construction.

The bill does reserve some areas for continued regulation by cities, including:

- Generally applicable development regulations.
- Public health, safety, building code, and environmental permitting requirements.
- Prohibition on ADUs that are not connected to public sewers.
- Prohibition on restriction of ADUs in zones with a density of one unit per acre or less that are within areas designated as wetlands, fish and wildlife habitat, floodplains, or geologically hazardous areas.

continued

Additional elements include:

- Cities are authorized to waive or defer fees, impact fees, tax payments or specific regulations, but only if the ADU is subject to binding covenants that the ADU will not be regularly used as a short-term rental.
- Restricts future private covenants from limiting or restricting ADUs and attempts to indemnify cities from civil liability for approving an ADU that runs counter to a covenant entered after the passage of this proposal which contains unenforceable provisions.

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 received amendments in the Senate policy committee changing the bill from a “choose your choice of mandates” from a short list to a longer, required list of mandates. Here are the requirements:

Cities must allow:

- Two ADUs per single-family lot, attached or detached or a combination.
- An ADU in a structure detached from the primary unit (i.e., a detached garage).
- An ADU on any lot that meets the primary lot size for the primary unit.
- An ADU to abut an alley lot line, unless the city plows snow on the alley.
- Condo-izing ADUs
- Conversions form existing units

Cities may not:

- Assess impact fees of more than 50% of what would have been imposed on the primary unit.
- Require owner occupancy.
- Require public street improvements
- Establish:
 - Maximum floor area ratio less than 1,000 square feet
 - Roof height limit of less than 24 feet or less than the primary unit
 - Setback requirements, yard coverage limits, tree retention mandates, entry door location restriction, aesthetic requirements or design review that is more restrictive than the primary unit.

The bill does allow the same list of continued regulation by cities and the additional elements as detailed under **SB 5235**. However, **HB 1337** provides broader, and is consistent with existing, authority on regulation of ADUs as short-term rentals. On the bright side, **HB 1337** provides a helpful SEPA and GMA appeals safe harbor.

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Transit-oriented density bill gets restructured

Contact: Carl Schroeder, Shannon McClelland

The House Housing Committee passed amendments to restructure and clarify the exceptionally complex and convoluted transit-oriented development bill. While it has certainly improved from its original version, confusion and consternation remain as the bill is poised for what might be a lively floor debate.

SB 5466 requires a mandated level of “transit-oriented density,” as defined in the bill, to apply to each “station area,” also defined. It’s all based on set “floor area ratios” also separately defined and intertwined with the definition of “transit-oriented density.” Confused yet? Here’s how that looks put together, and keeping in mind that these definitions will apply to the entire Growth Management Act and not just the new addition on development around high-capacity transit:

Cities must plan for a floor area ratio of 3.0 one-half mile walking distance of a stop on a:

- High-capacity transportation system funded or expanded under chapter 81.104 RCW,
- Commuter rail, and
- Rail or fixed guideway systems, including transitways;

Cities must plan for a floor area ratio of 2.5 within one-quarter mile walking distance of a stop on a bus rapid transit route.

A “stop” includes any existing stop and any stop funded for development prior to the earlier of a city’s deadline to complete its next periodic comprehensive plan update or its next implementation progress report.

Here’s an updated estimation of what that looks like in the Puget Sound region, although as a crow flies, rather than measured in walking distance: transit buffers (<https://psregcncl.maps.arcgis.com/apps/instant/sidebar/index.html?appid=79f6708d234d4435aa578906e9d88243&locale=en>)

Calculation of a floor area ratio doesn’t include lots with critical areas or their buffers, as well as public facilities including streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

The bill also:

- Adds a 1.5 floor area ratio to the above for any project that includes affordable housing for those at 60% AMI or less for 50 years or for permanent supportive housing.
- A multifamily housing project that adds three-bedroom units doesn’t count towards the floor area ratio.
- Adds an alternative where cities can apply an average in a station area, where some areas are higher and some lower than the requirement.
- Adds an affordability requirement that requires at least 20% of units constructed in a station area to be affordable to those at or below 60% AMI. The exception is for zones that already required a density that meets the requirements of the bill.
- Prohibits requiring any development regulations in a station area that render it impracticable to build a usable structure at the required density, with exceptions.
- Adds a “substantially similar” compliance pathway that will sound familiar if you have been keeping up with **HB 1110**, the middle housing mandate. Both require permission from Commerce.
- Adds a categorical exemption.

On a positive note, the bill creates a grant program. Alternatively, the Legislature could just fund a grant program to achieve these same goals.

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Budget & finance

Lodging tax expenditure reporting due April 20

Contact: Candice Bock, Sheila Gall

Cities and counties are required to report their annual lodging tax expenditures to the Joint Legislative Audit & Review Committee (JLARC). There is less than a month to go before the April 20 deadline for reporting 2022 expenditures. As of last week, there were 148 cities and counties that had not filed their reports.

To file, please log on to JLARC's lodging tax expenditure reporting system (<https://app.leg.wa.gov/JLARC LodgingTax/Account/Login?redirectUrl=https%3A%2F%2Fapp.leg.wa.gov%2FJLARC LodgingTax%2F>) to submit the report. Instructions for reporting, as well as last year's information and summary report, can be found on the JLARC website (<https://leg.wa.gov/jlarc/Pages/Lodging-Tax.aspx>).

If you have any questions, please email JLARC Lodgingtax@leg.wa.gov.

HR & labor relations

AWC continues to work on improving union privilege bill

Contact: Candice Bock, Matt Doumit

The bill to create a new legal privilege between unions and union members advanced last week. There is still some hope that final amendments can be worked out that will address AWC's concerns with the current bill draft and allow an appropriate level of confidentiality between unions and their members.

HB 1187 made its way out of the Senate Law & Justice Committee on March 28 on a party-line vote ahead of last week's policy committee cutoff, but not without some verbal commitments from the Committee's chair to continue working on the bill. We last wrote about the bill here (<https://wacities.org/advocacy/news/advocacy-news/2023/03/17/union-privilege-bill-scheduled-for-committee-hearing>).

AWC recommended some amendments (<https://app.leg.wa.gov/committeeschedules/Home/Document/260352#toolbar=0&navpanes=0>) that helped clarify the bill and align the proposed privilege with other legal privileges in statute. The amendments aimed to make clear that the union member privilege is waived if the union is called to testify as a witness (like most other privileges), clarify that the privilege rests with the union member, and clarify that the privilege doesn't interfere with mandatory reporting or an employer's regular duties to investigate and take action against workplace misconduct.

The amendments failed to get enough votes in the Committee, but Chair Manka Dhingra said that some of the amendments had merit and committed to continue conversations (<https://www.tvw.org/watch/?clientID=9375922947&eventID=2023031603&startStreamAt=2049>) on the bill to find a workable middle ground. AWC will continue to work with Sen. Dhingra and other legislators to ensure the final version of the bill addresses our concerns and treats cities fairly.

HB 1187 is now waiting to be scheduled for a floor vote in the Senate.

continued

The continuing saga of “good faith” for self-insured cities

Contact: Candice Bock, Matt Doumit

The bill creating a vague “good faith” standard for cities that self-insure for workers’ compensation is continuing its journey through the Senate. AWC continues to oppose this costly bill and has continued to work on amendments to address some of the concerns of self-insured cities.

SB 1521 passed out of the Senate Labor & Commerce Committee unamended on March 23 with a 5-4 party-line vote. The bill creates an undefined duty of “good faith” for self-insured employers and their third-party administrators towards workers in self-insured workers’ compensation programs, with significant penalties for violating this new and unclear standard of good faith. It also allows L&I to write rules outlining those duties and requires L&I to investigate and order resolution of claims. AWC supported amendments (<https://wacities.org/advocacy/news/advocacy-news/2023/03/17/bill-imposing-undefined-good-faith-standard-on-self-insured-cities-scheduled-for-vote>) in committee to improve the bill, but they were rejected.

AWC continues to oppose the bill because of the unclear “good faith” standard that it imposes, as well as the short timelines for addressing complaints and the enforcement and penalties mechanisms in the bill. We will continue our attempts to mitigate the negative aspects of this proposal. Late last week, AWC was made aware of possible amendments to narrow the bill to firefighters and other first responders (since they have been the most vocal about the bill), limit the application of the “good faith” standard to willful violations, address our concerns about high penalties and enforcement, and instead remove self-insurance certification from municipal self-insured employer with three or more “good faith” violations over a 10-year period. AWC will continue to keep you updated on any further developments.

HB 1521 is currently waiting to be scheduled for a floor vote in the Senate. If it were to pass out of the Senate with no further amendments, it would go to the Governor’s desk for signature.

continued

Human services

Legislature prioritizes investments and policy changes to state's behavioral health system

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

The legislature continues to prioritize investments and policy changes to the state's behavioral health systems.

In terms of budget, both the House and Senate proposed budgets make substantial investments in both community behavioral health supports, as well as forensic competency restoration investments.

Senate:

- \$69 million to continue implementation of the *Trueblood* Settlement Agreement
- \$719 million for state forensic, civil, and behavioral health facilities
- \$141 million for community-based mental health facilities
- Additional funding for operational expenses of community behavioral health facilities expected to become operational soon.

House:

- \$91.5 million to continue implementation of the *Trueblood* Settlement Agreement
- \$669 million for state forensic, civil, and behavioral health facilities
- \$224 million for community-based mental health facilities
- Additional funding for operational expenses of community behavioral health facilities expected to become operational soon.

In addition to budgetary action, the legislature is engaging in behavioral health policy. A potentially significant bill for some jurisdictions pertaining to forensic mental and behavioral health is **SB 5440** regarding competency restoration services. Last week, the bill experienced a major revision with the adoption of an amendment (<https://app.leg.wa.gov/committeeschedules/Home/Document/260629#toolbar=0&navpanes=0>), which would include only a select list of misdemeanors eligible for competency restoration. AWC is concerned about the potential ramifications of this and is asking the legislature to return to the previous standard of including all misdemeanors.

For cities, the most critical components of the amendment are in Section 8, 9, and 10, beginning on page 22:

- Section 10 amends the per se definition of a "serious offense" in RCW 10.77.092 to include only the following misdemeanors: (1) gross misdemeanors with domestic violence; (2) gross misdemeanors with a sexual motivation allegation; and (3) DUI and physical control. All other misdemeanors and gross misdemeanors would be excluded from the per se definition of a serious offense, and thus would be unlikely eligible for competency restoration. The case would be dismissed.
- If an individual meets the charge and compelling state interest test to be eligible for competency restoration and has had two or more competency evaluations in the preceding two years, a forensic navigator would be required to meet with the defendant and provide a diversion program recommendation. The prosecutor could agree to the proposed diversion and dismiss the case, or even if the prosecutor does not agree to diversion, the defense may move for dismissal without prejudice and refer the defendant to the services recommended in the diversion program. The court would be required to grant the defense's motion if there is a preponderance of the evidence that the defendant agrees to the services suggested and can safely receive the services in the community.

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Finding a solution to the competency backlog wasn't the only behavioral health topic on legislators' minds last week. The House and Senate also each heard bills that would enhance behavioral health resources in Washington:

The Senate Ways & Means Committee heard **HB 1134**, creating additional supports for the current 988 behavioral health crisis response and suicide prevention system (<https://doh.wa.gov/you-and-your-family/injury-and-violence-prevention/suicide-prevention/988-suicide-and-crisis-lifeline>). The bill focuses on the question of "who to call" when an individual needs crisis behavioral health support for themselves or someone else. This bill establishes liability protection for several entities and personnel for activities related to the dispatching decisions of the hotline and the transfer of calls between 911 and 988. The bill also creates an endorsement for 988 rapid response crisis teams that meet standards and a grant program to support them. AWC supports expansion of the 988-line to provide cities with a more robust service for their residents.

Meanwhile, the House Appropriations Committee heard **SB 5120**, establishing 23-hour crisis relief centers, a new category of credentialed behavioral health facilities in Washington state. In contrast to **HB 1134**, this bill focuses on "where to go" when someone is in behavioral health crisis. 23-hour crisis relief centers would be open 24 hours per day, seven days a week and accept anyone in a behavioral health crisis who walks in the door, are brought in by first responders, or are referred through the 988 behavioral health crisis system. With very limited exceptions, all law enforcement referrals would need to be accepted. Centers would provide services and coordinate care, limiting patient stays to less than 24 hours in most cases. The bill would also eliminate triage facilities as a behavioral health category and convert those existing triage facilities into crisis stabilization units. AWC supports this important first step to expanding crisis behavioral health treatment services.

Open government

Bill that adds additional requirements to public comment periods acquires new amendments

Contact: Candice Bock, Katherine Walton

HB 1105 requires public agencies, including cities, that solicit public comment for statutorily specified periods of time to provide notice of the first and last date and time in which the public comment will be accepted. Agencies that fail to do so would be subject to a civil penalty of \$500 for the first violation of the act and \$1000 for any subsequent violation.

Three amendments were added last week that would require agencies to also specify the first date when written public comment may be submitted, that agencies also specify the time by which written public comment may be submitted, clarified that the agency's liability for violations of the act take effect regardless of whether a public meeting occurs, and clarified that no member of the agency is personally liable for any violations of the act.

AWC worked with the bill sponsor to address some unclear language in the first version of the bill and ensure that the requirement only applied in situations where there is a statutorily identified time period for public comment. In those cases, the city would need to publish the final date it is accepting comments.

AWC is looking for feedback from cities on the impact of these new amendments. Please reach out to Candice Bock or Katherine Walton.

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Pensions

Senate plan for “glide path” away from unfunded liability surcharge gaining lift

Contact: Candice Bock, Matt Doumit

With the release of budget proposals (https://wacities.org/docs/default-source/legislative/2325budgetmatrix261a452a-45d9-4c4a-8e18-4d66c8409449.pdf?sfvrsn=6081264f_15) from the House and Senate, we are starting to get a picture of what bills legislative leadership consider “necessary to implement the budget” (thus exempt from cutoff deadlines). One bill AWC is happy to see get some budget attention is **SB 5294**, a bill aiming to reduce the added-on costs to city pension contributions. The Senate budget (<https://app.leg.wa.gov/billsummary?BillNumber=5187&Initiative=false&Year=2023>) incorporates the bills changes to the unfunded liability surcharge into the new public employer pension contribution rates effective in July of this year.

SB 5294 sunsets the existing unfunded actuarially accrued liability (UAAL) surcharge that is currently added to PERS 2/3 employer contribution rates in July 2023. That surcharge exists to pay for underfunding in the PERS 1 system, which is partially driven by one-time, ad hoc cost-of-living adjustments adopted by the Legislature in recent years. The burden of paying for these COLAs falls entirely on public employers like cities, to the tune of hundreds of millions of dollars over time.

The bill replaces the current UAAL surcharge (3.85%) with a gradually reduced UAAL schedule ([https://lawfilesexternal.leg.wa.gov/biennium/2023-24/Pdf/Bill Reports/House/5294-S.E.HBR APP 23.pdf?q=20230330172156](https://lawfilesexternal.leg.wa.gov/biennium/2023-24/Pdf/Bill%20Reports/House/5294-S.E.HBR.APP.23.pdf?q=20230330172156)). The House Appropriations Committee adopted an amendment on March 23 that slightly adjusts the schedule and extends it to 2028. You can see the changes in the chart below. The amendments also lower the minimum UAAL rate to 0.25% (from 0.5%), which will only be applied when the PERS 1 account is less than 100% funded. The committee passed the amended bill out and sent it to the full House for consideration.

Schedule of new UAAL rates for PERS 1 (House Approps amendments to SB 5294)					
FY ending June 30	2024	2025	2026	2027	2028
New rate	2.5%	2.0%	1.5%	1.0% (was 0.5%)	0.5% (was 0%)

In the bill’s fiscal note (<https://fnspublic.ofm.wa.gov/FNSPublicSearch/GetPDF?packageID=67971>) (drafted prior to the House’s committee amendments), the Office of the State Actuary (OSA) predicts that PERS 1 will be fully funded by 2026 and that given the lag in the pension rate adoption process, PERS 1 is likely to be significantly overfunded before the current law UAAL would go away. OSA estimates that **SB 5294** will save local government PERS employers around \$172 million in the 2023-25 biennium, and over \$1 billion by 2029.

Cities should look to see how much of a savings they could see with the reduced employer contribution rates. If passed, the bill would effectively reduce the new rates that will apply in 2023-25 biennium from 10.21% down to 8.86% for PERS, and from 10.45% to 9.10% for PSERS.

continued

Public safety & criminal justice

Blake bill passes out of House committee with significant changes

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

Last week, the House Community Safety, Justice, & Reentry committee voted in support of **SB 5536**, passing it out of committee with significant changes. Many of the changes were technical or procedural fixes to align the bill better with the current system, but some of the changes fundamentally shifted the intent of the bill.

Some of the changes include:

- **Changing the charge from a gross misdemeanor** (for counterfeit and controlled substances other than cannabis) **to a simple misdemeanor**. The House amendment and RCW 3.66.068 would still allow for court jurisdiction for a two-year period (in situations of a suspended or deferred sentence). Given this, AWC is comfortable with either approach.
- **Adds 'public use' to what is being criminalized**. The version that left the Senate criminalized knowing possession a counterfeit substance, controlled substance, or legend drug. The House amendment also adds: Knowingly possess and use in a public place by injection, inhalation, ingestion, or any other means. AWC is supportive of adding the additional offense of possessing and using in a public place because this allows these situations to be handled differently from other simple possession offenses. However, this would functionally prevent cities from enacting different criminal offenses related to public drug use.
- **Allowing for judicial discretion for imposition of jail**. The previous, Senate version had required imposition of a minimum of 21 days in jail for a second offense, and 45 days in jail for a third or subsequent offense, where the individual consistently refused, abandoned, or failed to comply with substance use disorder treatment. AWC is comfortable with removing the mandatory minimum jail sentences and allowing judicial discretion to ensure accountability.
- **A new state preemption for drug paraphernalia regulation**. This is in addition to the public health provisions contained in both bills, allowing public health disbursement of syringe equipment, safe smoking supplies, drug testing equipment, and others. The Senate version does not contain a state preemption of drug paraphernalia law. AWC opposes the preemption language, and believes it is unnecessary. Both versions contain language regarding public health uses of these items, and we believe this is sufficient to ensure that the state is promoting public health while discouraging harmful uses of the paraphernalia items.
- **Changes to the process**, including moving some responsibilities from the court to the prosecutor or defendant's counsel to maintain neutrality for the court and reflect best practice.
- **Probation standard of compliance**. The House amendment requires meaningful engagement, rather than substantial compliance. AWC supports a standard of "substantial compliance" with treatment. Substantial compliance is a clear and known legal standard, whereas meaningful engagement is difficult to define. We will be asking the legislature to return to the standard of substantial compliance.
- **Removal of the requirement for DOH to hold a public hearing in the community where an opioid facility is to be located**. The Senate version maintained the current law requirement for the Department of Health to hold at least one public hearing in the community where a new opioid facility is to be located. AWC prefers maintaining current law. Transparency and public participation are important, and we would like to see this provision of current law restored.

You can find a more in-depth comparison on this chart (https://wacities.org/docs/default-source/legislative/033123sb5536blakebillcompare.pdf?Status=Master&sfvrsn=6a6b264f_3).

continued

Legislators hearing from cities that passing pursuits bill is a priority this session

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

Last week, AWC sent legislative leadership a letter (https://wacities.org/docs/default-source/legislative/032723sb5352vehicularpursuitsletter.pdf?sfvrsn=462264f_6) signed by over 150 city leaders from nearly 100 Washington cities urging the passage of **SB 5352**. Thank you to everyone who added your names to the letter! If you did not get a chance to add your name to the letter and you want to show support for the passage of pursuits legislation this session, it is not too late to reach out to your legislators. Your House of Representative legislators will be key in whether the legislature will revise the restrictions of police vehicle pursuits.

SB 5352 revises the police pursuits statute to include a “reasonable suspicion” standard for certain enumerated crimes. The bill seeks to strike a balance between providing law enforcement with the tools needed to pursue dangerous suspects while emphasizing appropriate and necessary safety standards to protect from public safety hazards of police pursuits.

Under **SB 5352** a law enforcement officer would be authorized to engage in a vehicular pursuit if all the following conditions are met:

- The officer has ‘reasonable suspicion’ that the driver or a passenger:
 - Has committed or is committing a violent offense, sex offense, or an escape; or
 - Is driving under the influence.
- The pursuit is necessary to identify or apprehend the person.
- The person poses an imminent threat to the safety of others.
- The safety risks of failing to apprehend or identify the person are considered greater than the safety risks associated with engaging in a pursuit.

The bill also modifies the procedures for supervisor involvement, including requiring the officer to receive authorization and oversight from a supervisor (or on-call supervisor in jurisdictions with fewer than fifteen commissioned officers) to engage in a vehicular pursuit.

Passing **SB 5352** as it is currently drafted is a worthwhile and important step for improving public safety. **SB 5352** will allow law enforcement to engage in police pursuits with a “reasonable suspicion” standard in certain crucial situations while still seeking to balance public safety and the inherent risk of police pursuits.

continued

Public works & infrastructure

Procurement standards bill amended to include policy review by CPARB

Contact: Brandy DeLange, Brianna Morin

A proposal from Rep. Cindy Ryu to standardize local government procurement rules for first- and second-class cities and towns was updated and improved last week before passing out of Committee.

HB 1621 increases contract limits that require competitive bidding, allows current employees to perform work under a certain cost limit, and outlines a standard definition of “lowest responsible bidder.” For more details about the bill, read AWC’s summary (<https://wacities.org/news/2023/01/27/new-procurement-standards-aim-to-support-local-government-needs>).

Facing criticism that the Capital Projects Advisory Review Board (CPARB) had not reviewed and commented on the bill, an amendment was adopted last week to correct the omission.

As it stands now, the bill’s implementation is delayed until after CPARB formally reviews the legislation and makes recommendations to the appropriate legislative committees.

AWC supports the bill.

HB 1621 passed out of the Senate Local Government, Land Use & Tribal Affairs Committee by a unanimous vote. The Senate Rules Committee is its next stop.

Cities permitted to phase in apprenticeship utilization through 2028

Contact: Brandy DeLange, Brianna Morin

Last we wrote about HB 1050, which expands apprenticeship utilization requirements for public works projects, we were working to amend the bill to provide for a stairstep approach to its implementation, once passed. This week, we’re pleased to report the successful adoption of the amendment, which took place on the Senate floor on Friday.

The bill requires that contractors hired for municipal public works projects estimated to cost \$1,000,000 or more have at least 15% of the labor hours performed by apprentices. For more background information, read our most recent coverage here (<https://wacities.org/news/2023/03/24/awc-still-working-to-refine-apprenticeship-utilization-proposal-as-it-nears-its-end-goal>).

The change to the bill means the apprenticeship utilization requirements for municipalities is phased in over time, with the requirements applying to contracts of more than \$2 million until July 1, 2026, contracts of more than \$1.5 million from July 1, 2026, until July 1, 2028, and contracts of more than \$1 million after July 1, 2028.

It also directs Labor and Industries (L&I) and the Municipal Research and Services Center to provide training and technical assistance to municipalities to comply with the requirements of the bill. The training will include reporting requirements, contract administration, and best practices regarding adopting apprenticeship guidelines.

Finally, L&I must conduct a study on public works project outcomes related to apprenticeship utilization requirements, access to apprentices, and participation by women, minority, and veteran-owned businesses. The report is due to the Office of Financial Management and the Legislature by December 1, 2025.

AWC supports **HB 1050** and thanks Sens. King and Keiser for their work to adopt the amendment.

HB 1050 as amended passed off the Senate floor by a vote of 30-18 and will return to the House for concurrence.

continued

Transportation

Senate and House Transportation budgets ain't half bad, acknowledge city priorities

Contact: Brandy DeLange, Brianna Morin

Both the House and Senate proposed transportation budgets were introduced last week among the general flurry of budget releases. Facing a mixed transportation revenue forecast and a slight economic slowdown since last year's projections, both bills reflect reduced collections in most of the major transportation revenue sources. They each adjust planned expenditures and ongoing projects to account for lower funding levels and construction delays, but they differ somewhat in assumed revenue amounts and project delivery timelines.

The 2023-25 biennium will be the first full biennium of the Move Ahead Washington funding package implementation, including the first auctions of carbon emission allowances under the Climate Commitment Act (CCA). The House proposes a \$13.6 billion budget; the Senate's proposal comes in a little lower at \$12.9 billion.

On the Senate side, operating expenditures and grant programs are "sized to allow for steady ongoing amounts through the 16-year investment plan." Other adjustments are made to programs to match cash flow from the CCA auctions and manage budget and delivery constraints over the next six years. The House prioritizes completion of projects begun under the Connecting Washington Act and other past packages. It also allocates \$923 million in auction proceeds for the biennium, as compared to the Senate's \$758 million appropriation of those funds.

Read the House budget summary (<https://fiscal.wa.gov/statebudgets/2023proposals/Documents/ht/htNarrativeSummary032723.pdf>) and Senate budget summary (<https://fiscal.wa.gov/statebudgets/2023proposals/Documents/st/stNarrativeSummaryChair032923.pdf>) for more information. Check out the House's 2023-25 proposal and 2021-23 supplemental budget, **HB 1125**. The Senate's 2023-25 budget and 2021-23 supplemental is **SB 5126**.

Cities stand to benefit in many ways from both proposals. They each include the following:

- \$287 million for the Transportation Improvement Board, including \$9 million for city preservation and maintenance projects.
- \$70.8 million for Safe Routes to Schools Grants.
- \$72.2 million for Bicycle and Pedestrian Safety Programs and Grants.
- \$25 million for federal fund exchange pilot program of Transportation Block Grant population funding and state funds.
- \$250,000 for a study of a statewide retail delivery fee on orders of taxable retail items delivered by motor vehicles within the state.
 - Funded by cities' portion of state gas tax revenues and proposed by AWC staff.

The budgets differ in a few key areas of importance to cities.

Fish barrier removal

While both chambers appropriate \$1 billion for fish barrier removal, the Senate takes a changed approach this year.

- The House bill retains existing proviso language directing the state to coordinate with the Fish Barrier Removal Board on a watershed approach to include local culverts.
- The Senate bill, however, removes that proviso language and adds language directing the state Department of Transportation (WSDOT) to explore innovative funding partnerships to leverage state and local funds to match opportunities for federal funding under the BIL. AWC requests that the original proviso be maintained. *continued*

Freight mobility and truck parking

In funding the Freight Mobility Strategic Investment Board (FMSIB), the House and Senate appropriate similar funding levels (\$45 million and \$44 million, respectively) and both budgets fully fund the Board's proposed project list.

- However, \$12 million of the Senate allocation is for the Board to implement the Joint Transportation Committee's (JTC) 2021 Truck Parking Action Plan.
- In contrast, the House does not include this proviso, instead leaving WSDOT to lead truck parking solutions.

The House plan appropriates \$800,000 for WSDOT to coordinate with local governments and private entities to recommend new truck parking sites. It also provides \$1.2 million for WSDOT to evaluate safety rest areas along I-5 and I-90 for potential truck parking expansion opportunities. As for FMSIB, the House allocation includes \$740,000 for the Board's new duties and a study on best practices for preventing or mitigating the impacts of freight projects on overburdened communities, pending the passage of **HB 1084**.

Alternative fuel and electric vehicle infrastructure

Both chambers make large investments into clean alternative fuel infrastructure, though much of the Senate dollars for electric vehicle (EV), decarbonization and alternative energy is funded in the operating budget. The House transportation budget includes \$25 million for the National Electric Vehicle Infrastructure Program, which is the state's portion of federal formula funds. Both transportation budgets appropriate between \$2 and \$7 million for an interesting new e-bike rebate program and a separate e-bike lending library and ownership program offering competitive grants to locals, including cities.

State-local partnerships

The House introduces a new highway maintenance partnership initiative in its budget with direct impacts to cities.

When WSDOT is a lead on a project scheduled to be delivered within the 2023-25 biennium, but it lacks the capacity to complete the project in time and the local jurisdiction associated with the project is able to complete the work, WSDOT must coordinate with that jurisdiction "to determine if a potential local partner is ready, willing, and able to... [complete] the project." The proviso directs WSDOT to identify a list of such projects across the state by Nov. 1, 2023.

The bill also directs the JTC to convene a WSDOT local partnership work group to "create a procedure whereby [WSDOT] can partner with a local jurisdiction to perform preservation and maintenance and construct projects on state highways." The work group must consist of at least three WSDOT representatives and at least four city or county transportation project managers. The group must make recommendations for how WSDOT can better partner with local jurisdictions to complete roadway construction projects when funding is available, but WSDOT cannot manage a project and the local government can.

Noting that the JTC study focuses on preservation, maintenance, and construction on state highways, AWC has provided a list of topics to the House Transportation Chair that should be included for consideration, i.e., differing standards between state and local agencies, the public procurement process, financing and reimbursement of projects, and liability.

For a more comprehensive picture of the two budgets and how they stack up against one another, read AWC's budget matrix (https://wacities.org/docs/default-source/legislative/2325budgetmatrix261a452a-45d9-4c4a-8e18-4d66c8409449.pdf?sfvrsn=6081264f_24) and Budget Hot Sheet (https://wacities.org/docs/default-source/legislative/budgethotsheet44974349b78160ed9eadff0000bbe4eb.pdf?sfvrsn=d5cf5b4f_26).

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.

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