



Legislative bulletin

April 10, 2023

Hot topics

Act now: Tell legislators to move the REET bill forward!

The Affordable Homes Act, **HB 1628**, creating new REET options for affordable housing, has stalled in its House committee, but with your support it can still advance! Opponents misunderstand how REET works. Learn how **HB 1628** expands the availability of affordable housing, then tell your representatives that cities support the Affordable Homes Act. Adjourning this housing-focused session without addressing the related funding needs would be shortsighted and ineffective.

AWC moves to “support” on middle housing bill

After countless hours working with the sponsor and advocates on the proposed middle housing legislation, the bill has arrived at a place closely aligned with AWC’s Housing Solutions Group (HSG) proposal. Based on these changes, AWC now supports the bill. A major change to **HB 1110** was adopted in the Senate Ways & Means Committee, restructuring the provisions related to “contiguous UGAs” that captured many smaller cities and applied the highest standards to them regardless of their population. Multiple compliance options have been added, including one that closely matches the HSG proposal.

Blake bill faces another round of amendments as final deadlines near

The newest version of **HB 5536** makes knowingly possessing a drug or using a drug in a public space a simple misdemeanor with many opportunities for treatment and services. However, AWC has significant concerns with the version of the bill as passed out of the House Appropriations Committee; we do not believe it will encourage people to pursue necessary substance use disorder treatment. Instead, it will be more burdensome, costly, and ineffective than the prior version.

View from the hill

Legislative finish line fast approaching

With just two weeks to go, the finish line is near for the 2023 legislative session. April 12 is the deadline for bills to pass out of the opposite house and is the final cutoff before *sine die*. Prior to *sine die*, a bill that was amended in the opposite house must go back to its house of origin for concurrence on the changes, or it can be referred to the dispute resolution process known as the “conference committee” to work out the differences. If no agreement is reached, the bill will die for lack of concurrence.

AWC has many priority bills still in play that address police pursuits, drug possession related to the *Blake* decision, affordable housing, and key programs we would like to see funded in the final budgets. This week’s Bill Hot Sheet highlights the policy bills we’re focused on, and the Budget Hot Sheet calls out funding needs and priorities.

AWC city action calls – Members only

Fridays at 12:30 pm | Online

Only two more Fridays left for AWC members 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 for the city action call. 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

Register for AWC’s Legislative Session recap

May 18 | Online | 1:30 – 3 pm

The end of the 2023 legislative session is approaching. Join the AWC Advocacy team for an informative recap of city-related issues. Catch up on key outcomes of the 2023 session, hear how city priorities have fared, and learn how you can make the most impact during the legislative interim to prepare for 2024. Register now!

Public Works Board to open funding cycle in May – Prepare to apply now

The Washington State Public Works Board is opening for business for the 2023-2025 biennium: it plans to launch a new funding cycle at its May 5 meeting. If you are an infrastructure manager with a project in need of funding for a road or bridge; domestic water, wastewater, or stormwater infrastructure; or solid waste, recycling, and organics, get ready to apply. Read this fact sheet to find out what to know, what to do, and important upcoming dates.

continued

Media time

Legislative housing renovation: An update from the hill with Carl Schroeder

We are in the final inning of the 2023 Legislative Session. CityVoice Podcast sat down again with Deputy Government Relations Director Carl Schroeder to get the latest on the array of housing bills still moving through the Legislature. Carl talks **HB 1110** (middle housing), **SB 5466** (transit-oriented development), **HB 1337** and **SB 5235** (ADUs), and **HB 1628** (REET). He shares the latest updates and expectations for where housing is headed as the session sprints to a conclusion. Listen now.

City leaders hold press conference to counter Realtors' attack ad

Several Washington city leaders recently joined housing advocates on a call with local news outlets to share their stories about the need for revenue options to help address the housing affordability crisis at the local level. This was in response to an expensive and aggressive ad campaign by the Washington Association of REALTORS®, aired heavily during the NCAA basketball tournament, claiming that HB 1628 would increase housing costs. Tacoma Mayor Victoria Woodards, Redmond Mayor Angela Birney, and Spokane Council President Breean Beggs spoke to the urgent need for a variety of housing options that are affordable for their residents. They named specific local housing priorities and reiterated that HB 1628 and its REET 3 local option are essential tools to holistically address the problem and help fund affordable rentals, homeownership, and housing infrastructure. Learn more about the call in this NPR article.

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What you need to know

Broadband & telecommunications: Broadband mapping proposal takes another turn, narrows intent and definitional language. The broadband mapping bill has shape-shifted substantially, moving from a proposal to create a statewide broadband map to a plan to support a more accurate federal broadband map.

Budget & finance: Rumors abound that property tax fix may still be an endgame option. We're hearing that **HB 1670**, a property tax cap fix, could still make it across the finish line. Contact your legislators to remind them of the need for action on this local option to assist with your city's growing costs.

State Auditor resources for May 30 annual reporting deadline. Local governments must submit their annual financial reports to the State Auditor by May 30, 2023. Check out their resources for one-on-one technical assistance, online trainings, and to see who has already filed.

Economic development: Rural county development sales tax ready to move to Senate vote. The bill extending the rural county sales tax (.09 sales tax) passed the Senate Ways & Means Committee on April 4. It is now in the Rules Committee.

Energy: Clean energy siting bill aligned with EFSEC expedited process under new amendments. This year's clean energy siting legislation was recently updated to fine-tune land use and permitting process requirements.

Federal: Five things to remember about ARPA reports due April 30, 2023. Check out these tips to help you successfully submit your report on time.

Photos from NLC's Congressional City Conference are here. Check out these fun photos from the National League of Cities Congressional City Conference held in Washington D.C., which welcomed nearly 100 Washington city officials.

General government: Voting rights bill passes Senate; other bills face uncertain futures. Read up on the latest actions regarding voting rights, extreme weather grants, and public comment notices.

HR & labor relations: HR bills on the move as session heads down the home stretch. Several HR and labor relations bills are still kicking as we enter the final weeks of session.

Pensions: Bill to scale back unfunded liability surcharge passes House. The bill to scale down and eventually end the unfunded liability surcharge that impacts city pension costs passed the House with amendments. It now goes back to the Senate for concurrence.

Public safety & criminal justice: Contact your legislators to urge support for vehicle pursuits bill. AWC sent legislative leadership a letter signed by over 150 city leaders urging the passage of **SB 5352**. The House only has until Wednesday, April 12 to vote. Your representatives need to continue hearing that cities need revisions to the police pursuits legislation.

Transportation: Freight mobility, transportation revenue forecast, and bond authority still in action. While Legislators negotiate the biennial transportation budgets before this week's final cutoff deadline, we bring you updates on other transportation-related legislation under consideration.

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Affordable housing

Act now to ask legislators to move the REET bill forward!

Contact: Carl Schroeder, Shannon McClelland

A major focus of this legislative session has been addressing our housing crisis. Cities are actively engaged helping achieve this goal, finding solutions on regulatory reform, infrastructure needs, and zoning density.

We are making progress on those fronts. We need to see more progress on the resources to meet the state's target to deliver 500,000 affordable homes in the next twenty years. We know that housing for the lowest income levels cannot be provided without sustained and dedicated investments from state and local government. In this legislative session focused on housing, adjourning without addressing the funding needs would be shortsighted and ineffective.

HB 1628, creating new REET options for affordable housing, has stalled in its House committee but, with your support, it can still advance!

Opponents of **HB 1628** argue that "raising the real estate excise tax to pay for affordable housing will make housing more expensive, not more affordable." That's a misunderstanding of how REET works.

- First, the tax is paid for by the seller. It cuts into a seller's profit margin – it doesn't increase the cost of the house or the future of rents.
- It's also a tiered system that increases the tax with the selling price – higher sale price = higher tax burden. The first tier is \$525,000. The next is \$1.5 million and adds only .18% (plus the local REET).
- **HB 1628** would add an additional tier at any sold value over \$5 million.
- Selling the property for affordable housing exempts the seller from REET.

Skyrocketing housing prices over the last several years is a reason we have a housing crisis. Taxing those increased profits is an appropriate source to fund investments in low-income housing.

HB 1628 – The Affordable Homes Act—creates two REETs, paid for by the seller, dedicated to affordable housing:

- **Local** – A new .25% councilmanic local option REET (REET 3) that can be used to fund affordable rentals, affordable home ownership, and infrastructure to support housing.
- **State** – A new state REET tier, increasing the current tax only for the value exceeding \$5 million by 1%. That provision is projected to raise \$200 million per year for state housing programs.

Ask your legislators to:

- Advocate for funding of affordable housing, specifically ask them to support **HB 1628**.
- Contact their leadership and tell them that this is a priority.

Search legislators by district (<https://wacities.org/Advocacy/Legislator-directory/Legislator-list?By=a4anWg4Wt%2f1Bkl1wqYt0w%3d%3d&Type=>) and by city (<https://wacities.org/Advocacy/Legislator-directory/Legislator-list?By=1aKRwngbLLM%3d%3d&Type=>).

Additional talking points:

- The tiered state REET structure encourages the seller (who pays REET) to sell under defined thresholds to reduce the tax burden. The more they sell it for, the more they pay.
- Selling the property for affordable housing exempts the seller altogether from REET.
- Let your representatives know that cities support **HB 1628**—the Affordable Homes Act. Include the letter of support (https://wacities.org/docs/default-source/legislative/031523hb1628reet3ahaletter.pdf?Status=Master&sfvrsn=9255264f_3) when you urge them to move the bill forward.
- Let legislators know how much a new REET option, if passed by your council, could raise for affordable housing in your city (https://wacities.org/docs/default-source/legislative/reetincreasebycity.pdf?Status=Master&sfvrsn=4b14264f_3) each year.

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AWC moves to support on the middle housing bill

Contact: Carl Schroeder, Shannon McClelland

After countless hours working with the sponsor and advocates on the proposed middle housing legislation, the bill has arrived at a place that is closely aligned with AWC’s Housing Solutions Group (HSG) proposal. Based on these changes, AWC now supports the bill.

A major change to **HB 1110** was adopted in the Senate Ways & Means Committee, restructuring the provisions related to “contiguous UGAs” that captured many smaller cities and applied the highest standards to them regardless of their population. Multiple compliance options have been added, including one that closely matches the HSG proposal. As it stands now, the density requirements are as follows:

Current version of HB 1110:

Population	All residential lots	¼ mile from major transit	Affordability
75,000+	Four units per lot	Six units per lot	Six units per lot if at least two are affordable (60% AMI for rental, 80% AMI for homeownership)
25,000-74,999	Two units per lot	Four units per lot	Four units if 1 is affordable (60% AMI for rental, 80% AMI for homeownership)
Less than 25,000 and contiguous with the largest city in a county, if county population is over 275,000.*	Two units per lot	N/A	N/A

*If the city’s UGA touches any other UGA that, ultimately, touches the UGA of the largest city.

AWC Housing Solutions Group proposal:

Population	All residential lots	½ mile from major transit	Affordability
Any population	N/A	No maximum density if affordable.	20% of units are affordable at 80% of AMI or below.
20,000+	75% of lots allow three units per lot. Alternative: Allow 3 units per lot near schools, parks, and ¼ mi from arterials.	N/A	N/A

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As the bill has moved forward, more alternative compliance and grandfathering provisions have been added that recognize different routes to the same policy objective:

1. As an alternative to the density requirements above, city may implement those density requirements on 75% of their lots primarily dedicated to single family housing. The other 25% of cannot include, unless identified as a displacement risk: lots previously covered by racially restrictive covenants, areas for which exclusion would further racially disparate impacts, or areas within ½ mile of a major transit stop.
2. Cities who have already adopted a comprehensive plan or development regulations by January 1, 2023, that is similar can request approval of the Department of Commerce that their plan and regulations are “substantially similar” to those of the state law. Cities have one year from the effective date of the bill (July 22,2023) to adopt permanent developments regulations that are substantially similar to the requirements in the bill. The bill includes the following criteria that, when combined, Commerce must deem as substantially similar:
 - a. Result in an overall increase in housing units allowed in single-family zones that is at least 75% of the increase in housing units allowed in single-family zones if the specific provisions of this act were adopted;
 - b. Allow for middle housing throughout the city, rather than just in targeted locations; and
 - c. Allow for additional density near major transit stops, and for projects that incorporate dedicated affordable housing.

The bill also requires Commerce to publish model middle housing ordinances no later than six months following the effective date of the bill, which is July 22, 2023. Cities have until six months after their next comprehensive plan update to comply with the bill requirements, based on their 2020 population.

HB 1110 now awaits a floor vote in the Senate.

From the press release announcing our change in position on the bill:

“Cities of all sizes in every part of Washington feel deeply that we need to increase housing supply and affordability,” said Carl Schroeder, Deputy Director of Government Relations at the Association of Washington Cities. “It’s important to address the housing needs of our residents, particularly those making lower incomes. As our state’s housing affordability crisis only grows, cities are looking at partnerships to come up with creative solutions to a very complicated and nuanced problem. We are working hard to make sure that proposals are workable in our very diverse cities. With that, cities around the state are reaching to the middle to work on and eventually support many creative policy changes such as this middle housing bill — because our housing challenge requires an all-hands-on-deck approach.”

“Local governments are ready and willing,” Schroeder said, “to build on our longstanding partnership with the state to work together and create a variety of solutions that will benefit all our shared residents, including our most vulnerable. In addition to this proposal and some key regulatory reforms that are advancing this session, the next step is to ensure we can marry these policy changes with the needed dedicated resources to increase affordable housing production.”

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Broadband & telecommunications

Broadband mapping proposal takes yet another turn, narrows intent and definitional language

Contact: Brandy DeLange, Brianna Morin

The Legislature's broadband mapping bill has shapeshifted substantially this year, moving from a proposal to create a statewide broadband map to a plan to support a more accurate federal broadband map. Having narrowed and broadened its scope at each turn, **HB 1746** was recently amended to narrow its scope further, updating its intent and definitional language yet again.

Read our previous coverage of the bill's evolution here (<https://wacities.org/news/2023/02/24/state-broadband-map-proposal-refined-expanded-passed-out-of-committee-on-unanimous-vote>) and here (<https://wacities.org/news/2023/03/24/washington-may-not-see-a-state-broadband-map-any-time-soon-given-recent-amendments-to-house-broadband-bill>).

The most recent amendment, introduced by Senator Lisa Wellman (D–Mercer Island), make two changes of note.

First, it updates the bill's intent language to convey that the Legislature aims to incentivize participation in broadband data submission only by those entities that are required to submit data collection filings to the FCC. The previous version of the bill used broader language that included entities who own and operate broadband infrastructure in the state, not all of whom are required to submit data to the FCC.

Second, it changes the definition of "covered entity." Before, the term meant "a broadband service provider or other entity that owns or operates broadband infrastructure... in [WA] or offers their broadband infrastructure for sale or lease in the provision of broadband service." It was modified to mean a broadband service provider or other entity that is required to submit a biannual broadband data collection filing to the FCC.

AWC supported the original intent of the legislation, creating a state broadband map. However, as amended, AWC is neutral on the bill and hopes to see a statewide broadband map in the future. HB 1746 cleared the Senate Ways & Means Committee by a unanimous vote and was passed to the Senate Rules Committee.

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Budget & finance

Rumors abound that property tax fix may still be endgame option

Contact: Candice Bock, Sheila Gall

As budget negotiations continue in these final weeks of the legislative session, we are hearing rumors that a property tax cap fix like **HB 1670** could still be part of the final end-of-session grand agreement. Bills necessary to implement the budget are exempt from legislative cutoffs. Watch for further information as we track the progress of this issue and contact your legislator to remind them of the need for action this session on this local option to assist with your city's growing costs.

AWC has supported revising the arbitrary 1% cap on property taxes to inflation and population growth up to a cap of 3% as a modest proposal to help keep up with expenses. The State Tax Structure Work Group proposal recognized that local elected officials need this fix to keep up with the increasing costs of providing services to their community's residents, and cities will not be able take on new responsibilities in housing and public safety without additional revenue.

In a recent poll of likely voters 72% indicated support for a 3% cap on property tax revenue.

State Auditor resources for May 30 annual report deadline – see who has already filed

Contact: Candice Bock, Sheila Gall

Local governments must submit their annual financial reports to the State Auditor (SAO) by May 30. Check out the resources for one-on-one technical assistance and online trainings updated for 2023.

SAO has developed new online trainings and resources (<https://sao.wa.gov/bars-annual-filing/filing-training-and-workshops/>):

- Free one-on-one sessions (https://sao.wa.gov/bars-annual-filing/filing-training-and-workshops/?utm_source=newsletter&utm_medium=email&utm_campaign=filing-sessions#online-filing-workshops) with SAO. One-hour virtual sessions will be available from April 17 to 27, and registration is required.
- Webinars on annual report online filing for GAAP (<https://www.youtube.com/watch?v=v4yd86pp77Q>) and cash (<https://www.youtube.com/watch?v=LPBc-6DikGo>) governments updated for 2023.
- Check out the dashboard (https://sao.wa.gov/mark-your-calendars-annual-reports-are-due-may-30/?utm_source=newsletter&utm_medium=email&utm_campaign=annual-report-deadline-may-30) to track the progress on annual report filing across the state.

Because May 29 is a holiday, local governments should plan ahead for questions and technical assistance.

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Economic development

Rural county development sales tax ready to move to Senate vote

Contact: Candice Bock, Sheila Gall

The extension of the rural county sales tax (.09 sales tax) passed out of the Senate Ways & Means Committee on April 4 and is in the Rules Committee waiting to be moved to the full Senate for a vote. **HB 1267** would extend authority to impose the tax until 2054 and clarify eligibility for counties that exceeded the population threshold after its imposition.

Cities support this authority and often partner to use this revenue for economic development.

Energy

Clean energy siting bill aligned with EFSEC expedited process under new amendments

Contact: Brandy DeLange, Brianna Morin

In its latest round of amendments, this year's clean energy siting legislation was updated to fine-tune land use and permitting process requirements.

Governor request legislation, **HB 1216** establishes an interagency clean energy siting coordinating council and outlines a new, independent siting process for energy projects of statewide significance. For background and to learn about the proposal's impact on cities, read our previous summary of the bill's movements 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>).

According to the amending language adopted in the Senate Ways & Means Committee:

- Permitting decisions made by state and local jurisdictions under what the bill calls the fully coordinated permitting process must be considered final, subject to an available appeals process. Furthermore, applicants utilizing the coordinated permitting process are not eligible for permitting under the Energy Facility Site Evaluation Council (EFSEC) certification process for that proposed project, unless a substantial change is made to the project plan.
- A land use decision, a final decision on a permit or other similar approval required under the Shoreline Management Act, or a decision that would otherwise have been subject to the jurisdiction of the Pollution Control Hearings Board, and which is necessary for a clean energy project, be subject to the expedited process for judicial review already established in law for EFSEC certifications.

HB 1216 cleared Ways & Means last week by a vote of 16-8 and was passed to the Senate Rules Committee.

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Federal

Five things to remember about ARPA report due April 30

Contact: Jacob Ewing

The American Rescue Plan Act (ARPA) was a lifeline to many cities working to recover from the COVID-19 pandemic. The direct federal funding sent to cities provided leaders with funds to invest in critical projects and programs. And, as with all sources of funding, it's time to submit the next round of reporting to Treasury.

Here are a few things you should remember as you enter the 2023 ARPA reporting period:

4. Reports are due Sunday, April 30

April's report marks the second time that all ARPA recipients must submit a report to Treasury. For most cities, the reporting period will cover activity that occurred between April 1, 2022, and March 30, 2023. You can confirm your city's requirements by reviewing this chart (<https://home.treasury.gov/system/files/136/Apr-2023-PE-Report-User-Guide.pdf#page=17>) published by Treasury.

We encourage cities to start the reporting process now to ensure that they can access the reporting portal and submit their reports on time. The number one reason that Washington cities were late in submitting reports last year was that they couldn't access the reporting portal. If you are struggling to log into the portal, please reach out to Jacob Ewing at jacobe@awcnet.org at AWC as we may be able to provide you with information to access your account.

5. Revenue replacement is available to all cities and streamlines reporting

Under the Final Rule published by Treasury in January 2022, Treasury expanded which jurisdictions were eligible to claim revenue replacement by introducing the standard allowance. With the standard allowance, all jurisdictions have the option to claim their full award up to \$10 million as revenue replacement without needing to complete a revenue loss calculation.

But why would a city want to claim revenue replacement? Here are three reasons to consider:

1. **Reduced reporting burden** – Cities claiming the standard allowance benefit from reduced reporting requirements and a streamlined reporting process.
2. **Increased flexibility** – Cities claiming the standard allowance can use ARPA funds for all approved uses under the Final Rule as well as any general government service.
3. **Exemption from some federal uniform guidance procurement standards** – Treasury has explicitly excluded some Uniform Guidance procurement standards when recipients use the revenue loss eligible use category.

If you have questions about revenue replacement, please reach out to AWC for additional information.

3. Additional deadlines coming in 2024 and 2026

In addition to periodic reports, cities should remember two other important deadlines:

1. **December 31, 2024 – Obligation deadline:** By this date, jurisdictions must have obligated their full ARPA award.
2. **December 31, 2026 – Expenditure deadline:** This is the last day that ARPA funds may be expended by a jurisdiction.

Cities that have unspent funds after December 31, 2026, will need to return those funds to Treasury.

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4. Training and guidance resources are available

There are several great resources available to cities as they work to complete their April 2023 report. Here are just a few:

- **Treasury April 2023 webinar: Project & expenditure simplified reporting:** (https://www.youtube.com/watch?v=aCE_BSoHmJY) This is a 30-minute webinar published by Treasury in early April. The webinar provides an overview of how to complete the annual ARPA report if your jurisdiction is reporting projects under Expenditure Category (EC) 6 – Revenue Replacement.
- **Project & expenditure report user guide:** (<https://home.treasury.gov/system/files/136/Apr-2023-PE-Report-User-Guide.pdf>) This is a 150-page document that walks through each step of the reporting process. If you are reporting projects under EC 6 Revenue Replacement, you will find pages 16-31, 47-50, and Appendix A (pages 79- 85) most helpful.
- **ARPA Coronavirus State and Local Fiscal Recovery Funds Final Rule: Frequently asked questions:** (<https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf>) This FAQ document covers a wide range of issues and questions raised over the past few years. This is a great starting point if you have any questions or concerns about how you can use ARPA funds in your community.

5. You can see how other cities are using funds

If your jurisdiction is still trying to determine how to spend ARPA funds, you may benefit from reviewing how other jurisdictions are using funds in Washington and around the country. Here are four resources with examples of ARPA-funded projects and programs:

- **How Washington cities are using ARPA funds to improve their communities:** This two-page fact sheet provides a look at 10 ARPA-funded projects from around the state and their positive impact on communities. (https://wacities.org/docs/default-source/legislative/factsheetarpa2023.pdf?sfvrsn=914b264f_3)
- **Unlocking possibilities: How cities are using ARPA's State and Local Fiscal Recovery Funds after two years:** NLC recently published a new report on how cities around the country benefit from the infusion of federal funds during the COVID-19 pandemic. (<https://www.nlc.org/resource/unlocking-possibilities-how-cities-are-using-arpas-state-and-local-fiscal-recovery-funds-after-two-years/>)
- **Future unlocked: How Washington cities are leveraging ARPA funding to grow strong communities:** Our Winter 2023 Cityvision magazine serves up several in-depth stories about how Washington communities used ARPA funds to improve their communities, support local businesses, and ensure the continuity of city operations during the pandemic. (<https://wacities.org/data-resources/cityvision>)
- **Treasury ARPA state and local fiscal recovery fund dashboard:** Treasury publishes a quarterly dashboard allowing the public an inside look at how ARPA funds are being spent by jurisdictions around the country. (<https://app.high.powerbigov.us/view?r=eyJrIjoieYTNjNzQ4MGQtM2ExZC00N2QxLWE2YTAtYml0MmlwNmRmZDMyIiwidCI6IjU4ZjFIM2ZhLTU4Y2ItNGNiNi04OGNjLWw5MWNhYzlwN2YxOCJ9>)

ARPA funds have been transformative for communities in Washington. We greatly appreciate the work of city leaders and staff as you have navigated these new sources of federal funding.

continued

General government

Voting Rights Bill passes Senate; other bills face uncertain futures

Contact: Candice Bock, Katherine Walton

Read up on the latest actions regarding voting rights, extreme weather grants, and public comment notices.

Extreme weather grants bill dies in fiscal committee but may still be included in final budget

HB 1012 didn't make it past the last cutoff date. However, the legislature could still pass the bill before the end of session as it is deemed necessary to implement the budget (NTIB). The bill would direct \$3.2 million to the Military Department for an extreme weather event response grant program for local governments. The House budget proposal (<https://wacities.org/advocacy/News/advocacy-news/2023/03/29/2023-25-house-budgets-use-bond-and-climate-dollars-to-fund-programs-for-cities>) had funds for this grant program.

Voting Rights bill passes Senate, awaits Governor's signature

HB 1048, expanding the Washington Voting Rights Act, passed the Senate last Wednesday and now awaits the Governor's signature. Once the Governor receives the bill, he has five days to decide whether or not to sign.

This bill amends the Washington Voting Rights Act (WVRA) (<https://wacities.org/data-resources/voting-rights-act-implementation>) to make it easier for a plaintiff to bring suit in court:

- **HB 1048** allows 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. The political subdivision must reimburse costs within 60 days.
- Even if an individual or organization does not prevail, the bill still allows the court to award reasonable costs for work prior to filing a claim, with no cap on those costs.
- The bill grants standing to organizations with at least one voter who resides in the political subdivision. Cohesive coalitions of members of different protected classes are also protected by the WVRA under this bill and may file notices or claims together.
- It also gives standing to tribes located at least partially in the political subdivision and allows for an increase in the number of county commissioners as a remedy to a violation of the WVRA based on tribal status claims.

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AWC strongly supports voting rights and ensuring appropriate representation in all levels of government but had several concerns with this bill. AWC voiced concerns throughout session about the potential fiscal impact on cities related to the potentially unlimited recovery of costs in cases where a group does not prevail and requested an amendment to apply the \$50,000 cap on work conducted prior to filing a claim where a plaintiff doesn't prevail but can demonstrate that they had an impact on the jurisdictions behavior and voting practices. We also requested an amendment to better define a non-prevailing plaintiff. The Senate did not add any of AWC's recommended amendments that were intended to address liability concerns in the bill that passed.

If the bill is signed into law by the Governor, the new WVRA will be in effect January 1, 2024. Cities should work with their legal counsel to prepare for these changes.

Bill that adds additional requirements to public comment periods waiting for Senate action before Wednesday cutoff

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.

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 for accepting comments.

The bill is awaiting final passage by the Senate before Wednesday, April 12.

continued

HR & labor relations

HR bills on the move as Legislative session heads down the home stretch

Contact: Candice Bock, Matt Doumit

As we enter the final few weeks of the 2023 Legislative session, there are several HR & labor relations bills that cities should know about. Wednesday, April 12 is the opposite house floor cutoff, the deadline (<https://leg.wa.gov/legislature/pages/cutoff.aspx>) for most bills to pass out of the opposite chamber to remain alive for the remainder of session. Bills that leave the opposite house with amendments different from the house of origin will require the House and Senate to reconcile differences before sine die on April 23. We review some of the bills we've been tracking this session below.

Bills passed the Legislature

PFML premiums

SB 5286 adopts the recommendations of the PFML premiums task force and changes the formula used for calculating PFML premiums, raises the premiums cap to 1.2%, and makes other changes. The bill passed out of the Senate on February 1 with a unanimous vote. It then passed the House without further amendments on April 6. It now heads to the Governor's desk.

Bills needing agreement between the House and Senate

PFML claims data

SB 5586 permits ESD to share certain records on an employee's PFML claim with "interested parties" (like employers) including the type of leave taken and approved dates/duration of leave. AWC supports this bill. The bill passed out of the Senate on March 1 with a unanimous vote. The House also passed the bill unanimously, but made some amendments, including removing data on the employee's remaining hours of leave, their weekly benefit amount, and actual benefits paid/hours claimed from the list of data ESD is allowed to share with employers. The House amendments also allow employers to access information on whether the employee was approved for and received benefits for any given week.

Cannabis use & hiring

SB 5123 prohibits employers from "discriminating against a person in the initial hiring" for the job candidate's off-the-job, out-of-the-workplace cannabis use or for failing an employer-required drug test for cannabis. It also provides a number of exemptions. The bill passed out of the Senate on February 22 on a 28-21 vote. The House adopted amendments that exempt law enforcement, fire departments, first responders, and corrections officers from the bill. It passed out of the House on a 57-41 vote on March 29.

Union-member privilege

HB 1187 creates a new legal privilege between union members and their unions. AWC has a position of "other" on the bill, supporting some level of protected confidentiality for union members, but with concerns about the broad privilege in this bill. Concerns include its effect on a city's ability to fairly defend itself in court, its impact on cities' ability to take action against workplace misconduct, and the need to clarify that it is the employee that holds the privilege. The Senate adopted amendments exempting mandatory reporting requirements and passed the bill with a 34-14 vote on April 7.

continued

Bills still pending

Independent medical exams

HB 1068 allows an injured worker to make an audio and video recording of an independent medical examination, and to have one person of the worker's choosing present during the examination. It passed out of the House on a 65-33 vote on February 15. Some amendments were made in the Senate Labor & Commerce Committee, and the bill still needs a floor vote in the Senate.

“Good faith” for self-insured employers

HB 1521 creates a duty of “good faith” for self-insured employers and their third-party administrators towards workers in self-insured workers’ compensation programs, with penalties for violating good faith. They also allow L&I to write rules outlining those duties and require L&I to investigate and order resolution of claims.

HB 1521 passed out of the House on March 1 with a 69-27 vote. AWC opposes this bill. It is waiting for a floor vote in the Senate.

Ergonomic injuries rules

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

Providing employee info to unions

HB 1200 requires public employers to provide certain employee records to public employee unions. Employers have 21 days to provide information on new hires, and every 120 days for all employees in each bargaining unit. AWC had concerns about the early bill drafts but was able to improve the bill in committee. It passed out of the House on a 56-41 vote on March 2. Some Senate committee amendments were adopted exempting employers whose US Dept. of Defense clearance prohibits disclosing employee records and clarifies that unions cannot sell provided employee information or use it for commercial purposes. The bill is waiting for a floor vote in the Senate.

Employee vehicle searches

HB 1491 prohibits employers from searching an employee's privately owned vehicle located on the employer's premises. It also specifies that employees are permitted to keep any legal private property in their vehicle while on the employer's premises. The bill includes a list of exceptions. It passed out of the House on an 87-10 vote. Senate committee amendments were adopted that makes the bill part of the prohibited labor practices statues instead of the Industrial Welfare Act and removes the sections authorizing L&I to do specific rulemaking from the bill. It is waiting for a floor vote in the Senate.

Police and prosecutor qualifications

SB 5274 allows hiring of lawful permanent residents and also eliminates English language proficiency requirements for city fire departments, city police departments, and other agencies. The bill passed out of the Senate on a 29-19 vote on March 8. It is currently waiting for a floor vote in the House.

continued

Dead bills (due to earlier cutoffs)

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. Amendments were adopted to slightly increase the response time to 15 business days and remove requirements that personnel files be unredacted. The bill also establishes penalties for failure to timely turn over records and allows employees to sue to obtain the records. It did not get voted out of the Senate Ways & Means committee ahead of the fiscal committee cutoff. The bill is referenced in the House budget and could be revived.

Flexible work for police

SB 5424 allowed 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 allowed law enforcement agencies to adopt flexible work policies for police. It was never voted out of House Appropriations ahead of last week's fiscal committee cutoff.

Pensions

Bill to scale back unfunded liability surcharge passes House

Contact: Candice Bock, Matt Doumit

The bill to scale down and eventually end the unfunded liability surcharge that impacts city pension costs passed the House with changes from the House Appropriations Committee. The bill now goes back to the Senate to consider the House's changes.

We wrote about **SB 5294** and its House Appropriations Committee amendments last week (<https://wacities.org/news/2023/03/31/senate-plan-for-glide-path-away-from-unfunded-liability-surcharge-gaining-lift>). The committee amendments slightly extended the schedule for scaling back the unfunded actuarial liability surcharge that cities now pay to make up for current underfunding in the PERS 1 system. Based on recent estimates, the bill could save local governments around \$170 million in the next biennium alone. A new fiscal note is still needed to confirm how the House's amendments will change local government employers' cost savings over time.

The bill passed the House on a unanimous vote with no additional floor amendments. If the Senate accepts the House's changes, the bill will go to the Governor for signature. If they don't, the House and Senate will have until April 23 to work out any differences and pass a final bill. AWC supports this legislation.

continued

Public safety & criminal justice

Contact your legislators to urge support for vehicle pursuits bill

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

Two weeks ago, AWC sent legislative leadership a letter (<https://wacities.org/Advocacy/Legislator-directory/Legislator-list?By=uJ%2fEeQi4TYo%3d&Type=>) signed by over 150 city leaders from nearly 100 cities urging the passage of **SB 5352**. Thank you to everyone who has contacted their legislators or added their name to the letter! **The House only has until Wednesday, April 12 to vote on this bill.** Your Representatives (<https://wacities.org/Advocacy/Legislator-directory/Legislator-list?By=uJ%2fEeQi4TYo%3d&Type=>) need to continue to hear that cities need revisions to the police pursuits legislation.

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

Blake bill faces another round of amendments as final deadlines near

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

Last week, another round of amendments further complicated **SB 5536**, the *Blake* bill, on its journey through the House.

If you took the week off for spring break and missed it, two weeks ago the House Community Safety, Justice, & Reentry committee changed the charge from a gross misdemeanor to a simple misdemeanor, added public use of a drug to the list of potential criminal charges, allowed for judicial discretion for imposition of jail, and added a new state preemption for drug paraphernalia regulation. To read more about these changes, check out last week's article (<https://wacities.org/advocacy/News/advocacy-news/2023/03/31/blake-bill-passes-out-of-house-committee-with-significant-changes>).

After the House Community Safety, Justice, & Reentry committee passed **SB 5536** with those changes, it went to the House Appropriations committee for fiscal considerations, where it received additional amendments. AWC has significant concerns with the version of the bill as passed out of the House Appropriations Committee. Foremost, we do not believe the bill in its current form will function to encourage people into necessary substance use disorder treatment, and the bill will be more burdensome, costly, and ineffective than the prior version of the bill.

Here's a brief description of what the current bill does:

- **Someone who knowingly possesses drugs and/or knowingly possesses and uses those drugs in a public space can be charged with a simple misdemeanor.** The House amendments dropped the charge from a gross misdemeanor to a simple misdemeanor and added possession and use in a public space. 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). Making knowing possession of most drugs a gross misdemeanor gives adequate time for court monitoring. As a gross misdemeanor, municipal and district courts will have a sufficient length of time (up to two years) to monitor an individual's compliance with substance use disorder treatment.
- **Emphasis on treatment.** The bill has many offramps from the criminal justice system into treatment and services. Previous versions of the bill placed individuals into substance use disorder assessments, treatment, and services while the newest version would require that individuals receive a biopsychosocial evaluation leading to a complicated decision tree of options. For example, individuals found without a substance use disorder could serve community restitution instead, criminal charges could be vacated if the individual does not have any additional criminal arrests or convictions in a year, and individuals who are enrolled in treatment would only be required to show meaningful engagement with the treatment for six months. While earlier versions of the bill paired substance use treatment with robust accountability mechanisms, AWC

continued

is concerned that the newest version of the bill is overly complicated and does not have the accountability piece that cities are looking for. AWC supports the previous version's standard of "substantial compliance" with treatment. Substantial compliance is a clear and known legal standard, whereas meaningful engagement is difficult to define. AWC has requested that legislators modify the requirement for a defendant to "meaningfully engage" in treatment to the known legal standard of "substantial compliance" with treatment.

- **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 has requested that the legislature remove 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.
- **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 has requested that the legislature maintain current law. Transparency and public participation are important, and we would like to see this provision of current law restored.

AWC prefers the prior version of the bill that emphasized judicial discretion, within a solid framework, to treat each individual, each case, and each community situation, in the unique way required. AWC has requested that the legislature reinstate these provisions.

For a longer description of changes and AWC's position, check out an updated side-by-side (https://wacities.org/docs/default-source/legislative/033123sb5536blakebillcompare.pdf?sfvrsn=6a6b264f_6).

continued

Transportation

Freight mobility, transportation revenue forecast and bond authority still in action

Contact: Brandy DeLange, Brianna Morin

While Legislators negotiate the biennial transportation budgets before this week's final cutoff deadline, we bring you updates on other transportation related legislation under consideration this year.

Transportation revenue forecast

We've been tracking the movement of **HB 1838**, which originally proposed to make the state's Economic and Revenue Forecast Council (ERFC) responsible for the revenue forecast for the transportation budget, thereby attempting to create better coordination and consistency between forecasts. Currently the transportation forecast is prepared by the Transportation Revenue Forecast Council.

Regular readers will remember the bipartisan bill was amended slightly as it moved through the House and Senate Transportation Committees. Find our previous coverage here (<https://wacities.org/news/2023/03/10/catch-up-to-speed-with-these-key-transportation-bills-traveling-through-the-senate>) and here (<https://wacities.org/news/2023/03/24/keep-pace-with-the-transportation-bills-rolling-through-the-legislature>).

Arriving at the Senate Ways & Means Committee, **HB 1838** received a complete makeover in an amendment from Committee Chair Sen. Christine Rolfes (D-Bainbridge Island) just before the fiscal cutoff deadline. The amendment:

- Changes the membership of the ERFC to consist of:
 - The director of the Office of Financial Management
 - The director of the Department of Revenue
 - The State Treasurer
 - The chair and ranking member of the House Finance Committee
 - The chair and ranking member of the Senate Ways and Means Committee.
- Removes the adoption of the Budget Outlooks from the current duties of the ERFC and creates a Budget Outlook Council with the following members:
 - The director of the Office of Financial Management
 - The director of the Department of Revenue
 - The State Treasurer
 - The chair and ranking member of the House Appropriations Committee
 - The chair and ranking member of the Senate Ways and Means Committee.
- Creates a new Transportation Revenue Forecast Council, to adopt transportation revenue forecasts. Its members are:
 - The director of the Office of Financial Management
 - The director of the Department of Licensing
 - The State Treasurer
 - The chair and ranking member of the House Transportation Committee
 - The chair and ranking member of the Senate Transportation Committee
- Directs the ERFC director to support the work of the Budget Outlook and Transportation Revenue Forecast Councils.
- Adds staff from the House and Senate Transportation Committees and the Department of Licensing to the ERFC work group.
- Repeals existing statues related to the current process for transportation revenue forecasts.

HB 1383 passed out of Committee by a vote of 23-1 and moved to the Senate Rules Committee. *continued*

Freight mobility

HB 1084 is trucking towards the finish line. It passed out of the Senate by a near-unanimous vote with no amendments. The bill makes several changes to the state's Freight Mobility Strategic Investment Board. It removes the Board's authority related to the selection and finance of freight projects, instead directing it 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.

HB 1084 was voted out of the Senate Transportation Committee by a near-unanimous vote and was passes to the Senate Rules Committee.

Connecting Washington

SB 5763 increases the state's bond authority for Connecting Washington transportation projects by \$4.3 billion, from the original \$5.3 billion to \$9.6 billion. The bill expresses the Legislature's intent to support the completion of the majority of projects funded in the 2015 transportation package. Due to significant cost increases and supply shortages, among other challenges, additional bond revenue is needed to fulfill the state's commitment.

SB 5763 passed out of the Senate by a strong majority vote and must clear the House by this Wednesday, April 12, to stand a chance at enactment.

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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