



Legislative bulletin

April 17, 2023

Hot topics

REET bill is on the move and needs your continued support!

If a long legislative session is analogous to a marathon, the bill that would create new real estate excise tax (REET) revenue for affordable housing has just passed Mile 2. With 24.2 miles to go in just one week, this makes it an underdog – especially given the strong attack by Washington REALTORS® – but AWC stands strongly behind the bill, given the high stakes. Reach out to your legislators and express your support now!

Blake bill passes House; AWC sends message to legislators on reconciling the Senate and House versions

Last week the House passed **SB 5536**, keeping drug possession a misdemeanor and creating off-ramps into treatment and services. The bill as amended by the House changes the charge from a gross misdemeanor to a simple misdemeanor, adds public use of a drug as a potential criminal charge, creates a complicated and prescriptive diversion process, allows for judicial discretion in imposing jail time, and adds a new state preemption on the regulation of drug paraphernalia. The two versions of the bill differ substantially, meaning **SB 5536** will likely enter a conference committee where representatives from both chambers hash out the differences. AWC sent a message to legislators outlining our preferred provisions for the final bill.

New bill, new hope for property tax cap fix – contact legislators to share your support!

A new bill was introduced last week revising the arbitrary 1% cap on state and local property tax to up to 3% based on inflation and population, as rumors continue to circulate that a property tax cap fix may be part of final budget negotiations. With just one week left in session, the window for action is narrow. Ask your legislators to pass **SB 5770**.

Action items

Register for Labor Relations Institute before it sells out!

May 3-5 | Yakima

With just two weeks left, don't miss your chance to attend AWC's premier training event for public sector human resources professionals in Washington. This popular event offers legal updates, practical guidance, labor relations strategies, and networking opportunities to help navigate the complex and ever-changing world of HR. Check out the schedule and session topics and then register today!

Note: Attendance at the Institute is limited to those who solely represent the interests of management.

View from the hill

The end is near

The 2023 Legislative Session is set to adjourn next Sunday, April 23. This week will be a scramble to finish negotiations on high-profile policy bills, such as the Blake response bill (**SB 5536**), and to finalize the operating, capital, and transportation biennial budgets. Some questions hanging in the air center on new revenue options. Will the Legislature pass a local and state REET option for affordable housing? Or will they pass the late entry **SB 5770**, revising the property tax cap up to 3% based on inflation and population growth? Both represent important new local revenue for cities. These last days of session are sure to see late nights and a few twists and turns.

Check out our final Bill Hot Sheet highlighting the policy bills we're focused on. AWC is also tracking bills as they head to the Governor's desk for signature. Bills that arrive on Governor Inslee's desk before the end of session have five days to be signed, and bills that arrive after session have 20 days, minus Sundays. You can check on the signing status of bills on the Governor's website.

Final AWC city action call – Members only

Friday at 12:30 pm | Online

Don't miss our last call this Friday for AWC members to hear updates directly from your team of lobbyists. Hear the latest action on the hill and progress on bills of importance to cities. After registering, you will receive a confirmation email containing the Zoom link for this week's call. Register now for Friday's call.

Media time

AWC lobbyists cover the legislative homestretch

We've made it to the last inning of the legislative session! AWC met up with our lobbyists to ask how things are shaping up. Watch this video where they detail the final days of the 105-day session and discuss important bills of interest, budget items to track, and what you can do to help. Find out the real news we all need: What's the best legislative "food day"?

Summit Law's Otto Klein looks back on 40+ years of employment law and LRI

For decades, the attorneys at Summit Law Group have been the go-to experts on the employer side of HR & labor relations. Otto Klein, a key part of that team, has worked with AWC and public and private sector employers of all sizes for over 30 years. In that time, he was instrumental in founding AWC's annual Labor Relations Institute. HR Insights recently visited with Otto to discuss his role in creating LRI, his career, and what he thinks his future holds. Listen here.

continued

What you need to know

Affordable housing: Status of key affordable housing bills. AWC was tracking nearly five dozen bills intended to address affordable housing this session. Check out the status of those that have made it to this point.

COVID-19: President Biden ends COVID-19 national emergency, impacts some uses of ARPA funds. A bill ending the COVID-19 national emergency was signed on April 11 after Congress passed it with bipartisan support.

General government: Voting Rights Act expansion signed by Governor. Read up on the latest actions regarding voting rights and two open government bills that failed to make it past cutoff.

Two bills benefiting small cities survive cutoff, set to become law. Check out two bills increasing contract limits for small cities.

HR & labor relations: HR bills still in play as Legislature enters final week. Some HR & labor relations bills have survived the cutoff deadlines, while others need differences reconciled ahead of sine die.

Pensions: Pension bills working their way towards the finish line. Bills impacting city employee pensions need final action as we enter the reconciliation period leading up to sine die on April 23.

Public safety & criminal justice: House passes a vehicular pursuits bill with amendments; other public safety bills in various positions. View a summary of public safety bills and where they stand – from liquor licenses for adult entertainment nightclubs to expanding access for courthouse dogs.

Public works & infrastructure: Prospects are high for a statewide small works roster, more equity in public works procurement. Changes to the public works procurement process, as introduced in **SB 5268**, are one step closer to enactment in Washington.

Transportation: Future of transportation revenue forecast just around the bend. Aiming to create better coordination and consistency between forecasts, **HB 1838** travelled a straight path through the House, only to turn circles in the Senate.

continued

Affordable housing

The REET bill is on the move and needs your continued support!

Contact: Carl Schroeder, Shannon McClelland

If a long legislative session is analogous to a marathon, the bill that would create new real estate excise tax (REET) revenue for affordable housing has just passed mile 2. This makes it an underdog, with 24.2 miles to go in just one week, especially given the strong attack by Washington REALTORS®; but one that AWC stands strongly behind given the high stakes.

Legislators have made significant progress on their housing agenda to address the affordability crises this session. **However, they have not passed any policy proposals to address the state’s target to deliver 500,000 homes for low and very low-income households 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, has been amended and voted out of the House Finance committee. Here are the latest key provisions:

- **State REET changes** – Beginning January 1, 2025, increases the “ceiling” for the **Tier 1** 1.1% state REET tax from \$525,000 to \$750,000.
- As a result, **Tier 2** (1.28%) will be \$750,000 to \$1.525 million.
- **Tier 3** is unchanged from current law at 3% for sales over \$3 million.
- Beginning January 1, 2025, increases the state REET rate for **Tier 4** (selling price over \$3.025 million) from 3% to 3.5% except for commercial property. The bill also defines commercial property to exclude residential structures.
- Commercial property will pay 3% on selling price over \$3.025 million through December 31, 2026. The new 3.5% will take effect for commercial property beginning January 1, 2027.
- Removes the creation of Tier 5 for selling prices above \$5 million.
- **Local REET changes:** The .25% councilmanic local option REET (REET 3) stays the same but the breakdown in how the revenue can be spent changed, but ultimately the population served – 60% AMI and below for rentals and 80% and below for ownership—stays the same and supports affordable rentals, affordable home ownership, housing-related programs, and infrastructure to support housing.

What impact will HB 1628 have on homebuyers?

HB 1628 will have a nominal impact on the selling of property, not on the purchase of it. REET is paid by the seller, not the buyer. The value of property is determined by factors including market demand, interest rates, zoning, and other nuanced factors. Buyers determine market value, not sellers. What a seller wants or owes, doesn’t determine market value or the final sale price. Additionally, the state REET change is a tax cut for many housing sales in the state. It recognizes that many—if not a majority of—residential sales in this state will be for property of \$750,000. And importantly, the bill creates funding at the state and local levels, to invest in homeownership for the many households who can’t afford to purchase a home without assistance.

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What impact will HB 1628 have on rents?

HB 1628 will reduce rents for the many households provided opportunity to live in the affordable homes it will build and will otherwise not increase or decrease rents on the for-profit market. The REETS in **HB 1628** are paid by the seller. The REET increases in **HB 1628** are nominal as well. Further, **HB 1628** has excluded residential structures from “commercial property” under the bill, lowering the tax rate paid under REET. Landlords in these mega-million sales are already pricing rents at the rates the market “can bear” and the nominal increased REET will not show up on the tenant’s rent ledger.

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.

Tell 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&Type=>).

Additional talking points:

- This will create the first permanent dedicated funding for the state’s preeminent housing investment program the Housing Trust Fund, including dedicated funding for housing people with developmental disabilities. It will also create a local revenue option for cities to levy a third quarter percent of REET for affordable housing purposes.
- Additionally, the state REET change is a tax cut for many housing sales in the state. It recognizes that many—if not a majority of—residential sales in this state will be for property of \$750,000.
- Having dedicated Housing Trust Fund dollars stabilizes the state’s ability to support housing needs in the short term and long run without having to trade housing for other essential community benefits. It’s transformational. New dedicated local options allow cities to partner to address local priorities.
- 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.

continued

Status of key affordable housing bills

Contact: Carl Schroeder, Shannon McClelland

With the end in sight – just one week away – the “session on housing” has been an active one, with many key policy proposals passing both chambers. Out of five dozen bills AWC was tracking that intended to address the affordable housing crises, here is the status of those that have made it to this point that we did not already alert you on.

Passed Legislature – next stop Governor’s desk

- **HB 1046** – Increases area medium income (AMI) threshold for housing authority projects: The low-income dwelling units or mobile home lots of a housing authority financed development owned by a for profit entity, government entity, or a nonprofit organization must be rented to persons whose income does not exceed 80 percent of the area median income.
- **HB 1326** – Can waive utility connection fees for emergency shelter, transitional housing, permanent supportive housing, or affordable housing.
- **HB 1337** – Requires two ADUs per single-family lot. Check out our last article for all the details on this one. A parking restriction was added on the floor.
- **HB 1695** – Broadens definition of affordable housing under surplus property law. Instead of just low-income and very low income, now includes income limits based on whether rental or permanently affordable homeownership.
- **SB 5058** – A building with 12 or less units that is no more than two stories high is exempt from building enclosure design or inspection. This bill is intended to address condominium liability issues.
- **SB 5604** – Removes the population limitation for spending HB 1406 (2020) sales tax credit revenues for rental assistance, and caps admin fees at 10% annually.

Pending opposite chamber agreement to amendments or conference committee

- **HB 1042** – Conversion of existing commercial and mixed-use buildings for residences. Prohibits cities from imposing certain restrictions or requirements on existing buildings zoned for commercial or mixed use through ordinances, development and zoning regulations, or other official controls. Must incorporate requirements within six months of next comprehensive plan update, and these changes are categorically exempt from SEPA.
- **HB 1110** – Middle housing & density mandate (see our previous article).
- **HB 1293** – Requires counties and cities planning under the Growth Management Act (GMA) to apply only clear and objective design review standards to the exterior of new development, with exceptions. During project review, counties and cities may only require preapplication conferences or a public meeting where otherwise required by state law.
- **HB 1474** – Adds \$100 to document recording fee to create the covenant homeownership account and program to address the history of housing discrimination due to racially restrictive real estate covenants.
- **SB 5290** – Local project review. Provides a grant program to consolidate local permit processes, including switching to online. Requires local governments to exclude interior alterations from site plan review under certain conditions. Outlines permit completeness, notice, and timelines process, and allowable exemptions and alternative compliance. Requires annual performance reporting.
- **SB 5412** – Categorical exemption for all residential housing units, but the details are still in flux as to what will be required to qualify for the exemption.

continued

Budget & finance

New bill, new hope for property tax cap fix

Contact: Candice Bock, Sheila Gall

A new bill revising the 1% cap for state and local property tax to inflation and population, up to 3%, **SB 5770**, was introduced last week as rumors continue to circulate that a property tax cap fix could be part of final budget negotiations. The window for action is narrow with just one week left in session. But we are still hopeful that the Legislature will take action on this proposal to fix the arbitrary cap.

Contact your legislator today to ask them to pass **SB 5770** and tell them:

- The current 1% cap is arbitrary and does not keep pace with the costs of city services. Inflation alone has averaged 2.4% in the past decade.
- Cities and other local governments rely on property taxes as a major revenue source for services – about 22% of all city revenues, but larger in cities with little retail activity. **Share how the arbitrary 1% cap impedes your ability to provide needed services in your community.**
- In a recent poll of likely voters 72% indicated support for a 3% cap on property tax revenue. This proposal is a local option for a modest change.
- Local officials can be trusted to make good decisions for the communities they are elected to represent. **Talk with them about how your community might use this tool to fund critical services.**

COVID-19

President Biden ends COVID-19 health emergency – Impacts some uses of ARPA funds

Contact: Jacob Ewing

President Biden on Monday, April 11 signed a bill ending the national emergency declared in response to the COVID-19 pandemic, a move that comes as the U.S. sees a steady decline in cases and deaths.

The President had previously said he would end the emergency on May 11, but he signed the bill ending the emergency into law on April 11 after Congress passed it with bipartisan support.

In Washington state, Gov. Inslee officially ended the state's COVID-19 public health emergency on October 31, 2022.

The ending of the national COVID-19 emergency will have minor impacts on how cities can use American Rescue Plan Act (ARPA) funds moving forward. Cities will no longer be able to provide premium pay to essential workers for work conducted after April 10, 2023. However, cities can provide premium pay to essential workers for work conducted before April 10, 2023.

Cities may continue to use ARPA funds as outlined in the final rule to address public health, negative economic impacts, and revenue loss, as well as water, sewer, and broadband projects. For additional details, please see FAQ 4.11 in Treasury's ARPA Final Rule FAQ (<https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf#page=36>).

The public health emergency declared by the Secretary of the Department of Health and Human Services (HHS) is set to end on May 11, 2023. This will not have an impact on how cities can use ARPA funds.

continued

General government

Voting Rights Act expansion signed by the Governor, two open government bills fail to make it past cutoff

Contact: Candice Bock, Katherine Walton

Governor Inslee signed HB 1048 into law last week, expanding the Washington Voting Rights Act. 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.

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.

The new WVRA will be in effect January 1, 2024. Cities should work with their legal counsel to prepare for these changes.

A bill that would have reduced the administrative burden of releasing body worn camera recordings failed to make it past the opposite house cutoff. HB 1080 would have allowed law enforcement and corrections agencies to charge for the cost of redactions or edits to portions of body and dash camera footage if a public records request for the video is made by a party to a criminal or civil case concerning the recorded incident. AWC was supportive of this bill as it would have reduced the administrative burden on local governments without compromising open government principles.

Another bill that failed to make it past the cutoff was HB 1105, which would have added new penalties for public comment deadlines. The bill would have required 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 did not make it past the opposite house cutoff.

continued

Two bills benefiting small cities survive cutoff, set to become law

Contact: Candice Bock, Jacob Ewing

Small cities can often feel overlooked during the legislative process; however, this year the legislature passed several bills benefiting small cities. Here are just two examples.

HB 1086 increases contract limits between cities and community service organizations

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

HB 1086 passed the Senate 44-4 with an adopted striker. The bill must now return to the House for concurrence before it can reach the Governor's desk for signature.

HB 1577 expands cities' ability to contract with municipal officers for local needs

In nearly every committee or floor action, **HB 1577** was referred to as "a good little bill." The bill sailed through both the House and Senate unanimously and now heads to the Governor's desk for signature.

HB 1577 increases contract limits between cities and municipal officers from \$1,500 a month to \$3,000 a month. This is the first increase to this limit since 1999. Additionally, the bill allows second class cities, towns, or noncharter optional code cities to exceed the \$3,000 monthly limit but cannot exceed \$36,000 in any calendar year. This increased limit will aid small cities as they respond to emergent needs and issues in their communities.

We greatly appreciate the work of our small city leaders and staff who helped get these bills started and across the line.

HR & labor relations

Important HR bills still in play as Legislature enters final week

Contact: Candice Bock, Matt Doumit

With last week's opposite House floor cutoff, some bills that passed both House and Senate in the same form have now passed the Legislature and will find their way to the Governor's desk for signature or veto. However, there are still a lot of bills, including several HR & labor relations bills, that have passed with differences between the versions coming out of the House and Senate.

This third act of session is reconciliation, the final step needed to get some bills over the finish line before sine die on April 23. There can be a bit of dance to the reconciliation process, and it is often unpredictable and fast moving. Here we review a few of the important HR bills that still need to fill their dance cards before last call.

continued

Reconciled bills passing the Legislature

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 was voted out of the Senate on a 31-16 vote on April 7. The House concurred with the Senate amendments on April 13. It now goes to the Governor's desk.

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 was voted out of the Senate on April 11 with a 45-4 vote. The House concurred with the Senate amendments on April 13 and it now goes to the Governor's desk.

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. The House concurred with the Senate's amendments and it now goes to the Governor's desk.

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 specifically prohibits disclosing employee records, that such exclusions don't limit an employer's duty to bargain in good faith, and clarifies that unions cannot sell provided employee information or use it for commercial purposes. It passed the Senate on April 12 on a 29-20 vote. The House concurred with the Senate's amendments and it now goes to the Governor's desk.

Bills still 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, approved dates/duration of leave, and whether the employee was approved and paid benefits in a given week. AWC supports this bill. The House passed the bill unanimously on April 5, but made amendments removing some of the types of data ESD is allowed to share with employers. The Senate still needs to concur with the House's amendments.

continued

“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 was able to negotiate some Senate amendments to the bill to narrow its scope. The bill now only applies to municipal self-insured employers and includes language clarifying that it doesn’t create a private right of action. It passed the Senate on a 32-17 vote on April 10. On April 13, the House refused to accept the Senate’s amendments and asked the Senate to recede. It is unclear if the Senate will agree to remove the negotiated amendments. The crux of the disagreement appears to be over the narrowing of the bill to exclude private employers.

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. The Senate refused to concur and asked the House to recede from their amendments.

Finally, an update on one that didn’t make it past cut-off

HB 1320 would have required employers to provide employees their employment records within 15 business days or face stiff penalties. AWC has expressed concerns with the tight timeframes in earlier versions of the bill, but was neutral as the bill had been amended. However, **HB 1320** didn’t make it past the April 12 cut-off and is likely dead.

Pensions

Pension bills still working their way towards the finish line

Contact: Candice Bock, Matt Doumit

Several important bills impacting city employee pensions are still alive and needing final action as we the reconciliation period where the House and Senate try to work out final versions of bills ahead of sine die on April 23.

Bills passed the Legislature

911 operators to PSERS

HB 1055 expands eligibility for PSERS membership and gives current public safety telecommunicators (like 911 operators) the option to remain in PERS or join PSERS 2 as a dual member of PERS and PSERS. New public safety telecommunicators will automatically be enrolled in PSERS. The bill passed the Senate unanimously on April 12 with no changes. It now goes to the Governor desk.

Military service credit

HB 1007 expand the definition of “veteran” to include those receiving an expeditionary badge for participation in an armed conflict, for the purposes of civil service laws and military service credit in public sector pensions. Interruptive military service is where an employee is called away from work for military service, and a service credit gives “veterans” pensions credit for their time away in military service. The bill has passed the Legislature and is at the Governor’s desk.

continued

Bills still needing agreement between the House and Senate

Ad hoc PERS 1 COLA

SB 5350 authorize a one-time, ad hoc 3% cost-of-living-adjustment for PERS 1 retirees, capped at \$110 per month. The bill directs the Select Committee on Pension Policy to study and recommend a permanent plan 1 COLA. It was amended in the House to delay the impact of the COLA on contribution rates until 2027 and specify that supplemental contribution rates won't be charged to pay for the COLA. The Senate refused to concur in the House amendments on April 13 and asked the House to recede.

UAAL sunset

SB 5294 replaces the current unfunded actuarially accrued liability surcharge (3.85%) with a gradually reduced UAAL schedule (<https://wacities.org/advocacy/News/advocacy-news/2023/03/10/pers-1-changes-back-on-the-hearing-schedule>) that reduces the UAAL each year until 2027 and sets a new minimum 0.5% UAAL that only kicks in when the PERS 1 account is less than fully funded. The House amended the bill to extend the scheduled UAAL (<https://wacities.org/news/2023/03/31/senate-plan-for-glide-path-away-from-unfunded-liability-surcharge-gaining-lift>) an additional year to 2028 before setting a new minimum rate of 0.25% that only kicked in when the PERS 1 account was not fully funded. The Senate refused to concur in the House's amendments on April 13, and asked the House to recede.

Retire/Rehire

HB 1056 permits PERS 2 & 3 retirees that retired under the 2008 early retirement factors to return to public employment as an employee or contractor for up to 867 hours per year without losing retirement benefits. It was voted out of the House on February 6 with a unanimous vote. It was voted unanimously out of the Senate on April 12, but with some amendments that remove the balancing recalculation of benefits for those retiring under a different set of early retirement factors that had a higher benefit reduction but allowed return to work. The House still has the concur in the Senate amendments.

continued

Public safety & criminal justice

Blake bill passes House; AWC sends message to legislators on reconciling the Senate and House versions

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

Early last Wednesday morning, the House passed **SB 5536**, keeping drug possession a misdemeanor and creating many off-ramps into treatment and services.

The bill as it passed out of the House was substantially different (https://wacities.org/docs/default-source/legislative/033123sb5536blakebillcompare.pdf?sfvrsn=6a6b264f_9) than the Senate version. In short, the House version changes the charge from a gross misdemeanor to a simple misdemeanor, adds public use of a drug to the list of potential criminal charges, creates a complicated and prescriptive diversion process, allows for judicial discretion for imposition of jail, and adds a new state preemption for drug paraphernalia regulation.

Because the Senate and House versions of the bill are substantially different, the bill will likely enter conference committee where representatives from the two chambers will meet to hash out the differences.

AWC sent the message below to legislators who are likely to be part of the conference committee on **SB 5536**. We are also sharing this with other legislators.

Cities support the need to address drug possession this session. We appreciate the thoughtful work that has occurred throughout this session on this topic. Cities have been supportive of a clear criminal penalty for drug possession with a focus on encouraging treatment related diversion options for individuals in lieu of criminal penalties and clear accountability for those who willfully opt not to accept treatment. Cities agree with efforts to ensure that individuals have multiple options to vacate convictions upon completion of recommended treatment. We have also supported further development and funding substance abuse treatment programs in our communities. We appreciate the investments in treatment and in diversion and therapeutic court programs included in the proposed budgets.

As you work to resolve the different approaches in the House and Senate adopted versions of **E2SSB 5536** we would like to share with you our preferences and concerns between the two approaches.

Criminal charge: Gross misdemeanor or misdemeanor

Cities prefer the gross misdemeanor classification of drug possession because we believe it makes it a higher priority for local resources and treatment options. We also believe that it provides more flexibility to ensure longer-term oversight and support of individuals through the process. We acknowledge that the longer oversight can be accomplished under a misdemeanor as long as the necessary process is followed, but that process is more complicated.

What is criminalized: possession and public use

Cities are comfortable with including the additional charge of public use, but request that the term public use be statutorily defined to include “actual use or actions that evidence an intent to use a controlled substance in a public place”.

Diversion options

Cities agree that diversion options that focus on treatment opportunities is the preferred approach. However, we support the Senate version that provides leeway

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for different types of diversion options that may exist in the community and would be the best fit for the individual. The House approach mandates use of the recovery navigator program that isn't yet at a stage to respond to a significant increase in caseload.

Accountability

One of the key aspects of this proposal is the treatment forward approach; however, there must be accountability for those who refuse that opportunity. While we understood the Senate approach as an attempt to break the cycle of substance abuse with predetermined sentences, AWC is comfortable with the House providing for judicial discretion on appropriate penalties.

Drug paraphernalia

The preemption on local regulation of harmful drug paraphernalia is unnecessary and limits the ability to address dangerous use of drug paraphernalia. Cities recognize the need to allow for public health programs focused on harm reduction and appreciate those provisions in both versions. We prefer the Senate's approach that doesn't preempt local action against harmful drug paraphernalia.

Vacating convictions and the role of the court

AWC supports the clarifying language in the House version that ensures that the neutral role of the court remains intact when it comes to these cases. However, we are concerned about the requirement for the prosecutor to make the motion to vacate a conviction. This adds a substantial administrative burden for prosecutors.

Pre-trial diversion and community service requirements

AWC is concerned that the pre-trial diversion program as established in the current House version is not workable in many jurisdictions which may lack the necessary resources. We prefer the Senate version of the bill, with the clarifying changes made by the House regarding the role of the prosecutor, defense, and the court.

Treatment facility siting

AWC appreciates the provision in the proposals to make opioid use disorder treatment facilities essential public facilities. But we oppose the approach of eliminating the requirement for the Department of Health to hold a public hearing. Transparency and open communication are important for the siting of these facilities.

We appreciate your consideration of city preferences on these components of **E2SSB 5536**. Attached (https://wacities.org/docs/default-source/legislative/033123sb5536blakebillcompare.pdf?sfvrsn=6a6b264f_9) is a side-by-side comparison of the two versions of the bill along with AWC's comments. If you have any questions, please feel free to contact us. We are pleased to be able to partner with the legislature on this critical topic.

continued

House passes a vehicular pursuits bill with amendments; and a round up of other public safety bills

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

A number of public safety bills moved through the legislative process last week. We have put together an abbreviated roundup of some of the bills that AWC has been tracking:

Signed into law

The Governor signed a bill expanding access for courthouse facility dogs and their handlers. HB 1077 gives courts the ability to exercise discretion in permitting a courthouse facility dog to be used in any judicial proceeding.

Governor Inslee also signed HB 1209, known as the Tyler Lee Yates Act, targeting illegal manufacturers of fentanyl pills. The bill makes it a class C felony for any person to possess, purchase, deliver, sell, or possess with intent to sell a tableting or encapsulating machine that would be used to process controlled substances.

Passed, but not over the finish line yet

The House passed a vehicular pursuits bill with amendments that will likely be sent back to the Senate for concurrence. The amendment (<https://lawfilesexext.leg.wa.gov/biennium/2023-24/Pdf/Amendments/House/5352.E AMH CSJR H1805.1.pdf>) requires a pursuing officer in a jurisdiction with fewer than 15, rather than 10, commissioned officers to request the on-call supervisor, to be notified of the pursuit. This version also requires that emergency vehicle operator training must include training on risk assessment analysis, identifying whether the person being pursued poses a serious risk of harm to others and that the safety risks of failing to apprehend the person are greater than the safety risk of the pursuit.

The current version of **SB 5352** authorizes a law enforcement officer 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. Officers must take emergency vehicle operator training that includes risk analysis.

The Senate will need to vote to concur with the House’s amendment before it can go to the Governor’s desk for signature. If the bill does go to concurrence, the Senate will have until April 23 to act.

A bill that cracks down on illegal street racing also passed the House and awaits Governor’s signature. SB 5606 arose from specific concerns in the cities of Kent and Tacoma where they have experienced an increase in dangerous illegal street racing; however, this is a challenge in many communities. The bill creates definitions for “off-street facilities” and “drifting” and encourages law enforcement agencies to undertake a public education campaign to inform the public of the unlawful nature of illegal

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racing. The bill also allows law enforcement to impound vehicles used in street racing and creates procedures for impoundment. The bill would allow law enforcement to act in certain circumstances when individuals outside the city's jurisdiction are encouraging or organizing street racing within the city.

A bill creating a Missing and Murdered Indigenous Women and People cold case investigations unit in the Attorney General's Office passed out of the Legislature and awaits Governor's signature. HB 1177 creates an investigations unit that will assist federal, municipal, county, and tribal law enforcement agencies with solving cold cases involving missing and murdered indigenous women and people. The unit may proactively offer assistance to the law enforcement agency with primary jurisdiction, but it may not investigate or assist with a criminal investigation except at the request of the law enforcement agency.

Local governments may soon have clarified authority for law enforcement agencies and local animal care and control agencies to take possession of an abused or neglected animal. HB 1234 passed the Senate last week and awaits Governor's signature. The bill clarifies authority for these agencies under the law and would authorize the forfeiture of a seized animal as a matter of law under certain circumstances. The bill also establishes a uniform petition process for a civil hearing for the return of a seized animal.

The Legislature passed several firearms bills last week. HB 1240 bans the sale of assault weapons in Washington. **HB 1143** creates new firearm permit requirements and **SB 5078** establishes firearm manufacturer responsibility, requiring firearm industry members to establish and enforce reasonable controls. **SB 5006** creates a new civil infraction for people who have firearms after filing a voluntary waiver of firearm rights.

First responders and veterans may soon be able to access psilocybin through a pilot program with the University of Washington. SB 5263 was originally intended to legalize psilocybin for therapeutic use in Washington but was scaled down over the course of the session to establishing an advisory board, interagency work group, and a task force to provide recommendations on developing a comprehensive regulatory framework for psilocybin in Washington. The bill also creates a pilot program housed at the University of Washington Department of Psychiatry and Behavioral Sciences.

A bill expanding the law enforcement community engagement project to all rural and urban counties across Washington State passed and will be sent to the Governor. SB 5561 also extends the program an additional five years to January 2029.

Did not pass

A bill that would have allowed adult entertainment nightclubs to apply for and hold a liquor license did not pass cutoff. SB 5614 contained several provisions intended to protect entertainers' safety but also would have preempted cities' ability to adopt laws, rules, ordinances, or regulations that limit or prohibit entertainers from collecting payment from customers, that regulate exposure, or prohibit physical contact with another person that would otherwise be lawful outside of the establishment. AWC is participating in a work session this week to provide feedback to the House Regulated Substances & Gaming Committee.

continued

Public works & infrastructure

Prospects are high for a statewide small works roster, more equity in public works procurement

Contact: Brandy DeLange, Brianna Morin

Changes to the public works procurement process, as introduced in **SB 5268**, are one step closer to enactment in WA. The bill removes barriers for small businesses to bid on public works projects and aims to achieve greater inclusion of women, minority, or veteran-owned businesses on small works rosters. For more background, view our latest coverage (<https://wacities.org/news/2023/03/10/wa-to-see-a-statewide-small-works-roster-and-greater-equity-in-public-works-procurement-in-senate-bill-now-moving-through-the-house>) of **SB 5268** and our summary (<https://wacities.org/news/2023/01/20/public-works-procurement-bill-to-remove-barriers-for-small-and-minority-owned-businesses>) of the bill as introduced.

The latest amendment to the bill, adopted on the House floor, requires a “state agency or authorized local government utilizing direct contracting... [to] rotate through the contractors on the appropriate small works roster...” In addition, when qualified contractors are available from the roster who may perform the work or deliver the services within the project’s given budget, the agency or local government must utilize different contractors on different projects.

The bill was further amended to require those agencies and local governments to notify small, minority, women, or veteran-owned businesses on the applicable roster when direct contracting is utilized.

AWC finds that the changes made on the House floor are consistent with the intent of the legislation and we support the bill.

SB 5268 as amended cleared the House floor by a unanimous vote. It now heads back to the Senate for concurrence.

continued

Transportation

Future of transportation revenue forecast just around the bend

Contact: Brandy DeLange, Brianna Morin

The House proposal to transfer the responsibilities for the transportation revenue forecast to the Economic and Revenue Forecast Council (ERFC) has followed a somewhat tortured path this year. Aiming to create better coordination and consistency between forecasts, **HB 1838** travelled a relatively straight path through its house of origin, only to turn circles in the Senate. Its direction remains uncertain as it returns to the House for concurrence, where the bill sponsor may or may not accept the changes made in the opposite chamber.

To track the bill's progression, read AWC's 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/2023/04/07/freight-mobility-transportation-revenue-forecast-and-bond-authority-still-in-action>).

The latest version of **HB 1838**, introduced in a striking amendment last week on the Senate floor, effects a balance between its earlier iterations. The bill:

- Changes the membership of the ERFC from four to eight legislative appointees and increases the number of votes needed for the Council to approve a forecast from five to seven.
- Creates a new Transportation Revenue Forecast Council, to adopt forecasts consistent with the requirements for the ERFC forecasts, with the following members:
 - Director of the Office of Financial Management
 - Director of the Department of Licensing
 - State Treasurer
 - Chairs and ranking members of the House and Senate Transportation Committees.
- Directs the ERFC director to support the work of the Transportation Revenue Forecast Council.
- Adds staff from the House and Senate Transportation Committees and the Department of Licensing to the ERFC work group.
- Removes references to and repeals statues related to the current process for transportation revenue forecasts, effective July 1, 2024.

HB 1838 as amended cleared the Senate floor by a unanimous vote. It returns to the House for concurrence or to be negotiated in conference committee.

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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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