From the Legislative Director

City needs are bringing legislators together

Declaring "this is the year we move forward on local government," Reps. Chris Reykdal (D-Tumwater) and Cary Condotta (R-East Wenatchee) filmed this message for you. In it, they appeal to city officials and explain how you can help what they, and others in the House, are doing to provide tools to get communities back on their feet. The legislators reflect on how they and 30 or more other House members came to realize that great schools can’t thrive without great communities, and that there are several bi-partisan common ground solutions they will promote to help cities thrive.

Their efforts and enthusiasm are mirrored across the capitol rotunda where Sens. Ann Rivers (R-La Center) and Mark Mullet (D-Issaquah) are working to band together their colleagues in a similar fashion.

These collective efforts on behalf of cities and counties are unprecedented, but not by accident. These legislators and their colleagues have heard from city and county officials around the state over the past months. The need for action on things like shared liquor and marijuana revenue needed for public safety, infrastructure funding to maintain and enhance economic vitality, and respect for local control are resonating.

Hearing about, and organizing to act on these needs, is one thing. Following through can be very difficult, especially with all of the other budget and policy issues facing them and their colleagues. With two weeks of a fifteen-week legislative session under their belts, legislators are beginning to focus in on their own priorities and deciding how and where to channel their energy. That’s why Reps. Reykdal and Condotta have asked you to help now - either from home or when you come to Olympia.

- If you haven’t already, contact your own legislators in the next few days.
- Share that there’s this quite amazing bi-partisan thing happening at the Capitol.
- If they’re a part of the new Local Government Champions Caucus, thank and encourage them!
- If they’re not, encourage them to become part of it by contacting leads in their Caucus (Reps. Reykdal(D)/Condotta(R) and Sens. Rivers(R)/Mullet(D)).

AWC’s success this session will be measured by the progress we can achieve on the issues these Champions are promoting. Having them on our side and in the lead only works with support and encouragement from home!

continued
**Budget and finance**

**Reinstating city liquor revenue**
This week AWC’s priority bill to reinstate the historic liquor profit sharing formula between the state, counties, and cities was introduced (HB 1517). AWC is very appreciative of the bi-partisan group of 23 legislators who are sponsoring this bill, including its prime sponsors, Rep. Chris Reykdahl (D-Tumwater) and Rep. Ed Orcutt (R-Kalama).

Currently, city and county distributions from the liquor revolving fund are capped at $49.4 million annually. This bill restores distributions to 50% to the state, 40% to cities, and 10% to counties and would provide cities with an estimated $20 million in additional revenue in the state’s 2015-17 biennium and $27 million in the 2017-19 biennium.

More information about the bill is available in AWC’s Maintain & Restore Shared Revenue fact sheet.

**Lively hearing on county utility tax proposal**
On January 22, the House Local Government Committee heard HB 1133, authorizing counties to impose a utility tax. The testimony was long and lively, with stakeholders weighing in on both sides. AWC testified that cities and counties each are advancing a number of fiscal bills designed to help address revenue sustainability, and legislators have asked for a variety of options in finding a path to help cities and counties manage a growing demand for services and increased population.

AWC is working with the prime sponsor, the counties, and committee staff to redraft the bill to do two things: ensure it only applies in unincorporated counties and not add a layer of utility tax on top of what cities may already impose for utility services provided. Until amendments are prepared, the bill will remain in this committee.

**House finance to hear bills on EMS levies and parks**
Next week, the House Finance Committee will consider two bills with potential impacts to cities.

HB 1550 would simplify when sales tax applies to amusement, recreation, and physical fitness services. The bill removes from statute the undefined term "amusement and recreation services" for B&O and sales tax and clarifies which specific activities are subject to tax. The bill also permanently provides a sales tax exemption for charges for the opportunity to dance. A number of cities have expressed support for this change requested by the Department of Revenue.

HB 1251 would increase the emergency medical services levy rate from 50 cents to 75 cents per $1,000 of assessed value.
Environment and land use

Eminent domain bills re-emerge

SB 5188 will be heard on January 26 and SB 5363 will be heard on January 27. Both seek to limit or clarify the use of eminent domain and prohibit its use for economic development purposes. AWC remains concerned with these bills, which have been introduced annually in recent years, because the state constitution already prohibits this use of eminent domain for economic development and by restating this prohibition in different language we unnecessarily risk introducing uncertainty and lack of clarity into this area of law.

New notice and review provisions for annexations proposed

Companion bills initiated by the state's Office of Financial Management (OFM), HB 1250 and SB 5138 are designed to save both the state and cities time and expense. As drafted, the intent is to have cities file proposed annexation area legal descriptions earlier than now required so that if OFM finds potential errors they can be fixed before the annexation ordinance is adopted. It is OFM's job to “certify” and track annexations for the state to make sure revenue distributions and other state actions reflect new boundaries created by annexations or other city boundary adjustments.

The bill was previewed with AWC prior to being introduced and with the help of legal experts, we provided input. The Senate version was considered on January 20 before the Government Operations and State Security Committee and the companion version in the House is scheduled for hearing on January 27.

Concerns have arisen that bill language implies that OFM is granted new authorities to approve or deny annexations. That was not the intent and amendatory language is being prepared to clarify that. The bill does require earlier submittal of the legal descriptions and is intended to give OFM authority to pause the process if the boundary legal description is not correct or conflicts with the accompanying map.

Cities are encouraged to look at the bill and get back to AWC's Dave Catterson if there are concerns other than clarifying OFM authorities.

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Infrastructure

Major water infrastructure investment proposal gets first hearing - Monday January 26

AWC has been engaging for several months with a group of legislators and stakeholders who are pursuing a large water infrastructure investment package focused around water supply, flood control and stormwater. AWC has approached this idea with an appreciation for the need to make large investments in infrastructure, and concerns about ensuring equity in how funds would be raised and spent. We have concerns that this latest proposal still appears to raise the bulk of its funds in the incorporated areas of the state while providing most of the beneficial investments elsewhere. But we look forward to understanding this better and discussing whether changes could be made that would make this more attractive to the cities around the state.

This proposal is funded by a per-parcel water quality fee as outlined below.

For residential parcels and undeveloped parcels the rate is:
- $35 for parcels less than or equal to one acre
- $60 for parcels greater than one acre and less than or equal to five acres
- $90 for parcels greater than five acres

For nonresidential developed parcels the rate is:
- $125 dollars for parcels less than or equal to one acre
- $250 for parcels greater than one acre and less than or equal to five acres
- $375 for parcels greater than five acres and less than or equal to 10 acres
- $500 for parcels greater than 10 acres

Property owners who own multiple parcels are taxed differently than the above, and parcels that are classified as designated forest land and timber land, and agricultural land in counties not served by irrigation districts are exempt from the fee.

The proposal will be the subject of a public hearing on January 26 at 3:30 in the Senate Ways and Means Committee.

Proposal for new tool for infrastructure investment

HB 1383 would allow cities to create an apportionment district and impose a special property tax within the district on the incremental property value increase within the district. The bill is sponsored by Rep. Larry Springer (D - Kirkland) and will be heard on Tuesday, January 27 at 1:30 pm in the Community Development, Housing & Tribal Affairs Committee. Since Washington is one of the few states where tax increment financing is not permissible, cities are always looking for ways to finance infrastructure investment.

If this a tool that would be useful for your city, please let your legislators know.
General government

Can voters get better information on the fiscal impacts of initiatives and referenda?

Following last fall’s close vote passing I-1351 (K-12 Class size), bi-partisan groups of legislators have begun to file a series of bills aimed at helping voters connect the dots between what they might like as ideas and how to pay for them. Under current law, after citizen initiatives or referenda are filed, there’s a specified amount of time for signatures to be collected to qualify for statewide consideration at the polls. The Office of Financial Management (OFM) must prepare a fiscal analysis of the impacts on state or local governments and that information is summarized in the voter pamphlet for measures that qualify.

Three bills with different approaches are up for hearing next week in the House State Government Committee. Both HB 1228 and HB 1229, scheduled for hearing on January 27, would expand requirements for information needed about fiscal impacts. On January 28, HB 1364 is being heard. That proposal creates a citizens’ initiative review oversight committee that, at a minimum, must consider the fiscal impact of up to two measures, the availability of funds to conduct the review, the significance of other impacts on the public, and other criteria established by the committee. This approach is modeled on a similar process in Oregon.

Similar measures have begun to emerge in the Senate. SB 5535 and a proposed Constitutional Amendment SJR 8201 have yet to be scheduled for hearing.

AWC has weighed in on initiative reform legislation in the past. The current AWC Statement of Policy (last reviewed and adopted at our Annual Meeting in June 2014) includes the following guidance staff will use in evaluating these emerging ideas: “Objective review of the impact of statewide ballot measures and initiatives on local governments, both before and after passage of such measures.”

For those interested, there are a number of articles from this week about this topic that can be found in our Media Time section. Stay tuned as this unfolds.
Law and justice

Public safety legislation updates

It is only week two of the 2015 legislative session but dozens of public safety bills have been introduced and are making their way through the legislative process. Here are a few of the bills AWC is paying attention to this legislative session:

Concerning unmanned aircraft, Rep. Jeff Morris (D-Mt.Vernon)

HB 1093 had a public hearing in the House Technology & Economic Development Committee On January 21. It is scheduled for executive session some time next week.

An unmanned aircraft system (UAS), more commonly known as a “drone”, is an aircraft without a human pilot on board. Drones can be used simply for pleasure, or for more serious grounds such as forest fire monitoring, weather research or by the United State military. Currently, there are very few rules and regulations governing the use of drones. In response to their growing popularity the US Congress enacted the Federal Aviation Administration Mobilization and Reform Act (FMRA) in 2012 directing the Federal Aviation Administration to establish a comprehensive plan for fully integrating drones into the national airspace by September 30, 2015. While some Washington State municipalities have passed their own drone legislation, Washington State currently has none.

HB 1093 prohibits the operation of a drone with an active sensory device (i.e. a surveillance device) except under certain circumstances. Specifically it:

- Prohibits operation of an unmanned aircraft in Washington airspace if the unmanned aircraft has an active sensory device onboard that collects personal information about any individual without the individual's consent, unless certain conditions are met.
- Establishes a criminal penalty for violation with intent to capture any type of personal information for an illicit purpose.
- Establishes a private right of action for an individual whose reasonable expectation of privacy is violated by the use of an unmanned aircraft equipped with an active sensing device.
- States that it shall not be construed as authorizing the use of, prohibiting the use of, or regulating in any manner the use of an unmanned aircraft by a public agency.
- Makes a legislative finding that the reasonable expectation of privacy of a person is violated under certain circumstances when the person whose image has been captured is on private property.

Concerning impaired driving, Rep. Klippert (R-Kennewick)

HB 1276 has a public hearing in the House Public Safety Committee today, January 23. It is scheduled for executive session January 30.

Each year a group of lawmakers revisits DUI legislation to respond to changing policy. This year it is in the form of HB 1276. Among its many provisions, HB 1276 stipulates the following:

- Requires the courts to notify the Department of Licensing (DOL) in instances where a defendant is required to use an ignition interlock device (IID) and in instances where such restrictions are lifted.

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• Requires an IID restricted driver, who has agreed not to drive, to sign an affidavit of non-driving which must be filed with the court.

• Eliminates the statutory provisions that prohibited an IID license applicant from appealing a license revocation.

• Requires IIDs to have technology capable of providing global positioning system coordinates.

• Removes statutory references to the testing of a person’s breath for purposes of determining the presence of drugs under the Implied Consent statute.

• Clarifies the statutes that prohibit law enforcement officers from testing a person’s blood suspected of driving under the influence (DUI) unless it is pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law.

• Makes it a traffic infraction for a person to have an open container of marijuana in the main compartment of a vehicle.

• Amends the definition of a “prior offense” in the Impaired Driving statute to include DUI-related offenses as they relate to being under the influence of alcohol or drugs.

• Provides that Driving Under the Influence (DUI)-related sentence enhancements are mandatory, must be served in total confinement, must run consecutively to other sentencing provisions, and are not eligible for earned release time.

• Authorizes the DOL to furnish an abstract of an individual’s driving record to an individual’s named attorney of record.

• Provides that if any person to whom the right of control for the disposition of human remains is vested has been arrested for Vehicular Homicide in connection with the decedent’s death, the right of control is relinquished.

• Requires that any sentence for a felony DUI/Physical Control (PC) offense must be served consecutively to any sentence imposed for Circumventing an IID or Operating a Motor Vehicle without a required IID.

**Making a fourth driving under the influence offense a felony, Sen. Padden (R-Spokane Valley)**

SB 5105 had a public hearing in the Senate Law & Justice Committee January 22. It is currently not scheduled for executive session.

The 2013 Legislature created an Impaired Driving Workgroup that worked throughout 2013 to develop ideas and strategies to address vehicle deaths and serious injuries related to DUI offenses. One of the strategies that came out of the committee was to lower the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony. Currently if a person has four or more prior DUI offenses within ten years they can be charged with a class C felony ranked at level V on the sentencing grid.

SB 5105 amends this provision and provides that a person may be charged with a felony DUI if the person’s criminal record includes three or more, instead of four or more, prior offenses within the applicable period (ten years).

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Addressing the scope of state fire service mobilization and ensuring compliance with existing state and federal disaster response policies, Sen. Pearson (R-Monroe) & Rep. Goodman (D-Redmond) SB 5181/HB 1389: SB 5181 had a public hearing in the Senate Government Operations & State Security Committee January 22. Its companion bill, HB 1389 was heard and passed out of the House Public Safety Committee earlier this week.

Currently the state Fire Service Resource Mobilization Plan can be implemented to provide resources from around the state when a wild land fire exceeds firefighting capacity of local jurisdictions. Non-host fire protection authorities are eligible for reimbursement of expenses when mobilized under the plan.

Following the Oso landslide a commission was formed to review the landslide and the collective response to it. Among the commission’s recommendations was that the Legislature clarify the definition of all-hazards mobilization under the plan. SB 5181 and HB 1389 do that by authorizing mobilization of risk resources regularly provided by fire departments, fire districts and regional fire protection authorities, including but not limited to wild land fires, landslides, earthquakes, floods, and contagious diseases. Non-host fire protection authorities are eligible for reimbursement of expenses if a mobilization meets requirements identified in the mobilization plan.

Marijuana

New proposal to share marijuana excise tax revenue introduced

There continues to be a flurry of marijuana related bills being introduced. Most notably this week SB 5417 was introduced which provides for revenue sharing with local governments. The proposal, sponsored by Sen. Rivers (R-La Center) is one of AWC’s priorities. The bill shares 33% of the excise tax revenue collected by the state with cities and counties per a distribution model that provides funding for jurisdictions based in-part on how much marijuana revenue is generated in their community and also in-part on a per-capita basis for criminal justice purposes. The bill only provides revenue to jurisdictions that allow for the siting of marijuana businesses. Additionally, it allows for local authority for a city to modify the 1,000 foot buffer zone around certain uses. SB 5417 hasn’t yet been scheduled for a hearing. Please encourage your Senator(s) to support this legislation and ask for a hearing in the Senate Commerce & Labor Committee.

Also introduced this week were two bills that addressed flexibility in siting marijuana businesses:

- HB 1411 allows a legislative body of a city or town to exempt certain land uses from the one thousand foot buffer from marijuana businesses if it is necessary for the creation of enough potential locations within the city or town of a marijuana retail facility and it will not negatively impact the jurisdiction’s strong regulatory enforcement, law enforcement interests, public safety or public health.

- HB 1413 reduces the buffer for marijuana businesses from 1,000 feet to 100 feet for the following uses: recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.
Another bill would add additional uses to the 1,000 foot buffer criteria. **HB 5450** adds churches, chemical dependency programs and other places where children generally congregate to the 1,000 foot buffer requirement. If passed, the new exclusions would be applied prospectively to new licensees and to renewals.

An alternative proposal to align medical and recreational marijuana was introduced by Sen. Kohl-Wells (D-Seattle) this week. **SB 5519** takes a somewhat different approach from **SB 5052** which had a public hearing on Thursday. Additionally, **SB 5519** would require a public vote for a jurisdiction to prohibit marijuana businesses. We are still reviewing the proposal, but we expect that the eventual compromise legislation will contain aspects from both bills.

**The importance of cross collaboration and data collection in the regulation of marijuana**

Last week AWC analyst Jane Wall traveled to Denver, CO to attend the Colorado Association of Chiefs of Police Conference on Marijuana and its impacts on Public Health and Safety. For a general overview of the conference check out last week’s Bulletin article here.

The conference covered an array of topics, including sessions on the importance of sector-wide cross collaboration efforts and data collection in the regulation of recreational and medical marijuana. Several local municipalities were on hand to discuss why these are so important, specifically as they relate to prevention and education efforts.

Among the municipalities to present was Denver. Denver has proven itself to be a leader when it comes to its regulation of the marijuana markets since voter approval of medical marijuana in 2000 and recreational marijuana in 2012. Specifically, Denver has adopted various laws and ordinances, as well as established an internal city framework to coordinate, regulate and enforce laws. Denver has been successful in these efforts by:

- Coordinating monthly marijuana team meetings;
- Developing an operations dashboard;
- Providing cross-trainings for inspectors;
- Educating the industry regarding city processes and regulations;
- Forming and hosting work groups on various topics; and
- Tracking enforcement actions through a central location.

The development of an operations dashboard and tracking enforcement actions have proven to be critical for Denver, and the state of Colorado, particularly when it comes to data collection. Before the approval of recreational marijuana, Colorado, like Washington, did not have a marijuana-related database for tracking metrics like DUIs, hospital visits, juvenile use, etc. This lack of tracking has prevented the establishment of a baseline, creating many challenges. Presenters could not stress enough the importance of establishing a robust tracking system and baseline.
Efforts are underway to create these in Colorado, and the collaboration involved in these efforts is impressive. Municipalities like Denver are working with the state to closely develop frameworks for data collection. The agencies and departments involved in these efforts include:

- Community planning and development: zoning, permitting, licensing, public hearings;
- Environmental health agencies;
- Fire departments: inspections;
- Police: enforcement, public safety, trainings;
- Public health departments;
- Education;
- Department of Revenue;
- Budget & Management Office;
- Department of Criminal Justice;
- Department of Transportation;
- Marijuana Enforcement Division;
- Governor’s Office;
- Hospitals;
- Researchers;
- Nonprofits

In addition to these efforts a comprehensive report (attached pdf) was published by the Colorado Governor’s office in October 2014 to assess CO’s existing data management capabilities. The report identified a number of high priority recommendations and corresponding actions for the state to pursue in the immediate and near-term futures.

This report, in conjunction with Colorado’s collaborative model, may prove especially useful to Washington and other states as we work to develop our own systems that will allow us to most efficiently regulate the medical and recreational marijuana industries and target investments in prevention, treatment and education campaigns.

**Personnel**

**Legislators to hear personnel bills**

Last week we said to expect many personnel bills in the coming weeks, and this week did not disappoint. Numerous bills have been scheduled for hearings next week, and here’s a few that could impact cities:

- **HB 1163** requires employers to grant no less than two hours of paid vacation leave for every 40 hours worked by an employee.

- **HB 1194** allows a surviving spouse of a LEOFF 1 or 2 member killed in the line of duty to continue receiving worker’s compensation benefits even if the surviving spouse remarries.

- **HB 1273** makes a number of changes to the state’s Family and Medical Leave Act, including increasing the amount of leave an employee may take under some circumstances, requiring employer contributions to fund a statewide paid family leave program, and providing a formula for calculating the amount of employee paid leave.

- **HB 1354** establishes the Employee Anti-Retaliation Act, which establishes a new cause of action and penalties against an employer who violates employee wage and hour rights.
• HB 1356 establishes minimum paid employee sick leave based on the size of the employer.

• SB 5329 requires contract negotiations with employee organizations to be conducted in an open meeting.

If you have feedback or questions on these bills, please contact AWC’s Candice Bock or Serena Dolly.

**Transportation**

**Transportation local options bill Introduced in the House**

Representative Joan McBride (D-Kirkland), former mayor of Kirkland, has introduced HB 1593, which would give cities an array of new local revenue authorities. The bill:

- Increases the Transportation Benefit District (TBD) councilmanic motor vehicle fee authority from $20 to $50.
- Allows a city to assume the administrative functions of a TBD entirely within its borders.
- Eases formation of multi-jurisdictional TBDs.
- Makes the TBD sales tax authority councilmanic rather than voter-approved.
- Authorizes cities to form transportation utilities (similar to street maintenance utility proposals of years past).

The bill has not been scheduled for hearing yet, but a public hearing will be a great opportunity for cities to share the urgency of finding ways to fund transportation at the local level. A Senate version should be introduced in the next week. Please tell your legislators to support these bills and give them specific examples of transportation investments that could be made in your community if you were given new revenue authority.

**Feedback needed on bill regulating ride-sharing companies**

Senator Cyrus Habib (D-Kirkland) has introduced SB 5550, which would provide for statewide regulation of "commercial transportation services" - defined as a company that uses a digital network or software application to connect passengers to drivers for the purpose of providing transportation. The bill establishes a regulatory structure housed in the state Department of Licensing.

The bill preempts local governments from prohibiting ride-sharing companies in their jurisdictions or from adopting ordinances that are in conflict with the state law. Local governments also may not require a company to obtain any additional approval, such as a permit or license, before operating within the jurisdiction. That does not, however, apply to standard business licenses and the levying of business related taxes at the local level. The bill authorizes the Department of Licensing to disburse funds to local governments for enforcement costs, but it is unclear how much would actually be available for local governments.

AWC is interested in getting feedback from cities on this bill. Please send your comments to Alison Hellberg.
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 directly.

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