From the Legislative Director

As a slew of city friendly and unfriendly bills reach critical cutoff hometown voices need to weigh in

Within our weekly Legislative Bulletin over the past five weeks of this 15 week legislative session, AWC has reported on more than 120 bills covering a wide range of topic areas impacting cities and towns - in ways both positive and negative. Next week, legislators face their first mandatory cut-off at 5 pm on Friday, February 20. By then, of the 2153 bills introduced so far, Senate and House Committees must decide which ones move forward for further consideration and which ones remain someone’s good idea available to consider another time.

Of course, there are exceptions to this deadline. Bills deemed “necessary to implement the budget” (NTIB) are exempt. Several of AWC’s priority bills fall within this category, such as those relating to liquor or marijuana revenue and public works assistance account funding. Also exempt for another week are policy bills under consideration in Senate and House Transportation committees. A few AWC priority bills are also before these committees.

Because next week is a “make or break” one for a significant number of policy bills, it’s fortuitous that over 300 city officials are coming to Olympia for several days mid-week to learn about key issues and to talk to their legislators about them. We’ll be preparing a hot sheet of key bills of interest they can use while in town. For those of you not in town, we will distribute it to all cities on Tuesday morning, February 17, so you too can help connect with your legislators directly on issues that interest you. If you’d consider taking a few minutes to dial or e-mail your representatives, it does make a difference and helps cities across the state!

Within this edition of our Bulletin, you’ll find updated information about bills scheduled for hearings next week, as well as some updates on key bills of interest. Probably the biggest news coming out of session so far is that the Senate appears poised to consider, and hopefully pass, a significant and comprehensive transportation package that AWC and most cities have been urging the Legislature to act on. Go here for details, and remember this is just the first step in a process. The House may have some different ideas, and the Governor has a role to play. That said, we are very encouraged and appreciative of Senate transportation leaders in both parties and are confident their counterparts in the House will actively work to move forward on this critical issue.

Thanks and see many of you in Olympia next week!
Budget and finance

Public safety sales tax distribution

SB 5866 would allow a county to retain all of the public safety sales tax if it begins imposing the tax after July 1, 2015.

In 2003, counties were given authority to impose a 3/10 percent sales tax with voter approval. The county retains 60% of the revenue, and cities receive the other 40% on a per capita basis. One-third of the revenue must be used for public safety.

Beginning January 1, 2011, cities were authorized to impose a 1/10 percent public safety sales tax if the county declined to impose their 3/10 authority. The city retains 85% of the revenue, and the county receives the other 15%.

As of January 1, 2015, nine counties (Benton, Franklin, Jefferson, Kittitas, San Juan, Skagit, Spokane, Walla Walla, and Yakima) were imposing the full 3/10. Whatcom County imposes 1/10.

Fourteen cities impose the authorized 1/10: Ephrata, LaConner, Leavenworth, Mill Creek, Monroe, Okanogan, Olympia, Roy, Sequim, Sedro-Woolley, Shelton, Twisp, Winthrop, and Woodland.

SB 5866 would retain the provision that a city imposing the tax must share 15% with the county. AWC will testify in opposition at a Senate Government Operations & Security Committee hearing on Tuesday, February 17 at 10am.

Imposing fines and withholding taxes to local jurisdictions not filing annual financial reports

Last month, the Washington State Auditor’s Office (SAO) issued a special report about local governments that do not file their annual financial reports. The report found that 611 local governments did not file their financial report with SAO in 2013.

In response to that report, Rep. Ross Hunter (D-Medina) is sponsoring HB 2084, which imposes fines and withholds taxes to certain local governments who fail to file their annual financial reports with SAO.

Most of the proposal applies only to special purpose districts, and it specifically excludes cities, towns, and counties. However, all local governments, including cities and towns, failing to file their financial report within 150 days of the close of the fiscal year would be subject to a $500 fine.

In addition, the bill requires SAO to notify the state and county treasurers each October 1 of which special purpose districts have not filed their annual financial reports. The treasurers would be required to withhold property and sales tax distributions until the filing is made. If a special district has not filed a report for two consecutive years, the county must initiate the dissolution or disincorporation process.

The House Local Government Committee will hear the proposal on Tuesday, February 17 at 10am.
Environment and land use

Preemption of certain restriction on mobile or manufactured home parks
SB 5869 from Senator Sheldon D-Potlatch) prohibits cities from restricting the location of a manufactured/mobile home based on current fire/safety reasons if the community met the life/safety standards in place at the time it was originally permitted. If this is a concern please contact Carl Schroeder.

Vesting rights for land use and building permits
The bill to reinstate the common law vested rights doctrine seemed to be stalled out until being scheduled for a hearing on February 17 (SB 5921) in the Senate and February 18 in the House (HB 1394).

AWC has been discussing these bills with municipal attorneys throughout session and our basic position is this: Irrespective of the policy decisions about whether Washington’s very developer-friendly vesting laws are appropriate, these proposals turn over several years of case law and re-insert a great deal of uncertainty into the process. We are willing to have a discussion about which types of permits vest, but are opposed to open ended proposals that further confuse an already confusing area of law.

Limitations on city authority over the hosting of the homeless by religious organizations
HB 2086 proposes several new limitations on city authority over these issues, including preempting certain time limitations, number of simultaneous religious organizations hosting encampments, and parking related issues. Sponsors have reached out to some cities and received positive feedback that this approach would be supportable. Please take a look and contact Carl Schroeder with any thoughts.

Status report coming into cutoff week
In the environmental and land use arenas it has been a busy five weeks of session. As we approach the policy committee cutoff, the deadline before which policy bills must leave their first committee or else they are dead, we wanted to provide a quick snapshot of where the bills we’ve discussed so far stand. Remember, nothing is really dead until the legislature leaves town, but this is the best information we have as of right now.

Septic to sewer conversions: The bills (HB 1102, SB 5055) proposing to require cities to pay for all costs associated with mandated sewer connections when septic systems fail in certain circumstances has been put down. They have been replaced by bills, HB 2010 and SB 5871 requiring cities to offer an appeal process for homeowners caught in these rare circumstances. AWC has been negotiating with the proponents and all sides have agreed on these replacement bills. They have been heard and moved out of policy committee.

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Water/sewer district referendum bills: SB 5048 and HB 1417 have both passed out of committee over AWC objections. AWC and involved cities have asked for four amendments, and interestingly both chamber have adopted a different suite of those amendments.

- Requiring the vote on the referendum to be voted on only by citizens living in the area proposed for the assumption, as opposed to the entire water/sewer district as in the original bill. The Senate committee adopted this amendment.
- Setting the signature threshold to 15% of the registered voters in the area, as opposed to 10% of the voters in the last election as in the original bill. The House adopted this amendment.
- Setting the timeline to connect signatures at 30 days (instead of 90). The House adopted this amendment.
- Excluding mutually agreed upon assumptions from this referendum process. The Senate adopted this amendment, we expect the House to do so on the floor.

The Senate also adopted two additional changes not asked for by cities, one requiring a voter pamphlet be prepared and another subjecting assumption ordinances adopted on or after January 1, 2014 to the referendum process.

**Authorizing local governments to opt into judicial review of GMA appeals.**

HB 1158 has been heard but so far has not been scheduled for action in the House Local Government committee.

**What we have often referred to as the “Tiny Home” bill, HB 1123** would eliminate state building code minimum room sizes has moved from committee. We expected an agreed upon amendment to retain the minimum room size but eliminate the ability of jurisdictions to set minimum building sizes to be accepted. The bill moved without that amendment and we are working with the sponsor to offer it on the floor.

**Eminent domain bills** that would preclude the use of eminent domain for economic development purposes, SB 5188 and SB 5363, have both passed out of committee over AWC objections. Our concern is that these uses are already prohibited and these bills introduce new confusion to an already settled area of law.

**Water infrastructure bill,** SB 5628 dealing with a major investment of water infrastructure across three major categories of supply, flooding and stormwater has been heard but remains in committee. This proposal is exempt from the cutoffs as a budget proposal and won’t likely move for some time.

**The Governor’s toxic reduction proposal, HB 1472,** addressing non-point pollutants before they enter the environment (and our sewer and stormwater systems) has been heard in the House, and we expect it will move before the cutoff.

**OFM’s annexation process bills,** HB 1250 and SB 5138 have been heard in committee’s in both houses. The bill has been amended and passed from the Senate committee and is scheduled to move from the House committee next week.

Several bills that were heard this week remain available for committee action and action is expected including Latecomer Fees (HB 1911) expedited bridge permitting (HB 1851) and unfortunately the impact fee deferral bill (HB 1709).
Annexation bills of concern

Several bills aimed at changing how cities annex lands have been introduced and placed on the House Local Government Committee’s agenda. All are available for Committee action next week. None of them are supported by AWC and some are worse than others. Their fates are unclear and we’d encourage cities with concerns to contact members of the Committee.

**HB 1848**, a measure sponsored solely by Rep. Joe Schmick (R-Colfax) would eliminate the decades old petition-method of annexation that has been available and widely used by cities since 1945. Under provisions of the bill heard in Committee on February 12, even if a city has property-owner petitions representing at least 60% of the assessed valuation of an area, annexation may not occur unless voted on by at least 60% of the area residents. Furthermore, such an election must include at least 40% of the area’s voters who participated in the last election.

AWC testified against the measure and noted that if enacted, not only would it be a significant policy shift and could discourage annexation, development and extension of city utilities outside city boundaries, but would also call into question the legality of hundreds, if not thousands of legal pre-annexation agreements on file in cities and towns across the state. Surely litigation would follow. Along with a spokesperson from Pasco, we supported the idea of requiring disclosure of underlying pre-annexation agreements during the sale of property - something real estate and lending institution interests have objected to.

**HB 2074**, a measure sponsored by Rep. Jake Fey (D-Tacoma), would purportedly allow one city to annex a part of another city without that other city’s agreement. The bill has been filed without content. It is apparently aimed at sending a message and encouraging conflict resolution as a result of a very public dispute between the town of Ruston (adjacent to Tacoma) and the owners and developers of Point Ruston - a major mixed used project on the site of an old arsenic factory on the Puget Sound. It is scheduled for hearing on February 17 at 10 am before the House Local Government Committee. If actually heard, AWC will testify in opposition. Boundary changes between cities need agreement of both cities.

**HB 2122**, a measure sponsored solely by Rep. Ross Hunter (D-Medina), would require cities to annex within 10 years, those “urban islands” that are surrounded by one or more cities, including if bordered by a lake or other water body. The bill apparently stems from a draft circulated from Pierce County which was aimed at encouraging or requiring cities to annex areas that are often difficult to make part of a city, either because area residents don’t want to be annexed or the cost of annexing is too high. Rep. Hunter has long been a proponent of more logical boundaries and service provision and may have introduced this to foster a discussion on how to get there. It’s scheduled for hearing before the House Local Government Committee on February 17 at 10 am and AWC will testify both with concerns and interest. If the Legislature thinks it is so important for these areas to be annexed, why not either wave a magic wand and make it happen, or look at incentives for cities to do so. One idea we’ll suggest is authorizing a new real estate excise tax to help upgrade infrastructure and services in these areas.

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Law and justice

Justice Reinvestment Initiative bill addressed in work session

Governor Inslee’s Justice Reinvestment Initiative was the subject of a work session, Thursday, February 12, in the House Appropriations Committee. Marshall Clement, Director of State Initiatives from the Council of State Government Justice Center (CSG), was on hand for the presentation.

The Justice Reinvestment Initiative, launched by the U.S. Department of Justice’s Bureau of Justice Assistance (BJA) in 2010, seeks to use a data-driven approach to improve public safety, examine corrections and related criminal justice spending, and reinvest savings in strategies that can hold offenders accountable, decrease crime, and strengthen neighborhoods around the nation.

In June 2014, Governor Jay Inslee signed an executive order creating a bipartisan Justice Reinvestment Task Force. Over the course of the summer and fall the task force met to analyze current criminal justice trends in Washington and examined ways to reduce crime and recidivism, effectively leverage public safety dollars and increase public safety in our communities. The CSG, in partnership with The Pew Charitable Trusts and the BJA, provided on-the-ground technical assistance to the task force.

In December the task force released its final report. Among its many findings it reported Washington as having the highest reported property crime rate in the country, but also the only state in the nation where supervision is not available as a sentence for most people convicted of property offenses. This is despite evidence that shows the positive impacts supervision can have on reducing the likelihood of reoffending. The full report and the task force’s recommendations can be found here.

Out of this task force came the drafting of HB 1885/SB 5755. Sponsored by Representative Brad Klippert (R-Kennewick) and Senator James Hargrove (R-Hoquiam). These companion bills:

• Create a new felony property offense sentencing grid with reduced standard ranges;

• Impose 12 months of community custody for a felony property offense when the offender has an offender score of two or more;

• Create the Washington Justice Commission (WJC) to assume the duties of the Sentencing Guidelines Commission and administer grant programs;

• Appropriate monies to the Department of Corrections to fund community supervision of property offenders, community violator bed impacts, and mental health and cognitive behavior treatment and services; and for law enforcement property crime reduction grants, county pretrial improvement grants, new victim compensation benefits for victims of property crimes, victim notification programs in King, Pierce, and Snohomish counties; and

• Provide a sunset review and termination of the WJC and the sentencing provisions for property crimes.

HB 1885 had a public hearing in the House Public Safety Committee on February 11 and is scheduled for executive session in that same committee on February 20. SB 5755 is scheduled for public hearing in the Senate Law & Justice Committee on February 16 at 1:30 pm.

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Marijuana

Call for action on SB 5417 sharing marijuana excise tax revenue

AWC’s priority marijuana revenue sharing bill, SB 5417, is still awaiting executive action in the Senate Commerce & Labor Committee. The bill needs to be voted on by the committee by Friday, February 20 to continue to advance. Please contact members of the committee and urge them to bring the bill up for a vote and advance the bill out of committee. Also ask your local Senator to talk to members of the Committee to urge their action.

SB 5052, which regulates medical marijuana has moved out of the Senate Ways & Means Committee and awaits action by the full Senate. AWC supports this approach to regulation and urges passage.

House proposes omnibus marijuana act

Last week the House introduced an omnibus marijuana act, HB 1461, which consisted of 18 different House bills. A scaled down proposed substitute to the omnibus bill is now up for consideration. Among its many provisions, the following are of most significance to cities.

State preemption of local governments

- Under HB 1461 the State fully occupies and preempts the entire field of the regulation of the production, processing, and retail sale of recreational marijuana. The governing body of a city, town, or county is barred from adopting any ordinance that prohibits or precludes the siting of such businesses. However, cities, towns, and counties retain the following powers:
  - Zoning authority regarding the siting of licensed marijuana businesses;
  - The authority to adopt or retain a generally applicable prohibition of commercial plant growing, plant and food-product processing, and retail uses; and
  - The authority to adopt and enforce other ordinances generally applying to other businesses, such as licensing or permitting.
- Any city, town, or county can prohibit the production, processing, and retail sale of marijuana by public vote.

Revised buffer distances between marijuana businesses and facilities

- Amends the 1,000 foot minimum distance requirement between a licensed marijuana business and a recreation center, child care center, public park, public transit center, library, or game arcade that is open to those under 21 years of age to 100 feet. The 1,000-foot minimum distance requirement with regard to schools and playgrounds remains unchanged. An additional proposed amendment to this section would allow for local flexibility to reduce the buffer from 1,000 feet to as low as 100 feet from all uses except schools and playgrounds.

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Taxation

- The 25% excise tax imposed upon producers and processors is eliminated. Retail sales are subject to an excise tax of 30% of the selling price on each sale of marijuana and marijuana products.
- The tax must be paid by the buyer to the retailer, and the retailer holds such tax proceeds in trust until such time as the retailer remits the proceeds to the LCB.

Medical marijuana provisions

- Requires the Liquor Control Board (LCB) to adopt rules for the licensing and regulation of the production, processing, and retail sale of medical marijuana by September 30, 2015.
- Only those properly licensed by the LCB may engage in commercial activity involving the sale, delivery, or transfer of medical marijuana or products.

Public consumption

- Prohibits public consumption of marijuana or marijuana products. “Public place” has the same definition as in liquor control statutes, except that consumption in state parks and on brewery and winery grounds is not permitted. A violation is a class 3 civil infraction, punishable by a fine of $50, plus applicable local fines.

Eradication of illegal marijuana production

- Using funds allocated to it by I-502, the LCB must contract with one or more state or local law enforcement agencies to support the locating and eradication of illegal marijuana production. The contract must prioritize illegal production on public lands and require notification of federal agencies.

The proposed amendment was up for executive action on Thursday, February 12, but the committee did not take action at that time. We are monitoring this bill closely as some of these provisions are of concern to cities.

LCB issues emergency revisions to recreational marijuana rules

Earlier this week the Liquor Control Board (LCB) issued emergency rules with the Code Reviser’s office to revise current recreational marijuana rules. These revisions included:

- **WAC 314-55-017 Conditional sales prohibited.** Some licensees are engaging in the practice of conditional sale or “bundling.” Bundling occurs, for example, when a customer purchases a lighter for $20 which includes the purchase of 1 gram of marijuana for two dollars to avoid paying the requisite taxes on the marijuana. This practice is now prohibited and the selling price of marijuana products must be indicative of their true value without any other products or services.

- **WAC 314-55-018 Prohibited practices - Money advances—Contracts—Gifts—Rebates, etc.** Further defines practices that licensees are prohibited from engaging in.
• Amended WAC 314-55-077 - Marijuana processor license and the requirements and fees related to a marijuana processor license. Further revisions were made regarding marijuana infused edible packaging and labeling.
  • Requires marijuana-infused edible solids with more than one serving to have each serving individually packaged in child proof packaging within the outer package.
  • Requires marijuana-infused edible liquids with more than one serving to include a measuring device in the package.
  • Added brightly colored products to the list of products especially appealing to children.

The rules took effect February 11, 2015 and will expire June 11, 2015.

Federal study concludes drivers who have used pot no more dangerous than sober drivers
In a surprising study by the National Highway Traffic Safety Administration it was found marijuana users are not at a greater risk to crash than sober drivers. Not surprisingly, the study also found drivers who have been drinking are much more likely to crash than those who are sober.

In Washington more drivers are being tested for THC DUIs than in the past. However, according to the Washington State Patrol, it is still too early to know what data is statistically relevant and how to determine what other factors might be affecting the data.

To review the full article and access the National Highway Traffic Safety report visit the link here.

Personnel
AWC to oppose expansion of interest arbitration and mandatory deferred compensation
Next week AWC will testify against three proposals that could impact city budgets and personnel policies.

On Monday, the House Labor Committee will hear two proposals that expand binding interest arbitration. **HB 1122** would extend binding interest arbitration to all fire, police, and emergency dispatchers. **HB 1230** would allow the Public Employment Relations Commission to order binding interest arbitration in the case of an unfair labor practice. Due to the high costs associated with interest arbitration, AWC opposes any attempt at expansion.

On Tuesday, the Senate Ways & Means Committee will hear **SB 5435**, which requires all cities and counties participating in state retirement systems to offer the state’s deferred compensation program. Currently, cities have the option to offer the state’s program, another program, or no program, and some cities have exclusivity agreements with private deferred compensation programs in place. AWC will oppose this state mandate.
Transportation

Bipartisan Senate transportation proposal released

A bipartisan Senate foursome released a transportation revenue proposal on the afternoon of Thursday, February 12. Senator Curtis King (R-Yakima), Steve Hobbs (D-Lake Stevens), Joe Fain (R-Auburn), and Marko Liias (D-Lynnwood) presented the proposal and took questions at a press conference. AWC is encouraged by this important first step and supportive of this proposal and the work of the bipartisan group of senators. The revenue proposal is accompanied by a series of reform proposals. The senators indicated during the press conference that they had agreement on most, but not all of the reforms.

A hearing on the reform proposals is scheduled in the Senate Transportation Committee on Tuesday, February 17 and a hearing on the revenue proposal on Wednesday, February 18. AWC Board members will be testifying at both hearings. These hearings coincide with City Action Days so many city officials will also choose to testify. While we want a strong public showing of support, it is even more important that you talk to your senators and encourage to keep this bill moving. This is a big vote for senators so they need your support.

Links to the transportation revenue proposal:
- Balance sheet (summary of revenues and expenditures)
- Project list
- Summary of reform proposals

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.

Call AWC at (360) 753-4137 or 1-800-562-8981

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