



Legislative Bulletin

February 17, 2012

From the Legislative Director

There may be some glimmer of good news in Olympia for some, but not for cities

The reports from Olympia are true. Yesterday's revenue forecast gave us slightly better news than expected and the most vulnerable – education and social service safety net programs – perhaps can sigh with tentative relief as cuts may not be as devastating as first feared.

Not so for cities. City shared revenues that help pay for public safety and infrastructure are still at risk. We still are looking at a major budget shortfall.

It's hard to pin down accurately what may or may not be cut for cities. We really won't know until the House budget is released, rumored to occur Tuesday, February 21 or later. A Senate version is expected to emerge soon after. It's morphed into a more bi-partisan document (by political necessity with a slim Democratic working majority in the Senate) and may reflect less severe city cuts. The two versions will be reconciled with each other.

Keep up the chorus **“Please minimize the cuts and match them with savings.”** Call or e-mail your legislator before mid-week to share your concerns. (See the AWC Board letter to legislative and budget leadership or use your own city stories.) Timing is everything and you are making an impact.

We are sure both budgets will still include cuts to city-shared revenues. Some or all of the nearly \$100 million shared with cities annually remains vulnerable:

- \$51.5 million in shared liquor revenues distributed on a per capita basis:
 - \$31.5 million from profits (an amount we think is protected because of passage of the Liquor Privatization Initiative I-1183).
 - \$20 million in taxes (not specifically protected in I-1183)
- \$12 million in municipal criminal justice funding (mostly per capita) to help fund public safety.
- \$6.6 million in assistance to low tax base cities and towns (this amount is now just 10% of what was once available through motor vehicle excise taxes).
- \$13 million in streamlined sales tax mitigation payments to some cities who lost significant revenue when sales tax sourcing was changed in 2007 from point of origin to point of destination; and
- \$14 million in sales tax credits to Central Puget Sound cities that annex revenue-deficient areas of 10,000 or more people – funds used to help offset service delivery costs for 10 or fewer years.

Other revenue used to help pay public employee pensions could also be at risk, as could numerous accounts established to provide grants or low-interest loans to build and maintain critical city infrastructure.

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This coming week is the last time bills will be heard in a policy committee and it's also the last time to constructively weigh in on policy bills. Please review the *Bulletin* for bills that are still alive and let us know your concerns, opinions.

One final thought: Your AWC lobbying team can't deliver messages to all 147 legislators as thoroughly as you can. We're working hard to protect your interests, but your community stories are much more effective. Your voices are needed now!

Municipal finance

Update: *Sprint Spectrum v. WA State Department of Revenue*

On May 16, 2011, Sprint Spectrum prevailed in a Thurston County court case centering on whether or not Sprint Spectrum was entitled to the residential phone service sales tax exemption. Historically, the Department of Revenue (DOR) has taken the position that only local landline services regulated by the Washington Utilities and Transportation Commission were entitled to this sales tax deduction, not cellular service. However, Thurston County agreed with Sprint Spectrum and said they were entitled to the deduction or exemption from sales tax. DOR appealed the decision. If the current decision was sustained on appeal, the revenue impact would be significant – approximately \$250 million in local sales tax collection refunds in addition to potential ongoing loss of local sales tax revenue.

We learned that last week, the Thurston County Superior Court judge vacated the order of appeal after negotiations involving both DOR and Sprint Spectrum. DOR expects the vacation will be finalized in the next week or two.

The vacation of the decision brings us back to the status quo, meaning DOR would still interpret cellular phones as ineligible for the residential phone sales tax exemption.

HB 2128 was introduced during last November's special session as a remedy to a court decision. DOR is still determining whether the bill needs to be pursued this session to clarify the ongoing application of sales tax to cellular phones.

For more information, contact Victoria Lincoln or Sheri Sawyer.

Lodging tax

SSB 6446 would have extended the expiration date for the expanded uses of the lodging tax and reporting requirements. Unfortunately, this bill did not survive the February 14 cutoff and is considered dead for the session. Thanks to those of you who contacted your senator and asked them to support this bill. AWC will be coordinating data collection in the interim to better substantiate the need for an extension. No doubt we will work this issue again next legislative session.

For more information, contact Victoria Lincoln or Sheri Sawyer.

Authorizing benefit charges for the enhancement of fire protection services

AWC supports **SHB 2615** and **ESSB 6470**, both authorizing cities and towns to fix and impose a benefit charge for enhancement of fire protection services on personal property and improvements to real property. The bill only applies to cities and towns that have annexed since 2006 or are annexing all or part of a fire protection district.

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Each passed out of its respective chamber. **SHB 2615** was referred to the Senate Government Operations, Tribal Relations & Elections Committee. **ESSB 6470** is scheduled for public hearing in the House Local Government Committee on February 21 at 10 am.

For more information, contact Candice Bock or Sheri Sawyer.

Voting requirements for EMS levies

SSB 5381 and **HB 2474** eliminate the supermajority vote requirement to reauthorize six- and ten-year emergency medical services levies. Both bills passed their respective chambers and were referred to the Ways & Means Committee in the opposite House.

SSB 5381 is scheduled for a public hearing on Monday, February 20, at 3:30 pm.

For more information, contact Candice Bock or Sheri Sawyer.

Joint select committee on junior taxing districts

EHB 2602 establishes a joint select committee (committee) on junior taxing districts.

The term "junior taxing district" includes all taxing districts other than the state, counties, cities, towns, and school districts. Committee membership include a variety of perspectives:

- Each legislative leader of the two largest political parties of the Legislature will appoint one voting member.
- The Speaker of the House of Representatives and the President of the Senate will jointly appoint two nonvoting members.
- The Governor will appoint one voting member.

Appointments are to be made by July 1, 2012. The committee will choose its chair from among its legislative membership. The initial committee meeting will be convened by the appointee from the majority caucus of the House of Representatives.

Purpose and responsibilities

The committee reviews junior taxing districts, evaluates their provided services, and makes recommendations regarding their appropriateness for consolidation into a general purpose local government, such as a city or county. The committee will look for relevant information and advice from:

- Organizations representing counties, cities, and junior taxing districts
- Counties, cities, and junior taxing districts
- Department of Revenue
- State Auditor
- Office of the Attorney General

The committee is required to report their findings and recommendations, in the form of draft legislation, to the Governor and to the House and Senate Ways & Means committees (or their successor committees). The committee must submit its findings and recommendations by November 1, 2012.

The bill passed the House and is scheduled for public hearing in the Senate Government Operations, Tribal Relations & Elections Committee on February 21 at 1:30 pm.

For more information, contact Dave Williams.

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Personnel & labor relations

Pensions and the state budget

Pension proposals continue and are part of the mix as the state looks at options to balance the budget. As a reminder, the Governor's proposed budget included a proposal to fund LEOFF 2 at 80 percent of the LEOFF 2 Board's adopted contribution rate. If included in the Legislature's budget, it would result in \$18 million in reduced state contributions (avoided costs), \$27 million in reduced contributions by cities and counties, and \$45 million in reduced contributions from employees. (These estimates would change depending on when legislation takes effect.)

For more information, contact Ashley Probart of Sheri Sawyer.

LEOFF Plan 1 and Plan 2 merger

Last year's budget included a proviso to study a LEOFF Plan 1 and LEOFF Plan 2 merger. The study provided information and scenarios, but did not come up with a definitive recommendation on whether or not to merge the plans. However, **SB 6563** and **HB 2350** have been introduced to merge the plans.

As proposed, these bills:

- Merge Plan 1 and Plan 2 of the Law Enforcement Officers' and Firefighters' retirement system.
- Do not change the benefits that LEOFF 1 and LEOFF 2 member are eligible for.
- Immediately suspend state contributions to LEOFF 2 upon passage of the bill for the remainder of the 2011-13 biennium. There is no reduction in employer or member rates.

HB 2350 has not been scheduled for public hearing; however, AWC testified with the following concerns on **SB 6563** at the Senate Ways & Means Committee public hearing on February 16:

- **Cost relief/revenue sharing:** AWC has had a longstanding policy of supporting predictable and solvent pension programs. **SB 6563** enables the state to provide zero contributions for the remainder of the biennium – approximately \$70 million savings to the state. Based on the fiscal note, this suggests that the merged pension fund of **SB 6563** or the LEOFF 2 pension fund is robust enough to absorb this reduced contribution and still meet its obligations to retirees today and into the future. We would note that local governments contribute 30 percent to the pension fund. We would request either:
 - A reduced local contribution rate commensurate with our share of the \$70 million (approximately \$21 million to local governments) for the remainder of the biennium; or
 - A portion of the funds to meet our LEOFF 1 medical obligations.
- **Costs appear to shift to local governments and employees:** The fiscal note states: "Under the merger, 80 percent of the cost of any future LEOFF 1 unfunded liability transfers from the state to LEOFF 2 members and LEOFF employers." Although the fiscal note data projects some increased costs to locals, caveats such as these cause strong concern for cities. At a minimum, the bill should be amended to require the state to retain a financial stake in unfunded liabilities as well. Inclusion of shared LEOFF 1 medical costs should also be considered.
- **Board composition:** The current board composition is three local government representatives and six employees (plus two legislators). We would want a board that better reflects employers.

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- **Legislative oversight:** Under this proposal, the Legislature may not revise adopted assumptions, actuarial tables, etc., if they are certified by the state actuary. It seems prudent to ensure the Legislature has more direct involvement with LEOFF 1 and LEOFF 2 Plans beyond the assignment of two state legislators to the board.

AWC appreciates the balancing of competing state priorities and the responsibility of managing pensions for our public employees. We are hopeful that we can continue to work with stakeholders on pension bills such as this one and build on pension reforms that were introduced last legislative session.

The hearing was heated, to say the least. Most retired LEOFF 1 members testified in strong opposition to the proposal, particularly with concerns over the specter of eliminating disability boards and representation on the committee. The Washington State Council of Firefighters testified in support.

For more information, contact Ashley Probart or Sheri Sawyer.

Addressing the use of overtime when calculating pensions – BT SB 6543

Similar to **HB 2441**, **SB 6543** would revise the definition of "excess compensation" with the intent of limiting the impact of excess compensation on state retirement system contribution rates.

This bill basically states that if an employee works more than 150% of their base salary, the employee and the employer are required to compensate the retirement system for anything over the 150%. The philosophy is that the entire employee/employer pool should not have to subsidize these employees.

In the Senate Ways & Means Committee public hearing on February 16, AWC signed in support of **SB 6543**. **HB 2441** passed the House and was referred to the Senate Ways & Means Committee.

For more information, contact Ashley Probart.

Membership on city disability boards

HB 2697 authorizes the election of a second employee representative to a Law Enforcement Officers' and Fire Fighters' Retirement System Plan I city disability board by law enforcement officers eligible to vote if there are no firefighters under the jurisdiction of the board eligible to vote.

The bill passed out of the House on February 13 and was referred to the Senate Government Operations, Tribal Relations & Elections Committee. For more information, contact Candice Bock or Sheri Sawyer.

Employment status

SSB 6228 prohibits an employer from knowingly or purposefully publishing any provision stating that qualifications for a job include current employment, or that the employer will not consider or review applications from currently unemployed persons. Employers who violate the statute are subject to a civil monetary penalty.

The bill did not survive this week's cutoff and is considered dead for the session. For more information, contact Candice Bock or Sheri Sawyer.

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Transportation

Local transportation revenue bill moving

The Senate passed **SSB 6582** on a 25-24 vote and now it is scheduled for a hearing on Tuesday, Feb. 21 in the House Transportation Committee. To keep the momentum going, we need you to contact your legislator on the House Transportation Committee and request passage of this important bill. The House bill, **SHB 2751** is considered “necessary to implement the budget” and resides in House Rules. To see a summary and comparison of the bills, please click [here](#).

For more information, contact Ashley Probart.

House Transportation Budget released

PSHB 2190 was released today and is scheduled to be passed early next week. In addition to the base budget, **ESSB 6150** (driver’s license fees), and **ESSB 6455** (vehicle and dealer fees) are expected to provide \$207.5 million per biennium to support continued operation of the state’s transportation system. Of interest is \$10 million to support transit service, \$44 million for the Transportation Improvement Board, and \$2.5 million for additional Safe Routes to Schools projects. \$27.5 million in new funding will be made available over the next three years for preliminary design and engineering on ten projects. Both **ESSB 6150**, and **ESSB 6455** will be heard on Tuesday of next week in the House Transportation Committee.

For more information, contact Ashley Probart.

Electric vehicle license fees

2SSB 5251 would enact a \$100 vehicle fee on electric vehicles. If a vehicle-miles-traveled tax or fee is enacted, then the vehicle fee would be repealed. After collections reach \$1 million, revenues within the Motor Vehicle Fund must be distributed as follows: 70 percent to the motor vehicle account, 15 percent to the transportation improvement account, and 15 percent to the rural arterial preservation account. AWC supports this bill.

For more information, contact Ashley Probart.

Modifying certain provisions regarding transportation benefit districts

HB 2659 did not pass out of the House before cutoff and is dead for this session. The companion bill died in the Senate as well. However, the content of this bill has been added to **ESSB 6582**, the local transportation revenue bill.

For more information, contact Ashley Probart.

Cost recovery for stormwater from limited access highways

SHB 2733 passed out of the House and is scheduled for public hearing in the Senate Environment Committee (since it addresses stormwater) on February 21. After the bill moves from the Environment Committee we anticipate that the next stop will be the Senate Transportation Committee.

For more information, contact Ashley Probart.

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Traffic safety cameras

E2SSB 5188 further clarifies how cities implement traffic safety programs. This AWC-supported bill passed the Senate on a unanimous vote and had a public hearing in the House Transportation Committee on February 15.

For more information, contact Ashley Probart.

Transit overlay zones

SHB 2601 is based upon recommendations from an advisory group working with the Puget Sound Regional Council to identify ways to increase the linkage of land use and transportation investment decisions, and to improve the efficiency of transit service by encouraging transit-supportive development.

The bill:

- Allows regional transportation planning organizations (RTPOs) to establish criteria for transit service overlay zones (zones), which must include frequent bus service, minimum employment and housing unit densities, connection of employment and population centers, and transit assistive design criteria.
- Allows a zone that meets the local RTPO criteria and is established through an interlocal agreement to be included in a city's comprehensive plan.

The bill has already passed the House and is now scheduled for public hearing in the Senate Transportation Committee at 3:30 pm on February 22.

For more information, contact Ashley Probart.

Environment & land use

Phase II stormwater permit relief

AWC continues to work to ensure legislative involvement in providing direction to the Department of Ecology about the next update to the Phase II stormwater permit. We continue to hear from legislators who are interested in helping us on these issues, and from the environmental community on their concern that we're trying to roll back environmental protections (which is not our intent).

These opposing viewpoints came to a head this week in the Senate Ways & Means Committee hearing on February 15 on a regulatory reform proposal (**SB 6406**) from Sen. Jim Hargrove. Before the hearing, rumors were rampant that there would be an attempt to amend Sen. Hargrove's bill to include a delay in the issuance of the next stormwater permit. Reacting to that rumor, the environmental community testified against the bill in committee and especially against any efforts to delay or lessen stormwater requirements. Because the issue was broached, AWC took the opportunity to make our case as to why our Phase II communities need legislative involvement in this issue – particularly focusing on the financial imperatives since we were in front of the fiscal committee.

As you know, we introduced legislation (**HB 2641/SB 6372**) that would allow for a new permit to be issued on schedule. However, in place of prescriptive mandates to include new low-impact development standards and more extensive inspection requirements, our proposal calls for incentives to address these issues. It is unclear for now how this issue will be resolved, but one thing is clear: the Legislature will likely grapple with the stormwater issue before the end of this session.

For more information contact Carl Schroeder.

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Modernizing SEPA

The House version of our SEPA bill (**E2SHB 2253**) passed with a strong bipartisan vote of 92-6 on February 13. The bill is now scheduled for a hearing in the Senate Environment Committee on February 21. We're working to clarify and respond to a few amendments that were hung onto the bill as it made its way to the Senate. We remain hopeful that we will reach agreement and pass this bill. Although it does not include everything we've asked for, the proposal still includes many beneficial elements. It provides both immediate and long-term savings as well as new tools to provide proactive, upfront SEPA analysis to promote economic development. The latest version of the bill is available [here](#).

Let Carl Schroeder know if you have any comments.

Pre-emption of local permitting for small alternative energy facilities

SHB 1081 is a holdover from the 2011 session and has already passed the House even though it has not yet had a public hearing in 2012. It has now been scheduled for public hearing in the Senate Energy, Natural Resources & Marine Waters at 8 am on February 22.

This bill allows for the Energy Facility Site Evaluation Council (EFSEC) to permit and site wind generators or solar panels producing less than 100 kW of power in jurisdictions that have not adopted permitting ordinances for such facilities within the past ten years or when the local permitting process takes longer than six months.

AWC consistently opposed this preemption while expressing support for state help in educating cities on how best to site small-scale renewable projects. To get a sense of what a 100kW wind or solar facility looks like, please see the following:

- A 100 kW solar installation (540 panels)
- A 100 kW wind generator (80–140 feet tall and rotors 60 feet in diameter)

If your senator is a member of this committee, we urge you to contact them and express your concerns with this bill.

For more information contact Dave Catterson.

Accelerating the redevelopment of contaminated sites

E2SSB 6211 passed the Senate and is scheduled for a hearing in the House Environment Committee on February 21. Last week we reported that a helpful provision regarding "grant-funded trusts" was stripped out of the bill in the Senate committee, removing a useful tool for longer and more complicated cleanup projects. Thanks to the hard work of several cities, similar provisions were reinserted on the Senate floor by Sen. Ed Murray. AWC supports this bill and thanks Sen. Murray for his leadership in strengthening it on the Senate floor.

For more information contact Carl Schroeder.

Law & justice

Gang prevention and intervention

While the gang legislation AWC has been supporting, **HB 2432**, did not come up for a vote in the full House before this week's deadline, we are hearing it is still alive and will be part of the larger state budget discussion taking place over the next few weeks.

For more information, contact Serena Dolly or Candice Bock.

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Medical marijuana

The medical marijuana legislation, **SB 6265**, failed to advance out of the Senate before Tuesday's cutoff. The bill included some provisions clarifying local government's authority over collective gardens. It also prohibited cities from precluding the siting of collective gardens. That provision sparked serious disagreement among cities. The bill was subject to some potential floor amendments, and the time necessary to negotiate the amendments, coupled with the rush of cutoff, meant that the bill did not make it to the floor for a vote before the deadline. This means that there will not be any additional guidance from the state on medical marijuana for cities, and we must continue to operate under the existing law that took effect in 2011.

Additionally, Clark County has been considering the issue of collective gardens and recently asked the Department of Justice for further clarification on the federal stance. The Department of Justice reiterated its position that marijuana is illegal and those facilitating illegal activity may be subject to legal action.

For more information, contact Serena Dolly or Candice Bock.

AWC watching other bills advancing in the Legislature

Many bills did not advance in this short session, but a number of bills AWC has been watching or supporting survived this week's cutoff.

Among the "good" bills for cities that are advancing is SB 6284, which modifies Driving With License Suspended 3 (DWLS 3) provisions. The bill no longer requires the Department of Licensing to suspend licenses for individuals who fail to respond to an infraction for a non-moving violation and provides for a workgroup to define "non-moving violation." AWC's Board Legislative Steering Committee recently modified our position to support this bill. Previously, we were only monitoring the legislation. Other good bills include:

- **HB 2443:** Changes penalties for Driving Under the Influence of Alcohol or Drugs (DUI). See our article earlier this session for more details.
- **HB 2570:** Addresses metal theft by establishing a task force and increasing penalties for stealing metal from gas, electrical, telecommunications, and water companies.
- **HB 2191:** Increases penalties for harming a police dog and removes liability for a police dog that bites a person.
- **SB 5154:** Increases penalties for vehicle prowling for third and subsequent convictions.

Unfortunately, we have significant concerns about two other bills advancing.

HB 1559 shifts liability from private sector design professionals to local and state government. AWC is working with other local government groups to oppose this bill and developed a joint letter to express our concerns to legislators.

We also have concerns about HB 2179, which requires liquor license notices and objections to go through the city council instead of the mayor or city manager. This bill eliminates city flexibility and is unnecessary as councils can currently impose this requirement.

For more information, contact Serena Dolly or Candice Bock.

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Infrastructure

Senate and House “Jobs” draft proposal – Update!

We are anticipating a House bill sometime next week. No word on a Senate bill just yet. As stated in previous Bulletins, this is a one-time opportunity to pursue local infrastructure projects that typically do not qualify for traditional state programs. It is in your best interest to contact your state legislator—particularly your House member—to request support for your project.

For more information, contact Ashley Probart.

General government

Public records relief

AWC’s priority injunctive relief bill, **SB 6351**, and the commercial requests bill, SB 6146, did not advance in this year’s very short session. We know cities continue to struggle with public records obligations and are disappointed our efforts did not produce much needed relief. We’ll keep our eyes open for opportunities to continue pressing this issue the rest of session and into next year. Your communication with local legislators has been critical in keeping this issue alive and in the forefront. Thank you for your efforts.

For more information, contact Serena Dolly or Victoria Lincoln.

Special meetings notice requirements

SB 5355 would change the way cities provide notice of special meetings. Notice would now have to be posted on the city website, if the city has a website, and prominently displayed at the main entrance of city hall and at the meeting site, if different. AWC has heard concerns from smaller jurisdictions which do not have the resources to regularly update the city website. We are working on an amendment to address this concern.

For more information, contact Serena Dolly or Victoria Lincoln.

Washington Voting Rights Act

The Voting Rights Act we’ve been following, **HB 2612/SB 6381**, failed to advance before this week’s deadline.

For more information, contact Serena Dolly or Victoria Lincoln.

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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