

State Budget Crisis: Cities also Suffering, Change is Needed

By Stan Finkelstein, AWC Executive Director

The Governor is about to release her budget for the 2009 – 2011 biennium. It must be released by December 20 and we understand she is attempting to present it a couple days early. She is crafting the state's major policy document with a reported \$5.1 billion dollar deficit that most believe will grow. And she has been clear – this budget will be developed without tax increases.

She called me into her office last week along with Eric Johnson, Executive Director of the Washington State Association of Counties, to discuss the upcoming budget, likely infrastructure help from the federal government and most importantly her thoughts on the state and local government partnership. The meeting was brief but productive and I hope the first of many.

The Governor fully understands that local governments are also suffering and she is mindful of the impacts of reduced state funding on cities and counties.

State resources are expected to be tight for a number of years and direct State aid for local governments will be tough to secure. She believes now is the time to fully review the role of state government including the state and local government partnership.

She has already begun the state government review and will follow with a review of local government responsibilities and the means by which the state assists local governments. She questioned the need for all those “strings” attached to state aid – music

to our ears. She was sincere and serious. Fewer resources simply mandate such reviews and now is the time to significantly change the business of governments.

Cities welcome the discussion and AWC will push to ensure it is held. Please do the same with your legislators before they come to Olympia. Comprehensive change will not be completed during the upcoming session or biennium but we can start. State assistance is needed but so are local tools and flexibility.

Let's remove the unnecessary oversight, requirements and mandates. Let's allow you as city officials to work with your citizens to provide the services they need and expect.

State of the Cities Executive Summary Released

The most recent State of the Cities executive summary, *Assessing the Health of Washington's Communities*, is being sent to cities in the next few days. This report presents an analysis of the fiscal conditions that impact our 281 cities today, over the last four years, and what city officials envision happening in the near future.

To access this report, read case studies, and view city-level responses to survey questions, visit the State of the Cities website at www.awcnet.org/stateofthecities.

AWC 2009 Major Legislative Priorities

On November 21, the AWC Board of Directors adopted an ambitious legislative agenda for the 2009 session. Given the \$5.1 billion state budget deficit, this will be a session like no other; success on these issues will be difficult and possible only with direct and significant assistance from city officials.

Please take the time to contact your legislators before they head to Olympia and stress the need to address the following issues. State government is experiencing a very difficult budget situation but so are cities and we are in need of help!

AWC staff will be advancing the following proposals which fit within these three key themes:

- Maintaining and developing quality infrastructure for safety and development;
- Promoting city fiscal health and flexibility; and
- Providing for flexible general government operations.

Major priorities adopted to support these key themes are:

- **Infrastructure Funding:** AWC will continue to pursue funding for infrastructure programs and pursue local options to enhance transportation and economic development opportunities for cities. We will also seek assistance to address stormwater needs.
- **Fiscal Health:** AWC will (1) seek to allow cities to levy the .3 percent voter-approved public safety sales tax, independent of county action, and remove supplanting language; (2) seek an increase of the property tax cap of 1 percent for city EMS permanent levies, using inflation as the cap, and assist counties in obtaining state resources to conduct

annual valuations; and (3) seek an increase to the City-County Assistance Account and establish a funding “floor” so distributions to qualifying cities do not drop below a certain amount.

- **Flexible Government Operations:** AWC will oppose the requirement to tape executive sessions and any restrictions of attorney-client privilege or attorney work product.

AWC will advocate for more annexation tools to facilitate annexations within urban growth areas and promote agreement among a city and county for consistent development regulations in unincorporated urban areas.

AWC will continue to pursue reforms that limit joint liability for public entities.

AWC will defend cities’ ability to fully ban gambling and seek legislation that provides cities the ability to zone and partially ban gambling facilities.

AWC will pursue proposals that support flexible and cost-effective options for cities to provide essential services.

A complete list of all AWC legislative priorities can be found on our web site, www.awcnet.org. Please feel free to contact Jim Justin jimj@awcnet.org if you have any questions on our priority issues.

energy & telecommunications

Vegetation Management

AWC staff met with Puget Sound Energy (PSE) last month to review a PSE-supported vegetation management bill draft. AWC subsequently e-mailed the draft out to city public works departments for feedback. A number of cities have expressed concern that PSE and other utilities would have the authority to trim or remove vegetation of “potential danger” on all property in and adjacent to the rights of way, and will need only provide notice of tree work rather than consult with the property owner about the matter.

In the city rights of way, utilities would normally need to follow a protocol for vegetation trimming, as is sometimes specified in franchise agreements, but cities have commented that this proposal would seem to circumvent the existing process.

AWC and PSE will have another meeting this month to discuss some of the city concerns. For a copy of the draft bill, please e-mail Sheri Sawyer at sheris@awcnet.org.

I-937 Amendments

Representative John McCoy (D-Tulalip) held two meetings this fall regarding Initiative 937, the citizen-approved measure to require the larger electric utilities to acquire some renewable resources in their portfolio mix. The

initiative requires the state’s largest electric utilities to acquire 15 percent of their electricity supply from new renewable energy resources or energy conservation measures by the year 2020.

The utilities that are affected by this initiative are: ten public utility districts, three investor-owned utilities, two cooperatives, and two municipal utilities (Seattle and Tacoma).

One of the ideas being discussed in these meetings is to increase the required percentage of renewable resources. Other ideas are to expand the allowable territory where these resources could be acquired, and to allow additional resources to qualify. Cities have been participating fully in these discussions and will provide written comments to Representative McCoy prior to the start of the session. A bill is expected to be introduced with some or all of these ideas.

Internet Study Task Force

During the 2008 session, the Legislature passed **E2SSB 6438** which establishes a High-Speed Internet Strategy Work Group. City representatives on the work group include Ed Stern, Councilmember, Poulsbo; Ron Lucas, Mayor, Steilacoom and David Keyes, Seattle.

The work group just released their final report to the Governor and Legislature that includes a high-speed internet strategy for Washington State to:

- Develop geographic information system maps and inventories of public and private high-speed internet infrastructure;
- Address management of proprietary and competitively sensitive data;
- Spur development of high-speed internet resources across the state;
- Track residential and business adoption of high-speed internet; and
- Use local technology planning teams to help with internet deployment to disenfranchised or un-served areas.

The report includes:

- Benchmarks and performance measures;
- Potential legislative proposals needed to implement the strategy; and
- Funding options.

A copy of the report can be found at <http://dis.wa.gov/hiswg/materials.htm>.

environment & water

Following a very “active” interim during which countless person-hours and numerous Task Forces looked at Climate Change, Puget Sound and Water Resource issues, it is expected that the 2009 Session will be a busy one as these issues are explored.

In the House, there are two Committees where these issues will start out. Water issues go to the Agriculture and Natural Resources Committee chaired by Rep. Brian Blake (D-Aberdeen). Issues such as Climate Change and Puget Sound go to the Ecology and Parks Committee, chaired by Rep. Dave Upthegrove (D-Des Moines).

In the Senate, the Water and Energy Committee (formerly Water, Energy & Telecommunications) considers all of these issues and is chaired by Sen. Phil Rockefeller (D-Bainbridge Island).

Stormwater Infrastructure Funding

This is one of AWC’s major legislative priorities for the 2009 Session. The priority reads, “The state needs to partner with cities to help fund implementation of NPDES permits at levels greater than the 2007-2009 biennium. AWC will seek such financial assistance.”

Staff is working with representatives of the Environmental Community to craft a “clean water funding” package that could greatly assist the almost 100 Phase II NPDES stormwater cities in meeting their stormwater capital needs. Such a package may also include funding to help clean up waters from other contaminants. Details are still being worked on, so stay tuned!

Puget Sound Partnership/Action Plan

As one of AWC’s legislative priorities, AWC will support ideas that help protect and restore the Sound’s health and will emphasize the need to provide adequate and long-term funding to meet city obligations.

On December 1, the Partnership approved an Action Agenda aimed at cleaning up the Sound by 2020. It impacts 112 cities in the 12 counties surrounding the Sound. The lengthy document can be found at: www.psp.wa.gov/aa_action_agenda.php.

It addresses four key questions:

1. What is a healthy Puget Sound?
2. What is the current status of Puget Sound and what are the biggest threats to it?
3. What actions must be taken to move from where we are today to a healthy Puget Sound by 2020?
4. Where do we start?

It is intended to be a living and adaptable guide for use by federal and state agencies, Indian tribes, city and county governments, business and environmental organizations, watershed groups, and individual landowners as they take action to protect and restore the Sound.

AWC appreciates all the many city official comments and inputs to this process. We worked with numerous cities to craft comments as the Agenda developed over the past 18 months and most recently, provided a detailed comment letter from AWC’s President, Port Angeles Councilmember, Karen Rogers. It is posted on our website for those interested in viewing it at www.awcnet.org/documents/CityCommentsDraftActionAgenda.pdf.

Climate Change

The 2008 Washington Climate Action Team (CAT), convened at the direction of the Governor and the Legislature by the Departments of Ecology and of Community, Trade and Economic Development, released their final report and recommendations, “Leading the Way: Implementing Practical Solutions to the Climate Change Challenge.”

Some of the actions the CAT identified as “most promising” to reduce greenhouse gas emissions are:

Energy Efficiency/Green Buildings

- Establish incentive-based approaches to encourage energy efficiency.
- Upgrade the energy efficiency and develop and implement energy benchmarking and performance disclosure in existing, new, and renovated buildings.
- Revise the Washington State Energy Code and establish 2030 Building Goals.

Transportation

- Expand and enhance transit, rideshare, and commuter choice.
- Encourage compact and transit oriented development.
- Use GHG/VMT as criteria for funding and pursue new revenue sources to support transportation choices.
- Use transportation pricing to reduce per capita VMT and GHG emissions, raise revenue, and manage the system for better efficiency and reliability.

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Beyond Waste

- Optimize the collection of recycled materials.
- Establish a product stewardship framework.
- Evaluate and recommend environmentally responsible purchasing policies for government.

SEPA

- Revise the SEPA checklist and provide clear guidance for evaluating GHG emissions.
- Conduct further work and analysis on approaches for using SEPA-related incentives or disincentives to promote “climate-friendly” development.
- Revise the SEPA checklist to incorporate analysis of future vulnerabilities.
- Take into account lead agency resources, capacity and constraints.
- Provide training and funding for lead agencies and applicants.
- Establish an advisory committee to address future work.

At this point, it is uncertain, which of these recommendations will be brought forward in the form of proposed legislation this upcoming session.

Almost all of the recommendations contain a crucial role for local government leadership and engagement. For example, expanding the municipal collection services to collect more recyclables is crucial to meeting the goal of recycling 80 percent of Washington’s overall solid waste stream by 2020.

Likewise, linking transportation choices, including reliable transit options, with land use planning to create compact livable communities, will be accomplished in large part by local governments. Even amending the energy code to create more energy-efficient buildings means local government building departments will need training and resources to support implementation of this new code.

The CAT’s report acknowledges, “Local governments have a critical role in reducing GHG emissions and will need state support. It is essential that the state provide sufficient technical and financial support for the cities and counties of Washington to participate successfully in implementation.” A copy of the full report can be found at www.ecy.wa.gov/climatechange/index.htm.

As one of AWC’s legislative priorities, AWC will:

- Explore ways to engage cities in activities and commitments to reduce greenhouse gas emissions.

- Actively share information with cities on what others are doing and how they might most effectively address local opportunities to reduce emissions.
- Oppose legislation that mandates cities address this in their GMA plans and regulations and be open to legislation that helps cities continue to plan for compact, efficient and livable communities.

While this last “bullet” indicates opposition to state mandated GMA climate change planning, it also leaves room to work with interests to explore legislation that could for instance, facilitate development of transit-oriented development along and close to corridors in urban areas where light rail or high capacity transit stations are locating.

Three of AWC’s staff will be working on climate change related issues this session. They are Dave Williams (Land Use – including GMA and SEPA), Ashley Probart (Transportation and Solid Waste), and Victoria Lincoln (Energy and Building Codes).

general local government

Update on Bill to Require Taped Executive Sessions

This week, AWC and other local governments had a second meeting to discuss a legislative proposal to require public agencies to tape record executive sessions in certain circumstances. The meeting was called by state Attorney General Rob McKenna, House Majority Leader Lynn Kessler (D-Grays Harbor) and state Auditor Brian Sonntag. Many of the local government groups were in attendance such as the ports, public hospitals, school directors, counties and cities.

Discussion revolved around the desire of the three proponents to move another bill forward in 2009, with significant changes from the previous bill. Some concepts being discussed for the new proposal would be to:

- Create model rules on the Open Public Meetings Act;
- Require education and certification of elected officials within a certain timeframe;
- Make provisions for a safe harbor exemption until training and certification is implemented;
- Set up a five year pilot project of voluntary recording of executive sessions to gather data on costs and other issues, with the idea of resolving issues so that taping of executive sessions could be mandatory in the future;
- Require mandatory recording of executive sessions for two years triggered by a judicial finding of a substantive violation;

- Provide an exemption from disclosure for voluntary recordings.

The local government associations are tasked with reviewing these ideas and providing feedback at a future meeting, to take place just prior to the start of the legislative session in January.

Open Government Workshops

Nearly a dozen local government groups sponsored four full-day Open Government workshops in November and December. These workshops attracted over 600 local elected officials, executive staff and public records officers from all corners of local government, such as conservation districts, air quality control agencies, fire districts, schools, cities and counties, ports, public hospitals and public utility districts. Evaluations show that most participants felt the workshops were very valuable.

In addition to these workshops, AWC and the Washington Municipal Clerks Association co-sponsored two forums on electronic records earlier in the year, where 200 participants discussed the challenges of managing electronic records in this era of computers and e-mail.

Also, 85 elected officials attended a workshop at the AWC annual conference in June to hear an overview of open meetings and public records. AWC and partners will continue to look for opportunities to provide training on the topic of open government.

Legislation to Study the Feasibility of Creating a Public Records Act Board

The Attorney General's Office has advanced legislation to study the feasibility of creating a state board to adjudicate complaints alleging violations of the Public Records Act. The bill, **HB 1017**, sponsored by Rep. Lynn Kessler (D-Grays Harbor) will likely get a hearing early in the Session. As proposed, a 13-member committee would be selected by the Governor, Attorney General, State Auditor, Senate, and the House of Representatives. The report would be submitted in November of 2009. The board would potentially:

- Review and adjudicate complaints alleging violations of the Public Records Act;
- Enforce the provisions of the Public Records Act;
- Offer and provide alternative methods for dispute resolution;
- Issue interpretive opinions of the public records act;
- Provide confidential consultation regarding the duties under the public records act;
- Provide public training on the public records act;
- Recommend legislative improvements to the public records act; and
- Adopt rules to implement these enumerated powers, and other rules as may be consistent with or necessary to implement these enumerated powers.

infrastructure, transportation, & economic development

Federal Stimulus Package

During the week of December 5, AWC requested project submittals in anticipation of a proposed Federal stimulus package. We requested the following:

- Jurisdiction
- Contact person
- Project title
- Total cost and size of project
- Federal (stimulus) contribution requested
- How job rich the proposal is (temporary and/or permanent jobs)
- Whether or not permits are already obtained or are necessary for the project
- Confirmation on how quickly the project can get underway – with the suggestion of identifying whether or not the project could be underway in 120 or 180 days.

We had over eighty city responses and we are aware that many of you provided project submittals directly to the Governor's staff. *AWC has forwarded all requests to the Governor's staff.* Since last week, there have been a few more developments. To date, this is what we know:

Transportation Infrastructure:

- On behalf of the Office of Financial Management (The Governor's Office) the Washington State Department of Transportation has requested that the Metropolitan

Planning Organizations (MPOs), Regional Transportation Planning Organizations (RTPOs), and Lead Counties solicit transportation projects from their respective area. They are to provide their prioritized projects to the *Washington State Department of Transportation (WSDOT)* by December 29, 2009.

- *AWC has provided all of your project request information (transportation and non-transportation) to the MPOs. For non-MPOs, AWC has provided all city information to WSDOT who is on point to coordinate your information with the respective RTPO/Lead County.*
- The expectation is that projects will need to meet the basic Federal Highway Administration and Federal Transit Administration environmental, right of way, and contracting requirements, with priority given to construction projects that are ready to go to AD by July 31, 2009.

Non Transportation Infrastructure:

- We are anticipating more clarity on the categorization and prioritization of non-transportation projects within the week. As noted, we forwarded all projects to the Governor's staff. Because the emphasis of the stimulus package is on job creation, non-transportation projects will clearly be given consideration.

Transportation

AWC staff has been briefed by the Governor's staff and has met with both the House and Senate Transportation Chairs within the past week. Not surprisingly, the 2009-11 transportation budget is anticipated to be \$500 million dollars out of balance. The shortfall is due to a combination of increased project costs and declining revenues. What appears to be a fundamental change in the approach to the budget is looking to see what WSDOT projects could be accelerated to get underway as early as this spring—this would require supplemental budget action on behalf of the Legislature.

Traditionally, the Legislature will enact a supplemental budget in response to funding maintenance activities (i.e. extraordinary weather conditions exhausting the maintenance budget) instead of the traditional model of the budget being signed into law near the end of session and then having the project funding released a few weeks later.

In terms of AWC's transportation agenda, we have already shared that we will be pursuing a street utility authority and modifications to Transportation Benefit Districts.

land use & housing

During the upcoming Legislative session, land use and housing issues will be considered within a slightly different legislative framework.

In the House, the subjects covered by Local Government Committee have been expanded to include Housing issues (the Housing Committee has been discontinued). Former Covington city councilmember, Rep. Geoff Simpson (D-Covington) will continue to chair this.

In the Senate, land use issues will continue to be considered by the Senate Government Operations and Elections Committee chaired by former Lake Forest Park City Councilmember, Sen. Darlene Fairley (D-Lake Forest Park). Housing issues will be consolidated in to the Financial Institutions, Housing and Insurance Committee chaired by Sen. Jean Berkey (D-Everett).

Annexation and City/County Governance Transition

This is one of AWC's major legislative priorities for the upcoming session. AWC will advocate for more annexation tools to facilitate annexations within urban growth areas and promote incentives to facilitate agreement among a city and county to jointly plan for and have consistent development regulations in unincorporated urban areas.

For the past several sessions, we've attempted to pass legislation establishing a new "interlocal agreement" method of annexation involving, as an option, agreement between a city/cities and the county on matters relating to annexation, shared capital planning, consistent development regulations, etc.

We'll again try for this legislation and have been working with representatives from firefighters and fire district commissioners to address some of their previously expressed concerns – those being job security upon annexation and asset transfers upon annexation. We appear close to agreement on establishing a principle that upon annexation, an area should receive equivalent or better fire services. We're working on distinguishing asset transfers – some which would happen immediately as is now the law, while others might be negotiated.

In addition to consulting with county representatives on this "option", we have also been working with representatives from the water-sewer districts in an attempt to resolve longstanding disputes with them over the rarely-used statute allowing a city to take over or "assume" a district if more than 60% of it is within the city. Discussions continue and we hope to reach agreement acceptable to both sides before the start of session.

Officials with interest in these issues are encouraged to contact AWC's Dave Williams (davew@awcnet.org) for more information or to answer your questions.

Local Options for Gambling and Land Use

Last session, the Senate passed **ESSB 5558** that would have allowed cities to zone and partially ban house-banked social card games; however that bill died in the House. AWC supported **ESSB 5558**. AWC and representatives of the Recreational Gaming Association have recently met with the House Speaker's staff as we attempt to craft legislation that meets our needs and addresses House leadership concerns from last year. Legislation has already been drafted. We will continue to refine the bill and hope to have it introduced soon.

City Flexibility Package

Also one of AWC's major legislative priorities, AWC will pursue proposals that support flexible and cost-effective options for cities to provide essential services.

Among the ideas under consideration for introduction this session related to land use are:

- Providing more flexibility on use of existing revenue sources trying to respond to growth needs. For

example, GMA-planning cities are authorized to charge “impact fees” for roads, parks, schools and fire services provided by a city. We’re looking at legislation that would let cities charge fees for fire services provided by a district and also expand the definition of eligible transportation impact fee projects to include trails and multi-modal system improvements. Another example would be to allow more flexibility in how locally-imposed Real Estate Excise Taxes are spent.

- Allow some or all cities to “skip” or “defer” mandated updates of local GMA plans and regulations. Current law requires an every-7-year comprehensive review and update, if necessary, of local critical areas regulations (all cities) and GMA

comprehensive plan and development regulations (fully-planning GMA cities). Such reviews are expensive and potentially, litigious. It’s likely the state won’t have the money to cover these costs (even in the best of times, sufficient funds weren’t available).

AWC is preparing to introduce legislation that would at a minimum, allow all smaller cities (under 10,000 in population?) to “skip” at least the critical area updates if they have a valid set of regulations now in place. Other options under consideration include:

- Also “skipping or deferring” GMA plan and regulation updates in cities under 10,000;

- Skipping or deferring in all cities outside the Central Puget Sound; or
- Skipping or deferring in all cities everywhere.

These ideas may very well be controversial. The reality is that cities across the state are being forced to reduce budgets – often times including reductions in planning and development review staff. There likely isn’t the local capacity to conduct these reviews and mandated ones aimed at updating shorelines protections and implementing stormwater programs. The state, like cities, must decide what the priorities are.

law & justice

2009 Legislative Priority Issues

Major priority: Opposing Expansion of Liability for Wrongful Death, Supporting Seatbelts

Unfortunately, the Washington State Trial Lawyers Association has confirmed that they will again pursue passage of a proposal that will increase public entities' liability in wrongful death cases.

Last year, **HB 1873** was introduced by Rep. Timm Ormsby (D-Spokane) and would have substantially expanded the scope of liability in wrongful injury or death causes of action by increasing the number of people who may file a cause of action, and the damages for which they could seek redress. AWC was joined by many other local government association groups to oppose the bill, which ultimately died on the final day of the 60 day session.

In 2008, the AWC Risk Management Services Agency estimated this to be an additional \$2 million per claim. This figure was consistent with estimates from other risk pools and the state Attorney General. These are costs that would be passed along to members of risk pools and state agencies. Given the significant budgetary pressures faced by the state and local governments, we hope to defeat this expansion of liability again. Opposing this effort was identified as one of AWC's "major priorities" for 2009.

Also included in tort-related issues was direction from the AWC Board to pursue passage of legislation that allows juries to know if a person involved in an injury accident was wearing his or her seatbelt. Current law provides for fault-free plaintiffs to recover from all defendants through joint liability. Under this law, if a city is 10% liable in an auto accident, for example, it could be required to pay all the damages if the tortfeasor had insufficient insurance to fully satisfy the award. However, if the jury could be informed that a person was not wearing his or her seatbelt, the plaintiff would not be fault-free, and the city would only be required to cover their proportional share of damages. We will work with other interested stakeholders to make this change.

There are many other issues of interest to cities that will be pursued in the Law and Justice arena. A few of the major ones include:

- **Mitigating medical costs for offenders** – Specifically removal of the two-year sunset provision in section 66 of **SSB 5930**, which clarifies the charging entity is responsible for offender medical costs; pursuing state funding to assist local jurisdictions to pay for offender medical costs; and, seeking assistance with mental health costs to reduce impacts on the criminal justice system.

- **Seeking reimbursement from the state** – for additional public defender costs if they change the definition of a felony and force more cases into municipal court; seeking reimbursement from the county if they refuse to file charges in a felony case and refer to the city.
- **Allowing jails to “medically assist” inmates** – when delivering Prescription Drugs. AWC will support a change in state law that allows jail personnel to assist inmates when they administer prescribed medication, and support distinguishing between large and small facilities for regulatory purposes.

Communities Organize to Oppose Gang Violence in Grandview

Citizens frustrated with a recent rash of gang violence in their community, united very quickly to organize a march against gang violence. “Taking the public energy surrounding this volatile subject and turning it into something positive is our ongoing mission,” said Brad Smith, one of the local citizen group’s coordinators. That energy manifested itself into over 300 marchers joining in the peaceful demonstration march and rally on October 25. Marchers included families, concerned citizens, legislators, city council members, county commissioners, school administrators, police, and social service agencies and surprisingly, even known gang members and their families.

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A partnership with another similarly focused group in the valley, Yakima Valley Barrios Unidos, was a perfect match for the local effort. Barrios Unidos is part of a national coalition of Barrios Unidos (communities united) and affiliated with the Diocese of Yakima. They have a specific focus with youth who are trying to resist the influences of gang activity.

The idea for the march was inspired by a peaceful “sit in” event coordinated by students at Grandview High School following a shooting across the street from the school during a football game. The march idea spawned conversations that led to expanding the march to include a neighboring city also plagued by gang activity and evolved to having marchers converge at a park located between them.

Local musicians and speakers were lined up to participate at the rally point between the two cities. The goal of the rally was to unite the two communities in a common action against gang violence and its influences. It led to the next step for Grandview United, developing intervention strategies for their community. Community focus groups are scheduled for early January 2009 as the group seeks to increase participation in their efforts to identify viable, youth driven intervention options for those at risk in the community.

More information is located at www.grandviewunited.org, including resource and media links.

Criminal Justice Summit Meetings

In October, the Washington State Bar requested the state’s three law schools convene a group of people representing a broad range of interests in the criminal justice system. AWC was invited to attend. The group’s overriding concern centered around the expected impact of the state and local budget deficits on the criminal justice system. How could we work together to protect the integrity of the system when state and local funding is threatened? Are their system changes that might result in efficiencies, without undermining the system?

With these questions in mind, the group looked at shortening sentences by having more inmates serve their time on home detention, raising the felony property theft limits, and other methods for reducing caseload levels in district and municipal courts. Between thirty and forty percent of all cases are Driving While License Suspended, 3rd degree (DWLS3). These are often the result of a traffic ticket that goes unpaid, resulting in a license suspension.

If the person is caught driving with a suspended license, the prosecutor may charge them with a DWLS3 – a misdemeanor offense which includes large fines and potentially jail time. Some argue that without the threat of jail time, fewer people would pay their traffic tickets. In fact, the charge of DWLS3 was changed in the late 1970s to an additional fine rather than jail time resulting in fewer paid traffic tickets. The need to reduce the court caseload of DWLS3 is high on the list to address. Current thinking is to develop or perhaps require courts to offer a relicensing or diversion program to assist people in getting their licenses back and paying their fines rather than sending them to jail.

municipal finance

Governor to Release Budget Week of December 15

The Governor is expected to release her budget on Thursday, December 18. Due to statewide falling revenues and a growing state budget deficit, we expect to see significant cuts in discretionary state spending.

The Governor has already directed state agencies to further cut their remaining 2009 spending. These cuts are in addition to already instated hiring freezes, travel restrictions and across the board cuts.

The December 10, 2008 Revenue Collection Report followed a recent trend, falling short of the previous month's forecast.

- Adjusted year-over-year Revenue Act (business activity) payments have declined 5.1 percent on average over the last three months.
- The largest declines in retail continue to be with motor vehicle dealers, furniture stores, apparel and accessories stores and building materials/garden supply stores.
- Taxable real estate activity continues to fall. November REET collections were 40.8 percent below the year-ago level. This weakness continues to be evident both in the number of transactions and in the value per transaction.

After the Governor's budget is released, AWC will post information about how the proposed budget impacts cities. Visit www.awcnet.org for information.

Digital Goods Taxation Study Released

On December 5 the Department of Revenue (DOR) presented a final report to the Senate Ways and Means and House Finance Committee's Chairs

concerning the taxation of electronically delivered products (commonly referred to as "digital goods"). The DOR was directed to review definitions, current tax treatment, administration, and alternatives to digital goods taxation. A study committee was created to assist in this process. AWC staff served on the committee.

The committee concluded that legislation implementing digital goods is necessary in 2009 to protect the tax base, establish certainty in the tax code, maintain conformity with the national Streamlined Sales Tax agreement, and encourage economic development. Although committee members expressed differing views about the taxation of digital products, the committee believes broad taxation of digital goods may be possible if legislation:

- Contains meaningful and easily administered broad-based business exemptions for digital products;
- Provides sales tax amnesty to taxpayers who failed to pay and/or collect tax on digital products for prior periods (the committee also recognized that changes to the B&O tax and consequences for past periods must be considered);
- Maintains conformity with Streamlined Sales Tax definitions; and
- Protects and promotes the location of Washington server farms and data centers.

It appears the Chair of the House Finance Committee will sponsor legislation that encompasses a broad-based application of sales and use taxes and a number of the aforementioned concepts. AWC will support a broad

application of sales and use tax to the transaction of digital goods and oppose any negative impacts to the local business and occupation tax.

JLARC Releases Final Report on City-County Assistance Account

On December 3 the Joint Legislative Audit and Review Committee (JLARC) released the final report on the review of distributions from the City-County Assistance Account. This report had two recommendations:

- The Legislature should change the date for certification of distributions from March to June, allowing the Department of Revenue (DOR) to use the prior year's assessed property valuation data as specified in statute. Presently, due to timing issues DOR uses assessed valuation data that is two years old.
- The DOR should provide the Legislature with a report on the interaction between streamlined sales tax mitigation funding to cities and counties and distributions provided through the City-County Assistance Account.

In order to address these recommendations, AWC has been working with DOR and the Washington State Association of Counties (WSAC). We have asked DOR to advance legislation that makes a couple of changes to the statute.

- First, the date of certification would be changed from March to October. This would allow DOR not only to use the most recent assessed valuation data, but also allow cities and counties to incorporate eligibility amounts into their budgeting process.

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- Second, the sales tax equalization portion of the formula would be revised based on the sum of a city's sales tax revenues and Streamlined Sales Tax mitigation funds received.

DOR is working with the Governor's Office to draft and advance legislation with these components.

In addition to supporting these fixes to the City-County Assistance Account statute, AWC will seek enhancements to this account and a "floor" so distributions do not fall below a certain point. This task will be very difficult given the State's fiscal crisis.

Streamlined Sales Tax Mitigation Payments Received This Month

On Thursday, December 11 the Department of Revenue released an analysis of July, August and September sales tax data showing the impacts from Streamlined Sales Tax since destination-based sourcing rules went into effect July 1, 2008. This information can be viewed on the DOR local government website <http://localgovernment.dor.wa.gov> (click "History of mitigation payments").

DOR also has a list of one contact person per city. This person will receive a secure email on Friday, December 12, with the confidential, detailed-taxpayer information for that jurisdiction that was used to determine mitigation payments.

Mitigation payments to cities that were negatively impacted by Streamlined Sales Tax will be sent December 31. These payments will cover July, August and September 2008 net losses. The State Auditor's BARS code for Streamlined Sales Tax mitigation payments is 336.00.99.

Brokered Natural Gas Legislation

In May of 2008 the Court of Appeals reversed an earlier trial court opinion requiring G-P Gypsum to pay a use tax for using natural gas within the City of Tacoma. The court's ruling asserted that a business does not "use" natural gas when it burns the natural gas in the city if it had first obtained the gas outside of the city.

AWC has been working with the City of Seattle, the Department of Revenue and the Attorney General's Office on a bill to address this issue. Legislation has been drafted and we have begun talking with legislators about sponsoring the bill. This is an AWC legislative priority.

AWC Legislative Priorities – Fiscal Health and Flexibility Subcommittee

In addition to the Major Priorities previously noted in this *Legislative Bulletin*, the AWC Board has identified a number of Other Priority Issues, Issues to Endorse, Issues to Strongly Defend Against, and Issues to Monitor associated with city fiscal health. For a more complete list of issues, visit our website at www.awcnet.org.

Other priority issues

Digital Goods – AWC will advance the application of sales and use tax to transactions, regardless of the means of obtaining the good, and ensure any proposal advanced does not negatively impact the local B&O tax.

Brokered Natural Gas Tax – AWC will advance a legislative solution to the Court of Appeals decision by clarifying the allocation of the tax and the definition of use.

Jail Funding – AWC will support legislation granting cities the ability to impose the 0.1% voter-approved sales tax for correctional facilities. Counties, with the exception of King County, currently have this authority. AWC will also attempt to provide cities some influence on the counties imposition of the 0.1% sales tax.

Public Health Funding – AWC will support additional public health funding and ensure there is no mandated city participation in public health funding.

E 911 Funding – AWC will work to secure additional funding for E911 services and ensure the tax base is comprehensive by amending the current statute to ensure the tax is levied on all technologies.

Basic Law Enforcement Training Academy (BLEA) Funding – AWC will work to secure funding for BLEA to ensure that cities have adequate capacity to train new police officers.

Medicaid Reimbursement Rates for Ambulance Service – AWC will support legislation adopting ambulance reimbursement rates according to the Medicare Fee Schedule for all ambulance services. This reimbursement rate is more reflective of the actual costs.

Issues to endorse

Annexation to a Fire Protection District – AWC will endorse legislation amending RCW 52.04.061 to allow a city with a population which exceeds 100,000 to annex to a fire protection district.

CBRNE (Chemical, Biological, Radiological, Nuclear & Explosive) Funding – AWC will support the Fire Chiefs' objective of obtaining funding for the regional hazardous materials response teams.

personnel & labor relations

LEOFF I Advisory Group Interim Study

The LEOFF I Advisory group established last year by the Legislature was charged with gathering information to analyze impacts of the State Actuary defined \$1.745 billion medical and long-term-care cost liability to local governments.

The group met several times during the interim and developed a “fact report” of the issues to educate legislators and others. A brief outline of the report and the on-going efforts of this group will be presented by the Director of the Department of Retirement Systems to the Select Committee on Pension Policy on December 16 at 10 am. It is the intent of this group to meet again next interim in an effort to identify means of assisting local governments address this liability.

Medicare Benefits

HB 2510, passed last session, allows law enforcement officers, firefighters, and certain other public employees to obtain Medicare coverage through a “divided referendum” process.

In the past, certain groups of public employees were able to vote on whether or not to participate in Social Security and Medicare. Those votes were “majority rule” votes – if the majority of employees in the coverage group voted to participate, then all employees were covered, and if the majority opted out, none of the employees would be covered.

This new legislation allows those who were not covered to vote again and opt to participate in Medicare even if the majority chooses not to participate.

The Employment Security Department is in the final stages of developing the process to implement the provisions of **HB 2510**. AWC and others have

reviewed and commented on the draft implementation documents and will keep you posted on further developments.

2009 Legislative Priorities for Personnel and Labor Relations

Other priority issues:

- **LEOFF I Medical Retiree Study by DRS:** AWC will continue to work with the Department of Retirement Systems, retirees and others on the educational effort concerning the LEOFF I retiree medical and long-term-care costs. We will follow up the current study outlining the problem with a 2009 interim effort to identify recommendations for solutions for cities and other local governments, to the \$1.745 billion state-wide liability.

Issues to endorse:

- **Random Drug Testing for Police Officers:** AWC will endorse legislation allowing cities to conduct random drug testing for individual police departments.

AWC City Legislative Action Conference (CLAC)

February 18-19, Olympia

The CLAC is one of AWC's premiere events, during which city officials from throughout the state convene in Olympia. At CLAC you will:

- Meet with your legislators;
- Receive updates on priority legislative issues;
- Hear from legislative leadership, and more.

Join us in Olympia February 18-19 to move the city agenda forward!

Registration opens January 15 at 10 am.



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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 directly.

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