



**DATE:** September 25, 2023

**SUBJECT:** State Legislative Update

### **State Legislative Highlights**

#### **Political Announcements**

Candidates continue to look toward the November 2024 elections. Previous legislative reports included those individuals who had announced their candidacies for governor, attorney general, and other statewide offices. Since the last report, several new candidates have announced that they are running for Commissioner of Public Lands. The current commissioner, Hilary Franz, is running for governor, thus leaving the position open. Previous reports mentioned that moderate Democrat **Sen. Kevin Van De Wege** (D-24 LD) and former Legislative District 47 **Sen. Mona Das** (D) had announced that they were running for the position. Since then, **Sen. Rebecca Saldaña** (D-37 LD), and **Patrick DePoe**, a member of the Makah Tribe and current Director of Tribal Relations for the Department of Natural Resources, have also announced they are running. Additionally, **King County Councilmember Dave Upthegrove** (D) is considering entering the race, as well.

#### **2024 Legislative Session on the Horizon**

During the legislative interim, legislators conduct work sessions and hold meetings in-district in preparation for the upcoming legislative session. Meanwhile, state agencies have submitted budget requests to the governor's budget office, the Office of Financial Management, for potential inclusion in the governor's proposed 2024 supplemental budgets. Below are some emerging issues for the 2024 legislative session:

##### **Federal Court Requires Redistricting to be Revisited**

Every 10 years, Washington State redraws legislative district boundaries to ensure that each district contains an equal number of people. In 2021, the Washington State Redistricting Commission submitted their recommended maps to the legislature, albeit late, and the legislature approved the maps during the 2022 legislative session. Following the release of the maps, a lawsuit was filed claiming that the boundaries of the Legislative District 15 in Yakima and the Tri-Cities violated federal voting rights laws by undermining the ability of Latino voters to participate equally in elections.

In August 2023, a federal judge ruled in favor of the plaintiff and provided the State with two options to come into compliance: 1) Reconvene the Washington State Redistricting Commission to submit new legislative district boundaries to the Legislature by January 8, 2024 to be enacted by the Legislature by February 7, 2024, requiring the legislature to convene a special session; 2) If the Commission does not convene, the federal court will redraw the boundaries. Under either option, the new districts will be transmitted to the Secretary of State on or before March 25, 2024 and will be in effect for the 2024 elections. Governor Jay Inslee, **Speaker of the House of Representatives Laurie**



**Jinkins** (D-27 LD), and **Senate Majority Leader Andy Billig** (D-3 LD) have [publicly stated](#) that they do not plan to hold a special session and will defer to the federal court to redraw the legislative district boundaries. [Republicans](#) have argued that the state has a duty to reconvene the Washington Redistricting Commission, and deferring to the federal court is the equivalent of the state abdicating its power to another level of government.

### **Transportation Project Costs Increasing**

The Senate and House Transportation Committee chairs, **Sen. Marko Liias** (D-21 LD) and **Rep. Jake Fey** (D-27) have indicated that they will be focused on how to best manage rising project costs during the 2024 session. The Washington State Department of Transportation (WSDOT) estimates that each project is costing close to 30 percent more than the amounts appropriated in the state transportation budget and associated funding packages. For example, WSDOT briefed the I-405/SR 167 Executive Advisory Group (EAG) on a \$275 million funding shortfall to execute projects along the corridor. The Transportation Committee chairs are encouraging WSDOT to address this shortfall through revenue adjustments and project delays along the corridor. The Washington State Transportation Commission is also evaluating potential toll increases along the corridor to improve performance and increase revenues.

The legislature will be examining project delays and how to add revenue to balance rising project costs throughout the state; however, the soonest the legislature is likely to adopt another comprehensive transportation revenue package would be 2025.

### **Climate Commitment Act Revenues Higher than Forecasted**

In 2021, the legislature passed its version of a cap-and-trade program, the Climate Commitment Act (CCA), which auctions greenhouse gas emissions allowances. Since the program became operational in February 2023, auctions of carbon emission allowances have generated approximately one billion dollars, far outpacing forecasted revenues. When the legislature approved the CCA, the Department of Ecology estimated it would bring in approximately \$220 million in 2023 and approximately \$500 million every year thereafter. Revised estimates in 2022 suggested the state would generate \$480 million in 2023. Industries obligated to participate in the auction have stated that the rising costs are causing increased fuel and utility costs.

During the 2024 legislative session, legislators will grapple with how to modify the CCA to reduce costs on emitters. Washington State Senator and gubernatorial candidate **Mark Mullet** (D-5 LD) has [announced one proposal](#) that would use the additional revenues collected by the CCA to lower car tabs statewide in 2025 and 2026, and lower the price of allowances at auction to align with California's cap-and-trade program. Additionally, **Rep. April Connors** (R-8 LD) and **Rep. Mary Dye** (R-9 LD) have proposed the [Carbon Auction Relief \(CAR\) Payment program](#), which would not make changes to the Climate Commitment Act, but would direct excess revenues under the program to



send \$100 to each registered vehicle owner starting on July 1, 2024 at the time of their vehicle tab renewal. More proposals are expected to be announced as the 2024 legislative session nears.

### **Legislative Committee Updates**

#### **Senate Housing Committee—July 26, 2023**

The Senate Housing Committee convened in Vancouver for a work session on expanding housing accessibility and stability. Staff from the Department of Commerce provided an overview of the rental housing shortage in the state, sharing that construction has not kept pace with demand since 1990 and that the state now needs to add about 55,000 units each year. The average vacancy rate in the first quarter of the year was 5.6 percent across the state and 6 percent in the Puget Sound region. The average rent in the state is \$1,826, and is about \$2,000 per month in the Puget Sound region.

The Committee received a presentation on the Landlord Mitigation Program. The Damage Relief Program provides \$5,000 to landlords for damages caused by subsidized tenants; there are currently \$5.4 million of approved claims on the waitlist. The Survivor Relief Program provides \$5,000 for damage relief for survivors of domestic violence, sexual assault, and other similar crimes; there are currently \$25,000 of approved claims on the waitlist.

The Vancouver Housing Authority stated that they have served 13,000 Clark County residents. They are currently operating 190 shelter beds and over 3,000 housing units. The Council for the Homeless stated that 68 percent of individuals seeking services in 2022 were new to homelessness, and that of the 2,400 households requesting emergency shelter, 1,178 received assistance.

#### **House Local Government Committee—July 27, 2023**

The House Local Government Committee convened for a work session on Growth Management Act (GMA) Planning from the Local Government Perspective. The session featured speakers from the Department of Commerce, the cities of Buckley and Walla Walla, and Lewis and Whatcom Counties.

Staff from the Department of Commerce briefed the committee on the GMA planning process and noted several key items for review: new housing targets, capital facilities and transportation update, a critical areas ordinance for new science or management recommendations, and new legislative requirements. It was stated that the GMA does not apply uniformly throughout the state, as the most populous counties must comply with additional planning requirements.

Planning staff from the invited local governments shared their respective approaches to the comprehensive planning process. They brought some concerns to the committee's attention, including that the Future Land Use Map is no longer reliable as a predictive tool because recent



legislative changes allow for higher density throughout the state, and that housing legislation often assumes that transit systems are more robust than they are.

### **Heating Requirements in New Construction**

The Washington State Legislature set a 2031 deadline for reducing greenhouse gas emissions from homes and commercial buildings by 70 percent and directed the Washington State Building Code Council to adopt new codes to reach that goal. In response, the council modified building codes earlier this year requiring electric heat pumps for new homes, apartments, and commercial buildings. However, in May 2023, a ruling was issued by the Ninth Circuit Court of Appeals stating that federal law preempts state and local restrictions on natural gas, prompting the council to create a technical advisory group to recommend revisions to the building code that would align with federal law.

After receiving those recommendations, the council is now proposing to overhaul energy regulations and increase incentives for choosing heat pumps by adjusting the scoring criteria that builders must comply with. The proposed changes will undergo public review and are scheduled to take effect March 15, 2024.

### **Upcoming Legislative Meetings**

#### **September:**

- 9/21 – House Environment & Energy Committee work session on net metering, community solar, and water quality, including 6-PPD and nutrient and point source waste dischargers.
- 9/26 – Senate Labor & Commerce Committee work session on Liquor and Cannabis Board presentation on biometric age verification, and potential impacts of artificial intelligence on business and the future of work.
- 9/26 – House Community Safety, Justice, & Reentry Committee work session on state correctional and reentry policies.
- 9/28 – House Finance Committee work session on local tax financing tools that encourage economic growth.

#### **October:**

- 10/2 – Senate Law & Justice Committee work session on reports from state agencies, civil commitment laws, and domestic violence.
- 10/6 – House Innovation, Community & Economic Development & Veterans Committee work session on associate development organizations funding and reporting responsibilities.
- 10/9 – Senate Environment, Energy & Technology Committee work session on the Climate Commitment Act (CCA) and Climate Commitment Act investments update.
- 10/9 – Senate Transportation Committee work session on traffic safety and project costs.



- 10/9 – Senate Ways & Means Committee work session on the *Trueblood* lawsuit, housing and homelessness investments, and the Medicaid public health emergency wind down.
- 10/19 – House Transportation Committee work session on the Climate Commitment Act and transportation funding implementation.
- 10/26 – House Housing Committee work session on common interest communities (restrictive land use covenants and housing supply), manufactured housing, and rent stabilization and notice.
- 10/27 – House State Government & Tribal Relations Committee work session on universal voting, democracy vouchers, ranked-choice voting, online voting, and approval voting.
- 10/31 – Senate Housing Committee work session on housing affordability and the multifamily tax exemption program.

### **Association of Washington Cities Legislative Priorities**

Earlier this month the Association of Washington Cities' [Legislative Priorities Committee](#) wrapped up its work developing priority recommendations. The recommendations will be considered and finalized by the AWC Board of Directors at its meeting in late September. The Committee has recommended four priorities, listed below, along with a variety of other significant and support items.

#### ***Four Recommended Legislative Priorities:***

##### **Public safety – police officer recruitment and retention**

- Additional funding tools and resources to support police officer recruitment and retention, including but not limited to updating the Public Safety Sales Tax to allow an option to implement by councilmanic authority and providing greater flexibility on use of the funds
- Expanded access to mandated training, especially for the Basic Law Enforcement Academy (BLEA), including more regional academies to get new officers on the street faster and to support recruitment and retention

##### **Infrastructure investment**

- Continued state investment in local infrastructure (traditional and broadband), particularly for operations and maintenance
- Expanded funding options for state and local transportation, particularly for preservation and maintenance
- Climate Commitment Act funding for city priorities that support carbon reduction and climate resiliency

##### **Behavioral health**

- Greater access to the entire continuum of behavioral health services and substance use disorder (SUD) treatment for adults and juveniles, including crisis treatment, inpatient,



intensive outpatient, and ongoing behavioral and mental health treatment and SUD treatment. This includes, but is not limited to, support to improve workforce and staffing issues at community treatment centers and additional state funding for establishment and expansion of treatment facilities.

### **Property tax cap**

- Revise the property tax cap to tie it to inflation, up to 3%, and population growth factors, so that local elected officials can adjust the local property tax rate to better serve their communities. The current 1% cap has created a structural deficit in the city revenue and expenditure model, resulting in a reliance on regressive revenues and artificially restricting the use of property taxes to fund community needs.

In addition to the recommendations on priorities, the Committee recommended the following significant issues and support issues for 2024:

### ***Significant Issues:***

#### **Drug possession and fentanyl crisis**

- Direct funding to help offset cities' costs for implementing the new *Blake*/drug possession law including funding for staffing, law enforcement assisted diversion, co-responder teams, therapeutic courts, and diversion programs.
- Technical fixes to address implementation issues related to SB 5536 (2023) that have been identified.

#### **Affordable housing**

- Expand real estate excise tax (REET) authority for state and locals (House Bill 1628) to fund affordable housing.
- Develop an approach to transit-oriented development density increases that addresses affordable housing needs, reflects existing and future community transportation modes, maintains consistency with local community development needs, and promotes communities with walkability and multimodal access to services.
- Remove barriers to condominium development and ownership.

#### **Police officer recruitment and retention**

- Pursue changes to eligibility requirements to allow those in Deferred Action for Childhood Arrivals (DACA) status to serve as police officers.
- Support changes that allow for part-time positions to be covered in the Law Enforcement Officers' and Fire Fighters' (LEOFF) 2 pension system.

#### **Land use**

- Allow cities time to implement recently adopted planning and zoning changes consistent with comprehensive plan update process. Provide adequate time, technical and financial support for land use and planning requirements.

**Public safety – auto theft and property crime**

- Further expand crimes eligible for pursuit to include auto theft and some property crimes.
- Support additional tools to address auto theft and property crime, including additional investment in auto-theft prevention and enforcement programs and regional property crimes task forces and prosecution.

**Public Records Act**

- Explore ways to reduce the impact of excessive public records requests and litigation.

**Culverts**

- Support State funding for repairing and replacing fish-blocking locally owned culverts as a part of the State's overall resolution to the federal fish passage injunction.

**Water rights**

- Work with the state to ensure that municipal water needs can be sustainably managed to meet present and future demand.

**Liability**

- Protect against liability expansion and new policies that would drive additional claims and litigation that would increase costs, especially in the area of law enforcement and public safety, and human resources.

**Producer responsibility for packaging**

- Support proposals to establish a product stewardship framework for packaging.

**Revenue options**

- Support efforts to review and revise both state and local tax structures so that they rely less on regressive revenue options. Changes to the state tax structure should not negatively impact cities' revenue authority and should allow cities revenue flexibility to address their community's needs.

**Climate**

- Seek direct Climate Commitment Act funding for city efforts/programs related to reducing or responding to the impact of climate change.

***Support Issues:*****Net ecological gain**

- Support efforts to make progress on incorporating ecological improvement over time into environmental regulations rather than no net loss, while also defending against legal exposure and unfunded mandates.

**Body worn cameras and dash cameras**

- Support local efforts to implement use of body cameras and dash cameras as a tool to increase transparency during law enforcement interactions with members of the public. Explore updates to the Public Records Act to further protect privacy and reduce the costs associated with use of camera technology.

**Childcare**

- Support policies that expand access to affordable, quality childcare in Washington.
- Support policies that expand access to preschool, including universal Pre-K.

**State infrastructure bank**

- Support the creation of a state-sponsored financing cooperative option that focuses on low interest (less than market rate) public infrastructure financing.

**Audits**

- Support further dialogue in identifying solutions to the delays cities experience with the state-required annual financial statement auditing processes conducted by the State Auditor's Office.

**Housing Trust Fund**

- Increase Housing Trust Fund (HTF) grants for cities and towns, especially for projects in small and medium sized jurisdictions in rural parts of the state.

**Elections**

- Support policies that preserve local control and input regarding how local elections are administered.