

CITY COUNCIL STUDY SESSION

State Legislative Interim Update

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DIRECTION NEEDED FROM COUNCIL**INFORMATION
ONLY**

No action is required; this is an informational briefing. The State Legislature addresses a range of policy issues of interest to the City. Council may wish to provide direction to staff regarding legislative proposals.

RECOMMENDATION

N/A

BACKGROUND & ANALYSIS

The below information is an update on interim activities that impact the City of Bellevue's state legislative program. The City's government relations team meets with stakeholders and legislators to keep up to date on legislative discussions.

Governor Rescinds COVID-19 Emergency Orders

On September 8, Governor Jay Inslee announced that all remaining COVID-19 emergency orders and the state of emergency will be rescinded by October 31. Nearly three-quarters of the Governor's 85 COVID-19 emergency orders have already been lifted, and an additional 13 health care related orders will end on October 27. The remaining 10 orders will be lifted on October 31, including the underlying state of emergency. As part of this announcement, the Governor indicated that COVID-19 vaccines will continue to be required for those working for most of Washington's state agencies. Employers, including cities, will be able to choose whether to continue to require vaccines.

August Primary Results

All members of the House of Representatives and half of the members in the Senate are up for election this fall. The August 2 primary results indicate that Democrats are likely to garner the necessary votes in the November 2022 elections to retain the majority in the State House of Representatives and the State Senate. Democrats currently hold the majority in the House of Representatives (57-41) and in the Senate (28-20; one Democratic Senator who aligns with Republicans). After the Democrat majority enacted bold policies such as a capital gains tax, low carbon fuel standard, cap-and-trade proposal, and reforms to policing, many political observers were anticipating that Republicans would receive strong public support that would lead to them taking the majority. Republicans need to gain nine seats

to reach a majority in the House of Representatives and four seats to take over the Senate in the General Election.

Those Republican prospects failed to materialize in the August 2 primary. The August primary is oftentimes described as the most accurate poll for predicting the outcome of the November elections.

The August primary also narrows down the number of candidates in each legislative race to two. Earlier this year, 21 legislators announced that they would not be seeking re-election and six Representatives embarked on campaigns for Senate positions. This created a significant number of open positions that had crowded primary races.

Budget Development

During the upcoming 2023 legislative session, the Legislature will adopt the state's 2023-25 operating, capital, and transportation biennial budgets. The budget process begins with state agencies submitting budget proposals to the Governor's budget office, the Office of Financial Management (OFM). OFM will evaluate proposals received from state agencies and input from outside stakeholders to develop the Governor's proposed 2023-25 operating, capital, and transportation budgets. The Governor will release his proposed budget in December and the Legislature will hold public hearings on his budget proposals during the early weeks of the legislative session as part of their budget process.

State agencies must submit their proposals to the Office of Financial Management by September 20.

Similarly, state agencies are beginning to develop agency-request legislation. For example, the Superintendent of Public Instruction (OSPI) Chris Reykdal has indicated that OSPI plans to request legislation making all student lunches free in the K-12 school system.

Background on Emerging Public Safety Topics

The 2023 Legislature is anticipated to have a robust policy discussion on public safety. Below is background information on two of the topics likely to be discussed: 1) the decriminalization of the possession of controlled substances and 2) authority for law enforcement officers to engage in vehicular pursuits.

Blake Response: Prior to the Supreme Court's ruling in *State v. Blake*, a conviction for simple drug possession was a felony, punishable by a term of up to five years in prison and \$10,000 in fines. A felony often impacts the ability for someone to gain employment, housing, or own a firearm. In February 2021, in the *State v. Blake* decision the Court invalidated the conviction statute, decriminalizing the possession of small amounts of controlled substances. Selling, distributing, and manufacturing drugs are not impacted by *Blake* – only possession. The Legislature enacted [Senate Bill 5476](#) with bipartisan support, which reinstated a criminal penalty for drug possession making it a misdemeanor, but required that an officer offer services on the first and second offense before criminal charges can be filed. This policy expires in 2023. The Legislature also emphasized the need for treatment and allocated \$88.5 million to community-based treatment, homeless outreach, and to expand therapeutic courts to municipal and district courts. However, it has taken time to get this funding implemented. The

Legislature also established a committee called the Substance Use Recovery Services Advisory Committee to make recommendations to the 2023 Legislature on the topic in December. The range of options for the 2023 discussion include decriminalizing drug possession, recriminalizing drug possession as a felony, or many options in between. One concept being discussed is keeping the framework adopted by the 2021 Legislature of requiring two referrals but adding incentives and/or consequences to increase the likelihood that the referrals are acted upon and establishing a system to better track the referrals. In all cases, funding and workforce resources are needed to increase the availability of substance abuse treatment throughout the community.

Vehicular Pursuits: During the 2021 legislative session, the Legislature approved [House Bill 1054](#), which limited the ability of law enforcement to engage in vehicular pursuits. Specifically, the law requires an officer to have probable cause that a person in a vehicle has committed or is committing a violent offense or a sex offense or there is reasonable suspicion to believe the person is driving under the influence. Prior to this law, many local police agencies had a similar policy pertaining to when officers can engage in pursuits. However, publicity around the new law increased public awareness that officers are limited in their ability to pursue. Police agencies throughout the state are reporting an increased number of suspects fleeing police. In response, during the 2022 legislative session, the Legislature nearly passed [Senate Bill 5919](#), which would have allowed officers to engage in vehicular pursuits if an officer had reasonable suspicion (rather than probable cause) that:

- A person in the vehicle has committed, or is committing a violent offense, sex offense, an escape offense, a driving under the influence offense, a crime against persons offense, or another criminal offense where the public safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances;
- The pursuit must be necessary for the purpose of identifying or apprehending the person;
- The person poses a public safety risk, and the safety risk of failing to apprehend or identify the person is greater than the safety risks of the vehicular pursuit under the circumstances; and
- The officer receives authorization to continue the pursuit from a supervising officer and there is supervisory control of the pursuit.

Among other stakeholders, the American Civil Liberties Union opposed this change arguing that it would result in an increase in deaths resulting from vehicular pursuits. The Legislature is likely to revisit the policy in 2023 and lawmakers on both sides of the aisle have expressed interest in approving the language that was proposed in Senate Bill 5919.

Association of Washington Cities (AWC) Housing Solutions Workgroup is Mid-Process

The Association of Washington Cities (AWC) has hired BDS Consulting to serve as the facilitator for its Housing Solutions Workgroup. AWC established the workgroup on the heels of the robust legislative debate regarding [House Bill 1782](#), which mandated that cities integrate middle housing types (duplex, triplex, fourplex, five-plex, six-plex, townhomes, courtyard apartments, and stacked flats) into local zoning codes. While AWC expressed opposition to the proposal because it preempts local control, several dozen city elected officials signed a letter supporting the proposal. The Housing Solutions

Workgroup is a small group of 15 city elected and appointed officials that will make recommend a set of proactive housing solutions to the AWC Board of Directors.

This small group of city elected officials and staff has met twice and will continue meeting through November. In the most recent meeting, there was consensus amongst workgroup members to develop a proposal that recognizes that many jurisdictions have taken action to authorize middle housing types and creates consequences for those communities that are not undertaking that work. The City of Bellevue is represented on the work group by Emil King, Community Development Planning Director.

Association of Washington Cities (AWC) Legislative Agenda Development

Each year, the Association of Washington Cities convenes a Legislative Priorities Committee recommend a draft legislative agenda to the AWC Board for review and adoption in the fall. The Legislative Priorities Committee has concluded its work and has recommended the following priorities issues. Priority issues are those issues the committee believes should be major priorities for AWC during the session.

Legislative Priorities Committee Recommended Priority Issues to be Submitted to AWC Board:

Infrastructure funding

- Fully fund the PWAA, including allowing the current revenue diversions to sunset at the end of fiscal year 2023 and refraining from further transfers or diversions of funds to other infrastructure programs or other non-infrastructure accounts.
- Explore expanding state funding opportunities to assist with maintenance and operations of local infrastructure.

Blake decision response

- Support additional investments to help cities with the costs resulting from the *Blake* decision that changed how criminal convictions are vacated, repaying legal financial obligations, and supporting diversion programs and municipal court impacts.
- Support more state investment in alternative response teams, treatment facilities for adults and juveniles, and funding for social workers, treatment providers, and system navigators to help direct people to treatment.
- Support clarification regarding the crime of possession of a controlled substance so that individuals, law enforcement, and treatment providers can respond appropriately. Revise the current system of two referrals prior to criminal charges so that it can be more effectively administered across the state.

Public safety vehicular pursuits

- Support clarification of the ability to conduct vehicular pursuits using a reasonable suspicion standard to address concerns about impacts to public safety and allow for effective and safe pursuit of suspects when there is an immediate threat to public safety. Cities continue to support safety standards and training for officers who engage in vehicular pursuits.

Housing affordability, availability, and accessibility

- Support a proactive approach to create new tools, incentives, and revenues that cities can use to help increase housing supply and address affordability. Cities need resources to encourage

development of housing at all income levels and particularly state funding to support housing for the lowest income levels.

Behavioral health

- Support creating greater access to behavioral health services including substance abuse treatment and dual diagnosis treatment facilities.
- Support continued state funding to help communities establish alternative response programs like co-responder programs, diversion programs, and others that provide options beyond law enforcement for responding to situations that involve individuals suffering from behavioral health issues.

In addition, the committee recommended a host of topics as significant issues. Significant issues are a step below priority issues, but are still important to cities around the state. Some of the significant issues include:

- Revise the 1% property tax cap
- Additional transportation funding
- Public safety funding
- Real Estate Excise Tax (REET) authority and flexibility
- Updates to the Public Records Act to address extraordinary litigation
- Revisions to GMA planning and permitting regulations

The Legislative Priorities Committee's recommendations will be forwarded to the Association's Board of Directors for consideration and action at their upcoming meeting on September 23.

Next Steps for Bellevue this Fall

Over the next few months Bellevue staff will continue to work with the Association of Washington Cities (AWC), state lawmakers, and other local stakeholders in refining these and other areas of interest through formal and informal channels. Staff will coordinate with City department directors over the late summer and early fall to develop a holistic picture for the legislative session ahead, with a goal of having the City Council provide input on a draft agenda which can be adopted in its final form in the fall. That timeline would provide us with additional time in advance of session to build support with partners and explore solutions and opportunities with lawmakers to address Bellevue's key interests.

Upcoming Legislative Activity

The Legislature is holding several meetings in the coming months that the City's government relations team will be attending:

September 20 House Local Government Committee Meeting: Work session on the Growth Management Act Task Force, and local government resources needed to plan under the Growth Management Act.

September 26 House Environment & Energy Committee Meeting: Work session on fossil fuel use in building and efforts to improve product lifecycle management and increase recycling.

September 27 Senate Transportation Committee Meeting: Work session on public-private partnerships.

September 27 Senate Ways & Means Committee Meeting: Work session on the economic and revenue forecast update.

October 4 Joint Transportation Committee Meeting: Discussion on road usage charge efforts in other states, car tab payment options, and study results on the population, demographics, and analysis of nondrivers.

October 5 House Housing, Human Services, and Veterans Committee Meeting: Work session on the impacts of rent increases on housing stability and evictions, and updates on service requirements and potential legislative proposals from the Department of Social and Health Services.

October 6 House Appropriations Committee Meeting: Work session on the funding for housing and homelessness programs, business assistance, and food assistance programs.

October 12 House Finance Committee Meeting: Work session on Washington Tax Policy – Economic Well-being and Household Financial Stability.

October 13 Senate Environment, Energy, and Technology Committee Meeting: Work session on the implementation of the Clean Energy Transportation Act, the Clean Fuel Standard, and the Climate Commitment Act.

October 19 Senate Housing and Local Government Committee Meeting: Work session on local permitting challenges and recent policy proposals, middle housing/accessory dwelling unit zoning policy proposals, and Housing Benefit Districts and Housing Finance Commission programs.

October 26 Joint Select Committee on Health Care Oversight: Work session on implementation of the national 988 system, including a crisis response system update.

POLICY & FISCAL IMPACTS

The State Legislature addresses a range of policy issues of interest to the City.

OPTIONS

N/A

ATTACHMENTS & AVAILABLE DOCUMENTS

N/A

AVAILABLE IN COUNCIL LIBRARY

N/A