

## CITY COUNCIL STUDY SESSION ITEM

### **SUBJECT**

State Legislative Update

### **STAFF CONTACT**

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### **POLICY ISSUES**

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

### **DIRECTION NEEDED FROM COUNCIL**

☐ Action  
☐ Discussion  
☒ Information

Council may wish to provide direction to staff regarding particular legislative proposals.

### **BACKGROUND/ANALYSIS**

On Wednesday, April 29, Governor Jay Inslee called a special session of the legislature, to allow legislators more time to reach an agreement on Operating, Capital, & Transportation Budgets. While budget negotiators for all three budgets have since been meeting on a regular basis, most legislators have gone back to their districts and are on notice to return if/when an agreement among the negotiators is reached.

By law, a special session may only last 30 days, meaning the current special session will end on May 28. If an agreement on budgets is not reached by that date, the Governor will have to call a subsequent special session. An agreement on the budgets must be reached prior to June 30 to avoid a state government shutdown. The legislature came very close to this deadline in 2013.

Included below is an update on negotiations to date:

#### **Operating Budget**

- **Education Funding:** Following the conclusion of the regular legislative session, the State Supreme Court indicated that it will wait until after budgets are adopted to review and rule on whether the legislature has made significant progress in fully funding K-12 education as required by the *McCleary* decision. If the Court believes the legislature has not fulfilled this obligation, it has said it could impose sanctions.

Both the House and the Senate indicate that part of responding to the *McCleary* decision is passing some form of the property tax levy "swap". Both chambers have now held some form of a work session or hearing on various proposals. It's clear that the property tax levy swap is complex and it is uncertain whether an agreement on the levy swap can be reached. Even if agreement were reached, it's unclear whether the levy swap proposal can be explained and understood by the public. The House has a proposal that would have an interim work group

study the property tax levy swap and then provide a proposal to the Legislature for consideration in the 2016 session.

House Democrats have indicated that new revenue is needed to balance the budget and they advanced a tax increase package that largely consists of a capital gains tax – House Bill 1484. Senate Republicans have indicated that in order to consider and negotiate new revenue, the House needs to demonstrate that it has the votes to pass the legislation. The bill is now scheduled for a hearing this Wednesday in the House Finance Committee.

- **Revenue Forecast:** The next state revenue forecast would traditionally be released in mid-June. However, both the House and Senate agreed to move this forecast up to May to get a better idea how much money budget writers have to work with. The updated forecast was released last week and added an estimated \$415 million to the revenue estimate for the state Operating Budget. This is the number that the legislators will use as they negotiate on the budget. The increased revenue estimates are largely related to a construction and real estate market in Washington State that is stronger than the national average.

When the forecast was released, Operating Budget leaders from each chamber, Senator Andy Hill (R-Kirkland) and Representative Ross Hunter (D-Medina), expressed optimism that this revenue forecast will help move budget negotiations forward. They both shared that the information in this forecast was the “last piece of external news” they needed to sit down and come to an agreement. They also shared that they have been exchanging formal proposals several times each week and plan to exchange another set of proposals this week after staff update budget documents to reflect the new revenue forecasts. Additionally, the Governor has made statements that he is no longer pushing for the same large tax increases that he had once proposed. At this point, it does not seem likely that legislators will be able to finish before the end of the first special session by the May 28 deadline, making another special session nearly inevitable.

- **Proposal on Cap & Trade Legislation:** Earlier this month, House Democrats indicated that there will be a hearing held on a proposed bill implementing a carbon pollution market program to reduce greenhouse gas emissions.
  - The proposal adopts language from an earlier bill that would create a carbon marketplace. This would raise revenue by dedicating money raised to education, transportation, and environmental restoration.
  - The proposal is estimated to raise about \$1.3 billion per year.
    - \$500 million would be targeted to pay for education (This is an increase from \$380 million proposed in earlier legislation).
  - Companies that manufacture metal, paper, wood products, mineral, chemical, computer/electronic products, or food would get a full business and occupations (B&O) tax rebate for the costs of lowering carbon emissions through 2020, and an 80% rebate through 2026.

### **Transportation Budget**

- **Transportation Revenue Package Negotiations:** Rumor has it that negotiations on the transportation revenue package continue to progress and that most of the proposed reforms have

been discussed in great detail, with agreement reached on many of them. The group has not begun negotiating a project list. It is clear that a final agreement on the transportation revenue package cannot be reached without an agreement on the Operating Budget.

### **Capital Budget**

- **Capital Budget Negotiations:** Negotiations on the Capital Budget are advancing slowly. This is in large part because agreement on the Capital Budget is dependent on agreement on the Operating Budget. There are some broader issues that have emerged as potential sticking points in the negotiations, such as funding for a Washington State Patrol building, the PacMed facility, Maple Lane jail facility, and the funding formula for the Washington Wildlife and Recreation Program (WWRP).

### **Local Government Issues**

- **Reconciliation of Recreational and Medical Marijuana:** On April 24, Governor Inslee signed into law SB 5052, the cannabis patient protection act. The act establishes a medical marijuana oversight body, guidance for rules and regulations, licensing, and defines cooperatives and personal grows. The law has various enactment dates over the course of the next 18 months. Please see Attachment A for an in-depth summary of the bill.
- **Marijuana Revenue:** House Bill 2136 contains provisions that adjust the tax rates on medical and recreational marijuana, and provide for local revenue sharing. On April 24, the final day of the regular legislative session, a tentative agreement on the bill fell apart. On the first day of the special session, the House passed the bill, in the same format that it had earlier in the regular session and sent the bill back to the Senate. Negotiators have indicated that while they will build from previous discussions, negotiations on the bill will be starting over. There are a few areas that continue to remain unclear related to the allocation of funding to local governments:
  - The amount of revenue that should be allocated to local governments in this biennium continues to be debated. The current proposal allocates \$6 million per year (\$12 million for 2015-17) to cities and counties, distributed based on the sales conducted in the jurisdiction. This retail-sales based formula was advanced to provide incentives for jurisdictions to remove bans.
  - After, the 2015-17 biennium, there is debate over what future local revenue allocations should be. Under the current proposal, starting in 2017, if state marijuana tax collections exceed \$25 million: 30% of the revenue above that amount is distributed to cities and counties (up to a maximum of \$15 million until 2019, and a maximum of \$20 million for any year after 2019). This threshold, as well as the cap on the amount that can be distributed in the out years continues to be negotiated. 30% of the amount allocated to the local level would be distributed based on the sales conducted in the jurisdiction. The remaining 70% goes to cities and counties based on population. This would be split 60% to counties and 40% to cities and distributed per capita.
  - Under the current proposal, any county that bans marijuana sales would receive 20% of the amount that they would be eligible for if they allowed marijuana stores. The Association of Washington Cities (AWC) legislative steering committee met recently on this issue and

reaffirmed the Board's position that AWC does not believe any jurisdiction that bans marijuana should receive marijuana revenue, whether it is a city or a county. This provision may be renegotiated as the bill advances forward.

- Early in the regular legislative session, there was an effort to preempt local authority to ban marijuana. This language would have required any city or county to go to a vote of the people if it wanted to ban marijuana within the jurisdiction. This issue will likely re-emerge in negotiations.
- The current proposals allow local governments to reduce the buffer for retail stores from 1,000 feet down to 100 feet if they choose to do so. This is not allowed for buffers from schools or playgrounds. This provision seems to be agreed to by all negotiators.
- **Omnibus Local Government Bill** At the end of the regular legislative session, an omnibus local government bill (HB 2156) was introduced. The bill included a number of different sections aimed at providing local governments with tools to reduce costs and increase revenues. During the special session some of the sections—those providing counties with utility tax authority and removing the 1% property tax cap—have definitely been removed. Other sections, such as restoring liquor profit distributions and providing nuisance abatements, will likely remain under discussion. The additional taxing authority for counties for cultural access and mental health may also remain, but as a separate bill.
- **Removing the Property Tax Cap**: In addition to House Bill 2156, many local governments have been working to advance an effort to remove the 1% cap on the property tax. House Bill 2255 was introduced by Rep. Larry Halder (R- Richland) and Rep. Ross Hunter (D- Medina) recently. The bill replaces the 1% cap with CPI and population change, not to exceed 5%.
- **Real Estate Excise Tax (REET) Flexibility** – Throughout the legislative session, cities, counties, and Realtors worked to reach an agreement on a REET flexibility proposal (the current flexibility between REET 1 and REET 2 is scheduled to sunset). Throughout special session, the local government associations have continued working on developing a compromise proposal. The most current proposal maintains existing flexibility with REET through 2016 for jurisdictions that do the following:
  - Demonstrate adequate funding for REET 1 uses over next 2 years as shown through a capital facilities plan, or other non-Growth Management Act (GMA) document.
  - The jurisdiction must develop a REET report showing how local REET was used the previous two years, and how it is proposed to be used in the next two years. There must be a public hearing on the report.
  - The jurisdiction does not have enacted any requirement on the listing, leasing, or sale of real property, unless such requirement is either specifically authorized by state or federal law or is a seller or landlord disclosure requirement.
  - Any locally enacted seller or landlord disclosure agreement is not effective until it is posted to the Municipal Research and Services Center (MRSC) website.

The associations are currently seeking feedback on this latest iteration.

## **ALTERNATIVES**

NA

**RECOMMENDATION**

NA

**ATTACHMENT(S)**

A: Senate Bill 5052: The Cannabis Patient Protection Act