

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

State Legislative Update

STAFF CONTACT

Joyce Nichols, Intergovernmental Relations Director, 452-4225
City Manager's Office

POLICY ISSUES

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

ACTION

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DIRECTION

☐

INFORMATION ONLY

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No formal action is required; this is an informational briefing.

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

BACKGROUND/ANALYSIS

Local Election Results

41st and 48th District Results

In the 41st District, Representative Judy Clibborn and Representative Tana Senn were re-elected as were Representative Joan McBride and Representative Patty Kuderer in the 48th District. In the 41st District Senate race, Lisa Weller defeated incumbent Senator Steve Litzow. In the 48th District, Senator Cyrus Habib was successful in his bid to become Lieutenant Governor. An appointee will be named by the King County Council to fill his vacant Senate seat.

Some District Races Still too Close to Call

As of this time of this writing, ballots continue to be counted and some races remain too close to call. In the Senate, the Republicans will remain in the majority by one vote, 25-24. In the House, the Democrats will retain the majority. Both House seats in the 5th District, which includes Issaquah and Redmond, between Representative Jay Rodne (R-5th District) and Jason Ritche (D) in position 1, and Paul Graves (R) and Darcy Burner (D) in position 2, are still close, but both Republican candidates have increased their leads in recent days.

In the 19th District, which covers Southwest Washington, Jim Walsh (R) trails Teresa Purcell (D) by under 100 votes. If the trend continues in the 19th, it is possible that Walsh will overtake Purcell for the seat in this traditionally Democratic district. In the 30th District, which includes the Federal Way area, initial returns showed Representative Teri Hickel (R) trailing her challenger, Kristine Reeves (D) by more than 1,300 votes. In recent days, Hickel has been receiving 52% of the vote, minimizing the margin to trailing by 800 votes. It is expected that voter turnout will be close to 80% and with only 60% reported so far, there are still many votes to be counted. As a result of ballots counted in recent days, it appears the House Democrats will have a one-vote majority. State law requires a recount under specific circumstances on very close races; a handful of these races may qualify for a computer or hand recount. Election results are certified on November 29 and any recounts must take place before that date.

2017 Session around the Corner

With the elections behind us, attention at the state level will turn to the 2017 session, which is scheduled to begin January 9. This will be a “long” session of the Legislature—105 days. To begin preparing for the upcoming session, the Senate is scheduled to meet for committee days on November 14-15 and the House is scheduled to meet for committee days on December 1-2. During committee days, legislative leadership will convene the “Committee on Committees” to determine legislative committee chairs, ranking members, and committee members. Bills will begin to be pre-filed in both chambers on December 1.

Governor Developing Budgets

Meanwhile, the Governor’s Office is working to develop proposed Operating, Capital, and Transportation budgets. Traditionally, the Governor’s Office releases its proposed budget in mid-December, just in advance of the beginning of the legislative session. The Governor’s proposed budgets are the starting place for the Legislature to begin budget discussions. Traditionally, each chamber holds a hearing on the Governor’s proposed budget during the first week of the legislative session.

Emerging Legislative Issues

Department of Revenue (DOR) Task Force on Local Business Licensing and B&O Tax

Last session, the Legislature established a task force to look at local B&O tax and business licensing issues. The task force has been meeting throughout the legislative interim. The task force has agreed on recommendations that would make the business licensing process easier, and to establish a threshold for obtaining a business license when only a very minimal amount of work is performed or business is conducted within a city.

On the business licensing issue, the task force is recommending that cities be encouraged, but not required to join ATLAS—the state’s business licensing system, OR to use the FileLocal system. As you know, FileLocal is the multi-city business licensing and local B&O tax on-line portal developed by the cities of Bellevue, Seattle, Tacoma and Everett.

In addition to business licensing, the task force has discussed the local B&O tax. Business interests have advocated for a centralized B&O system, where the imposition and collection of local B&O tax mirrors the collection and imposition of sales tax, which is all done by the state. Cities, including Bellevue, have strongly opposed this. At this time, it does not appear that the task force will provide a recommendation on this element.

On the minimum threshold issue, cities have agreed to develop a model ordinance that would establish a threshold exempting those businesses from obtaining a business license if the amount of work performed in the city is minimal. A city could still require a business registration at no cost to the business to monitor business activity occurring within the city.

The DOR will provide a progress report on the work of the task force to the Senate Economic Development & Trade Committee and the House Finance Committee during Senate and House committee days. The task force is statutorily required to submit its report to the Legislature by January 1, 2017.

I-405 Transportation Funding

In previous sessions, Bellevue has joined other cities along the I-405 corridor in advocating for a budget proviso that ensures that funding available through cost savings on the I-405 corridor are reinvested in the corridor. When the “Connecting Washington” Transportation Package was adopted in 2015, the state adopted a new policy that project cost savings funds be transferred to the Transportation Futures Account. Funds in that account would then to be invested mid-way through the 16-year package, with half of the funds dedicated to maintenance and preservation and half to be invested in a project list to be determined by a future Legislature. When this policy was adopted as part of the Connecting Washington Transportation Package, the budget writers indicated that this policy was not intended to apply to multi-project programs (I-405, Puget Sound Gateway, SR 520 Bridge, etc.). A proviso is needed to allow these cost savings to be reinvested in projects on the multi-project programs (including I-405). Staff are working with a stakeholder group to develop proviso language for the 2017 session.

Infrastructure Funding

We anticipate infrastructure funding to be a priority issue for local governments this coming session. Areas of concern include:

- **Public Works Trust Fund (PWTF):** Over the last few years, the Legislature has “swept” funds from this account to fill gaps in the state’s operating budget, redirecting the revenue streams (utility tax, solid waste tax, real estate excise tax and loan repayments) until 2019. We anticipate this trend will continue as the Legislature will likely redirect additional revenue to fund K-12 education under the *McCleary* decision. During the interim, local government representatives and other stakeholder groups have discussed several potential changes to the PWTF in order to ensure its survival as an excellent source of funding for major infrastructure projects around the state. Staff will track these proposals and provide updates for Council as legislation is developed.
- **Model Toxics Control Account (MTCA):** Funding for this account is used to fund hazardous waste cleanup projects. Available funds in this account have declined because its revenue is primarily tied to the price of crude oil through the Hazardous Substance Tax (HST). As of June, projected revenues to the account show a drop of \$121 million, leaving the projected overall MTCA fund balance for 2017-2019 at \$78 million lower than anticipated. This issue is not new—a similar decline in the MTCA revenues occurred last session. Because the MTCA fund balance cannot support all existing or new appropriation requests, DOE requested that the Governor’s Proposed Capital Budget backfill the account with State Building Construction funds, which would put greater demands on the state’s capital budget.
- **Water Infrastructure Funding:** Throughout the interim, a large stakeholder group has discussed development of a water infrastructure investment package focused on funding water supply, flood mitigation, stormwater, and culvert projects throughout the state. While the group has met many times, and refined an overarching structure for an investment package, it has not yet identified a funding source for the investment package. Many local governments, including Bellevue, have opposed previous bills that would have imposed a statewide per-parcel fee. The majority of the revenue from the per-parcel fee would fund some very large water and flood projects outside of the Puget Sound region where most of the revenue would be generated. It is likely that a bill will be introduced in 2017; however, there does not appear to be consensus around the fee. Staff will continue to track this issue.

Affordable/Workforce Housing/Homelessness: There are a number of proposals to provide more tools for local government to use to address the critical need for affordable/workforce housing. During the 2016 session, Bellevue advocated for increased funding for the Housing Trust Fund and for local options that would address this need. Some of the proposals that will likely be introduced in the 2017 session include the following:

- **Document Recording Fee:** The Homelessness Housing and Assistance Act (HHAA) funds homelessness services (shelters, rapid rehousing, move-in assistance, etc.) through a fee assessed on select documents recorded through the county auditor. The current fee is \$58, \$30 of which is scheduled to sunset in 2019. Loss of this funding would result in a significant decrease in funds available for homelessness services. Homeless housing advocates, local governments and many other stakeholders support legislation to make the \$30 fee permanent. There are also proposals to increase the fee as well as to tie the funding distribution to private market vacancy rates.
- **Housing Trust Fund:** The Housing Trust Fund invests state funds on a competitive basis to build affordable homes for people earning zero to 80% of the local area median income. Affordable housing advocates are requesting \$198 million for the Housing Trust Fund Account; \$150 million for new affordable housing construction, \$10 million for preservation of existing HTF affordable housing stock and \$38 million for 276 homes for homeless families with children, and 400 homes for chronically homeless individuals. The request is for funding in the Capital Budget
- **Medicaid Waiver:** Last month, the federal government granted Washington State an 1115 Medicaid Waiver, which gives the state additional flexibility to design and improve its Medicaid programs, including the ability to fund housing services using federal Medicaid dollars. The Governor's Office and the state Health Care Authority are now working to implement the waiver and administer these additional services. It is important to note that these are not new funds for housing services, but there is greater flexibility to use existing Medicaid funding.
- **Local Options to Create Affordable Housing:** In preparation for the 2017 session, cities and counties have been coordinating with housing advocates to develop local option tools to provide more affordable housing in urban areas. The plan is to package these various proposals into one bill that would contain multiple local options. Some of the proposals would likely include authority to: impose a preservation property tax exemption; a fee on building demolition; up to an additional .25 Real Estate Excise Tax (REET 3); flexibility to use existing REET 1 and 2 funds for affordable housing; councilmanic authority to impose an affordable housing sales tax; and a variation of the local revitalization financing focused on affordable housing.

Proposed Pension Plans Merger Study: Last session, the Legislature directed a study on the possibility of merging the Law Enforcement Officers and Fire Fighters Pension Plan 1 (LEOFF 1) pension system and the Teachers' Retirement System (TRS), as well as examining the potential merger of the LEOFF 1 and LEOFF 2 systems. The TRS 1 account currently has \$2.9 billion in unfunded liability due to several factors: a lower than anticipated retirement age; the Legislature not making the necessary contributions to the new system; and a higher-than-expected number of early retirements due to disability. The LEOFF 1 plan is estimated to be funded at 127% with a potential surplus of \$1.2 billion.

The appeal of a LEOFF 1/TRS 1 merger for the state is simple—the TRS 1 plan is underfunded and requires significant additional state contributions to meet its obligations. A LEOFF 1/LEOFF 2 merger

would allow the Legislature to access the potential surplus for state General Fund expenses and reduce the state contributions to the LEOFF 2 system. Either merger would need to be approved by the Internal Revenue Service (IRS). As is the case with many legislative proposals, the devil is in the details—any merger must not destabilize the LEOFF 1 fund, and must not result in any new employer contributions, new benefits or increase employer contribution rates. The Select Committee on Pension Policy and the LEOFF 3 Board will produce their study next month. It is expected that we will see legislative proposals on this merger this coming session. Staff will monitor these proposals and provide updates for Council.

Joint Legislative Task Force on the Use of Body Worn Cameras: The task force has been meeting during the interim to examine the use of body worn cameras by law enforcement and corrections agency personnel. In its first two meetings, the group heard presentations regarding complex public records issues, limitations of existing technology, health care and other privacy concerns. The task force has compiled policies from 36 jurisdictions in order to review for best practices.

The next meeting, which may not be until *after* the 2017 session, three panels will further discuss policy recommendations. The panels include representatives from the following groups: government agency and law enforcement personnel, the criminal bar, and members of the public/community. Following these policy evaluations, the task force will report its findings and make recommendations regarding costs, agency policies, retention of data and privacy issues. Given that this report will be submitted to the Legislature by December 2017, it is unlikely that legislation will be introduced prior to the completion of the task force's work.

Marijuana Revenues: Under current law, beginning in fiscal year 2018, if marijuana excise tax collections deposited into the general fund in 2017 exceed \$25 million, the Legislature must appropriate 30% of deposits for distribution to local governments. However, the amount is capped at \$15 million in fiscal years 2018 and 2019 and then at \$20 million thereafter.

The June 2016 Economic Revenue and Forecast Council (ERFC) projections for fiscal year 2017 estimates deposits to the state general fund will exceed \$25 million, and are forecasting total revenue at \$82,739,000 for FY 2017. Without the \$15 million cap, local governments would receive 30% of this amount—\$24,821,700. However, with the cap in place, only \$15 million will be distributed to local governments.

Under the cap, the distribution of funds is as follows:

- 30% (an estimated \$4,500,000) to local governments where licensed marijuana retailers are physically located and in proportional share of the total revenues generated. No breakdown of this portion of the distribution is available at this writing.
- 70% (an estimated \$10,500,000) to local governments on a per capita basis with 60% going to counties based on each county's total proportional population. *Jurisdictions that have prohibited the sale of marijuana will not receive a distribution.*

Some legislators are interested in reopening the discussion on these marijuana revenue distributions, to remove the caps and allocate a larger portion to the local level.

Potential Marijuana Policy Changes: There are two policy changes around marijuana that we anticipate will be brought forward in 2017. First, under current law, marijuana vaping lounges are

banned statewide. The cities of Seattle and Soap Lake are bringing forward legislation that would allow individual cities to authorize vaping lounges within their boundaries; jurisdictions would retain the authority to maintain the ban within their boundaries; and a ban would be the default if a jurisdiction does not take action. Second, jurisdictions currently have the authority to ban marijuana altogether. There is interest among some legislators in removing this authority. Legislation to remove this local authority was introduced in previous sessions and passed in the House, but failed to pass in the Senate.

ALTERNATIVES

N/A

RECOMMENDATION

N/A

ATTACHMENT(S)

N/A

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

N/A