

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

State Legislative Update

STAFF CONTACTS

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POLICY ISSUES

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

ACTION



DIRECTION



INFORMATION ONLY



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

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

BACKGROUND/ANALYSIS

April 23 marked the end of the 105-day “regular” session of the State Legislature. Unfortunately, operating and capital budget negotiations have yet to begin, leaving little doubt that there will need to be a special session. The House and Senate Democrats have sent a formal request to their Republican colleagues asking to begin negotiations. This formal request has gone unanswered. The Legislature needs to approve a final operating budget by June 30 to avoid a state government shut down.

If, as anticipated, the Legislature enters into special session, the number of issues it will consider will be limited to budgets, and those bills that have been designated “Necessary to Implement the Budget” (NTIB). Interestingly, that list has grown to be quite long.

State Operating Budget

Negotiations on the Operating Budget have yet to begin. The House and Senate have each taken different approaches to the Operating Budget. Generally speaking, the House proposal raises additional revenue by instituting a capital gains tax, increasing the Business and Occupations (B&O) tax on certain businesses, establishing a marketplace fairness tax, and rolling back several tax exemptions. The Senate proposal establishes a “new local effort levy” that would increase property taxes throughout most of the Puget Sound region.

Within the two operating budget proposals, there are certain proposals that would have a direct negative impact on Bellevue’s budget:

- The **Senate** proposes to **eliminate the state’s contribution to the Law Enforcement Officers and Fire Fighters Pension Plan 2 (LEOFF 2) program**. Senate Ways and Means staff estimated the City of Bellevue would need to allocate \$1.35 million *annually* to backfill the elimination of the state’s contribution.

- **Marijuana Revenues:** When marijuana revenues were negotiated a few sessions ago, the Legislature implemented a “phased increase” in funding to local jurisdictions. During the last biennium, \$12 million was allocated to local governments. This biennium, this amount is supposed to increase to \$30 million. Additionally, the distribution formula changes this biennium from being exclusively distributed based on retail sales, to instead being distributed in part by retail sales, and in part by population.

The **House** is proposing **to only allocate \$12 million in marijuana revenues to the local level, rather than increasing to the \$30 million.** The House proposal does not maintain the current formula, meaning that the \$12 million will be spread across more jurisdictions. If this proposal is adopted, Bellevue would receive a decrease in the amount of marijuana revenues it receives.

- The House proposes to enact a statewide Marketplace Fairness Act, and suspend the streamlined sales tax mitigation payments in the 2019-2021 biennium. Bellevue receives approximately \$60,000 each year in streamlined sales tax mitigation revenues. Very preliminary estimates indicate that the City would receive a net increase under the Marketplace Fairness Act. However, because these estimates are preliminary, there is an effort by many cities to study the actual revenues generated by the Marketplace Fairness Act prior to suspending streamlined sales tax mitigation payments.
- The Senate proposes to change the distribution formula for the fire insurance premium tax distributions to essentially eliminate the funding for most cities. Bellevue receives \$206,920 annually from this revenue. The specific conditional budget language being proposed is as follows:
 - For fiscal year 2018 and 2019, 25% of all moneys received by the state from taxes on fire insurance premiums shall be distributed to eligible cities, towns, and fire protection districts in the amount of \$2,000 for each firefighter eligible to receive benefits from the fund or the amount of funds distributed to that city or town during fiscal year 2017, whichever is less.
 - To be eligible to receive a distribution, a city or town must demonstrate that the tax levy under RCW 41.16.060 is being levied at the rate of twenty-two and one-half cents per thousand dollars of assessed value and that the total proceeds from this levy cannot meet the estimated demands on the fund or maintain the actuarial soundness of the fund. If any portion of the tax levy under RCW 41.16.060 has been reduced, in whole or in part, or if the levy is being used for any other municipal purpose, the city or town is not eligible for a distribution under this subsection.

State Capital Budget

Both chambers have passed proposed Capital Budgets and the negotiation process between the House and Senate proposals has begun. The Capital Budget funds the state’s “bricks and mortar” improvements and a majority of the budget is allocated for the construction of K-12 public schools. This biennium, capital budget revenues were more limited than in previous years. The state has an obligation to provide a match to local school districts that pass local bonds for school construction. An unusually large number of school districts approved local bonds, requiring a larger state contribution to match the local investments. As a result, there was significantly less funding for local and community projects.

The House and Senate's project lists for local and community projects are very different from one another, and will likely require significant negotiations in order to reach a final agreement. The Highland Village Apartment Preservation Project is the only project on Bellevue's top priority list to receive funding in the proposed Capital Budgets (\$1.5 million is included in the House Proposed Capital Budget). The House proposal also includes \$500,000 for the Wilburton Trestle Rehabilitation Project requested by King County and supported in Bellevue's 2017 legislative agenda.

Public Works Assistance Account – Both the House and Senate proposed budgets allocate \$100 million to the Public Works Assistance Account loan list. While this is an improvement from a complete elimination of the program that occurred in previous sessions, it is far distance from fully restoring the program. Additionally, the plethora of bills related to local infrastructure funding has narrowed down to one - House Bill 1677, sponsored by Representative Strom Peterson (D-Edmonds). In its current form, the bill reflects the work of the sub-committee composed of legislators that met during the session to develop proposed funding recommendations for this very important fund that helps local governments and special districts fund large infrastructure projects. The bill aims to help smaller jurisdictions gain greater access to the bond market.

Additionally, four legislators, one from each caucus, will serve on the Public Works Board (PWB). In exchange, the PWB will be able to complete loan lists and fund them without waiting for approval via the state's Capital Budget. This approach will speed up the process for loan disbursement from 18 months to approximately six months. The bill passed the House 95-2, with one excused. It is now headed to the Senate for concurrence. If the Senate does not concur with the amendment, the House can recede from its amendment or enter conference committee with members of each caucus to settle on final language.

Model Toxics Control Act Legislation - The Model Toxics Control Act (MTCA), administered and enforced by the Department of Ecology, requires liable parties to clean up sites contaminated with hazardous substances. Under the MTCA, the State Toxics Control Account (STCA) and the Local Toxics Control Account (LTCA) provide for contaminated site cleanup grants to local governments.

As the price of oil has declined, revenue in these accounts has decreased and local grants have suffered. To address this concern, Representative Strom Peterson (D-Edmonds) introduced House Bill 2182 late in the session and the bill passed out of the House on a largely party line vote. The bill would create a tiered rate for the Hazardous Substance tax based on revenue thresholds. The tiered rate would revert back to 0.7% after 8 years. The proposed tiered rates are:

- 0.9% until annual revenue collected reaches \$110 million dollars;
- 0.7% until annual revenue collected reaches \$170 million dollars; and
- 0.21% until the first day of the next fiscal year.

The bill is now in the Senate Ways and Means Committee but has not been scheduled for a public hearing. Given there is only one week left in the regular session, it is unlikely this bill will advance this session. It may be an issue that is designated "NTIB" and therefore could be raised during a special session.

State Transportation Budget

While negotiations on the Operating and Capital Budgets have not started, the Transportation Budget negotiators are nearly finished. The House passed its proposed Transportation Budget last week, and the

Senate passed its proposal a few weeks ago. The Transportation Budget writers from both chambers have been meeting frequently, and are expected to finish their work in time for the Legislature to approve a final Transportation Budget before the end of regular session on April 23.

- **Sound Transit Proposals** - The House passed House Bill 2201, sponsored by Representative Mike Pellicciotti (D-Federal Way), last week. The bill requires Sound Transit to utilize a formula developed in 2006 for calculating the motor vehicle excise tax (MVET), rather than the 1990 formula currently being used. Making this change would result in Sound Transit receiving approximately \$780* million less revenue. When bonding that revenue is taken into account, the overall impact on the Sound Transit 3 (ST3) proposal is \$2* billion. While the House approved the bill with bipartisan support, it is unclear whether the Senate will advance the bill. Instead, the Senate passed Senate Bill 5893, sponsored by Senator Steve O'Ban (R-University Place), which requires Sound Transit to utilize a formula based on the Kelley Blue Book to calculate the MVET. This proposal is estimated to reduce Sound Transit's revenue by \$12* billion.

***NOTE: All numbers are estimates.**

In addition to the two proposals addressing the valuation formula for calculating the MVET, there are two bills that the House advanced recently that propose other reforms on how Sound Transit does business. House Bill 1958, sponsored by Representative Mark Harmsworth (R-Mill Creek), clarifies that Sound Transit cannot collect property taxes on property where less than the whole parcel is within the Sound Transit boundaries. This became an issue with the passage of ST3 which included a property tax increase, a tax Sound Transit had not previously imposed. When the tax was imposed for the first time, some properties that were partially within the Sound Transit boundaries had their property tax increased; however, the ST3 measure was not included on the ballot registered to that property. The bill passed out of the House unanimously.

Additionally, the House has scheduled a hearing on House Bill 2148, sponsored by Representative Kristine Reeves (D-Federal Way), which would allow Sound Transit to establish a rebate program for up to 40% of the MVET and/or property taxes for low income individuals residing within Sound Transit's boundaries. For the purposes of this program, a "low income individual" is a single person, family or persons living together with a total income that is at or below 80% of the median income. This bill proposes to finance the rebate program through funds from the state Transportation Budget.

Updates on the Status of Other Key Legislative Proposals

Business Licensing Proposal Reaching Final Steps of the Legislative Process

Throughout the legislative session, House Bill 2005, sponsored by Representative Kris Lytton (D-Anacortes), and Senate Bill 5777, sponsored by Senator Sharon Brown (R-Kennewick) regarding business licensing have advanced. This week an agreement was reached between the two prime sponsors that House Bill 2005 will be the vehicle for this proposal. House Bill 2005 passed off the Senate floor with unanimous approval. The House will now need to concur in the amendments made by the Senate.

In its final form, House Bill 2005 would do the following:

- Require cities to adopt a uniform definition on the minimum amount of activity a business would need to engage in before a business license is required;
- Establish a work group to discuss potential changes to the local business and occupations (B&O) tax apportionment formula; and,

- Require cities to join the state business licensing system over a 10 year time period. The bill would allow cities to join the FileLocal system by 2020 instead of joining the state business licensing system, and would allow cities facing a fiscal or technical hardship to delay joining the state system for up to three years.

Document Recording Fee Proposals for Affordable Housing

Legislation retaining and/or increasing the document recording fee has been designated “necessary to implement the budget.” The two bills that are currently under consideration are House Bill 1570, sponsored by Representative Nicole Macri (D-Seattle) who is offering floor amendment to the bill that would remove the sunset on the document recording fee and makes the \$40 document recording fee permanent. The bill would also allow counties to charge and retain an additional fee, up to \$50.

The Senate may vote on Senate Bill 5254, sponsored by Senator Joe Fain (R-Auburn), who is also offering an amendment that would narrow the bill to include: changes to the buildable lands report, changes to Puget Sound Regional Council (PSRC) regulations; and extend the document recording fee to 2029. A handful of additional amendments are being offered to both bills. Legislators continue to discuss the document recording fee and the associated issues described above in the Senate version of the bill.

Affordable Housing Local Option Tools

House Bill 1797, sponsored by Representative Joan McBride (D-Kirkland), is currently on the House Floor Calendar awaiting a vote. The bill has not met the legislative cutoff deadlines, but may be considered “necessary to implement the budget.” The bill includes a number of different elements. It would allow cities to apply for a one-time remittance of 4.37 percent of the state sales and use tax on public purchases for affordable housing development or public infrastructure to support such development.

It would allow the King County Council to impose a 1/10th-cent increase in the sales tax by councilmanic vote. Proceeds from the tax increase would fund affordable housing and homelessness services. This represents a significant change in the legislation from its original form (passed in 2015) which required the tax increase to be placed on the ballot. If the county does not impose the sales tax, the city would then have the opportunity to enact the tax by councilmanic vote. It would also allow REET II revenues to be used for affordable housing development through 2022, as long as other capital projects have adequate funding.

Small Cell Network Legislation Discussions Continue

The Governor’s Office staff continues to hold stakeholder meetings regarding the deployment of small cell network infrastructure, pole attachment rates, and expanding rural broadband. Earlier in the session, Senate Bill 5711, sponsored by Senator Doug Ericksen (R-Whatcom), would have significantly preempted city authority to regulate activities and use of its rights-of-way, and would have allowed the telecommunications industry unfettered access to city right-of-way to install small cell network infrastructure. Fortunately, this legislation technically “died” earlier this legislative session when it was not approved by the legislative cutoff. However, some are asserting that this issue is “necessary to implement the budget” and therefore remains “alive”. The Governor’s Office staff is convening stakeholders to see whether a compromise may be possible, and whether such a compromise could also expand rural broadband, which is one of the Governor’s top priorities.

In stakeholder meetings led by the Governor's Office, city representatives continue to assert that the *Carlyle Amendment* (sponsored by Senator Reuven Carlyle, D-Seattle), is the only "compromise" cities are willing to make. The amendment seeks to preserve the ability of cities to regulate what activities occur in their right of way and what equipment is attached to poles via land use regulations and permits. One mechanism included in the amendment would have cities adopt a master permits/ordinances containing design review standards. There continues to be disagreement with the industry on this issue, as well as pole attachment rates, and the best approach to expanding rural broadband. Meanwhile, some Senators are drafting various legislative proposals to introduce in the final week of the legislative session to reinforce their respective positions. Thus far, formal proposals have not been released, but cities are providing feedback into the drafting process.

Both Public Records Bills Pass the Senate and await Concurrence in the House

House Bill 1595, sponsored by Representative Terry Nealey (R-Dayton), passed the Senate, 43-4, with 2 excused. House members will have the option to concur with the amendments or ask the Senate to recede from the amendments. Additionally, the House and Senate could go to conference committee to reach a final agreement.

House Bill 1595 includes the following provisions:

- Authorizes agencies to charge for providing copies of electronically produced public records and sets a default fee schedule for electronic records at 10 cents/gigabyte. This fee is optional. Local governments may also choose to pursue a flat fee and the rate of that fee was reduced to \$2
- Authorizes a customized service charge for exceptionally complicated requests.
- Provides that a request for all or substantially all agency records is not a valid "identifiable records request" under the Public Records Act.
- Allows agencies to deny frequent automatically generated requests for public records that would interfere with the other essential functions of the agency.

Last week, House Bill 1594, sponsored by Representative Joan McBride (D-Kirkland), passed the Senate, 40-7, with 2 excused. This bill is also on the House Concurrence Calendar, but it may face more challenges. The bill sponsor has indicated that she is not supportive of the reporting requirements that were added in the Senate version of the bill. For that reason, the bill may go to conference committee to determine the final language.

House Bill 1594 includes the following provisions:

- A study regarding establishing a statewide internet portal for public records management; \$25,000 for the study is provided in the bill, which is included in the House budget proposal.
- Authorizes a \$1 surcharge on county recorded documents to fund the State Archives local competitive grant program for records retention which sunsets in 2020.
- Establishes a local government consultation program to be run by the Attorney General's Office that would operate through 2020 and be funded out of the \$1 surcharge.
- Review of the grant and consultation programs by the Joint Legislative Audit and Review Committee (JLARC).
- Establishes performance measurement reporting requirements for agencies with JLARC to administer the reporting.

- Clarification about how to address a records request when the requestor doesn't respond to an agency's request for clarification.
- Language exempting certain volunteer records.

Public Notices of Public Health, Safety, and Welfare

Senate Bill 5046, sponsored by Senator Bob Hasegawa (D-Seattle), passed the House 52-45, with 1 excused. Since the bill was amended in the House, it will need to go to the Senate for concurrence. As amended, the bill requires state agencies providing life safety information during an emergency or disaster, and political subdivisions during proclaimed emergencies, to provide life safety information in a language or manner that can be understood by significant population segments of the affected area that have limited English proficiency, unless technologically infeasible.

Under the bill, "significant population" refers to 5% of the population or 1,000 people, whichever is fewer. Additionally, local organizations must include communication plans, as part of local comprehensive emergency management plans that address emergency notification of life safety information to significant population segments with limited English proficiency. Finally, the Military Department would be required to submit a report to the Legislature every five years with these local communication plans. The Association of Washington Cities and the Washington Association of Counties have taken a neutral position on the legislation.

OPTIONS

N/A

RECOMMENDATION

N/A

ATTACHMENTS

N/A

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

N/A