

CITY COUNCIL STUDY SESSION

State Legislative 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**2019 Legislative Session Enters the Home Stretch**

The last day of the 2019 regular session is Sunday, April 28. The Legislature passed the last major cutoff on Wednesday, April 17. That was the deadline for bills to pass out of the opposite chamber—Senate bills out of the House and House bills out of the Senate. The Legislature has now finished its committee work and the remainder of the session will focus on floor action on bills. There are less than two weeks remaining in the regular legislative session. The Legislature has finished their work in committees and will spend the remainder of the session on the floor. A good share of time will be spent on budget issues. If the two chambers cannot agree on a budget, and/or other significant legislative proposals, the Governor could extend the legislative session by calling for a special session.

Meanwhile, budget negotiators from each legislative caucus and the Governor's office have been meeting in earnest, beginning the process of reconciling the House and Senate budget proposals to prepare final operating, capital, and transportation budgets. Budget negotiators have indicated that they plan to reach agreement on the operating budget first, and then address the capital and transportation budgets. As part of these budget negotiations, there is an ongoing conversation about a revenue package to support new transportation projects.

Transportation and Infrastructure

Tolling Authorization: House Bill 2132, sponsored by Representative Jake Fey (D-Tacoma), would authorize tolling on I-405 Lynnwood to Renton/SR 167 and the Puget Sound Gateway project (SR 509/SR 167). Additionally, the bill authorizes bonding the toll revenue to generate \$1.5 billion to fund projects along the I-405 corridor including up to \$600 million to complete improvements to the north end at SR 522, \$250 million to complete the North 8th project in Renton, and \$3 million to update the SR

167 corridor plan. The remaining funding would be invested in projects identified on the I-405/SR 167 Master Plan. The House Transportation Committee delayed voting on the bill until budget negotiations are farther along.

The Senate Transportation Committee advanced Senate Bill 5825, sponsored by Senator Steve Hobbs (D-Lake Stevens), which would authorize tolling on the Puget Sound Gateway project (SR 509/ SR 167), and on I-405/SR 167, but does not accelerate delivery of the projects and does not authorize bonding. Because it does not authorize bonds, this version of the bill requires only a simple majority to pass. Senator Hans Zeiger (R-Puyallup) indicated that he plans to offer an amendment to the bill on the floor that would accelerate the Puget Sound Gateway project and authorize bonding the toll revenue (which then requires a 60% vote). These bills are not subject to the April 17 cutoff and we will continue to work to pass legislation authorizing tolling and bonding on the I-405 corridor through the end of the session.

Affordable Housing

Credit Against the State Sales Tax: House Bill 1406, sponsored by Representative June Robinson (D-Everett), would allow local governments to impose a .02 percent credit against the state share of the sales tax to fund affordable housing. The bill remains in the Senate Ways and Means Committee and is on hold, contingent on operating budget negotiations. The House proposed operating budget assumes passage of House Bill 1406, at a cost of approximately \$70 million per year to the state. The Senate proposed operating budget does not assume passage of the bill.

Under the bill, cities that have imposed a local housing levy may impose the full .02 percent credit within city boundaries. Counties may impose the full .02 credit in unincorporated areas. In all other incorporated areas, the city and county would split the authority, and each could impose a .01 percent credit. If a city does not use the .01 percent credit within one year of the effective date of the bill, the county can then impose the .01 credit (and vice versa). The revenue may be used to acquire, rehabilitate, or construct affordable housing or fund the operations and maintenance of new units of affordable or supportive housing for persons whose income is at or below 60% of the adjusted median income for the jurisdiction imposing the tax. A credit against the state sales tax does not increase the state sales tax; rather, it is sales tax revenue that would otherwise be deposited into the state General Fund that is redirected to the local level.

There is also an effort led by King County to add the provisions of House Bill 1590 (considered previously in the legislative session, but was not passed by the House) into House Bill 1406. House Bill 1590 would allow cities and counties to impose a one-tenth of one-cent increase in sales tax by councilmanic vote rather than being subject to voter approval. An amendment to House Bill 1590 would allow cities to impose one-half of the one-tenth-cent increase with counties having the same authority. If a city does not use its authority within 24 months of the effective date of the bill, then the county would be able to impose an additional one-half of one-tenth percent and vice-versa if the county does not use its authority to impose the increase. It is unclear whether there is support in the Senate Ways and Means Committee or in the full Senate to add the provisions of HB 1590 to HB 1406.

Expanded Real Estate Excise Tax (REET) Authority for Affordable Housing: House Bill 1219, sponsored by Representative Amy Walen (D-Kirkland), passed the Legislature. The bill allows cities and counties to use the existing second quarter-cent of the real estate excise tax (REET 2) revenue for affordable housing. Cities and counties have the authority to use up to \$1 million of REET 2 revenues for affordable housing under current law, but that authority is scheduled to sunset in June. Before passing the House, the bill was significantly amended. The final version of the bill extends the sunset on the authority to January 1, 2026 and removes the cap on the amount of revenue cities can use for affordable housing if the city is already utilizing the authority. The \$1 million cap remains in place for cities that are not currently using the authority.

Habitat for Humanity Housing Bills: House Bill 1168, sponsored by Representative Mari Leavitt (D-University Place), would provide an exemption from the REET for qualifying purchases of labor, services, and tangible personal property related to self-help housing (i.e. housing constructed by Habitat for Humanity). The bill requires the self-help unit to be occupied for five, rather than 20 years by a low-income purchaser. The bill is awaiting a floor vote in the Senate.

Senate Bill 5025, sponsored by Senator Mona Das (D-Covington), provides a sales and use tax exemption on purchases related to self-help housing (i.e. housing constructed by Habitat for Humanity). The bill is in the House Rules Committee.

Affordable Housing on Property Owned/Controlled by Religious Organizations: House Bill 1377, sponsored by Representative Amy Walen (D-Kirkland), as originally drafted would have required cities to offer a density bonus to affordable housing developments constructed on property owned by religious organizations. The bill was amended to address concerns raised by cities. The final version of the bill would require cities to provide an increased density bonus consistent with local needs for any affordable housing development for any single-family or multi-family residence located on real property owned or controlled by a religious organization. Cities and counties could develop policies to implement the increased density bonus allowance once a religious organization requests the allowance for an affordable housing development.

The affordable housing development must be set aside for and occupied exclusively by low income households for at least 50 years by a lease or other binding legal obligation, even if the religious organization no longer owns the property. The organization must agree not to discriminate based on a list of demographic factors, including creed, disability, and sexual orientation. A religious organization developing affordable housing would have to agree to pay fees, mitigation costs, and other charges and, if applicable, is encouraged to work with the local transit agency to ensure appropriate transit services are available. Religious organizations rehabilitating an existing affordable housing development would be subject to the provisions of this act. The bill passed both the House and Senate.

Reforms to the Residential Landlord Tenant Act: As part of its strategy to increase affordable housing, the Legislature has passed amendments to the Residential Landlord Tenant Act, including:

- House Bill 1440, sponsored by Representative June Robinson (D-Everett), would require a landlord to provide a tenant at least 60 days written notice of an increase in rent unless the tenant is subsidized. For subsidized tenancies where the rental amount is based on the income of the tenant or circumstances specific to the subsidized household, the landlord must provide 30 days' notice of a rent increase and the rent increase may become effective at the end of the rental term or sooner upon mutual consent. The bill passed the House on a 62-36 vote and the Senate on a 29-18 vote.
- House Bill 1462, sponsored by Representative Andrew Barkis (R-Olympia), would require a landlord under the Residential Landlord-Tenant Act to provide at least 120 days' written notice to a tenant whenever the landlord plans to demolish or substantially rehabilitate the premises or plans a change of use of the premises. The Senate added an amendment that landlords may only be held liable in a civil action for up to three times the monthly rent of the property if they violate the 120-day notice requirement. The bill passed the Senate 44-1. The House will need to concur with the Senate amendment prior to the bill advancing to the Governor's desk for signature.
- Senate Bill 5600, sponsored by Senator Patty Kuderer (D-Bellevue), would extend the 3-day notice for default in rent payment to 14-days' notice. The bill requires the 14-day notice be written in plain language and include information on civil legal aid resources available, if any, to the tenant. The bill would require a landlord to apply any tenant payment to rent before applying the payment toward other charges. Additionally, the bill would prohibit continued tenancy and relief from forfeiture to be conditioned upon tenant payment or satisfaction of any monetary amount other than rent. The court would be given discretion to provide relief from forfeiture or to stay a writ of restitution. A landlord would also have to provide a tenant with documentation regarding damages for which the landlord intends to retain any of the deposit amount. The Senate passed the bill 31-15. The House passed the bill, 51-46. The Senate will need to concur with the House amendments prior to the bill advancing to the Governor's desk for signature.

Final Agreement Reached on Minimum Density Requirements Incentives: House Bill 1923, sponsored by Representative Joe Fitzgibbon (D-Burien), was amended multiple times throughout the legislative process, from mandating that cities take action to increase density, and providing incentives for cities to use to increase density. A final compromise was reached and was adopted via an amendment by the Senate on a 33-12 vote last week. The House is likely to "concur" with the Senate's amendment and send the bill to the Governor for signature.

The final version of the bill removes mandatory language and instead encourages cities to undertake actions to increase housing density. The bill exempts certain city actions to increase residential building capacity from SEPA appeals or legal challenges for actions taken prior to April 1, 2021. The bill would also establish a grant program administered by the state Department of Commerce for city programs with "extraordinary potential" to increase housing supply or streamline regulations. Cities may also receive grant funds for developing a housing action plan. The bill includes language that would reduce

parking requirements for low-income, senior, and disabled households near transit; however, the bill retains city authority to waive the requirement.

Accessory Dwelling Unit (ADU) Bill in House Rules Committee: Senate Bill 5812, sponsored by Senator Guy Palumbo (D-Maltby), as originally drafted would have preempted city authority to regulate ADUs. The bill was significantly amended after it passed out of the House Local Government Committee. In the latest version of the bill, cities would be grandfathered if:

- Their current ordinance has resulted in an increase in permitted ADUs, OR
- Cities have updated their ordinance after 2012.

If not grandfathered, cities with a population over 10,000 would be required to update their ADU ordinance and include four of 10 items listed in the bill within their ordinance. Additionally, cities may not impose a transportation impact fee on an ADU that is within one-half mile of a transit stop for fixed rail or for bus service that is scheduled at least every 15 minutes for no less than 10 hours per day. The bill remains in the House Rules Committee and is slightly less objectionable to cities than previous versions.

Transportation and Infrastructure

Personal Delivery Devices: House Bill 1325, sponsored by Representative Shelley Kloba (D-Kirkland), addresses the regulation of personal delivery devices. The bill would establish a statewide regulatory framework for personal delivery devices to be operated on a sidewalk or in a crosswalk. The bill was amended in the House Transportation Committee as well as on the House floor. The version of the bill that passed the House would remove restrictions on local control and would require personal delivery devices to operate in accordance with the laws and regulations of local jurisdictions. The bill was further amended in the Senate Transportation Committee and would require that infractions issued for a personal delivery device be treated like a parking infraction and that the registered agent would be responsible for any infraction. The amendment also added a fee of \$50 per device and directs the Department of Licensing (DOL) to collect the fee and deposit it into the Motor Vehicle Account. The amendment also removed the requirement that the device have a flag pole and emit an audible noise when passing a pedestrian. The effective date of the bill would be September 1, 2019. This version of the bill passed the Senate unanimously.

Motorized Foot Scooters: House Bill 1772, sponsored by Representative Nicole Macri (D-Seattle), would establish a statewide framework for e-scooters. The bill language clarifies that motorized scooters are not a vehicle under state law and that motorized scooters cannot exceed 15 miles per hour. The bill also sets out a framework for cities that have or would like to deploy an e-scooter-share program. The bill was amended in the transportation committees in both chambers and on the House floor, to amend provisions the would have preempted local control. The bill also passed the Senate.

The final version of the bill does the following:

- Provides a definition of motorized foot scooter.
- Prohibits individuals under the age of 16 from operating a motorized foot scooter unless permitted by a local jurisdiction.
- Authorizes local governments to regulate motorized foot scooters, and scooter-share programs, subject to certain requirements and limitations.
- Establishes the minimum insurance coverage levels that shared-scooter operators are required to have and removed the requirement that shared-scooters be equipped with a locking mechanism.

Environment and Energy

Local Stormwater Charges: Senate Bill 5505, sponsored by Senator Steve Hobbs (D-Lake Stevens), would require that stormwater fees imposed by local governments that are paid by the Washington State Department of Transportation must be specifically used for stormwater control facilities to deal with runoff from state highways. The bill would preempt local governments from using the funds for other purposes. The bill passed the Senate without amendment and was passed by the House Transportation Committee. The bill is in the House Rules Committee awaiting a pull to the House floor for a vote. If passed in its current form, this legislation would reinstate the statute that was in place until 2014, when it was amended to allow more permissive use of the fees for general stormwater control purposes.

Plastic Packaging: Senate Bill 5397, sponsored by Senator Christine Rolfes (D-Bainbridge Island), would establish a product stewardship program for plastic packaging. The program would include all plastic packaging that is solid and plastic that is bonded to another material. Producers/brand owners who sell product with plastic packaging in, into or for distribution in Washington state would be required to participate and fund the program. Funding would pay the costs to collect, sort and recycle plastics that have viable markets collected via curbside programs, and would increase the type of plastic packaging that could be recycled across the state.

As amended, the bill would require the Department of Ecology (Ecology) to hire an independent, third-party contractor to conduct a study on the management and disposal of plastic packaging in the state and provide a report with findings and recommendations to the Legislature. The requirements of the bill would be subject to the Waste Reduction, Recycling, and Litter Control Account (litter tax) funding.

The bill was further amended in the Senate Ways and Means Committee and on the Senate floor before passing the Senate. The amended version would establish goals for reducing plastic waste by 2025, requirements relating to the Ecology study for recommendations by January 1, 2021, would remove draft legislation recommendations, and all references related to the establishment of a plastic product stewardship program.

Although seven amendments were passed by the House Environment and Energy Committee, the House Appropriations Committee did not accept those amendments, and instead worked off the version of the bill that passed the Senate and amended it. This version of the bill clarifies that the program includes packaging produced both within and outside of Washington, extends the date by which the study is due to July 1, 2029, establishes a variety of additional specifications for the Ecology study, and adds a null and void clause. The bill is awaiting a vote on the House floor.

General Government

Business and Occupations (B&O) Tax Legislation: House Bill 1059, sponsored by Representative Luanne Van Werven (R-Lynden), would change the local and state business and occupation tax filing deadline for annual filers to April 15. The House Appropriations Committee amended the bill to clarify that cities have until January 1, 2021 to comply with the new filing deadline for the collection of local business and occupation tax. The amended version of the bill passed out of the House Appropriations Committee and passed on the House floor in a unanimous vote. The bill also passed the Senate unanimously.

Business and Occupations (B&O) Tax Apportionment: House Bill 1403, sponsored by Representative Noel Frame (D-Seattle), would simplify the administration and apportionment of the local B&O tax. The bill would make a series of changes that clarify who is eligible for the tax, what types of activities are taxable, and the appropriate administrative procedures. The bill would also provide direction on how to determine an individual's taxability within a municipality depending on the location of the business activities. The bill is the result of a multi-year B&O Apportionment Task Force and reflects an agreement between cities and businesses. A guideline would be established for taxpayers and tax administrators to request an alternative allocation and apportionment method. The bill takes effect January 1, 2020. The amended version of the bill from the House Finance Committee passed the House unanimously. The bill then passed the Ways and Means Committee and the Senate unanimously.

Wrongful death legislation: Senate Bill 5163, sponsored by Sen. Bob Hasegawa (D-Seattle), would expand the potential beneficiaries of a wrongful death action by removing dependence and residency requirements for parents and siblings. A parent or sibling could be the beneficiary of a wrongful death action if the deceased had no spouse, domestic partner, or child, without having to show dependence on the deceased and regardless of whether the parent or sibling resided in the United States at the time of death.

During the public hearing on both the House and Senate versions of the bill, the Association of Washington Cities expressed opposition to the joint liability provisions of the bill and the increase in litigation costs due to additional lawsuits that may be brought on behalf of decedents. The bill passed the Senate on a 30-17 vote and passed the House Appropriations Committee on a divided vote. Representative Drew Stokesbary (R-Auburn) offered an amendment to remove the joint liability portions of the bill, which in effect would make each defendant's liability for damages equal to the portion with which they are at fault (i.e. if a defendant is 10% at fault, they would pay 10% of the damages). This

amendment addresses the concerns raised by the Association of Washington Cities. The bill passed the House without the Stokesbary amendment.

Public Employees Retirement System Plan 1 (PERS 1) and the Teachers Retirement System (TRS) Plan 1 Benefit Increase: House Bill 1390, sponsored by Representative Mari Leavitt (D-University Place), would provide a one-time, three percent increase in the retirement benefits of retirees in the PERS Plan 1 and TRS Plan 1, up to a maximum of \$62.50. The bill would apply the one-time increase to eligible retirees on July 1. The proposed increase would be costly for cities and the state. The bill is in the House Rules Committee and is part of the broader negotiations on the state operating budget.

Occupational Disease Bill Passes: House Bill 1913, sponsored by Representative Beth Doglio (D-Olympia), passed the Legislature. The bill alters the current statute governing presumed occupational diseases for certain public employee emergency response personnel. The legislation extends existing protections for firefighters to fire investigators and law enforcement personnel and extends the conditions by which the disease is considered presumptive, making firefighters and fire investigators who did not receive a qualifying examination before June 1, 2020 eligible for presumptive status. The bill also expands the list of presumptive occupational diseases. Additions to this list include mesothelioma, stomach cancer, nonmelanoma skin cancer, and breast and cervical cancer for women. The bill establishes an advisory committee on occupational disease presumptions. The committee must include two epidemiologists, two preventive medicine physicians, and one industrial hygienist. The committee's decisions must be supported by scientific, field-accepted evidence. The bill passed the House on an 89-5 vote and passed the Senate 47-0.

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