

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**Background**

The Bellevue City Council adopts a state legislative agenda each year that outlines policy issues and projects representing the City's highest priority requests for action by the State Legislature. Given the likelihood that the Legislature will be meeting virtually, rather than in-person, the City's legislative agenda for 2021 needs to be hyper-focused on three-to-five top priority items that are critical to achieve. Adapting to the current legislative environment will be key to successfully advocating for the City's interests and critical issues. This update includes information that will help inform and frame the City's 2021 State Legislative Agenda and priorities.

Prospects for a Special Session in 2020

Many stakeholders continue to call for the Legislature to convene in a special session. If a special session is convened, it would likely occur after the November 3 General Election, and would be focused on a limited number of issues such as budget amendments and/or legislation specific to the COVID-19 pandemic. The Legislature may use a special session as an opportunity to adopt new procedural rules to convene remotely for the 2021 legislative session.

2021 Legislative Session

The 2021 legislative session will begin on Monday, January 11. The 2021 session is the first year of the two-year legislative biennium, is a "long" session, lasting 105 calendar days. Typical of long sessions, the Legislature will focus on adopting biennial operating, capital, and transportation budgets. The Legislature will also focus on responding to the economic implications of the COVID-19 pandemic, racial equity and criminal justice reforms stemming from the Black Lives Matter movement. The 2021 session also provides an opportunity to advance capital and transportation projects as well as certain policy priorities. This memo provides details on the political climate and policy issues staff anticipates will be at the forefront of the 2021 session.

In-Person or Virtual Format?

It is likely that the Legislature will conduct its activities either partially or exclusively in a virtual format. To conduct its work virtually, the Legislature will need to convene in-person in order to adopt new procedural rules, including provisions for remote voting.

Political Climate: Likely to Mirror 2020 Session

Democrats hold a majority of seats in the State Senate by a 27-22 margin and a margin of 57-41 in the House of Representatives. If the November General Election follows the same trend as the August Primary, Democrats may slightly increase their majority in both chambers and with a more progressive majority. Legislative districts in the urban Puget Sound region that have traditionally been represented by moderates appear to be trending toward support of more progressive candidates. Meanwhile, legislative districts in rural areas of the state that have recently been represented by moderate Democrats appear to be trending toward Republican candidates. The potential result is a mix of wins for both parties that is not likely to substantially change the balance of power for the 2021 session.

Committee Reorganization

Following the November election, the Legislature will begin the “committee on committees” process to identify committee chairs, vice chairs, ranking members and make committee assignments. Each biennium there is a significant reshuffling of committee leadership and membership. This year, there is interest in all legislative proposals being evaluated through an equity lens, however it is not clear how or whether this equity evaluation will occur within the committee process.

State Revenue Outlook and Budget Development

The Governor and Legislature will discuss changes to the current biennial budgets that end on June 30, and will adopt new biennial operating, capital, and transportation budgets for the biennium that begins on July 1, and ends on June 30, 2023. If a special session is convened later this year, a supplemental budget addressing the shortfall in the 2019-2021 budget could be adopted prior to the start of the 2021 session. If no special session occurs, both a supplemental 2019-2021 budget, and the 2021-2023 biennial budgets will be developed during the 2021 session.

The budget process begins and ends with the Governor’s Office. In mid-December, Governor Jay Inslee will submit his budget proposals to the Legislature. Throughout the 2021 legislative session, the Legislature will review the Governor’s proposals and develop and adopt final budgets. The final budget adopted by the Legislature is then submitted to the Governor to be signed into law. Below is a brief summary of each budget:

Operating Budget: Cut the Budget or Increase Taxes?

The Operating Budget allocates funds to all state programs and state agencies. The state balances its budget over four years—two biennia. The 2019-2021 biennial budget was approximately \$53.5 billion. Due to impacts from the COVID-19 pandemic, the Legislature may face a \$4.5 billion revenue shortfall in 2019-2021 and a \$3.2 billion revenue shortfall in the 2021-2023 biennium. The Governor has asked state agencies to prepare proposals to reduce spending by 15 percent. There is some good news in

that state revenue collections have continued to improve from very low collections in the first and second quarters, with the latest numbers at \$643 million or 19.6 percent above expectations. However, hope is fading that the federal government will approve additional assistance any time soon to state and local governments hit hard by the pandemic. If there is no federal assistance, the Legislature will need to make budget cuts and/or increase revenue to balance the budget. With 60 percent of the budget dedicated to mandatory expenditures—the match to receive federal Medicaid funds and constitutionally mandated investments in K-12 education—any budget cuts would be focused on programs and fund accounts in the remaining 40 percent of the budget, such as social service programs, environmental programs, state-shared revenues, and other fund accounts. Budget work is already underway. The Governor's Office is actively developing its proposal.

Additionally, several legislators from the Democratic Party have indicated a strong desire to increase revenue to address any budget shortfall, rather than make budget cuts that could harm social services and other important programs. They are exploring tax increases that could be implemented quickly and raise approximately \$1 billion in revenue prior to June 30. These options are limited to increases in sales taxes, property taxes, business and occupations tax, and marijuana/liquor taxes. To address the \$3.2 billion revenue shortfall in the 2021-2023 operating budget, there are discussions of new revenue sources that have a longer implementation horizon, such as a statewide payroll tax, capital gains tax, and a carbon tax, among others. At this time, it is unclear which tax proposals will be introduced during the 2021 session. Members of the House Democratic Caucus have formed work groups of legislators to develop revenue and budget cut proposals in preparation for the legislative session. Republican legislators have suggested utilizing the state's rainy-day fund and making cuts in a fiscally prudent manner without increasing taxes.

Capital Budget: Economic Stimulus

The capital budget funds brick-and-mortar projects, excluding transportation projects. Eligible projects include building K-12 and higher education facilities, community projects, parks facilities, corrections facilities and other state buildings. General obligation bonds fund most of this budget and are authorized by the Legislature every two years. Funds are allocated in the operating budget to pay the debt service on these bonds.

While state revenues will almost certainly continue to be down next year, the Governor and many legislators have indicated a desire to fund a large capital budget to stimulate the economy. Should the Legislature adopt this strategy for the 2021 session, local governments will have a significant opportunity to secure capital budget funding for critical local projects. The Legislature will be looking to generate new jobs quickly and projects that are shovel-ready will likely compete better for funds and priority will likely be given to projects that serve vulnerable and low-income populations.

Transportation Budget: Revenue Package Under Development

In 2015, the Legislature adopted "Connecting Washington", a 16-year statewide transportation package. In recent years, the Legislature has focused on implementing this 16-year plan; however, the transportation budget is now facing a significant revenue shortfall. The state lost significant revenue

when Initiative-976 was approved by voters in 2019 and is losing \$100 million a month as a result of fewer drivers commuting during the COVID-19 pandemic.

House and Senate Transportation Committee Chairs have indicated that adopting a new transportation revenue package is critical in order to deliver projects in the Connecting Washington package as scheduled, fund culvert projects in response to the State Supreme Court order, and fund new transportation projects throughout the state. The Senate proposed a transportation revenue package referred to as “Forward Washington” during the 2019 and 2020 legislative sessions, but the proposal did not advance beyond the Senate. This proposal will be revised and reintroduced in 2021. In the House, Transportation Committee Chair, Representative Jake Fey (D-Tacoma), is developing a revenue package proposal for the 2021 session. He is holding “listening session” meetings in September and plans to release a draft later this year.

It is likely that any new transportation revenue package will include a low carbon fuel standard and/or a carbon pricing proposal. Below is an outline of the status of each of these discussions:

Low Carbon Fuel Standard: During the 2020 legislative session, dozens of legislators signed a letter indicating that the Legislature would need to adopt a low carbon fuel standard before they would be willing to vote on any transportation revenue package. A low carbon fuel standard would limit the amount of carbon allowed in fuel sources and limiting the greenhouse gas emissions that result when that fuel is burned. House Bill 1110, sponsored by Representative Joe Fitzgibbon (D-Seattle), has passed the House twice. One of the primary concerns with the policy is the expectation that it will increase gas prices and not result in additional tax revenue for the state to make investments in the transportation system. However, that problem could be addressed if a low carbon fuel standard is combined with a cap and trade proposal.

Cap and Trade: The Legislature has also discussed implementing a cap and trade carbon proposal. Generally, this approach would limit or cap carbon emissions and create allowances for carbon emissions that can be traded. The Department of Ecology previously attempted to cap carbon emissions through rulemaking, but those efforts were suspended following a ruling by the Thurston County Superior Court that parts of the rule were invalid. That ruling was appealed to the Washington State Supreme Court and in January, the State Supreme Court ruled that the portions of the rule that applied to stationary sources, such as a factory, were upheld, but that the portions that applied to indirect sources, such as natural gas distributors and fuel suppliers, were invalid. The Supreme Court remanded the case to the Thurston County Superior Court to determine how to separate the rule provisions.

The Governor may try to utilize authority granted in House Bill 2311 that increased the state greenhouse gas emission limits and revise the Clean Air Authority to expand the current entities that are required to comply with that rule.

Regardless of what direction the Governor proposes, legislators are working on a proposal that would combine a cap and trade system with a low carbon fuel standard. The first draft of a bill has

been released to stakeholders to receive feedback.

Carbon Tax: Voters statewide considered and rejected a carbon tax in 2016 and again in 2018. Since then, the Legislature has considered carbon tax proposals, but none have passed into law, or even passed a single chamber. The discussion for the 2021 legislative session will likely focus on a carbon tax or a cap and trade system to generate revenue for the state general fund, environmental projects, and/or transportation uses. A carbon fee or cap and trade system are estimated to generate up to \$10 billion in revenue.

Local Culvert Funding: The state is under an order from the State Supreme Court to replace all state-owned culverts that are barriers to fish passage. While local governments are not under a similar Court order, improvements made to state culverts will not be effective if downstream local culverts are not also improved. Local agencies have and will continue to advocate for a strategic investment in state and local culverts that improve fish passage for an entire watershed.

It is unclear whether efforts to develop and finalize a transportation revenue package proposal will culminate in the passage of a bill in 2021. However, regardless of whether a package passes in 2021, the work done to prepare a revenue package during the 2021 session will shape what would be adopted in a future year. If a revenue package is not approved, projects scheduled to receive funding from the Connecting Washington package may be at risk of being delayed.

Other Policy Issues

Over the legislative interim there have been policy discussions that will likely lead to proposed bills focused on responding to the COVID-19 pandemic, racial inequality and social justice reforms.

Responding to the COVID-19 Pandemic:

- Open Public Meetings Act: Throughout the pandemic, local governments have held public meetings remotely via authority granted through proclamation issued by the Governor. It is likely that the Legislature will consider proposals to permanently revise the Open Public Meetings Act to provide local governments the authority, in times of pandemic or other emergencies, to hold meetings with public access provided online/telephonically.
- Utility Payment Collections: The Governor issued a proclamation prohibiting utilities from disconnecting service, refusing to reconnect service, and charging late fees during the pandemic response. However, this did not relieve customers from the obligation to pay for utility services. Utilities have handled these issues consistent with guidance provided by the Governor's Office. However, there may be legislative proposals to ensure that utilities are able to recover payments from customers over time.
- Tenant Protections: The Governor extended the moratorium on evictions through October 15. Additionally, the Centers for Disease Control (CDC) has issued a similar moratorium through December 31, however, there is some question as to whether the CDC has the legal authority to

enforce its moratorium. It is unclear what will occur when the final moratorium on evictions expires as many tenants will owe a significant amount of rent for months when the moratorium was in effect. This could result in thousands of evictions that could overwhelm the court system. There are several efforts underway to address the issue which will likely require legislative action, including:

- Senator Patty Kuderer (D-Bellevue) and Representative Nicole Macri (D-Seattle), have held frequent meetings with stakeholders throughout the interim to develop a legislative proposal to address this issue. No specific proposal has been shared.
 - The Washington State Supreme Court is convening an Unlawful Detainer Work Group to develop a dispute resolution process for litigants and landlords. Counties proposed for a pilot program include King, Pierce, Snohomish, Clark, Yakima, Spokane and possibly Thurston.
 - The Governor's Office convened a task force to make recommendations on what changes should be made if/when the current moratorium is extended.
- Rental/Foreclosure Assistance: The Washington Low Income Housing Alliance estimates that nearly \$1 billion in rental assistance is needed to prevent homelessness in Washington State. The Washington State Department of Commerce appropriated \$100 million in CARES funding to address homelessness. However, the Legislature is likely to consider allocating more funding through its budget process. Similarly, Representative Tina Orwall (D-Des Moines), has been convening a stakeholder group to provide foreclosure prevention assistance to homeowners struggling to make mortgage payments. The Association of Washington Cities has made "Housing Instability Assistance" a top priority issue and will be working in a coalition to develop additional resources to address housing instability created by the COVID-19 pandemic, including rent assistance and foreclosure-prevention assistance.
 - Expanding Broadband: The COVID-19 pandemic has highlighted the inadequacies and inequities of broadband throughout Washington State. There are several proposals under development to address the issue: (1) Representative Drew Hansen (D-Kitsap County) is developing a proposal that would expand broadband authority to second class cities and towns—only first class and code cities now have this authority. (2) The Public Works Board is tentatively requesting \$80 million in the 2021-2023 biennium to fund broadband projects. (3) Senator Reuven Carlyle (D-Seattle), is developing a proposal to fund and expand broadband services with an "equity tax" on telecommunication companies to finance the expansion of broadband. (4) Representative Mia Gregerson (D-SeaTac), is developing a Digital Equity proposal.
 - Childcare: The COVID-19 pandemic has highlighted the shortage of childcare providers throughout the state prompting concerns and calls for action from state and local elected officials. It is anticipated that several proposals will be introduced to enhance childcare options in Washington State, including changes to licensing requirements, increased funding for

childcare vouchers for vulnerable families, and innovative partnerships among cities, school districts, and parks and recreation districts.

- State-Shared Revenues: Local governments receive revenue from the state from several accounts, including liquor excise taxes, liquor profit revenues, marijuana excise tax revenues, criminal justice assistance revenue, and other accounts. Historically, during times of recession the state has reduced the amount of revenue distributed to local governments through these accounts. Protecting these distributions is a top priority for cities across the state.
- Match Requirements for Federal Emergency Management Administration (FEMA) funds: Across all emergencies in which FEMA Public Assistance is available, FEMA assumes 75 percent of the cost and the local government assumes 25 percent of the cost. Historically, the state has been able to cover half of the local share, for a split of 12.5 percent each. The State Emergency Management Department intends to submit a recommendation to the Legislature consistent with this historic approach. The Legislature has consistently supported these recommendations for every emergency in recent memory; however, given the state's revenue shortfall, this will be an issue to monitor closely in 2021.
- Flexibility with Existing Revenues: The Association of Washington Cities has worked with Representatives Gerry Pollet (D-Seattle) and Keith Goehner (R-Dryden), to develop a proposal to provide cities with flexibility on how existing revenues can be used to help address local revenue shortfalls resulting from the COVID-19 pandemic. This flexibility under consideration would likely be temporary.

Responding to the Black Lives Matter Movement and Social Justice Issues

- Police Reform: In response to recent nationwide protests, police and criminal justice reforms will be a significant topic of discussing in the 2021 session. The bullets below provide a snapshot of the types of proposals that are likely to result in proposed legislation in the coming months. Included below is a summary of proposed approaches and potential topics under discussion that could result in legislation introduced in January—there is, notably, a wide variety of approaches, key players and stakeholder groups involved.
 - Representative Roger Goodman (D-Redmond), who chairs the House Public Safety Committee, has convened a workgroup of legislators on police accountability to discuss potential legislative proposals.
 - The Attorney General's Office developed a reform proposal to improve data collection on police use of deadly force.
 - The Governor's Office created a task force on independent investigations of police use of force.
 - The Washington State Association of Sheriffs and Police Chiefs is developing a package of legislative requests.

- The Criminal Justice Training Commission is developing legislation that would amend the state's decertification process for police officers.
- The Association of Washington Cities has developed a police reform agenda.

As detailed proposals are released, staff will provide information for Council.

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