

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**2021 State Legislative Session Concludes**

The 2021 session of the state legislature adjourned on time on Sunday, April 25. Due to restrictions imposed because of the COVID-19 pandemic, the 105-day session was conducted in a “virtual” format for the most part. Prior to the beginning of session, lawmakers were setting lower expectations for what they might be able to accomplish in a session conducted almost entirely online. However, the 2021 session may be remembered for the number of large policy issues tackled via Zoom.

While the legislature finished its work for now, bills that passed are on Governor Jay Inslee’s desk for consideration and action. Bills sent to the Governor prior to the last five days of session must be acted on within five days of reaching his desk. For bills sent to the Governor in the last five days of the legislative session or when the session adjourned, he has 20 days to act (not counting Sundays). That means that the Governor has until May 18 to act on most bills, either signing, vetoing, or partially vetoing sections of a bill. Unless a bill has a specific effective date, bills take effect 90 days after the end of session, which is July 25.

Operating Budget: The legislature passed a new, two-year \$59 billion budget and appropriated an additional \$10.6 billion in federal COVID-19 pandemic stimulus funds and significant investments in childcare and the state’s public health system. The budget also assumes a \$415 million gain from the capital gains tax approved by the legislature. Under the four-year budget outlook, the budget is projected to end the 2023-2025 biennium with \$98 million and \$1.2 billion in total reserves.

Major expenditure highlights include:

- \$133 million for housing and homelessness through revenue raised by HB 1277

- \$800 million to reduce unfunded liability in the Teachers Retirement System
- \$517 million in state and federal funds to increase behavioral health services, including provider rate increases, community supports, and crisis teams
- \$298 million in state and federal funds to fund the Fair Start Act, which includes a variety of early learning and childcare initiatives
- \$292 million for housing, rental, and related services
- \$261 million to implement the working families tax credit
- \$147 million for the Foundational Public Health initiative
- \$125 million for wildfire preparedness, prevention, and protect

Capital Budget: The legislature allocated \$6.3 billion for the 2021-2023 biennial capital budget, including \$3.9 billion from general obligation funds. The remaining \$2.4 billion consists of \$589 million in federal stimulus funds, \$275 million in Model Toxics Control Accounts, \$255 million in alternative financing, and \$1.2 billion in other funds. Due to the passage of the federal American Rescue Plan Act, the budget appropriates \$189 million from the Coronavirus Capital Projects Fund for projects that support work, education, and health monitoring, including remote options in response to the pandemic. Additionally, \$400 million is allocated to the Coronavirus State Fiscal Recovery Fund to make necessary investments in water, sewer, and broadband infrastructure.

Bellevue received funding in the capital budget in response the City's requested projects, including \$2 million for the Eastgate Supportive Housing and Services project proposed by the Low-Income Housing Institute (LIHI) for shelter and housing for families. This represents a very significant investment by the state.

The City also received a \$1.85 million grant from the Washington Wildlife and Recreation Program to purchase property on Lake Sammamish for parks purposes.

Other capital budget funds were awarded to non-City organizations providing services in Bellevue, including:

- \$243,000 from the Building for the Arts Grant fund for the Bellevue Arts Museum.
- \$156,000 for youth programs for the Bellevue Boys & Girls Club.

Highlights of some significant capital budget investments include:

- \$174.9 million in Housing and Shelter investments, including \$42 million for grants to local governments and public utility districts to assist in the cost of utility improvements or connections to new affordable housing projects.
- \$175 million for the Housing Trust Fund, a portion of which is specifically dedicated to preserving aging affordable housing, for community and cottage housing for those experiencing homelessness, and for housing individuals with developmental disabilities.

- \$95.2 million for Community-Based Behavioral Health Facilities, and \$333 million for Mental Health State Facilities.
- \$411 million for grants and loans for broadband access to unserved and underserved communities through a variety of programs managed by the Broadband Office, the Public Works Board, and the Community Economic Revitalization Board.
- \$129 million for competitive awards by the Public Works Board to finance loans for projects related to cities, counties, and special purpose districts for sewer, drinking water, solid waste, street, and stormwater projects statewide. These include preconstruction, construction, and emergency projects.
- \$242.9 million for local and community projects through grant programs managed by the Department of Commerce for social service and community centers, library projects, arts and cultural buildings, youth recreational projects, nonprofit organizations, food banks and dental clinics.
- \$386.2 million for the various grant programs within the Recreation and Conservation Office.
- \$71 million in the Model Toxic Control Account to fund remedial action grants for environmental cleanup projects with local governments.

Transportation Budget: The 2021-2023 transportation budget appropriates \$11.7 billion – much of which is continuing funding for projects that have already been allocated funds through “Connecting Washington” transportation package passed in 2015 by the legislature, and funding to replace state-owned culverts that are barriers to fish passage. This budget includes \$1 billion in federal funds to backfill revenues lost because of the COVID-19 pandemic.

Some highlights of investments include:

- \$1.126 billion to correct barriers to fish passage using a watershed approach.
- \$224 million for Transportation Improvement Boards.
- \$36.7 million for Safe Routes to School Grants.
- \$32.6 million for Bicycle and Pedestrian Safety Grants

Transportation Package Dies—It’s Complicated: One critical piece of unfinished business from the 2021 legislative session was passage of a new revenue statewide transportation package. Both the House and Senate Transportation Committee chairs proposed multi-year packages, neither of which made it across the line by the end of session. The two environmental reforms included in the so-called “grand bargain”—a cap-and-invest system and a low-carbon fuel standard to fund transportation infrastructure—were passed by the legislature. However, the third leg of the grand bargain—a new-revenue transportation package did not pass. The environmental changes are tied to the legislature passing an increase in the gas tax by 2023. Governor Inslee has not ruled out calling a special session of the legislature if an agreement on a revenue package can be reached before the next legislative session begins in January. Bellevue was successful in getting the bulk of its high

priority transportation projects on the list to receive funding in a transportation package and is well-positioned to receive funding once a proposal comes together.

I-405 North End Improvements: One of the most-discussed issues of the 2021 legislative session was the decline transportation revenues because of the pandemic, including and especially toll revenues. As a result of a decline in revenues, bonds backed by toll revenues could not be issued. Improvements on the north-end of I-405, which were scheduled to start construction this year, were delayed in the Governor's proposed budget. In addition, **Senate Bill 5232** was introduced and would have removed authority for the state to issue bonds backed by toll revenues on the I-405/SR 167 Corridor. Due to strong stakeholder opposition, including testimony opposing the bill from Mayor Lynne Robinson and Councilmember Jennifer Robertson, the bill did not advance.

The 2021-2023 transportation budget continues to invest in I-405 improvements; however, it delays completion of I-405 North End Improvements to 2027, rather than 2025. The legislature provided some backfill funding and directed some work over the legislative interim that may lead to a timely completion of the project. That funding included:

- \$33 million in federal funds were allocated to backfill the I-405 and SR 167 Toll Account. This funding does not allow toll revenues to be bonded in the near term but may help ensure that the project continues to progress.
- Proviso language that allows the Washington State Department of Transportation (WSDOT) to construct the project earlier than is now scheduled if additional funding is identified and submitted through the "existing unanticipated receipts" process by September 1.
- Proviso language that directs the following:
 - WSDOT and the state treasurer are directed to pursue alternatives to toll revenue funding including but not limited to federal loan (TIFIA) and grant programs.
 - WSDOT is directed to explore phasing and modifying the project to align project completion with the anticipated deployment of Sound Transit's bus rapid transit (BRT) project on the corridor in the 2023-2025 biennium.
 - WSDOT is directed to report to the transportation committees of the legislature on this work by September 15.
- Proviso language is included that says WSDOT shall submit a plan to the legislature for the I-405/SR 167 express toll lanes account that details how bond proceeds can cover the proposed construction on the corridor by 2027. The plan is due January 1, 2022.

All the proviso language above is subject to approval by the Governor within the next 20 days as part of the bill-signing process. A great deal of work needs to occur over the legislative interim on this project to get it back on track and not jeopardize Sound Transit's BRT project on the corridor.

Affordable Housing: **House Bill 1070** passed and is a win for the City. The bill clarifies the uses of revenue authorized in House Bill 1590 which passed in the 2020 legislative session. House Bill 1590 authorized a county or a city, by councilmanic action, to increase the local sales tax by one-tenth percent for homelessness, health services and affordable housing. HB 1070 clarifies that the 60 percent of the revenue raised under the tax and dedicated to housing can be used for the acquisition of affordable housing, facilities providing housing-related services, behavioral health-related facilities, or land for these purposes.

Prior to acquiring a facility using the revenue from this tax for housing and/or related services, the bill requires a county to consult with the city in which it plans to locate a facility. Additionally, a county must provide an opportunity for 15 percent of the units in an acquired facility to be available for individuals living in or near the facility or has ties to the community. The bill defines affordable workforce housing to include housing for a single person, family, or unrelated persons living together whose income is at or below 60 percent of the median income adjusted for household size. These changes are very positive for Bellevue and provide clarity around use of the funds.

Foreclosure Support: **House Bill 1108**, sponsored by Representative Tina Orwall (D-Des Moines), passed, and will provide additional funding to the Foreclosure Fairness Program to provide mediation services to homeowners facing foreclosure.

Tenant Protections and Landlord Assistance: **Senate Bill 5160**, sponsored by Senator Patty Kuderer (D-Bellevue), passed and will require that a plan be established, that includes mediation, for when the eviction moratoria end. As amended, the bill requires landlords to offer a repayment plan to tenants six months following the end of the moratoria, and payments may not be more than one-third of the tenant's monthly rent. The bill allows landlords to seek up to \$15,000 in reimbursement from the Landlord Mitigation Program for unpaid rent if a tenant defaults on a repayment plan. It also authorizes dispute resolution centers to establish a two-year statewide eviction resolution program.

Prohibiting Owner Occupancy Requirements: **Senate Bill 5235**, sponsored by Senator Marko Liias (D-Lynnwood), passed, and states that cities can only require that accessory dwelling units (ADUs) be owner-occupied if the following are met: the ADU is used as a short-term rental; for one year after an ADU is constructed; if the city adopts an ordinance responding to community feedback requesting an owner-occupancy requirement; and, that requirement cannot be the entirety of the city. If a city has an owner-occupancy requirement, it must continue to offer a hardship exemption when the owner no longer occupies the primary residence due to age, illness, financial hardship due to the death of a spouse, domestic partner, or co-owner of the property, disability status, the deployment, activation, mobilization, or temporary duty, as those terms are defined in RCW 26.09.004, of a service member of the armed forces, or other such reason that would make the owner-occupancy requirement an undue hardship on the owner.

Development Regulations for Shelters and Housing: **House Bill 1220**, sponsored by Representative Strom Peterson (D-Edmonds), passed, and updates the Growth Management

Act (GMA) to include planning for and accommodating affordable housing. The bill also includes language preempting local control on the siting of certain types of housing. Under the bill, cities must allow transitional housing and permanent supportive housing in any zone where residential units or hotels are allowed. Indoor emergency shelter and emergency housing must be allowed in any zones where hotels are allowed **or** in a majority of zones within one mile of transit. Cities retain the authority to require reasonable occupancy, spacing, and intensity of use requirements to protect health and safety.

Public Safety, Social and Criminal Justice Reform: The legislature passed several bills dealing with social and criminal justice reforms. Staff is reviewing the bills and assessing their impacts on city policies and practices and will provide information on these issues once that review is complete.

The legislature grappled with the impacts of the **Blake** decision handed down by the State Supreme Court earlier this year. That decision ruled the statute governing possession of controlled substances was unconstitutional. Prior to this decision, possession of small amounts of controlled substances was classified as a felony. **Senate Bill 5476** passed the legislature at the end of the 2021 session. The bill was significantly modified as it moved through the legislative process. As passed, the bill addresses criminal penalties and establishes a committee to make recommendations on how to address the long-term impacts from the decision, investments in substance misuse prevention efforts, law enforcement training, as well as directing tens of millions of dollars to address the cost of vacating previous felony convictions.

The legislation requires law enforcement officers who encounter an individual in possession of a controlled substance to offer a diversion to seek a substance use disorder assessment and treatment services. The first two interactions by law enforcement must result in such a diversion. Further contacts allow the officer to offer diversion but does not mandate that the officer do so. If an officer arrests and pursues a misdemeanor charge, the prosecutor is not required to prosecute, and may offer diversion or move forward with a charge.

The ability to charge an individual with a misdemeanor expires July 1, 2023, and state law will automatically revert to whatever the law states on that date. This gives time for the newly established committee to make recommendations which are due in December 2022 and allows the 2023 legislature time to enact the recommendations.

In addition, the Washington State Health Care Authority (HCA) is charged with establishing a recovery services advisory committee to create a substance use recovery services plan to assist those with substance use disorders to access treatment and services. The committee must make recommendations regarding the appropriate criminal legal system response, if any, to possession of controlled substances. It must also make recommendations regarding the collection and reporting of data that identifies the number of people law enforcement officers and prosecutors engage with and regarding drug possession and the design of a mechanism for referring people with a substance use disorder to supportive services.

The full impact of this legislation is not yet known. It will likely increase district court caseloads and costs for court services. Another unknown is how many and what type of treatment centers will be needed to provide substance use prevention and treatment services as envisioned by the legislation. The legislature directed significant funding to deal with the cost impacts of the legislation and more needs to be learned about how to access those funds. Staff is evaluating impacts and potential costs and will provide information for Council when more is known about impacts.

Economic Development: One of the City's legislative priorities was to pass legislation adding a new economic development tool—along the lines of tax increment financing. With the passage of **House Bill 1386**, cities of all sizes will be allowed to enact the “targeted urban areas” (TUA) property tax exemption to help promote living-wage jobs. The TUA is a 10-year property tax exemption for new industrial or manufacturing facilities within a designated city area. A key eligibility requirement for TUA is that the facility create a certain number of jobs paying a specific wage. After contracting with a city, the tax exemption is provided on the value of eligible improvements and applies only to the city portion of the collected property tax. The bill allows companies to apply for the tax exemption until December 31, 2030. Bellevue joined a coalition of stakeholders that worked to pass this legislation.

Budget and Finance: Overall, cities fared well in the budgets adopted by the legislature in the 2021 session. While the transportation sector has not recovered from the economic impacts of the pandemic, the operating and capital budgets are based on a strong economic forecast that signals economic recovery. The budgets incorporate federal relief funds from the American Rescue Plan Act and anticipated revenue from a new capital gains tax. The legislature approved funding for important programs and directed new money for the costs related to police reforms. The new biennial budgets include some of the most robust funding for cities than we have seen in over a decade. Some of the highlights from the 2021-2023 budget that are important for cities are included below:

- \$20 million in new assistance for cities to cover costs associated with police reform legislation that will be shared with cities on a per capita basis.
- \$10 million was added in revenue sharing with local governments from cannabis revenues. This brings the local government share up to \$40 million and for the first time fully funding the revenue sharing provision adopted in 2015.
- Overall revenues that the state shares with cities, such as liquor taxes and liquor profits, were funded at expected levels.
- Fifteen classes were added for the Basic Law Enforcement Academy in addition to more funding to cover the cost of training and other elements of the police reform bills.
- \$85.3 million will fund the costs of the *Blake* decision, noted earlier in this update, and legislation making drug possession a misdemeanor. While there is no direct funding for cities in the budget, there is \$4.5 million for the Administrative Office of the Courts for grants for municipal and district therapeutic courts.
- Significant funding was directed to affordable housing, including: \$1 billion in rental and utility assistance; establishing a permanent revenue source for rental assistance; and, \$175 million for the Housing Trust Fund.

- Additional funding was directed to housing stability efforts, including: \$187 million in foreclosure prevention assistance; \$21 million for legal aid for indigent tenants; and \$9 million to create an eviction resolution program.
- \$129 million was allocated to the Public Works Trust Fund for low interest loans to local governments for infrastructure projects—the most money allocated to this fund since the Great Recession when the legislature began diverting funds to cover funding gaps elsewhere in the budget.
- \$224.3 million for the Transportation Improvement Board and \$36.7 million for Safe Routes to Schools grant programs.
- \$400 million for broadband programs, much of which is from federal pandemic relief funding packages.
- \$1.1 billion for replacement of culverts that block fish passage using a watershed approach, and \$26.8 million for the Fish Barrier Removal Board to continue to identify projects and related agency administrative costs.

POLICY & FISCAL IMPACTS

The State Legislature addresses a range of policy issues of interest to the City. Funding allocations described above represent significant opportunities for Bellevue to receive additional revenues to provide critical services. Staff will need to be proactive in working with state agencies and departments, such as the state Department of Commerce, to determine eligibility and access these funds.

OPTIONS

N/A

ATTACHMENTS & AVAILABLE DOCUMENTS

N/A

AVAILABLE IN COUNCIL LIBRARY

N/A