

**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**

Several issues continue to be discussed by lawmakers and stakeholders as they prepare for the 2022 Legislative Session which will commence on Monday, January 10. As the second year of the two-year legislative cycle, the 2022 session will be a “short” session, scheduled to last 60 consecutive days. Below is an update as of September 20.

**Association of Washington Cities’ (AWC) 2022 Legislative Priorities Development**

Over the past several months, the AWC Legislative Priorities Committee met to discuss potential priorities for the 2022 Legislative Session. On September 7, the committee concluded its work by sending its final recommendations to the AWC Board, which will likely adopt the priorities by the end of September. Three issues were selected as top priorities, along with a smaller list of issues that AWC will actively support, oppose, or monitor depending on the level of involvement requested by the Board. Below are the final recommendations:

The AWC Legislative Priorities Committee recommended following three priorities:

- **Transportation package:** Support a new transportation revenue package that emphasizes maintenance/preservation funding and provides an equitable level of local funding while seeking additional long-term, sustainable revenue options for cities.
- **Basic infrastructure funding:** Seek enhanced appropriation of flexible state and federal dollars through programs like the Public Works Assistance Account that help cities finance basic infrastructure, like drinking water and wastewater.
- **Transportation Benefit Districts (TBD) funding authority:** Support expanded local authority for TBDs to allow for continued use of the sales tax funding tool beyond the current time limitations

The AWC Legislative Priorities Committee recommended the following issues as significant, along with several others:

- **BLAKE decision:** Advocate for direct funding for cities to administer diversion programs related to misdemeanor drug possession cases handled by city law enforcement and now adjudicated in municipal courts, as well as Medication-Assisted Treatment (MAT) services, therapeutic courts, and a diversion tracking database.
- **Law enforcement use of force:** Support clarification of the civil standards for use of force requirements so law enforcement can better understand the state requirements and know when they can use force to intervene in a situation, including a mental health crisis where a crime is not being committed.
- **Open Public Meetings Act:** Support a permanent policy that allows greater flexibility for local governments to hold virtual meetings without a physical location during an emergency.
- **Revenue options:** Support efforts to review and revise both state and local tax structures so they rely less on regressive revenue options. Changes to the state tax structure should not negatively impact cities' revenue authority.
- **Property tax:** Revise the property tax cap to tie it to inflation and population growth factors so that local elected officials can adjust the local property tax rate to better serve their communities.

#### **Washington State Department of Transportation's (WSDOT) I-405/167 Executive Advisory Group (EAG)**

WSDOT's I-405/SR 167 EAG, which is composed of legislators and local elected officials along the corridor, met several times over the interim to discuss various solutions to complete projects along the corridor on-schedule despite the significant decline in toll revenue collections throughout the pandemic. On September 15, WSDOT released a draft report that outlines the following potential funding options:

- **GARVEE bonds:** GARVEE bonds are a type of a tax-exempt debt financing instrument that pledges expected future federal transportation aid to the payment of debt service. This financing mechanism generates up-front capital for major highway projects that a state may be unable to construct in the near term using traditional pay-as-you-go or revenue funded debt financing approaches. The state is currently paying on GARVEE bonds that were used to fund a portion of the SR 520 floating bridge. The SR 520 floating bridge obligation is almost paid off resulting in a potential revenue source for the corridor.
- **Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan:** A TIFIA loan is a federal program that provides loans for qualified projects, typically at more favorable interest rates and terms than might be available through the bond market. The loan must receive federal agency approval and is also limited in amount to typically no more than 33 percent of the project's cost. The state utilized TIFA loans for the SR 520 floating bridge.
- **Deferring state and local sales tax:** This funding approach would allow for projects along the corridor to defer paying taxes on the construction of the project and make these tax payments at

a later date resulting in more upfront capital. Sales taxes were deferred on the SR 520 and Tacoma Narrows Bridge projects.

- **Transportation Budget Loans from the Motor Vehicle Fund:** Loans would generate up-front capital for the project but could also reduce funds for other transportation activities and are dependent upon account balances. The State Transportation Budget and Motor Vehicle Fund have historically had revenue shortfalls which were exacerbated due to the pandemic.

In addition to exploring alternative funding solutions, WSDOT explored various phasing options: delivering the I-405 North End as one project, separating local improvements at SR 527; geographical north and south phasing; directional phasing - northbound and southbound; and, advancing fish passage construction only, followed by infrastructure. Additional details on phasing and the [full draft report can be here](#).

Legislators and local elected officials have continued to press the importance of the corridor and have requested that WSDOT deliver a final report that includes greater detail on all options available to allow the 2022 Legislature to select an appropriate and timely solution. The final report is due to the Legislature on January 1. Staff anticipates this to be a high priority and a highly discussed topic during the 2022 Legislative Session.

### **Transportation Revenue Package Discussions**

While the federal government is making progress on adopting an infrastructure investment package, discussions on a state-level transportation revenue package are slow-moving. At the end of the 2021 session, there appeared to be significant momentum for a special session later this year to adopt a transportation revenue package. While legislators continue to discuss the issue, based on the information available today, a special session seems unlikely.

House Transportation Committee Chair Jake Fey (D-Tacoma) has invited a small group of legislators to work with him to update last session's [Miles Ahead](#) transportation investment package proposal. This group has indicated they will meet with each member of the House Democratic Caucus in the coming months to get feedback. Chair Fey indicated that the state's increased state and property tax revenues are, in part, a result of transportation investments. As such, he argues that the state operating budget should transfer some funds to the transportation budget. Additionally, environmental stakeholders and some legislators have indicated a desire to move away from developing a transportation revenue package based on a project list, and to instead fund projects through grant programs where projects are evaluated on the merits. It's unclear where these policy discussions will lead.

Similarly, a small group of legislators in the Senate Democratic Caucus are developing a new transportation revenue package proposal and are meeting with members of their caucus to get feedback. Generally, the proposal would increase the gas tax by 5 cents and then tie future increases in the gas tax to inflation. It's unclear what other details the package will include and whether there is support for this proposal. During session, the Senate advanced the [Forward Washington](#) revenue package proposal.

In late September, legislators from the House and Senate began to meet to discuss what each chamber and party could agree to. While the intra-caucus discussions over the summer have been important, a deal will need to be made cross-chamber, and ideally with bipartisan support, making it unlikely that legislators will reach an agreement on a proposal that can garner the necessary votes by the end of the year.

### **New Law Implementation: Police Reform**

Most of the police reform bills enacted by the 2021 Legislature became effective on July 25. Law enforcement agencies are interpreting the statutory changes differently, resulting in the new laws being applied inconsistently throughout the state.

In response, some legislators have indicated that they may revisit some of the bills during the 2022 legislative session to clarify what was intended. Other legislators and the Washington Coalition for Police Accountability have [indicated](#) that some agencies are intentionally misinterpreting the new laws.

To provide clarity in advance of the 2022 session, the Attorney General's Office provided a [memo](#) with an analysis on how they would encourage local agencies to interpret the law. This is not legally binding. Representative Jesse Johnson (D-Federal Way) and Representative Roger Goodman (D-Kirkland) have requested a formal Attorney General Opinion, which can be found [here](#). What legislation may or may not be introduced or advanced during the 2022 session is likely to rely on how much can be clarified through any formal Attorney General Opinion.

### **Redistricting Commission Launches New Tool and Continues Public Outreach**

The Redistricting Commission continues to meet monthly. Redistricting Commissioners will release drafts of the state Legislative maps on September 21, with Congressional maps following on September 28. Last month, the Washington State Redistricting Commission launched a new tool that allows for the public to draw congressional and legislative districts. To access the tool, learn more about the process, or find a public meeting, [click here](#).

### **Additional Interim Activities**

*House and Senate Local Government Committees:* The House and Senate Local Government Committees are scheduled to meet in September to discuss various topics prior to the start of session. Anticipated topics include impacts of the Growth Management Act to local housing, transportation, and economic development; Capital Projects Advisory Review Board's recommendation related to local government public works contracting; and an update on the Department of Commerce's Growth Management Act Planning and Environmental Review.

*Committee Days:* Each year, the Legislature meets in advance of the legislative session for "Committee Days" to prepare for the forthcoming legislative session. This year, the Legislature has scheduled virtual committee days for the middle of November.

## **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