



Legislative Bulletin

January 28, 2019

Hot topics

AWC priority bill encouraging investments in affordable & supportive housing

One of AWC's priority bills to encourage investments in affordable and supportive housing is scheduled for hearings. Companion bills would create a revenue sharing partnership between the state and cities and counties for affordable housing construction. The proposals also provide for rental assistance for smaller cities.

AWC economic development priority bill set for public hearing

SB 5564 is an AWC priority bill that allows local governments to compete for state sales tax credits to finance infrastructure improvements that spur private investments. This is a needed tool to help cities and towns encourage local economic development. We encourage cities to contact your Senators and ask them to support this proposal.

Three bills address barriers to building condos

Three separate proposals have been introduced that support one of AWC's priority issues for removing barriers to affordable housing – condominium liability laws.

View from the Hill

More than 1,400 bills have been introduced so far in 2019

As we've been saying, the 2019 session has taken off with a fast and busy start. With more than 1,400 bills introduced this session, find out how your AWC Government Relations Team decides what to focus on. In this week's View from the Hill, you'll also learn about a couple of AWC's priority bills introduced, and what the state's economist had to say to cities about the likelihood of another recession.

Things you can do

Make appointments with legislators for City Action Days February 14 | Olympia

We're excited to host a nearly sold-out City Action Days in Olympia on February 13-14! If you haven't already done so, make appointments now with your legislators to take place after 11:15 am on February 14. We'll have shuttle service available to and from the hotel through 5 pm. See the most recent schedule.

Media time

Listen to the *CityVoice* podcast on economic development

This week our staff experts delve into what our cities named as their top priority in our 2018 city conditions survey: Economic development. Our cities turn the wheels of commerce in Washington State, driving a staggering 96% of gross domestic product here. Hear the conversation as Candice Bock and Brandon Anderson explore the connections between cities, our economy, and local infrastructure.

Cities address Senate Housing Stability & Affordability Committee work session

Don't miss these panels of cities on TVW sharing their unique successes and challenges in addressing housing affordability and homelessness in their communities.

Special thanks to the following people for coming to Olympia to testify: White Salmon Mayor David Poucher, Walla Walla Councilmember Riley Clubb, Wenatchee Valley Chamber of Commerce Executive Director Shiloh Burgess, and Chelan Mayor Mike Cooney.

Also, thanks to Monday's cohort for testifying in the same committee: Tacoma Economic Development Director Jeff Robinson, Olympia Councilmember Jessica Bateman, Everett Economic Development Director Dan Eernisse, and Kirkland Deputy Mayor Jay Arnold.

What you need to know

Affordable housing: Bills addressing affordable housing development by religious organizations.

Bill proposes changes to mobile home park home siting.

The House adds more bills expanding property tax exemption for affordable housing. None of these are companion bills.

REET bill introduced in the House. AWC and individual cities supported its companion in the Senate.

Self-help housing bill has House companion. AWC would appreciate feedback on these proposals.

Budget & finance: Bill would allow cities currently excluded to impose lodging tax.

Creation of Parks Benefit Districts provides new revenue options.

Treasurer's proposal to provide enhanced investment services.
continued

Cannabis: Cannabis home grow and delivery bills to be heard.

Economic development: Committee will hold hearing on broadband expansion bill.
Rural development and opportunity zone act scheduled for hearing.

Environment & natural resources: Orca Task Force recommendation bill on HPA and bulkheads.

Bills address voluntary cleanup of contaminated properties. Please let us know if you see any concerns with this proposal.

General government: Senate version of wrongful death bill advances.

A bill to standardize fire safety codes and permits for food trucks is scheduled for a hearing.

Homelessness & human services: Legislators introduce Governor's behavioral health bills.

Land use & planning: Bill streamlines annexations of unincorporated islands.

"Best available science" use for critical areas bill is heard.

Governor's request energy efficiency bill up for a hearing. For cities in particular, the bill proposes a number of changes to the building codes.

Open government: AWC seeking city feedback on facial recognition privacy bill.

Bill authorizes regulation of the open carrying of firearms in public meetings.

Pensions: Two pension bills scheduled for public hearing.

Public safety & criminal justice: I-940 "fix" bill passes the House. The Senate version follows closely behind.

Smoke alarm bill may create unfunded mandate to inspect resold homes before occupancy.

Public works: Work under way to address "unintended consequences" of prevailing wage changes.

Transportation: Personal vehicle delivery system bills.

Military surplus vehicle bill to be heard.

Prohibition on local governments' toll authority.

continued

View from the Hill

More than 1,400 bills have been introduced so far in 2019

Contact: Candice Bock

As we've been saying, the 2019 session has taken off with a fast and busy start. The bill count thus far illustrates that, with more than 1,400 bills introduced this session. That means there are a lot of proposals to sort through, and it can be challenging to know which bills to focus on in these early days. Your AWC Government Relations team is doing the best they can to quickly triage through the avalanche of bills and pick out those we believe are most likely to impact cities, and then do a deeper dive. After all, a simple bill introduction does not mean the bill will necessarily gain traction this session.

We use this weekly *Legislative Bulletin* to flag the bills that are scheduled for public hearing and to highlight where we need cities to take a closer look and provide feedback on potential impacts. We always appreciate the feedback we receive from our city officials. So please, keep it coming!

Last week AWC hosted a Mayors Exchange in Olympia. We were thrilled to have around 50 mayors and city officials attend. We had a strong line-up of speakers on topics like the Governor's behavioral health transformation plan and the state of the state's budget, as well as a great presentation from the state's economist, Dr. Steve Lerch. The main information that city officials wanted to know from Dr. Lerch was the likelihood of another recession. The good news is that one isn't being predicted for the next two years. However, slower economic growth is more likely over the next two years.

This week we are excited to see some of AWC's legislative priorities get introduced and scheduled for hearings. **SB 5564**, which provides a sales tax value capture tool for economic development, was introduced and has a hearing on January 31. Also introduced this week is **HB 1680**, which would end the diversion of REET revenue out of the Public Works Trust Fund (PWTF) so that it could be available for loans for infrastructure projects that help communities with housing development. Infrastructure funding and restoring the PWTF is one of AWC's priorities for 2019.

We will continue to use the *Legislative Bulletin* to keep you posted as these and other bills continue through the legislative process. Again, thanks for your engagement and feedback, we can't do this without you!

continued

Affordable housing

Three bills address barriers to building condos

Contact: Carl Schroeder, Shannon McClelland

Three separate proposals have been introduced that support one of AWC's priority issues for removing barriers to affordable housing – condominium liability laws. Under current law, a developer who chooses to build condos can almost guarantee they will be sued by the future occupants. As such, developers who take on this risk tend to build condos at the higher end of the price scale, in order to make up for the losses that will accompany a suit. Building lower-cost condos just doesn't pencil out, so the market lacks this housing option. Condos are often a desirable way for first-time home buyers to build equity at a lower entrance price point. They are also a great option for retired homeowners to downsize when they no longer need or want a larger, single-family home with yard.

SB 5334/HB 1306

This proposal changes the implied warranties for the construction of a condominium. The requirement the unit, common elements, and improvements be constructed in compliance with all laws then applicable to such improvements is removed. Instead, the building must be constructed in accordance with applicable building codes, generally accepted in the state of Washington at the time of construction. To establish an alleged breach of warranty has an adverse effect on performance, the purchaser must prove the alleged breach:

- Is more than technical;
- Is significant to a reasonable person; and
- Has caused or will cause physical damage to the unit or common elements; has materially impaired the performance of mechanical, electrical, plumbing, elevator, or similar building equipment; or presents an actual unreasonable safety risk to the occupants of the condominium.

These companion bills also provide immunity from liability to the members of the condo's homeowners association board (HOA). **SB 5334** is sponsored by Sen. Jamie Pederson (D-Edmonds); its companion, **HB 1306** is sponsored by Rep. Tana Senn (D-Mercer Island).

This is the proposal AWC has been working on with the realtors, condo developers, and legislators. We will be testifying in support.

HB 1576

Also sponsored by Rep. Senn, **HB 1576** changes the requirements for a HOA to bring a lawsuit. Prior to filing a suit, the HOA must convene the condo homeowners and the construction firm to discuss the alleged defects occurring in two or more of the condos or common areas or elements of the building. The construction firm is allowed to offer to remedy the defects. In order to proceed with a lawsuit, the HOA must have a majority of the homeowners agree to sue.

This is a proposal that we saw last session; AWC continues to support this approach, as well.

continued

SB 5219

This proposed solution, sponsored by Sen. Mike Padden (R–Spokane Valley), takes a third approach – exempting smaller condo developments from the warranty liability. Condo developments that have less than seven units would not be subject to the warranty provisions in current law. We welcome your feedback on this approach.

Dates to remember

SB 5334 & **SB 5219** will be heard on Monday, January 28 at 10 am in the Senate Law & Justice Committee. Both are also scheduled for a committee vote on Thursday, January 31 at 10 am.

Self-help housing bill has House companion

Contact: Carl Schroeder, Shannon McClelland

HB 1168, sponsored by Rep. Mari Leavitt (D–University Place), is the companion to SB 5025. These bills would exempt materials and services associated with “self-help housing” from sales tax, and the sale of the home from REET. “Self-help housing” is most commonly understood as the Habitat for Humanity model, where a low-income home buyer participates in the construction of their home with a nonprofit agency.

An official fiscal note has not been produced yet, but the advocates advise us that they expect a \$400-\$500k annual hit to local tax revenues as a result of these exemptions being provided to the roughly 150 homes constructed under this model in a normal year.

AWC would appreciate feedback from our cities on this proposal. Please contact Shannon or Carl and share your thoughts.

Dates to remember

HB 1168 is scheduled for a hearing in the House Finance Committee at 1:30 pm on Thursday, January 31.

REET bill introduced in the House

Contact: Carl Schroeder, Shannon McClelland

Building on temporary authority granted in 2017, **HB 1219** streamlines and makes permanent the authority for cities to use their Real Estate Excise Tax (REET) II revenues. The bill states that revenues can be used for the “planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of facilities for those experiencing homelessness and affordable housing projects.” **HB 1219** is sponsored by Rep. Amy Whalen (D–Kirkland). **SB 5195** is the companion.

AWC and individual cities testified in support of the Senate version. These proposals are one of our priority bills as they provide more flexibility with existing tools to encourage affordable housing.

The current authority for this financing tool is set to expire at the end of 2019. That authority includes more stringent restrictions that require cities to certify that they have met all other unmet capital needs before using these funds for housing and homelessness purposes.

Dates to remember

HB 1219 will be heard on Friday, February 1 at 10 am before the House Housing, Community Development & Veterans Committee.

continued

The House adds more bills expanding property tax exemption for affordable housing

Contact: Carl Schroeder, Shannon McClelland

We reported last week on the bills introduced in the Senate that would expand property tax exemptions for affordable housing. The House has introduced additional bills that aim to provide property tax relief for senior citizens and disabled veterans. None of these are companion bills to the Senate bills.

HB 1090, sponsored by Rep. Drew MacEwen (R–Union) and **HB 1044**, sponsored by Rep. Sharon Tomiko Santos (D–Seattle), each provide exemptions for seniors and veterans, but take a different approach. **HB 1044** does it by changing existing law to provide income threshold tiers on percentage of median income. **HB 1090** adds an additional exemption to existing law, capping the assessed value taxed at \$250,000. Notably, **HB 1090** does not apply to local property taxes.

HB 1181, sponsored by Rep. Debra Lakanoff (D–Bow), is similar in its approach to **HB 1044** by changing existing law to provide income threshold tiers on percentage of median income. However, unlike **HB 1044**, **HB 1181** removes the statutory income maximums (i.e. \$35-40,000), relying only on the percentage of medium income tiers. **HB 1320**, sponsored by Rep. Sharon Wylie (D–Vancouver) is similar to **HB 1044**, but creates different tier thresholds.

The bills that propose the median income tier structure are very similar to **SB 5160**, that we covered last week. Read our previous article on what this bill does.

Dates to remember

All the above House bills are scheduled for a hearing in the House Finance Committee at 8 am on Tuesday, January 29.

SB 5160 passed out of its policy committee and has a hearing before the Senate Ways & Means Committee on Thursday, January 31 at 3:30 pm.

Bills addressing affordable housing development by religious organizations

Contact: Carl Schroeder, Shannon McClelland

AWC and individual cities have been working with the faith community to try to find common ground on the proposals in **HB 1377** for many years. **HB 1377**, sponsored by Rep. Amy Whalen (D–Kirkland), would require cities to provide a density bonus for affordable housing built on property owned by religious organizations; but would allow the city to determine the scale and scope of that bonus consistent with local needs. **SB 5358**, sponsored by Sen. Rebecca Saldaña (D–Seattle), is its companion.

It is our hope that this proposal is workable for cities who have faith organizations that would like to redevelop their land for affordable housing purposes. Your thoughts on whether this proposal is problematic from your perspective, or if you have ideas on how to improve it, are welcome. Please contact Carl.

Dates to remember

HB 1377 will be heard on Friday, February 1 at 10 am in the House Housing, Community Development & Veterans Committee.

SB 5358 is scheduled for a hearing on Wednesday, January 30 at 1:30 pm in the Senate Housing Stability & Affordability Committee.

continued

AWC priority bill encouraging investments in affordable & supportive housing

Contact: Carl Schroeder, Shannon McClelland

HB 1406 would create a revenue sharing partnership between the state and cities and counties for affordable housing construction. In addition, for cities under 100,000 in population, this bill allows the monies to provide for rental assistance. **HB 1406** is one of AWC's priority housing bills. We were very supportive of the predecessor bill, **HB 2437** last session, and it has only gotten better for cities this year.

HB 1406, sponsored by Rep. June Robinson (D–Everett), would allow a total sales tax share between the state and local governments equivalent to a total of two one-hundredths of a percent – a total of \$31 million per year if every jurisdiction took advantage. The commitment is for 20 years, so these funds can be bonded. The mechanism is a credit against the state sales tax, so there is no effective increase on the consumer. And unlike last year's version, there is no match requirement. Check out this chart (<https://wacities.org/docs/default-source/Legislative/0119statesharedsalestaxaffordablehousing.pdf?sfvrsn=0>) to see the projected share per county. We are working to provide a clear illustration of what that would mean per city, and will share that when it is available.

Initially, any city can claim half of that capacity, while the county can claim the other half. If either party does not elect to utilize those revenues within a year, the other party can claim the unused capacity. For cities who have adopted other authorized housing or mental health levies within one year of passage of this bill, they would instead have the ability to claim the full amount of funds provided by the state.

SB 5646, sponsored by Sen. Patty Kuderer (D–Clyde Hill), is the companion bill.

Dates to remember

HB 1406 is scheduled for public hearing in the House Housing, Community Development & Veterans Committee on Friday, February at 10 am.

SB 5646 will be heard on Wednesday, January 30 at 1:30 pm in the Senate Committee on Housing Stability & Affordability Committee.

Bill proposes changes to mobile home park home siting

Contact: Carl Schroeder, Shannon McClelland

HB 1207, sponsored by Rep. Cindy Ryu (D–Shoreline), would expand the ability of landlords and tenants to site manufactured homes in existing mobile home parks.

The bill authorizes a landlord or tenant to site any size new- or used- mobile/manufactured home on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time the park was approved. If lot sizes, separation and setback distances, or other requirements were nonexistent at the time the park was established, the local jurisdiction may impose reasonable requirements to meet health and safety standards. The bill requires that jurisdiction must act in good faith to avoid the elimination of a viable lot for the siting of a home. The only exception is requirements of any state agency related to siting manufactured homes.

We are working to change the language, so the bill only affects replacement homes – those replacing existing homes or sited on sites used within recent years. We appreciate the need to retain sites at these parks as an affordable housing option. Our concern is that sites that were approved decades ago, but never used, would be grandfathered in and may no longer meet requirements.

Dates to remember

HB 1207 is scheduled for a hearing on Friday, February 1 at 10 am in the House Housing, Community Development & Veterans Committee.

continued

Budget & finance

Treasurer's proposal to provide enhanced investment services

Contact: Candice Bock or Andrew Pittelkau

HB 1284, requested by the State Treasurer, would allow local governments to enter into a contract with the Office of the State Treasurer (OST) for longer-term fixed income investment services. The local government's account would be a separate managed portfolio. As a separate trust account, all monies would remain under local control. The Treasurer or designee may authorize use of the account and the account is not subject to appropriation by the Legislature.

According to OST, this would allow participating local governments the opportunity to take advantage of OST's full-time investment expertise and capacity in the management of their longer-term public funds investments.

Dates to remember

The bill is scheduled for a public hearing on Tuesday, January 29 at 1:30 pm in the House State Government and Tribal Relations Committee.

Creation of parks benefit districts provides new revenue options

Contact: Candice Bock or Andrew Pittelkau

HB 1371, sponsored by Rep. Carolyn Eslick (R-Sultan), would grant additional revenue options for parks funding. Metropolitan parks and park and recreation districts are currently limited in the types of taxes that they can impose. Their primary funding source comes from property taxes and fees for use of facilities or programs.

The bill would allow the legislative authority of a city, county, or existing parks district to establish a parks benefit district that could impose a voter approved sales and use tax, not to exceed one-tenth of one percent, to acquire, construct, improve, and maintain parks.

Additionally, the bill allows a district to form a parks improvement district that can impose a special assessment on properties that benefit for funding maintenance and improvements. The special assessments are similar to other local improvement district assessments under RCW 35.43.

Dates to remember

A public hearing is scheduled on Tuesday, January 29 at 10 am in the House Local Government Committee.

continued

Bill allows certain cities to directly impose lodging tax

Contact: Candice Bock or Andrew Pittelkau

SB 5228 is sponsored by Sen. Dean Takko (D–Longview) at the request of some of the cities in his district to address local lodging taxes. The bill would allow cities or towns in a county with a population of less than 400,000 to directly adopt a lodging excise tax.

Currently in the impacted jurisdictions, the county has authority to first impose the tax, and if the county chooses to impose the tax, then the city is prevented from instituting the same tax. In a number of smaller counties, the counties have imposed the maximum rate allowed by law preventing cities with lodging from collecting lodging tax dollars directly to promote specific local interests. In those counties, there is usually a process where cities and other eligible entities can request lodging tax funding from the county for a local proposal.

This bill would allow cities to impose the lodging tax directly to promote local interests. The tax collections would still be subject to the same restrictions as other lodging tax revenue.

Lodging tax revenue is used to promote tourism through marketing, operations of special events and festivals, and/or the operations and capital expenditures of tourism-related facilities.

Dates to remember

The Senate Local Government Committee will hear the bill on Tuesday, January 29 at 8 am.

Cannabis

Cannabis home grow and delivery bills to be heard

Contact: Sharon Swanson, Shannon McClelland

SB 5155, sponsored by Sen. Maureen Walsh (R–Walla Walla), is the companion home grow bill to **HB 1131**. Both bills allow a person, who is at least 21 years of age, to have no more than six cannabis plants at their residence. The bills also establish a 15-plant limit per housing unit. Finally, the bills provide that a landlord would be allowed to prohibit home grow by a tenant.

For the non-gardeners out there, **HB 1358** would allow cannabis delivery to your door. **HB 1358**, sponsored by Rep. Steve Kirby (D–Tacoma), would allow a delivery endorsement to a cannabis retailer’s license. Only persons at least 21 years old could place or receive a delivery order for personal use. Delivery locations would be limited to residences or lodging businesses. Delivery vehicles could not contain any retailer or cannabis-related advertising. The bill directs the Liquor and Cannabis Board to adopt a delivery fee by rule.

Dates to remember

SB 5155 is scheduled for a hearing on Thursday, January 31 in the Senate Labor & Commerce Committee at 8 am.

HB 1358 will be heard in the House Commerce & Gaming Committee on Thursday, January 31 at 9 am.

continued

Economic development

Rural development and opportunity zone act scheduled for hearing

Contact: Candice Bock, Brandon Anderson

HB 1324 creates the “Washington Rural Development and Opportunity Zone Act.”

The act establishes an insurance premium tax credit and a B&O tax credit for taxpayers that make a capital contribution to a rural development and opportunity zone fund. The bill requires the Joint Legislative and Audit Review Committee (JLARC) to determine the number of jobs created or retained, and whether that matches or exceeds the predicted job growth after a 6-year period. This bill also extends the preferential tax rates to 2056 for persons engaging in the business of extracting timber, extracting timber for hire, manufacturing timber, manufacturing timber for hire, wholesaling timber, or selling standing timber. The specific policy objective stated in the bill is to create and retain jobs in rural development and opportunity zones.

Dates to remember

The bill is scheduled for a public hearing on Wednesday, January 30 in the House Rural Development, Agriculture, & Natural Resources Committee at 8 am. A live feed or an archived video of the hearing can be found on the TVW website (<https://www.tvw.org/watch/?eventID=2019011310>).

Committee will hold hearing on broadband expansion bill

Contact: Candice Bock, Brandon Anderson

HB 1498, establishes the Governor’s statewide broadband office to encourage and improve access to affordable, quality broadband across the state. The legislation also creates a \$25 million competitive grant and loan program managed by the Public Works Board to help promote expanded access. Cities support the efforts to increase access to broadband to help drive job creation and assist the underserved parts of our state.

However, AWC has concerns that the bill will divert resources from the Public Works Assistance Account to pay for the new programs. The Governor’s proposal includes diverting \$7.5 million from the Public Works Trust Fund (PWTF) to the new broadband grants and loans. Additionally, the new program is open to additional applicants including ports, tribes, and private parties.

AWC has recommended that money not be diverted away from traditional infrastructure funding efforts and that any funding that is diverted should be dedicated to the entities currently eligible to use the PWTF instead of the expanded eligible entities.

Dates to remember

HB 1498 is scheduled for a public hearing in the House Innovation, Technology & Economic Development Committee on Wednesday, January 30 at 8:30 am. A live feed or an archived video of the hearing can be found on the TVW website (<https://www.tvw.org/watch/?eventID=2019011316>).

continued

AWC economic development priority bill set for public hearing

Contact: Candice Bock, Brandon Anderson

SB 5564, introduced by Sen. Sharon Brown (R–Kennewick), is scheduled for a public hearing on Thursday, January 31 in the Senate Financial Institutions, Economic Development & Trade Committee at 8 am. This AWC priority bill allows local governments to compete for state sales tax credits to finance infrastructure improvements that spur private investments.

In AWC's 2018 survey of Washington cities and towns, respondents named economic development as their number one priority. **SB 5564** is a needed tool to help cities and towns encourage local economic development.

We encourage cities to contact your Senators and ask them to support this proposal.

For more information on **SB 5564**, please visit AWC's legislative priority webpage (<https://wacities.org/advocacy/City-Legislative-Priorities>). A live feed of the public hearing or an archived video will be available for viewing on the TVW website (<https://www.tvw.org/watch/?eventID=2019011335>).

Dates to remember

SB 5564 is scheduled for a public hearing on Thursday, January 31 in the Senate Financial Institutions, Economic Development & Trade Committee at 8 am.

Environment & natural resources

Orca task force recommendation bill on HPA and bulkheads

Contact: Carl Schroeder, Shannon McClelland

HB 1579 implements recommendations of the Southern Resident Killer Whale Task Force that makes changes to the Hydraulic Project Approval (HPA) statutes and the single-family bulkhead policies. The bill is sponsored by Rep. Joe Fitzgibbon (D–Burien).

On HPAs, which are required state permits for work that will affect the bed or flow of waters of the state, AWC's approach for the last few years has been to support reasonable civil enforcement and stop work order authority for the agency – as we do not believe that cities are likely offenders. Our desire has been for clarity around the types of activities that need a permit. We believe that there may be a conversation on that front within this bill, which we would participate in; but, as of right now, the bill does not provide that clarity.

HB 1579 also proposes to eliminate the streamlined permitting provided for protective bulkheads or rock walls that benefit single family homes. The bill would repeal RCW 77.55.151, leaving those bulkheads to go through traditional HPA permitting processes. We would like feedback from cities on whether that is something we should support. Please contact Carl Schroeder with your feedback.

Dates to remember

HB 1579 is scheduled for a hearing on Tuesday, January 29 at 10 am in the House Rural Development, Agriculture, & Natural Resources Committee.

continued

Bills address voluntary cleanup of contaminated properties

Contact: Carl Schroeder, Shannon McClelland

HB 1290, sponsored by Rep. Strom Peterson (D–Edmonds), is a request bill from the Department of Ecology (Ecology) to provide a pathway for voluntary toxic cleanup projects to have a cost-sharing arrangement that would produce faster permitting decisions from Ecology by allowing applicants to pay for agency staffing costs. In general terms, this could be a helpful tool to move forward urban restoration projects that are currently held up by limited staffing capacity at the agency to review cleanup plans. **SB 5285** is the companion, sponsored by Sen. Guy Palumbo (D-Maltby). **SB 5285** passed out of the Senate Environment & Energy Committee during the second week of session. The bill was referred to the Senate Ways & Means Committee.

In addition to the paid permitting pathway, the bills authorize Ecology to waive remediation costs of contaminated properties for development of affordable housing. In doing so, Ecology must consider the requestor's ability to pay and the potential public benefit of the development. The bills also direct Ecology to file a lien against the property to ensure the property is being used for affordable housing.

Please let us know if you see any concerns with this proposal.

Dates to remember

HB 1290 is scheduled for a hearing on Monday, January 28 at 1:30 pm in the House Environment & Energy Committee.

General government

Food truck bill gets a hearing

Contact: Sharon Swanson, Shannon McClelland

A bill to standardize fire safety codes and permits for food trucks is scheduled for a hearing. **HB 1134**, sponsored by Rep. Strom Peterson (D–Edmonds), makes a number of changes to existing law:

- Establishes an annual fire permit fee to be charged by the local entity.
- Permits would be issued if the mobile food unit (aka, food truck) passed an inspection.
- Cities would be required to allow a permitted mobile food unit to operate in its jurisdiction as long as the vendor can show a copy of the statewide fire permit.
- If a city is unable to provide inspections for the fire permit, the bill requires they must contract out that duty.
- If passed, this bill would preempt any existing codes or regulations that conflict.

Please let us know if you have feedback.

Dates to remember

HB 1134 will be heard in the House Local Government Committee on Wednesday, January 30 at 8 am.

continued

Senate version of wrongful death bill advances

Contact: Sharon Swanson, Shannon McClelland

A substitute version of **SB 5163** passed out of committee and is now in the Senate Ways & Means Committee. The substitute's main substantive change was that it allows claims to be tried by a judge or jury. **HB 1135** is scheduled for a committee vote on Friday, February 1.

Both bills, as currently drafted, would significantly expand city tort liability associated with wrongful death claims.

AWC opposes this legislation.

Homelessness & human services

Legislators introduce Governor's behavioral health bills

Contact: Sharon Swanson, Brandon Anderson

Several behavioral health bills requested by the Governor were recently introduced to help Washington's communities address the state's behavioral health and opioid crises.

SB 5432 was heard on Friday, January 25 in the Senate Behavioral Health Subcommittee. This bill continues the Legislature's work to fully implement behavioral health integration in our state by establishing managed care and behavioral health organizations to coordinate community behavioral health systems. This bill is a key behavioral health priority for the Governor's Office. AWC supports this legislation.

HB 1394 establishes intensive behavioral health treatment facilities and mental health drop-in centers to help address the need for increased access to behavioral health care in Washington's communities. This bill recognizes that community placement requires multiple housing and treatment options. A public hearing is scheduled for Tuesday, January 29 in the House Health Care & Wellness Committee at 1:30 pm.

HB 1331 declares that opioid use in Washington State is a public health crisis and requires state agencies to increase access to opioid treatment services. It also strengthens the state's commitment to preventative services including an expansion of the state prescription drug monitoring program. The bill is scheduled for a public hearing on Tuesday, January 29 in the House Health Care & Wellness Committee at 1:30 pm.

SB 5444, heard Friday, January 25 in the Senate Behavioral Health Subcommittee, aims to address the Trueblood litigation where the state was found liable for imposing excessive wait times on in-custody defendants waiting to receive competency evaluations and restoration services. **SB 5444:**

- Establishes forensic navigators to aide with treatment and competency restoration;
- Expands police authority to divert an individual to treatment instead of criminal prosecution; and
- Restricts nonfelony competency restorations.

Dates to remember

HB 1394 and **HB 1331** are scheduled for public hearing on Tuesday, January 29 in the House Health Care & Wellness Committee at 1:30 pm.

continued

Land use & planning

Governor's request energy efficiency bill up for a hearing

Contact: Carl Schroeder, Shannon McClelland

The Governor's request energy efficiency bill, **HB 1257**, sponsored by Rep. Beth Doglio (D–Olympia), makes a number of significant changes. For cities in particular, below are the highlights of changes to the building codes.

Residential energy code changes

The bill authorizes a city, town, or county to adopt additional residential energy code requirements as developed by the State Building Code Council (SBCC). By December 1, 2019, the SBCC must adopt the following optional efficiency appendices and include them in the code for residential buildings:

- An optional appendix providing energy code provisions that will reduce energy use by an additional 8 to 10 percent compared to the minimum code; and
- An optional appendix providing energy code provisions that will reduce energy use by an additional 16 to 20 percent compared to the minimum code.

The SBCC must amend the two optional appendices whenever it amends the minimum code requirements in order to achieve the incremental savings required by 2031.

Commercial energy code changes

By July 1, 2020, the Department of Commerce (Commerce) must establish by rule a State Energy Performance Standard (Standard) for covered commercial buildings.

- "Covered commercial building" means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area.
- Owners of covered buildings must receive notification of compliance requirements no later than July 1, 2021.
- In developing the Standard, Commerce must seek to maximize reductions in greenhouse gas (GHG) emissions from the building sector. The Standard must include energy use intensity targets by building type and methods of conditional compliance that include an energy management plan, operations and maintenance program, energy efficiency audits, and investments in energy efficiency measures designed to meet the targets.
- Commerce must update the Standard by July 1, 2029, and every five years thereafter.
- Commerce may impose an administrative penalty upon a building owner for failing to submit documentation demonstrating compliance with the requirements of the Standard.

A building owner of a covered commercial building must meet the following compliance schedule:

- June 1, 2026, for a building with more than 220,000 gross square feet;
- June 1, 2027, for a building with more than 90,000 gross square feet but less than 220,001 gross square feet; and
- June 1, 2028, for a building with more than 50,000 gross square feet but less than 90,001 gross square feet.

continued

A covered commercial building is exempt from the Standard if it meets at least one of several listed criteria, including:

- The building did not have a certificate of occupancy or temporary certificate of occupancy for all 12 months of the calendar year prior to the building owner compliance schedule;
- The building is an agricultural structure; or
- The primary use of the building is manufacturing or other industrial purposes.

Building requirements for electric vehicle infrastructure

The SBCC must develop rules for electric vehicle infrastructure that require electric vehicle charging capability at all new buildings.

Please let us know if you have any feedback.

Dates to remember

HB 1257 will be heard Tuesday, January 29 at 3:30 am in the House Environment & Energy Committee.

Bill streamlines annexations of unincorporated islands

Contact: Carl Schroeder, Shannon McClelland

HB 1357, sponsored by Rep. Beth Doglio (D–Olympia), would eliminate the referendum provision on the irregular island method of annexation.

These provisions stymie the long-range growth management plans that anticipate urban growth area annexations into cities. An annexation referendum allows a narrow subset of residents to “veto” community growth needs – outweighing the rights of city residents to not subsidize services for the county residents who live within the island.

This bill is from the City of Lacey and AWC will testify in support.

Dates to remember

HB 1357 will be heard on Tuesday, January 29 at 10 am in the House Local Government Committee.

“Best available science” for critical area planning bill is heard

Contact: Carl Schroeder, Shannon McClelland

A bill providing a great deal of new language around how cities and counties develop a record of their utilization of “best available science” concerning critical area planning was heard in the Senate Local Government Committee on January 24.

SB 5245, sponsored by Sen. Shelly Short (R–Addy), provides a definition for “best available science.” The bill also modifies the best available science to be used, and considerations to be made, in designating and protecting critical areas. We would appreciate a review of this proposal and your thoughts on areas that are problematic or helpful.

The bill also provides that cities may retain and examine scientific experts in front of the growth management hearings boards, as well as providing that authority to other parties. We would also appreciate your perspective on that change. AWC testified that we wanted a close consideration of unintended consequences with this bill.

continued

Open government

Bill authorizes regulation of the open carrying of firearms in public meetings

Contact: Candice Bock, Brandon Anderson

HB 1319, sponsored by Rep. Sharon Wylie (D–Vancouver) authorizes cities, towns, counties, and other municipalities to enact laws and ordinances that restrict the open carrying of firearms at any local government public meeting.

Dates to remember

HB 1319 is scheduled for a hearing in the House Civil Rights & Judiciary Committee on Friday, February 1 at 10 am.

AWC seeking city feedback on facial recognition privacy bill

Contact: Candice Bock, Brandon Anderson

Introduced by Sen. Reuven Carlyle (D–Seattle), **SB 5376** establishes the Washington Privacy Act

To protect the privacy of citizens, the act restricts how private companies can use data and facial recognition technology. The bill prohibits state and local government agencies from using facial recognition technology to engage in surveillance of individuals in public spaces, unless it is in support of law enforcement activities and obtained via a warrant unless in an emergency situation.

At the public hearing on the bill, both AWC and law enforcement expressed concerns about the approach to facial recognition evidence. Additionally, we had concerns about the potential implications on our ability to work with private sector contractors on data gathering and management.

AWC would like the input of city attorneys, law enforcement, and technology experts on Section 15 (<http://lawfilesexternal.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Bills/5376.pdf#page=15>) of this bill. Contact Candice or Brandon to weigh in.

continued

Pensions

Two pension bills scheduled for public hearings

Contact: Logan Bahr, Brandon Anderson

Two public pension bills are scheduled for public hearings in the Senate Ways & Means Committee.

SB 5360 changes the retirement plan default for new hires in the Public Employees' Retirement System (PERS) from Plan 3 to Plan 2. If the bill passes, the Office of the State Actuary (OSA) predicts a 25-year total employer savings of \$80.3 million dollars. OSA also expects that the bill could worsen the plan's solvency risk because increasing the number of future 2 members increases the amount of guaranteed benefits under PERS 2.

SB 5350 authorizes members of the PERS Plans 1, 2, & 3; the Public Safety Employees' Retirement System Plan; and the School Employees' Retirement System (SERS) to purchase an annuity benefit at time of retirement.

Dates to remember

The bills are scheduled for public hearings on Wednesday, January 30 at 3:30 pm in the Senate Ways & Means Committee. A live feed or archived video of the hearing can be found on the TVW website (<https://www.tvw.org/watch/?eventID=2019011328>).

Public safety & criminal justice

Smoke alarm bill may create unfunded mandate

Contact: Shannon McClelland

In the interest of ensuring working smoke detectors in homes, SB 5284 creates a new requirement that working smoke alarms be installed in a dwelling unit prior to transfer of ownership. **SB 5284**, sponsored by Sen. Marko Lias (D-Edmonds), has a companion, **HB 1103**, sponsored by Rep. Carolyn Eslick (R-Sultan). **SB 5284** was heard on January 24.

Although the bills require the seller to install the smoke detectors prior to occupancy, this provision is to be enforced by either the state or county fire marshal, or city or town fire chief. These bills appear to create an unfunded requirement that cities and counties inspect homes pre-sale to ensure that new smoke alarms have been installed. We believe this may be problematic and would welcome feedback.

I-940 "fix" bill passes the House

Contact: Sharon Swanson, Shannon McClelland

HB 1064, which modifies several provisions of **I-940**, was heard on the first day of session and passed out of its policy committee the next day.

During the second week of session, **HB 1064** unanimously passed out of the House.

HB 1064 will now be referred to the Senate Committee on Law & Justice for a hearing. **SB 5029**, its companion, is awaiting a floor vote in the Senate.

For more details on the substantive changes these bills make to existing law, see our previous article (<https://wacities.org/advocacy/News/advocacy-news/2019/01/11/initiative-940-fix-bills-scheduled-for-a-hearing>).

continued

Public works

Work underway to address “unintended consequences” of prevailing wage changes

Contact: Candice Bock or Andrew Pittelkau

Legislation adopted in 2018 changed how prevailing wages are determined – and resulted in dramatic increases to some job classes subject to prevailing wage rates. In particular, AWC heard from cities about spikes in landscape service costs. A number of stakeholders have indicated that these and other changes in prevailing wage were “unintended consequences” of the bill that weren’t expected and that could be readdressed during this legislative session.

Last fall, cities and AWC asked the Department of Labor & Industries (L&I) to take another look at the new rate. In a response at the beginning of January, L&I stood by the new rates and suggested other action such as legislation would be necessary to make changes.

SB 5493 passed during the 2018 session and took effect this summer. The bill requires L&I to establish the prevailing wage rate based on collective bargaining agreements (CBAs), where possible. For trades with more than one collective bargaining agreement, the higher rate controls. For trades that do not have collective bargaining agreements, the prevailing wage must be established by wage and hour surveys.

The new method has created significant spikes in prevailing wages for landscape laborers because they are lumped into the job classification for landscape construction (WAC 269-127-01346). AWC has been talking to other stakeholders and L&I about possible solutions, including creating a new scope of work specific to landscape maintenance that is distinct from landscape construction. The separation would allow L&I to relook at the wage rates for the new classification separately from construction work which would likely result in a lower rate. AWC is working with L&I to determine if these changes can be made quickly via the rulemaking process and without legislative action.

In addition to cities’ concerns about the impact on landscape work, others have also expressed concerns about the impacts of the changes to prevailing wage on affordable housing providers. The construction industry also has expressed concerns about how L&I has determined which CBA in a county is the prevailing CBA. We are still expecting legislation to be introduced that will address these concerns.

AWC will continue to work with other stakeholders and L&I to find a solution that will mitigate the impacts created by the “unintended consequences” of the 2018 legislation.

continued

Transportation

Prohibition on local governments' toll authority

Contact: Logan Bahr or Andrew Pittelkau

SB 5104 would prohibit local governments from imposing tolls on roads. The bill would prohibit or remove current language in current law that grants toll authority for cities, counties, and some special districts.

AWC opposes the bill.

Dates to remember

The bill will be heard Wednesday, January 30 at 3:30 in the Senate Transportation Committee.

Military surplus vehicle bill to be heard

Contact: Logan Bahr or Andrew Pittelkau

SB 5417 would allow surplus military vehicles to travel on the public highway system. The vehicles would be able to be used for occasional transportation, exhibitions, veterans' events, club activities, parades, and tours. The vehicles would need to be maintained in good working order and would be required to have motor vehicle liability insurance, certification of title, and a safety inspection.

Dates to remember

The bill will be heard on Monday, January 28 at 3:30 pm in the Senate Transportation Committee.

Hearings on sidewalk delivery devices

Contact: Logan Bahr or Andrew Pittelkau

Companion bills **SB 5378** and **HB 1325** would permit the use of personal delivery devices (PDDs). A PDD is defined as an electrically-powered device which:

- Is intended primarily to transport property on a sidewalk or crosswalk;
- Weighs less than one hundred twenty pounds, excluding any property being carried in the device, except that a jurisdiction that governs the right-of-way may allow a device to exceed this weight limit through a local permit or local ordinance;
- Has a maximum speed of ten miles per hour; and
- Is equipped with automated driving technology, including software and hardware, enabling the operation of the device with the support and supervision of a remote personal delivery device operator.

The bill proposes that PDDs may operate on a sidewalk or crosswalk so long as all of the following requirements are met:

- A PDD is operated in accordance with the laws or ordinances, if any, established by the jurisdiction governing the right-of-way containing the sidewalk or crosswalk;
- A PDD operator is actively controlling or monitoring the navigation and operation of the personal delivery device;
- A PDD owner maintains an insurance policy that includes general liability coverage of not less than one hundred thousand dollars for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity; and
- A PDD is equipped with certain safety features.

AWC has some concerns with the bill and what it could mean for right-of-way management.

Dates to remember

The bills will be heard on Monday, January 28 at 3:30 pm in the Senate Transportation Committee and the House Transportation Committee.

continued

AWC Legislative Contacts

During the legislative session, AWC's lobbyists often are unable to return your phone calls immediately. If you have a legislative or specific issue question, please request AWC's analyst staff, or send them an email.

Call AWC at (360) 753-4137 or 1-800-562-8981

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