

Sound Cities Association Legislative Report
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The Legislature will spend the remainder of the regular legislative session on the floor voting on bills. The Senate held floor action over the weekend, and both chambers are anticipated to work late in the evening this week.

Bills must pass out of the opposite chamber (i.e. House bills must pass the Senate; Senate bills must pass the House) by 5PM on Wednesday, April 17th. The regular legislative session is scheduled to end on April 28. If the Legislature is unable to reach an agreement on budget proposals and other large policy issues, the Governor will extend the legislative session by calling for a special session.

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

Public Hearing on I-1000

There is a public hearing scheduled this week at a joint meeting between the House Civil Rights & Judiciary Committee and the Senate State Government, Elections, and Tribal Relations Committee on [Initiative 1000](#). This proposal allows the state to remedy documented or proven discrimination against, or underrepresentation of, certain disadvantaged groups. Affirmative action would be allowed in public education, employment, and contracting if the action does not use quotas or preferential treatment. The initiative defines affirmative action and preferential treatment, and establishes a Governor's commission on diversity, equity, and inclusion.

I-1000 is aimed at negating [Initiative 200](#), a measure approved by Washington voters in 1998 that banned the government from discriminating against or granting preferential treatment to people and groups based on race, sex, color, ethnicity or national origin.

Initiatives to the legislature are submitted to the legislature at its regular session each January. Once submitted, the legislature must take one of the following three actions:

1. Adopt the initiative as proposed and it becomes law without a vote of the people
2. Reject or refuse to act on the proposed initiative and the initiative must be placed on the ballot at the next state general election, or
3. Propose a different measure dealing with the same subject and both measures must be placed on the next state general election ballot.

Legislative Priorities

Affordable Housing & Homelessness

Credit Against State Sales Tax – tied up in Budget Negotiations: [House Bill 1406](#), sponsored by [Rep. June Robinson](#) (D-Everett), would allow local governments to impose a .02 credit against the state sales tax to fund affordable housing. The bill remains in the Senate Ways & Means Committee and is on hold, contingent on operating budget negotiations. The House proposed operating budget assumes passage of House Bill 1406, at a cost of \$70 million/year to the state. The Senate proposed operating budget does not assume passage of the bill. Attached is spreadsheet that AWC developed

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

A/so – in the event that you missed the last report - there is an effort led by King County to add [House Bill 1590](#) (considered previously in the legislative session, but since died) into House Bill 1406. House Bill 1590 allows cities and counties to impose a one-tenth of one percent sales tax increase with councilmaticity, rather than voter approval. As part of the effort to add HB 1590 into HB 1406, the provisions of HB 1590 are being redrafted – cities would have the authority to impose one half of one tenth percent sales tax councilmaticity, and counties would have the authority to impose one half of one tenth percent sales tax councilmaticity. If the city does not use their authority within 24 months of the effective date of the bill, then the county can impose an additional one half of one tenth percent. Similarly, if the county does use their authority within 24 months of the effective date of the bill, then the city can impose an additional one half of one tenth percent. It's unclear whether there is support in the Senate Ways & Means Committee or in the Senate as a whole to add the provisions of HB 1590 to HB 1406.

Condominium Liability Reform passes the Legislature: [Senate Bill 5334](#), sponsored by Sen. Jamie Pedersen (D- Seattle), reforms the Condominium Liability Act. Prior to the beginning of the legislative session, many stakeholders called on legislators to reform the Condominium Liability Act in order to increase the construction of condominiums. While the bill was amended several times, there was strong support from all stakeholders at each step of the legislative process. The final version of the bill requires that condominiums be constructed in accordance with applicable building codes, and that to establish a breach of warranty, the breach must be 1) more than technical; 2) significant to a reasonable person; and 3) has caused or will cause physical damage to the unit or common elements; has materials 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. Officers and board members of a condominium are entitled to the same immunities from liability available to officers and directors of a nonprofit or mutual corporation. The Senate will need to do a final concurrence with the bill before advancing it to the Governor to be signed into law.

Expanded REET Authority for Housing: [House Bill 1219](#), sponsored by [Rep. Amy Walen](#) (D-Kirkland), passed the Legislature! The bill allows cities and counties to utilize second quarter real

estate excise tax (REET 2) revenues for affordable housing. Cities and counties have the authority to use up to \$1 million of REET 2 revenues for affordable housing under current law, but the authority is scheduled to sunset in June 2019. Before passing the House, the bill was significantly amended. The final version of the bill extends the sunset on the authority to January 1st, 2026 and removes the cap on the amount of revenue cities can use for affordable housing if the city is already utilizing authority. The \$1 million cap remains in place for cities that are not currently using the authority.

Habitat for Humanity Housing Bills: [House Bill 1168](#), sponsored by [Rep. Mari Leavitt](#) (D- University Place), provides a real estate excise tax exemption for qualifying purchases of labor, services, and tangible personal property related to self-help housing (i.e. housing constructed by Habitat for Humanity). The bill requires the self-help unit to be occupied for five, rather than twenty, years by a low-income purchaser. The bill is awaiting a floor vote by the Senate. [Senate Bill 5025](#), sponsored by [Sen. Mona Das](#) (D- Covington), provides a sales and use tax exemption on purchases related to self-help housing (i.e. housing constructed by Habitat for Humanity). The bill is in the House Rules Committee.

Religious Organization Property: [House Bill 1377](#), sponsored by [Rep. Amy Walen](#) (D- Kirkland), as originally drafted would have required cities to offer a density bonus to affordable housing developments being constructed on property owned by religious organizations. The bill was amended to address concerns raised by cities. The final version of the bill states that cities must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multiple-family residence located on real property owned or controlled by a religious organization. Such cities and counties may develop policies to implement the increased density bonus allowance once a religious organization requests the allowance for an affordable housing development. The affordable housing development must be set aside for and occupied exclusively by low income households for at least 50 years by a lease or other binding legal obligation, even if the religious organization no longer owns the property. The development must agree not to discriminate based on a list of demographic factors, including creed, disability, and sexual orientation. A religious organization developing affordable housing must agree to pay fees, mitigation costs, and other charges and, if applicable, is encouraged to work with the local transit agency to ensure appropriate transit services are provided. Any religious organization that is rehabilitating an existing affordable housing development is subject to the provisions of this act. The bill passed both the House and Senate.

Reforms to the Residential Landlord Tenant Act: The Legislature advanced amendments to the Residential Landlord Tenant Act as part of its strategy to address affordable housing:

- [House Bill 1440](#), sponsored by [Rep. June Robinson](#) (D-Everett), requires a landlord to provide a tenant at least 60 days prior written notice of an increase in rent unless the tenant is subsidized. For subsidized tenancies where the rental amount is based on the income of the tenant or circumstances specific to the subsidized household, the landlord must provide 30 days prior notice of the rent increase and the rent increase may become effective at the end of the rental term or sooner upon mutual consent. The bill passed the House, 62-36 and the Senate, 29-18.
- [House Bill 1462](#), sponsored by [Rep. Andrew Barkis](#) (R- Olympia), would require a landlord under the Residential Landlord-Tenant Act to provide at least 120 days' written notice to a tenant whenever the landlord plans to demolish or substantially rehabilitate premises or plans a change of use of premises. The Senate added an amendment stating that landlords may only be held liable in civil action up to three times the monthly rent of the property if they violate the

120 days' notice. The bill passed the Senate 44-1. The House will need to concur in the Senate's amendment prior to the bill advancing to the Governor's desk for signature.

- [Senate Bill 5600](#), sponsored by [Sen. Patty Kuderer](#) (D- Bellevue), extends the 3-day notice for default in rent payment to 14-days. The bill requires the 14-day notice be written in plain language and include information on civil legal aid resources available, if any, to the tenant. The bill requires a landlord to first apply any tenant payment to rent before applying the payment toward other charges. Additionally, the bill prohibits continued tenancy and relief from forfeiture to be conditioned upon tenant payment or satisfaction of any monetary amount other than rent. The court is given discretion to provide relief from forfeiture or to stay a writ of restitution. A landlord must provide a tenant with documentation regarding any damages for which the landlord intends to retain any of the deposit amount. The Senate passed the bill 31-15, and the House passed the bill, 51-46. The Senate will need to concur in the House's amendments prior to the bill advancing to the Governor's desk for signature.

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

The final version of the bill removes mandatory language and instead encourages cities to undertake actions to increase housing density. The bill exempts certain city actions to increase residential building capacity from SEPA appeals or legal challenges for actions taken prior to April 1, 2021. The bill also establishes a grant program to be administered by Commerce for city programs with "extraordinary potential" to increase housing supply or streamline regulations. Cities may also receive grant funds for developing a housing action plan. The bill does include language mandating reduced parking requirements for low-income, senior, and disabled households near transit; however, the language retains city authority to waive the requirement.

ADU bill in House Rules Committee: [Senate Bill 5812](#), sponsored by [Sen. Guy Palumbo](#) (D-Maltby), as originally drafted would have preempted city authority to regulate accessory dwelling units (ADUs). The bill once again underwent a significant amendment when it passed out of the House Local Government Committee. Under the latest version of the bill cities are grandfathered if:

- The current ordinance has resulted in an increase in permitted ADUs
- OR They have updated their ordinance after 2012

If not grandfathered, cities with a population over 10,000 would be required to update their ADU ordinance and include 4 of 10 items listed in the bill within their ordinance.

Additionally, cities may not impose a transportation impact fee on an ADU that is within one-half mile of a transit stop for fixed rail or for bus service that is scheduled at least every fifteen minutes for no less than ten hours per day that is greater than fifty percent of the amount set for single-family residences. Aside from some technical changes, this amended version of the bill is less objectionable to city interests. The bill remains in the House Rules Committee.

Arrest and Jail Alternatives: [House Bill 1767](#), sponsored by [Rep. John Lovick](#) (D- Mill Creek), establishes a program through the Washington Association of Sheriffs and Police Chiefs to support local initiatives to identify individuals with behavioral health needs within the criminal justice system, and then connect these individuals to therapeutic interventions and other services prior to jail booking or while in custody. The bill is currently awaiting a floor vote in the Senate. Throughout the legislative

process, the bill has been amended, the final version of the bill before the Senate includes a significant detail on the grant eligibility and reporting requirements. [Click here for a summary.](#)

Transportation & Infrastructure

Transportation Package Discussions Ongoing: Budget negotiations continue to include discussions around a transportation revenue package that would be funded through a small gas tax increase and/or some type of carbon fee. If (and it's a big IF) a package is advanced, it is likely to be much smaller than the \$10+ billion that advanced from the Senate Transportation Committee earlier this legislative session – stay tuned for more as budget negotiations continue.

Model Toxics Control Account: [Senate Bill 5993](#), sponsored by [Sen. David Frockt](#) (D-Seattle), increases the hazardous substance tax thereby increasing the amount of revenue available under the Model Toxics Control Account. The current hazardous substance tax is a .7 percent tax on the wholesale of hazardous substances. Approximately 95 percent of the revenue derives from the hazardous substance tax on petroleum products. The bill changes the hazardous substance tax from the current value-based percentage, to a volumetric tax of \$2.52 per 42-gallon barrel for petroleum products. The tax on non-petroleum products is unchanged. The bill also reforms the Model Toxics Control Account by replacing the current structure with three accounts: the Model Toxics Operating Account, the Model Toxics Control Capital Account, and the Model Toxics Control Stormwater Account. The bill proposes to deposit revenue from the hazardous substance tax into these accounts through the following percentages: 43% operating, 43% capital, and 14% stormwater. The bill was introduced on the same day as the Senate proposed capital budget and was heard in the Senate Ways & Means Committee. Whether this proposal advances will be determined through budget negotiations between the House and Senate.

Tolling Authorization: The Legislature continues to grapple with tolling authorization. There are two versions of the bill under consideration: [House Bill 2132](#), sponsored by [Rep. Jake Fey](#) (D- Tacoma) would authorize tolling on the Puget Sound Gateway project (SR 509/SR 167) and would accelerate the completion of project. Instead of completing the project in 2031, the bill would complete it in 2028. The bill also authorizes tolls and the bonding of toll revenue on I-405/SR 167. Because the legislation authorizes bonds, in order it to pass into law, the bill must be approved by 60% of the members of each chamber. The House Transportation Committee was going to bring the bill up for a vote last week; however, the committee chose not to vote on the bill (thereby stalling the bill).

Meanwhile, the Senate Transportation Committee advanced [Senate Bill 5825](#), sponsored by [Sen. Steve Hobbs](#) (D-Lake Stevens), which authorizes tolling on the Puget Sound Gateway project (SR 509/ SR 167), and on I-405/167, but does not accelerate delivery of the project and does not authorize bonding. Because it does not authorize bonds, this version of the bill only requires a simple majority to pass. [Sen. Hans Zeiger](#) (R-Puyallup) had indicated that he plans to offer an amendment to the bill on the floor that would accelerate the Puget Sound Gateway project and bond tolling (which then requires a 60% vote on the Senate floor).

Pavement Reporting Requirements: [House Bill 2038](#), sponsored by [Rep. Bill Ramos](#), eliminates the pavement condition reporting requirements for cities and towns listed in RCW 46.68.113. The bill has been delivered to the Governor to be signed into law.

Tools for Cities

Economic Development Tool: [Senate Bill 5564](#), sponsored by [Sen. Sharon Brown](#) (R- Kennewick), is an Association of Washington Cities priority bill. It is currently stalled in the Senate Ways & Means

Committee. The bill establishes a competitive program through the Department of Commerce for local jurisdictions to receive annual awards to make public improvement projects that will spur private investment and increase the local property tax values and sales tax revenues within a specific area. This proposal is similar to the Local Infrastructure Financing Tool (LIFT) and Local Revitalization Financing (LRF) programs that are no longer eligible for new awards. Similar legislation was introduced late in the session last year and faced challenges due to the fiscal impact on the state's operating budget since the program is funded through a credit against the state sales tax. An amended version of the bill passed out of the Senate Committee on Financial Institutions, Economic Development & Trade to limit the annual state contribution to \$4,965,000 until fiscal year 2022. Projects will still be awarded on a competitive basis however, the awards are limited to 3 projects, one in each of the following categories: \$1 million for 20 years, \$880,000 for 25 years, \$665,000 for 30 years. Not subject to the 3 projects listed above, \$2.5 million is set aside for awards to rural jurisdictions or designated opportunity zones.

Public Records Reporting Requirements: [House Bill 1667](#), sponsored by [Rep. Larry Springer](#) (D-Kirkland), amends the reporting requirements under the Public Records Act. The Association of Washington Cities and the Washington State Association of Counties are promoting this legislation. Earlier in the legislative session, the House Appropriations Committee amended the bill to direct JLARC authority to align the reporting metrics with metrics found under the Federal Freedom of Information Act. This would have been burdensome for local jurisdictions. The language was removed on the House floor, and the House passed the bill unanimously. The bill was further amended in the Senate Ways and Means Committee to remove an extraneous cross-reference. The bill is now in the Senate Rules Committee.

Unfunded Mandates Advancing through the Legislative Process:

- **B&O Tax Surcharge on Wastewater Treatment Plants:** [House Bill 2158](#), is one of several proposals this session to provide new revenues for the state budget. The bill would impose a 20 percent business and occupation (B&O) surcharge on service and other activities of select businesses and additional surcharges for high income technology businesses directed to workforce education. It is uncertain which of the tax proposals will ultimately be included as part of the final budget negotiations.

Sewer treatment is listed in the activities that could be subject to the surcharge, if more than fifty percent of annual gross revenues was generated from engaging in the service activities listed in section 72(2) of **HB 2158**. Currently sewer and water utilities pay a mix of state taxes: state public utility taxes on utility operations and service B&O for sewer treatment and certain other services as outlined in administrative rule [WAC 458-20-251\(4\)](#), and impacts would depend on a utility's mix of revenue sources.

The final mix of new revenues for the operating budget will be part of the conference negotiations and likely not finalized until the last days of the session with passage of the budget proposals. (credit to AWC for the write up)

- **Wrongful death legislation:** [Senate Bill 5163](#), sponsored by [Sen. Bob Hasegawa](#) (D- Seattle), expands the beneficiaries of a wrongful death action by removing dependence and residency requirements for parents and siblings. A parent or sibling may be a beneficiary of a wrongful death action if the deceased had no spouse, domestic partner, or child, without having to show dependence on the deceased and regardless of whether the parent or sibling resided in the United States at the time of death. During the public hearing on both the House and Senate versions of the bill, the Association of Washington Cities testified in opposition, expressing opposition to the joint liability provisions of the bill and the increase in litigation costs due to the additional lawsuits that may be brought on behalf of decedents. The bill passed the Senate 30-

17 and passed the House Appropriations Committee on a divided vote. The bill is now on the House floor calendar awaiting at vote. [Rep. Drew Stokesbary](#) (R-Auburn) is offering an amendment that removes the joint liability portions of the bill, which in effect would make each defendant's liability for damages equal to the portion with which they are at fault (i.e. if a defendant is 10% at fault, they would pay 10% of the damages). This amendment addresses the concerns raised by the Association of Washington Cities. This amendment has garnered bipartisan support and has stalled the bill.

- **PERS/TRS 1 benefit increase:** [House Bill 1390](#), sponsored by [Rep. Mari Leavitt](#) (D- University Place), provides a one-time 3 percent increase to the retirement benefits of retirees in the Public Employees' Retirement System and the Teachers' Retirement System Plans 1, up to a maximum of \$62.50. The bill would apply the one-time increase to eligible retirees on July 1, 2019. This would be extremely costly for cities. The bill is currently in the House Rules Committee and is part of the broader negotiations on the state operating budget. If passed, the bill would also be costly for the state to implement.
- **Occupational Disease Bill passes the Legislature:** [House Bill 1913](#), sponsored by [Rep. Beth Doglio](#) (D- Olympia), passed the Legislature. The bill alters the current statute governing presumed occupational diseases for certain publicly employed emergency response professions. This legislation extends existing protections for firefighters to fire investigators and law enforcement personnel and extends the conditions by which the disease is considered presumptive, making firefighters and fire investigators who did not receive a qualifying examination before June 1st, 2020 eligible for presumptive status. The bill would also expand the list of presumptive occupational diseases. Additions to this list include mesothelioma, stomach cancer, nonmelanoma skin cancer, breast cancer in women, and cervical cancer. Finally, the bill establishes an advisory committee on occupational disease presumptions for assessment going forward. The committee must include two epidemiologists, two preventive medicine physicians, and one industrial hygienist. The committee's decisions must be supported by scientific, field-accepted evidence. The bill passed the House 89-5, and the Senate 47-0. While the bill is likely to slightly increase workers compensations costs for cities, the emergency responders worked collaboratively with the Association of Washington Cities to develop this compromise.