

## **Sound Cities Association Legislative Report**

**SCA Consultant Briahna Murray; [bmurray@gth-gov.com](mailto:bmurray@gth-gov.com); (253) 310-5477**  
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With just over three weeks of legislative session remaining, both the House and Senate have adopted their proposed versions of operating, capital and transportation budgets, and the legislature is actively advancing bills forward to meet the April 9th fiscal committee cutoff deadline. Fiscal committees will be working through Saturday to ensure they are able to move bills forward before Tuesday's fiscal committee cutoff.

This coming week, budget writers will begin negotiating and working to reconcile differences between the House and Senate budget proposals, including whether and how to increase taxes to raise more revenue. Legislators will begin meeting on the floor and voting on bills. Bill will need to pass out of the opposite chamber (i.e. House bills need to pass the Senate; Senate bills need to pass the House) by April 17th. The final weeks of session are likely to be full of tension as the two Chambers resolve their differences, the House identifies a new Speaker, and complex policy issues such as tolling, clean energy, and affordable housing.

### **Legislative Priorities**

#### **Affordable Housing and Homelessness**

**Condominium Liability Act Reform Passes 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.

**Affordable Housing Funding:** [House Bill 1406](#), sponsored by [Rep. June Robinson](#) (D-Everett), would allow cities to impose a .02 credit against the state sales tax to fund affordable housing. 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. The substitute version of the bill that passed the House specifies that to enact the maximum 0.02 percent rate, a city must levy a qualifying local tax no later than 12 months after the effective

date of the bill, rather than within 12 months of the effective date, and states that the median income calculation for cities imposing the tax to be based on the city's median income, not the county's (addressing a drafting error). The bill was further amended in the Senate Housing Stability and Affordability to add a voter approved property tax levy used solely for affordable housing to be eligible as a qualifying local tax source and removes provisions regarding calculation of median income for certain cities whose median income is not available from the United States Census Bureau. The bill had another public hearing in the Senate Ways & Means Committee on Wednesday, April 3. The Association of Washington Cities testified in support of the bill, sharing that cities and counties would each have access to half of what the state would provide. Cities who have adopted a qualifying local levy would receive the full share of the sales tax that was generated in their own city. It would also provide a 1 -year window for other cities to adopt a qualifying housing levy to receive a greater proportion of the funds as an incentive. 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.

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 councilmatically, 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 councilmatically, and counties would have the authority to impose one half of one tenth percent sales tax councilmatically. 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.

[House Bill 1219](#), sponsored by [Rep. Amy Walen](#) (D- Kirkland), allows cities and counties to utilize real estate excise tax revenues for affordable housing. Cities and counties have the authority to use up to \$1 million of real estate excise tax 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 most recent version of the bill extends the sunset on the authority to January 1<sup>st</sup>, 2026 and removes the cap on the amount of revenue cities can use for affordable housing, if are already utilizing authority. The cap remains in place for cities that are not currently using the authority. The bill passed the Senate Stability and Affordability Committee and has been referred to the Senate Rules Committee.

**Affordable House on Religious Property:** [House Bill 1377](#), sponsored by [Rep. Amy Walen](#) (D- Kirkland), would require cities to develop a policy on when/how to offer a density bonus to affordable housing developments being constructed on property owned by religious organizations. The density bonus only applies to religious organizations rehabilitating existing affordable housing developments. The substitute bill makes the following changes to the original bill: requires a religious organization to request a density bonus prior to a city needing to develop a policy; requires that any affordable housing development be located in an urban growth area; and requires the Joint Legislative Audit Review Committee to review the efficacy of the increased density bonus allowance by December 2030. After passing the House, the bill was further amended in the Senate Housing Stability & Affordability Committee to require the development to be used as affordable housing for at least fifty (rather than forty) years and encourages the religious organization to work with local transit to ensure service to the development. The bill has been referred to the Senate Rules Committee.

**Habitat for Humanity Housing Bills:** [House Bill 1168](#), sponsored by [Rep. Mari Leavitt](#) (D- University Place), would provide a sales and use 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 passed the Senate Housing Stability and Affordability Committee with a technical amendment. This week, the bill had a public hearing in the Senate Ways & Means Committee on Wednesday, April 3. Habitat for Humanity and the Washington State Finance Commission testified in support of the bill.

[Senate Bill 5025](#), sponsored by [Sen. Mona Das](#) (D- Covington), was brought forward by Habitat for Humanity. The bill incentivizes self-help housing (like that built by organizations such as Habitat for Humanity) by providing certain tax preferences. The bill was amended in Senate Ways and Means Committee before passing the Senate, and then amended again in the House Finance Committee. The current version of the bill reinstates a sales and use tax exemption on purchases related to self-help housing (removed by the Senate Ways and Means Committee) and removes the REET exemption of self-help housing provided in the underlying bill. JLARC must evaluate the effectiveness of the tax preference in achieving the Legislature's public policy objective by metrics defined in the bill. The bill has been referred to the House Rules Committee.

**Accessory Dwelling Unit Regulation:** [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.

**Minimum Density Requirements:** [House Bill 1923](#), sponsored by [Rep. Joe Fitzgibbon](#) (D-Burien), House Bill 1923, sponsored by Rep. Joe Fitzgibbon (D- Burien), has been amended several times. In its current form, cities with a population over 20,000 are required to take two actions out of a list of 13 options. If a city has implemented any of the list post-2012, then that counts as taking action under the bill. For example, if a City has adopted an ADU ordinance in 2015 and a planned action in 2016, then the bill would not require the City to take any additional actions. If a city does not take two actions out of the list of 13 options, then the city can still comply with the requirement by adopting a housing action plan instead. \$100,000 per city would need to be provided in the budget or the bill would be null and void. Additionally, cities and counties may not prohibit permanent supportive housing in areas where multifamily is permitted. Impact fees for multi-family housing cannot be at a higher per unit rate than for single family housing and caps impact fees to \$50,000 or less for single family resident unit.

The bill had a public hearing in the Senate Ways & Means Committee on Friday, April 5. During the hearing, the Association of Washington Cities testified as other on the bill, asking the committee to maintain the state funding portion and to limit the number of cities that this bill applies to.

Legislators have expressed a willingness to make "refinements" to the bill as it advances out of the Senate Ways & Means Committee to the Senate Floor.

**Work Session on Martin v. Boise:** On Tuesday, April 2, the House Civil Rights & Judiciary Committee held a work session titled Martin v. Boise: Responding to Homelessness in light of the 9th Circuit's Decision. This work session is in lieu of the passage of legislation that died earlier this session – House Bill 1591, sponsored by Rep. Mia Gregerson (D-SeaTac) – which would have established certain rights for the homeless. There were three different panels that presented at the work session. The first presentation was from Homeless Rights Advocacy Project Director, Professor Sara Rankin. Professor Rankin expanded on the 9th Circuit Court opinion in the Martin v. Boise case, which found that it is unconstitutional when a city punishes a homeless person for engaging in necessary, life sustaining, activity in public. The term “chronic homeless” was used to define someone who has been homeless for one year or longer and has a qualifying disability that prevents them from work or housing. According to Third Door Coalition data, shared by Professor Rankin, since 2017 chronic homelessness has increased by 27%. To view the statistics, [click here](#). To view Professor Rankin's slideshow, [click here](#).

The second panel included Olympia Mayor Cheryl Selby, Pierce County Deputy Prosecuting Attorney, Alicia Burton, and Mike Hoover from the Washington State Association of Counties. The panelists discussed the various homelessness outreach programs that have made a positive impact as well as the difficulties they experience within their communities. Mayor Selby shared the growing frustration business owners have with homeless people – especially in the downtown area of Olympia.

The final panel consisted of law enforcement officers from Spokane, Kent and Auburn as well as the Director for the Washington Association of Sheriffs and Police Chiefs. The officers shared the realities of homelessness and what they do to mitigate the ongoing issue. Their daily routine consists of exhausting all efforts to educate and provide homeless people with resources. However, many chose to deny the resources or break the law, regardless of the several attempts to help them.

Several perspectives were shared during the panel and many were in contrast with one another. To watch the work session on TVW, [click here](#). The committee plans to have a meeting on this topic over the legislative interim in order to continue the conversation and prepare for the 2020 legislative session.

## **Transportation & Infrastructure**

**Tolling Legislation:** [House Bill 2132](#), sponsored by [Rep. Jake Fey](#) (D- Tacoma), would authorize tolling on the Puget Sound Gateway project (SR 509/SR 167) and I-405/SR 167. Additionally, the bill bonds toll revenue to complete the Puget Sound Gateway project in 2028 rather than 2031 and allocates funding to projects along the I-405 corridor. The bill is supported by cities throughout the Puget Sound. The bill is scheduled to be voted out of the House Transportation Committee on Monday.

**Pavement Condition Reporting:** [House Bill 2038](#), sponsored by [Rep. Bill Ramos](#) (D- Issaquah), repeals the current statute regarding pavement condition reporting by cities and towns and creates a requirement that the Washington State Department of Transportation continue to measure pavement condition where these measurements are currently taken. The bill passed the House unanimously. Since then, the bill passed the Senate Transportation Committee. The bill is waiting to be voted on by the Senate Chamber.

## **Tools for Cities**

**Business Ecosystems Act:** [Senate Bill 5564](#), sponsored by [Sen. Sharon Brown](#) (R- Kennewick), is an Association of Washington Cities priority bill. 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 the Senate Committee on Financial Institutions, Economic Development & Trade with changes specifying that \$2.5 million of the funds must be used for projects in rural jurisdictions or designated opportunity zones, and that the state's annual credit against the sales and use tax is limited to \$4,965,500 per year. The bill has been in the Senate Ways & Means Committee since February 8 and had a public hearing on Wednesday, April 3. The Association of Washington Cities testified in support of this bill and shared that cities around the state can make use of a tool like this to build infrastructure that will support economic development and in doing so, will generate revenue for the state.

**Public Records Bill:** [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 had a hearing in the Senate Ways & Means Committee on Thursday, April 4 and the Association of Washington Cities testified in support of the bill, sharing that the bill would help cities comply with the Public Records Act, ensure the records are preserved and available for the public.

**Wrongful death legislation:** [Senate Bill 5163](#), sponsored by [Sen. Bob Hasegawa](#) (D- Seattle), addresses actions for wrongful injury or death. The bill is identical to bills introduced last session, except it also applies retroactively. It 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 there is no spouse, domestic partner, or child, without having to show dependent on the deceased and regardless of whether the parent or sibling resided in the United States at the time of death. Additional changes are made that expand liability under the wrongful death statutes. During the public hearing on both the House and Senate versions of the bill, the Association of Washington Cities and Washington State Association of Counties testified in opposition. The reasoning for the stakeholder's strong opposition for this legislation derives from the joint and several liability portion of the bill and the increase in litigation costs due to the additional members that may bring action on behalf of the decedent. The Senate Law and Justice Committee amended the bill to replace any reference to "jury" with "trier of fact" in order to include bench trials. The committee also limited noneconomic damages in a survival action to the decedent's pain and suffering, anxiety, emotional distress, or humiliation. The bill passed through the Senate, 30-17, with no additional changes. On Friday, April 5, the bill passed the House Appropriations Committee.