

## 2019 Legislative Session What to expect?

The 2019 legislative session is the first year of the two-year legislative biennium. It is scheduled to start on Monday, January 14<sup>th</sup> and last 105 days (barring the Governor calling for an extended special session). As the beginning of the legislative biennium, bills from previous sessions will not carry over; all new bills will be introduced. Below is an outline of the political climate, budget challenges, and emerging “hot” issues for the upcoming session.

### **November Elections & Impacts to Political Climate**

Washington Democrats currently hold majorities in both the House, Senate, and Governor’s mansion. Predictions for a strong year for Democrats proved accurate given the results of the August Primary election. If the November General election follows trends from the Primary, House Democrats are likely to pick up at least 13 seats and potentially an additional 6 seats depending on how strong the Democrat wave. If all 19 seats currently held by Republicans switch as a result of the November election, House Democrats could have a 69-29 supermajority. In the Senate, Republicans are at risk to lose 4 seats which would leave Senate Democrats with a 29-20 simple majority<sup>1</sup>. According to current law, raising taxes requires a simple majority however passing bonds, which funds the majority of the Capital Budget, require a supermajority of both chambers. With the likelihood of a strong Democrat Legislature in control in 2019, passing an aggressive agenda is more plausible.

In addition to changes from political shifts, 16 different legislators chose to not run for re-election. Several of those legislators served in positions of leadership either in their caucus or on committees. This means that regardless of November outcomes, there will be many new legislators serving in Olympia and new members in leadership.

### **Budget**

The 2019 Legislature will craft biennial operating, capital, and transportation budgets this session. State revenues continue to exceed expectations and legislators have finally satisfied the Supreme Court in their provision of education funding. However, the federal government is withdrawing \$53 million in funding from Western State Hospital, and legislators haven’t had an opportunity to significantly invest in new policies (other than K-12 education) since before the Great Recession. There is pent up demand to spend new state dollars. Both the operating and capital budgets are likely to grow significantly in the 2019-2021 biennium.

As part of discussions around the budget, the Legislature is anticipated to have a robust discussion around tax policy. It is anticipated that proposals around carbon tax, capital gains tax, closing tax loopholes, and other tax policy changes will be discussed in greater detail this upcoming session.

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<sup>1</sup> Senator Sheldon, though identifying as a Democrat, both caucuses and typically votes with Republicans.

The transportation budget is another story. The Legislature enacted the Connecting Washington package in 2015 with a 16-year schedule of projects. Because of slowing gas tax revenues and a revenue shortfall in the originally adopted construction schedule for 19-21, there will not be significant new transportation funding this biennium. That said, it is likely that the Legislature will make some small investments in transportation projects throughout the state. There is also some early dialogue around a “mini package” to fund some key projects that were omitted from the 16-year schedule of projects. It’s unclear whether the concept of a “mini package” has any political viability.

### **Issues**

While many legislators are relieved to have their McCleary funding obligations fulfilled, the capital aspects of K-12 education will demand significant legislative time in 2019. The same is true with the state behavioral health system given the federal decertification of Western State Hospital and the 2020 deadline for integration of the behavioral and physical health systems. Shifting this system toward community-based facilities will demand legislators attention. Democrats are likely to again propose new state revenue sources such as capital gains or carbon taxes. In addition, Governor Inslee will be entering the last two years of his second term – a time when most governors expend every ounce of remaining political capital on their legacy issues. For Inslee, this has been climate change.

### ***General Government/Finance***

**State-shared revenues:** The Legislature continually re-evaluates state-shared revenues that are distributed to cities and counties (liquor excise tax revenue, liquor profit revenue, marijuana excise tax revenue, criminal justice assistance, etc.). It’s important to continually protect these revenues.

**Local Business License Ordinance Action Required:** By January 1, 2019, all cities that require a business license will be required to adopt an ordinance exempting businesses from getting a business license if they fall below the definition of “engaging in business.” Under the new definition, the threshold of engaging in business is \$2,000/year for a business located outside of the city. If the city partners with the state Business Licensing Service (BLS), the deadline for adopting this change is October 17, 2018. The business community has expressed concern that \$2,000/year is too low, and it should be much higher. It is possible that legislation will be introduced this upcoming session. The best defense to any legislation is for all jurisdictions that require a business license to adopt the new ordinance by January 1, 2019/October 17, 2018.

**Local Business License – BLS or FileLocal:** Current law requires jurisdictions to choose whether to partner with BLS by 2022 or FileLocal by 2020 for business license administration. It is anticipated that legislation will be brought forward that aligns the FileLocal date (2020) with the BLS date (2022).

**Local B&O Tax Authority:** The B&O Apportionment Task Force is anticipated to submit its report to the Legislature on October 1, 2018, for the 2018 Legislature’s consideration. The business community has indicated a desire to change the local B&O apportionment formula from a two-

factor formula to a one-factor formula, and/or to have economic nexus replace physical presence. Either of these changes would have significant revenue implications for jurisdictions that have adopted a local B&O tax. It is anticipated that there will be legislation introduced on this subject this upcoming legislative session.

Head Tax Preemption: We are anticipating legislation will be introduced preempting city authority to impose a head tax. Because of the discussion in the City of Seattle this past session, such legislation may get traction. There are a number of cities that already have a head tax including Vancouver, Redmond, and Lynnwood.

Wayfair Legislation: The Department of Revenue is anticipated to bring forward legislation that removes conflicts between the Marketplace Fairness Act and the recent *Wayfair* US Supreme Court to collect sales tax from out of state internet retailers. This legislation is expected to result in an increase in state – and local – sales tax collections.

Employment Liability Legislation: Last session, a number of proposals were introduced that would increase cities' liability. One proposal expanded the list of presumed occupational diseases for worker's compensation claims from first responder employees. A second proposal allowed wrongful death claims to be brought forward by non-US citizens. Both of these would increase the financial liability to cities and counties.

### ***Affordable Housing***

Legislators continue to discuss various proposals around affordable housing. There are two proposals that seem most likely to be introduced this upcoming session. The first is a proposal to reform the Condominium Liability Act to reduce liability for condominium developers. The Senate Law & Justice Committee held a work session earlier this interim on the subject, and the Washington Realtors are likely to spearhead a stakeholder process in the coming months. The second is a proposal to allow counties/cities to receive a credit against the state sales tax to fund affordable housing projects. A credit against the state sales tax does not increase the sales tax, but rather redirects sales tax that would otherwise go to the state to the local level. In order for local jurisdictions to receive access to this revenue, they may need to meet density requirements. This second proposal has a number of details that are still in the works, but it will likely be modeled after HB 2437, introduced during the 2018 legislative session.

### ***Environment***

Culvert Funding: This interim, the US Supreme Court upheld that the state has a requirement to repair and restore fish culverts throughout the state to re-open fish habitat. The Legislature is anticipated to make significant investments in culverts through the state capital and transportation budgets. As the state selects which culvert improvements to make, cities and counties have advocated that investments be made on a watershed basis – i.e. improving a state culvert doesn't open fish habitat unless city and county owned culverts downstream from the state culvert are also restored.

### ***Economic Development***

“Increment Financing” Proposals: AWC is currently in the process of developing a legislative proposal to support local economic development. Specifically, they are looking at ways of revitalizing vacant buildings/encouraging infill development through a program similar to Local Revitalization Financing. Details are forthcoming...

### ***Technology***

Rural Broadband/Small Cell Network Facility Deployment: The Governor has indicated that he intends to promote legislation that makes investments in rural broadband. Cities have traditionally supported increased investments in rural broadband. However, recent proposals around rural broadband has also included provisions preempting city authority to site, regulate, and charge market-based lease rates on small cell network facilities. This preemption is concerning. AWC has developed an alternative proposal that would require jurisdictions to adopt ordinances regarding the deployment of small cell network facilities while maintaining local control.

### ***Transportation***

Transportation Study: The Joint Transportation Committee was recently allocated funding to complete a study on city transportation needs, and potential revenue sources to meet unmet needs. That study will not be completed until after the 2019 session. As part of the study, there is interest in looking specifically at the financial impact that improvements to state routes are having on city budgets.

Bidding Tools: There is a great deal of discussion around changing the rules around the bidding of transportation projects – with greater leaning toward design/build or design/build/operations/maintenance. We anticipate legislation on this subject this upcoming session. There is also discussion of looking for ways to “de-federalize” projects (focus federal dollars on a fewer number of projects).

Transportation Benefit District Authority – Transportation Benefit Districts have voter-approved sales tax authority. There will likely be legislation introduced that would transition this to councilmanic authority and align it with the vehicle license tax authority.

### ***Public Safety***

Basic Law Enforcement Academy Funding – The Criminal Justice Training Commission will be seeking increased funding to reduce the backlog of new hires awaiting training through the Basic Law Enforcement Academy. In recent sessions, the Legislature has modestly increased funding to the program, but not enough to alleviate backlogs.

Indigent Defense Funding – Counties will likely lead an effort to increase the amount of funding the state provides to cities and counties for public defenders. The cost of these services, mandated by the U.S. Supreme Court and Washington law, have skyrocketed in recent years.