



Skagit County

Legislative Report

April 8, 2023

SESSION CUTOFF CALENDAR

April 4, 2023	Opposite Chamber Fiscal Committee Deadline
April 12, 2023	Opposite Chamber Deadline
April 23, 2023	Session adjourns - Sine Die

Overview

This past week marked another milestone in the legislative process where bills from the opposite chamber had to pass the fiscal committee to advance. Following that cutoff, both the House and Senate returned to floor action where they will spend the next several days working late into the night/early morning to pass bills from the opposite chamber. If a bill was amended in the second chamber, it will have to return to its chamber of origin for concurrence.

Simultaneous to the flurry of action on policy bills, both the House and Senate have passed their versions of the Operating, Capital and Transportation Budgets. Legislators who are in budget leadership roles will be meeting with their counterparts in the opposite chamber to negotiate the differences and hopefully agree on a final version prior to the final day of the legislative session – Sunday, April 23rd.

The final days of a legislative session are notorious for passage of bills that are considered necessary to implement the budget (NTIB). There are rumors that legislation to increase the 1% property tax cap to 3% will be considered. It remains unclear if the House proposal to fund affordable housing by increasing real estate excise tax, House Bill 1628, has the votes to pass both chambers.

Funding Requests

The House and Senate have released and moved their Capital, Operating, and Transportation budget proposals. Over the next several weeks, budget writers will meet cross-chamber to determine what to include in the final budgets.

Several of our projects were included in one, but not both, budgets. Last week, we drafted a letter asking Capital budget writers to include the following appropriations in the final budget:

- **Skagit County Crisis Stabilization Center (SCCSC)** - \$12.7 million, as funded in the House budget.
- **Skagit County Culvert Package** - \$1 million additional and \$1 million reappropriated, as included in the House budget.
- **Voluntary Stewardship Program Funding** - \$1 million, as funded in the Senate budget.

Requests for Support & Funding Initiatives

Support Salmon Recovery Efforts Utilizing a Collaborative Approach

The House and Senate Capital budgets include funding for voluntary salmon recovery efforts, including:

- \$25 million to develop and implement a voluntary riparian grant program (House)
- \$128 million in the House for the Salmon Recovery Funding Board, including \$25 million for SRFB to implement a riparian grant program that complements the existing salmon recovery grant program. The Senate provides \$95 million for the Salmon Recovery Funding Board.
- \$74 million in the House and \$54.1 million in the Senate for Puget Sound acquisition/restoration and estuary salmon restoration projects.
- \$7.8 million in the House and \$10.87 million in the Senate for the Family Forest Fish Passage Program to remove fish barriers on small forest landowners' properties.
- \$48.4 million for the Fish Barrier Removal Board (House and Senate)

Additional Legislative Issues

Support Public Safety and Reduce Court Backlog

State v. Blake decision/controlled substance possession: [E2SSB 5536](#) sponsored by Senator June Robinson (D- 38th LD) establishes the penalty for knowing possession of controlled and counterfeit substances as a misdemeanor and establishes pretrial diversion pathways for individuals charged with possession. The bill has been through many iterations as it moves through the legislative process. After moving through the Senate 28-21, the bill was amended significantly in the House Community Safety, Justice, and Reentry Committee, and then again in the House Appropriations Committee. In its current form, simple possession and the use of a controlled substance in a public place would be charged as misdemeanors. Prosecutors are encouraged to

divert cases for assessment, treatment, and other services through the recovery navigator program. The bill removes judicial discretion for sentencing and eliminates the mandatory minimum 21-day sentence for individuals refusing a substance use disorder assessment and recommended treatment. The recovery navigator or similar program must prepare a biopsychosocial assessment for the convicted individual. If treatment or services are not recommended by the biopsychosocial assessment, or, if the individual fails to meaningfully engage with treatment, the court may require community service up to 120 hours as a term of probation. Convictions are vacated if there are no subsequent arrests within a year of sentencing, if the individual meaningfully engages in treatment for at least six months, or if no treatment is recommended and the individual complies with community restitution. The bill also preempts local regulation of drug paraphernalia, allowing the sale of paraphernalia by certain outreach, shelter, and housing programs for harm reduction purposes. The Association of Washington Cities is working with the Association of Behavioral Health Administrative Services Organizations (BHASOs) to request several amendments to the bill; their requested changes are outlined in [this chart](#). There is concern that the current version of the bill does not provide sufficient accountability and creates an overly complex legal pathway for individuals who are convicted of simple possession, in addition to overburdening the recovery navigator program, which is still building capacity.

The Senate Operating budget proposal includes \$54.5 million for implementation of the bill's provisions and the House Operating budget proposal includes \$41.54 million for these purposes. Additionally, both chambers' proposals allocate a portion of the opioid settlement funds to support the provisions of this bill as well as other efforts to respond to the opioid epidemic. The legislation is currently in the House Rules Committee awaiting further action.

Behavioral Health

Trueblood settlement- Competency evaluations and restoration services to persons suffering from behavioral health disorders: [E2SSB 5440](#) sponsored by Senator Manka Dhingra (D- 45th LD), establishes diversion and behavioral health treatment pathways to attempt to reduce caseload for forensic cases needing restoration in a state-owned behavioral health hospital. The bill, as amended out of the Senate, has eliminated most concerning provisions of the bill for counties and WSAC is currently neutral on the proposal. The bill has seen significant amendments through the legislative process in the Senate and now in the House. The legislation expands the duties of forensic navigators and requires appointment of a forensic navigator for certain defendants charged with a qualifying Class C felony or non-felony. It requires jails to allow clinical intervention specialists access to persons referred for competency evaluation or restoration services. Jails and juvenile detention facilities are prohibited from discontinuing a person's medication for a serious mental health disorder if the person is medically stable on the drug. The Health Care Authority is required to take steps to increase staff compensation in outpatient competency restoration programs, and the Department of Social and Health Services is required to collect data and identify locations that may be commissioned for use in treating individuals for competency evaluation, restoration of civil conversion, or following acquittal by reason of insanity.

After passage in the Senate, the legislation was referred to the House Civil Rights and Judiciary Committee, which heard, amended, and approved the bill last month.

Most recently, the bill was heard, amended, and approved by the House Appropriations Committee. As amended, the bill requires a forensic navigator to meet with any person charged with a qualifying Class C felony who has had two or more competency evaluations in the past two years to determine the person's willingness to engage with diversion and to propose a diversion plan as appropriate. If a person's highest charge is a qualifying Class C felony, is found incompetent, and there is an available diversion program, the court must dismiss the charges and refer the individual to the program. Competency restoration for a defendant charged with a qualifying Class C felony is limited to a period of 45 days if ordered for inpatient services and 90 days if ordered for outpatient services. Defendants charged with felonies who are found incompetent following a period of restoration must have their charges dismissed with prejudice and be committed to DSHS for evaluation under the Involuntary Treatment Act. The bill limits the non-felony offenses that may be referred for competency evaluations to any gross misdemeanor with a domestic violence designation or sexual assault allegation, Driving Under the Influence, or Physical Control of a Vehicle. The bill is currently in the House Rules Committee awaiting further action.

Contracting and procurement requirements for behavioral health services in medical assistance programs: [E2SHB 1515](#), sponsored by Representative Nicole Macri (D- 43rd LD), requires the Health Care Authority (HCA) to adopt network adequacy standards and an annual network adequacy review process for managed care organization (MCO) behavioral health provider networks within the Medicaid program. The HCA is further directed to seek approval to amend the State Medicaid Plan to support direct payments to agencies to support 24/7 crisis system capacity. The second substitute bill was passed unanimously in the House and then referred to the Senate Health and Long Term Care Committee. The Committee passed the bill last month, and it was next referred to the Senate Ways and Means Committee. The Committee held a hearing on the bill last week and voted to advance it on April 3. The passed the Senate on Friday, April 7 with no further amendments and unanimous support.

Housing

Flexibility on affordable housing and mental health funding: [SSB 5604](#) sponsored by Senator June Robinson (D- 38th LD) allows all jurisdictions to use revenue from the affordable and supportive housing sales tax for rental assistance, and allows counties to use chemical dependency and mental health services tax revenue for modifications to existing facilities to address health and safety needs. The Senate passed the bill unanimously, and it was referred to the House Local Government Committee. The Committee heard and voted to advance the bill last week. It was then referred to the House Finance Committee, where it was heard and advanced out of committee last week. On April 5, the House passed the bill unanimously.

Rural public facilities sales and use tax: [SHB 1267](#) sponsored by Representative Steve Tharinger (D- 24th LD) renews the 0.09% rural county credit against the state

sales and use tax for public facilities serving economic development purposes until the end of 2054. It requires the State Auditor to provide a publicly accessible report on its website containing rural county project and expenditure information and the total amount of revenue collected under the sales and use tax. The House passed the bill unanimously in February and it was referred to the Senate Local Government, Land Use, and Tribal Affairs Committee. The policy committee heard and approved the bill last month. The bill was next referred to the Senate Ways and Means Committee, which heard the bill last month and approved it this week. The fiscal committee adopted an amendment requiring counties to identify in detail public facility projects and staff positions funded by the sales and use tax and requiring the State Auditor to develop a standardized expenditure report. The legislation is currently in the Senate Rules Committee awaiting further action.

Accessory dwelling units: [EHB 1337](#) sponsored by Representative Mia Gregerson (D-33rd LD) requires cities and counties to comply with at least three of the policies in the bill pertaining to accessory dwelling units. These include restrictions on requiring off-street parking for ADUs, assessing impact fees on ADU construction that are greater than 50 percent of the impact fees that would be imposed on the principal unit, requiring owner-occupancy on the lot, and only allowing a single ADU on lots within the urban growth area. The bill passed in the House by a vote of 81-15, with a bipartisan mix of votes on both sides of the tally. It was then referred to the Senate Local Government, Land Use, and Tribal Affairs Committee, which heard, amended, and approved the bill last month. As amended in committee, the provision prohibiting off-street parking requirements was removed as one of the options for compliance, thus making the remaining three policies mandatory. ADUs may be counted toward housing density for compliance with the Growth Management Act. It also allows cities and counties to impose limits of two ADUs on smaller lots. The Committee also adopted a change to allow for covenants or deed restrictions that prohibit or restrict ADUs if necessary to protect public health and safety or to protect ground and surface waters from on-site wastewater. On April 6, the Senate passed the bill by a vote of 39-7, with Republicans voting in opposition and three Senators excused. The Senate amended the bill on the floor to prohibit cities and counties from requiring off-street parking for ADUs unless the local government submits an empirical study to Commerce demonstrating that a lack of off-street parking would be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists.

Land Use, Environment & Forest Management

Climate change in comprehensive planning: [E2SHB 1181](#) sponsored by Representative Davina Duerr (D-1st LD), requested by the Office of the Governor, amends the Growth Management Act to add a goal of climate change and resiliency, and adds a climate change element to the list of elements that must be included in comprehensive plans for all fully planning counties and cities. Fully planning counties and certain cities within them are required to address the adverse impacts of climate change on people, property, and ecological systems, and identify actions to reduce greenhouse gas emissions and vehicle miles traveled. The House passed the bill last month by a vote of 57-41, mostly on party lines. It was then referred to the Senate Local

Government, Land Use, and Tribal Affairs Committee, which heard and advanced the bill last month. Next, it went to the Senate Ways and Means Committee, where it received a hearing and was approved on April 3. The bill passed the Senate with a party-line vote of 29-20 on Friday, April 7. An amendment was adopted on the floor reflecting changes requested by local governments; most notably, allowing jurisdictions who must update their comprehensive plan in 2025 to use the 5-year “check-in” requirements at the first update.

Department of Natural Resources land transactions, revenue distributions, and land transfer program: [SHB 1460](#) sponsored by Representative David Hackney (D-11th LD), by request of the Department of Natural Resources (DNR), authorizes DNR to create and manage a trust land transfer (TLT) program to transfer economically underperforming state lands to other purposes, and to acquire replacement property to generate sustainable revenue to trust beneficiaries. As passed by the House and amended in the Senate policy committee, the bill provides that, DNR, with approval of the Board of Natural Resources, must submit a prioritized list of TLT parcels to the Legislature. If a legislative appropriation includes the full fair market value for the TLT parcel, then DNR will complete the transfer. DNR can only submit properties to the Board or the Legislature if at least 50 percent of all previous appropriations for the purchase of replacement lands in the program have been used to purchase replacement trust lands. After amendment and approval by the Senate Agriculture, Water, Natural Resources, and Parks Committee, the bill was referred to the Senate Ways and Means Committee. It received a hearing and was passed by the Committee on April 3. The Committee adopted an amendment clarifying the definition of underperforming state land as land that has limited potential to generate income in the reasonably foreseeable future due to various constraints. The bill was further amended to specify that the TLT transfer list submitted to the Legislature may not exceed \$30 million annually, and that, if requested by a county, funds from valuable materials may be used to buy replacement forestlands subject to a county agreement. The Senate passed the bill with a bipartisan vote of 40-8 on Saturday, April 8.

No Longer Under Consideration - Carbon sequestration and ecosystem services in the management of public lands: [House Bill 1789](#), sponsored by Representative Kristine Reeves (D- 30th LD), is request legislation from the Department of Natural Resources that would allow DNR to enter into ecosystem services contracts (which includes the sale of carbon credits). After significant negotiations as the bill moved through the House and Senate, the bill died in the Ways and Means Committee on April 3.