

## Skagit County Interim Report October 13<sup>th</sup>, 2020

[To access the attachments referenced in the report, please use this link.](#)

### **House Committee Assembly Days**

In the fall, the House and Senate activate their committees to host a series of work sessions on relevant interim and pre-session policy topics. While COVID-19 has barred both chambers from meeting in person, committees are meeting virtually. The House completed their first round of Assembly Days from Sept. 14 – 30<sup>th</sup>. Both the House and Senate are scheduled to hold Assembly Days from Nov. 30<sup>th</sup> – Dec. 1<sup>st</sup>. Highlights from the first round of assembly days are below:

#### **House Local Government Committee**

House Democrats led a robust discussion in the 2020 legislative session on Growth Management Act reform, specifically, incorporation of climate change and environmental planning mandates in the GMA. These efforts were halted by [Sen. Dean Takko](#) (D- Longview), Chair of the Senate Local Government Committee, with the expectation that this stakeholder work would continue during the interim through a legislatively-funded GMA workgroup. The workgroup was vetoed by the Governor, but stakeholders continue to convene through a UW-funded process led by Joe Tovar. The group includes participation from both AWC and WSAC and legislators engaged in reform discussions, including [Rep. Gerry Pollet](#) (D- Seattle), chair of the House Local Government Committee, Sen. Takko, and [Rep. Joe Fitzgibbon](#) (D- Burien), chair of the House Environment and Energy Committee.

Aligning with these stakeholder efforts, Rep. Pollet hosted a work session in the House Local Government Committee on local government planning resource needs. Paul Jewell from WSAC and Carl Schroeder from AWC presented to the committee. Planning challenges are relatively consistent among cities and counties, and include variable costs, disparate planning and resource burdens on rural and small communities, lack of state funding for planning, expenses associated with technical work, extensive public participation, and litigation and appeals. Examples of funding gaps from specific jurisdictions are included in both presentations and may be found here ([WSAC](#) and [AWC](#)).

Mr. Jewell and Mr. Schroeder provided the committee recommendations on improving local government planning processes. Recommendations include:

- SEPA reforms – focus SEPA regulation on urban areas and eliminate redundancies
- Revise update cycle to 10 years, rather than 8 years
- Improve GMA provisions for Limited Areas of More Intensive Rural Development (LAMIRDs), including opening up to infill and redevelopment
- Annexation reforms

- Provide state funding and new fiscal tools for cities and counties to fund planning
  - o However, cities and counties should not be expected to fully fund planning using local options, which are not substantive in small jurisdictions

You may watch the [work session here](#).

### House Capital Budget – Broadband

The House Capital Budget Committee convened a work session on broadband capital investments, featuring updates from the Community Economic Revitalization Board, the Public Works Board, the State Broadband Office, and more. Highlights from the work session follow.

#### *Community Economic Revitalization Board (CERB)– Rural Broadband Program*

Jenea Delk, the director of CERB, provided an overview of investments made by CERB’s Rural Broadband Program since the Legislature funded the program in 2018 and 2019. The Rural Broadband Program received \$10 million in the 2018 legislative session and \$3.45 million in the 2019 legislative session, thereby funded at a total of \$13.45 million. Like most existing public financing programs for broadband, funding from the Rural Broadband Program is only available to a specific subset of broadband users: rural, underserved communities for the purpose of economic development. CERB provides funding for both planning and construction activities, and funding operates on a revolving loan cycle. So far, CERB has invested \$11.79 million in projects, with each project averaging \$970,000; \$1.6 million remains in the program, which will be awarded in November. A list of programs funded to the work session’s date may be found [here](#).

#### *Public Works Board Broadband Program*

Authorized in 2019, the Public Works Board offers grants and loans to unserved communities to increase affordable broadband access. Unlike CERB grants, which are only available to rural communities, the Public Works Board provides assistance to both rural and urban communities; however, financial assistance is only available to unserved communities. As Shelley Westall, the Program Director, explained, “unserved” communities have not been tracked or quantified, making statewide need for these communities difficult to estimate; the PWB is currently quantifying this number. The PBW offers assistance for both planning and construction activities. The program received \$450,000 for Planning / Feasibility Grants and about \$17.8 million for Broadband Construction in the 2019 legislative session. In the most recent cycle, \$76 million has been requested and \$17.7 million awarded, with the average project cost of \$3 million. The majority of award applicants represent communities facing financial hardship and include 11 private entities, 3 tribes, and a few homeowners’ associations. There is a 15-year obligation for public use attached to funds. The Public Works Board will be requesting \$153 million for their broadband program in the 2021 legislative session. You may view the presentation [here](#).

#### *State Broadband Office*

Russ Elliot, the director of the State Broadband Office, presented on the SBO’s work since its authorization in 2019. The SBO works closely with key entities including CERB,

PWB, and the Office of Superintendent of Public Instruction, on key broadband initiatives, including school connectivity. The SBO's work focuses mainly on the "big picture" and includes a few key objectives:

- Securing maximum private sector and federal funding for broadband projects
- Building scalable networks to meet state connectivity goals
- Addressing "last mile"
- Supporting communities to achieve digital equity inclusion, including maintenance and expansion of the state's drive-in WiFi hot spots.

For more details, view the SBO presentation [here](#); you may [watch the work session here](#).

### House Transportation Committee

The House Transportation Committee held a work session on current and projected impacts to the transportation budget. While the September revenue forecast predicted less of a decline in operating budget revenues, the transportation budget continues to face a significant budget deficit.

Usership of the transportation system has, in some cases, significantly declined, resulting in declining revenues. Based on data collected in September, traffic is down 14%, toll usage is down 41%, and ferry ridership is down 30%. From COVID-19 impacts alone, compared to the February 2020 forecast, transportation revenues are projected to decline:

- \$560.5 million, or 8.9%, in the current biennium (2019 – 2021)
- \$235.8 million, or 3.9%, in the next biennium (2021 – 2023)
- Over a ten-year period, \$1.29 billion, or 4.0%

In addition to revenue loss from COVID-19, the transportation budget is projected to decline significantly due to I-976 should the Supreme Court uphold the initiative. From the February 2020 forecast, revenues are projected to decline due to I-976 by:

- \$421.7 million, or 6.9%, in the current biennium (2019 – 2021)
- \$659.7 million, or 9.8%, in the next biennium (2021 – 2023)
- Over a ten-year period, \$3.42 billion, or 9.9%

Combined impacts would total \$4.71 billion reduction over a ten-year period.

Beth Redfield from the Office of Program Research (OPR) also outlined projected declines in specific revenue sources in the current biennium, listed below:

- Gross fuel tax: \$247.04 million, or 6.8%
- Vehicle registration: \$52.93 million, or 4.3%
- Driver license fees: \$27.72 million, or 8.8%
- Ferry fares: \$100.19 million, or 23.3%
- Toll revenue: \$111.34 million, or 22.9%
- Rental car revenue: \$19.79 million, or 27.0%

These revenues filter into state transportation revenue accounts, which are impacted disproportionately. Notably, the state Multimodal Account is projected to decline 13.4%

(due to reductions in rental car revenues), and the Ferry Operating Account, which is funded by ferry fares, is projected to decline 20.7%. The state Multimodal Account already faces disproportionate revenue loss due to I-976.

Major revenue sources are projected to recover at variable speeds. Diesel revenues are projected to return to previous rates first, by 2022; tolls are projected to recover by 2024; while gas revenues are not projected to recovery until 2026.

The meeting may be viewed [here](#); budget highlights from OPR may be found [here](#).

### **Law Enforcement Reform Proposals**

The Legislature has identified law enforcement reform as their top priority for the 2021 legislative session. While a few key members are providing leadership on central issues, Legislative leadership has indicated that any member may submit proposals, leading to a storm of draft legislation. Conversations are highly fluid as legislators weigh benefits, costs, and practicality of emerging proposals. A few pieces of draft legislation are outlined below and attached:

#### WASPC List of Reforms

The Washington Association of Sheriffs and Police Chiefs compiled a list of 13 reforms spanning three categories: use of force, transparency and accountability, and defining the role of law enforcement. These reforms were proposed in late June and the association is now seeking feedback, due to WASPC by October 30<sup>th</sup>. Reforms do not necessarily account for cost: for example, the proposal includes implementation and use of body cameras, which the Legislature has indicated is too expensive to impose, and the creation of an independent investigative team or agency to conduct use of deadly force investigations; the latter proposal would require significant investment by the state.

#### Decertification

The Criminal Justice Training Commission is authorized to decertify officers fired for misconduct; however, there are currently many barriers to the decertification process, rendering the process essentially useless. Legislators and other stakeholders are proposing reforms to remove these barriers. Currently, this effort is being led by [Sen. Jamie Pedersen](#) (D- Seattle), [Rep. Roger Goodman](#) (D- Kirkland), and Judge Anne Levison (ret.). AWC has identified this issue as a priority, which has a high likelihood of action next session.

#### Duty to Intervene – Sen. Dhingra

[Sen. Manka Dhingra](#) (D- Redmond), a former King County prosecutor, has introduced a bill regarding a law enforcement officer's (LEO) duty to intervene. The bill would do the following:

- Require a LEO who witnesses another officer engaging in unlawful use of force to intervene and render aid to any injured person

- Require a LEO who witnesses any wrongdoing by another officer to report the wrongdoing to the officer's supervisor
- Any LEO who fails to intervene or report is subject to disciplinary action including dismissal, demotion, suspension or transfer
- Require LEO to cooperate with investigations into wrongdoing and notice must be sent to the CJTC of any disciplinary decision resulting from the failure to intervene or wrongdoing
- Directs CJTC to develop model policy on the duty to intervene by October 1, 2021
- Requires every law enforcement agency in the state to adopt and implement a duty to intervene policy by January 1, 2022. The policy that may or may not follow the model policy.
- Requires the CJTC to incorporate duty to intervene policy into BLEA training and all existing officers must receive the training by December 31, 2023

WASPC and AWC have identified LEO duty to intervene as a priority for next session.

#### Potential Impeachment Disclosures (PID)

Sen. Dhingra has also proposed a series of reforms to statewide potential impeachment disclosures. The bill would do the following:

- Require WAPA to create a statewide potential impeachment disclosure standard i.e. Brady list, within 6 months
- Require LEOs to disclose to the local prosecuting authority all potential impeachment information about officers within 30 days of the incident occurring.
- Require LEOs to ask upon hiring of new employee all potential impeachment information, whether officer has ever been on a PID list and have a duty to call the local prosecuting authority from the last job to verify whether or not the prosecuting attorney's office has any impeachment information on the new hire.

In addition to the specific proposals above, we are beginning to get a clear indication from legislators that they have no interest in taking on collective bargaining agreements or the arbitration process for officer discipline. AWC has shared that if the Legislature changes the law and each "new law" needs to be negotiated as part of a local collective bargaining agreement, that may significantly increase costs and liability.

#### Joint Transportation Committee Needs Assessment

In 2019, the Legislature funded a statewide Transportation Needs Assessment, overseen by the Joint Transportation Committee. The consultants conducting the study were assigned two tasks:

1. Assess statewide transportation needs and priorities from 2022 - 2031; and
2. Identify existing and potential transportation funding mechanisms to address those needs and priorities.

The first phase of the study was completed in July and consists of three elements:

1. Ten-year transportation needs assessment, sorted by both jurisdiction and mode;
2. Menu of funding options;

3. Compilation of case studies demonstrating the economic impacts of transportation investments.

The Phase I report **does not** include legislative recommendations; instead, an Advisory Panel (selected by the JTC Executive Committee) has been tasked with reviewing study findings and providing guidance to the Legislature for the 2021 legislative session. The study consultants, incorporating guidance from the Advisory Panel, must develop a final Phase II report that includes legislative recommendations by December. The report does not account for potential costs associated with I-976 and COVID-19.

Key findings from the [Phase I study](#) are summarized below:

#### Main Takeaways – Needs Assessment

The report affirms a few key challenges to funding transportation:

**Firstly, there is not enough money to adequately fund the current transportation system.** For all jurisdiction types (cities, counties, state, port districts, and public transit), **current funding is less than half of what is needed, not accounting for costs to catch up on deferred maintenance and preservation.** Estimated total needs and funding gaps, not including potential revenue loss associated with COVID-19 and Initiative 976, are below:

#### *State – from 2022 – 2031*

Total need: \$61 – 82 billion

Funding gap: \$32 – 53 billion (including estimated costs for ADA, fish passage, and safety improvements, but excluding maintenance and preservation costs)

#### *Cities – from 2022 - 2031*

Total need: \$20 – 28 billion

Funding gap: \$5 – 13 billion

#### *Counties – from 2022 – 2031*

Total need: \$16 – 21 billion

Funding gap: \$8 – 12 billion

These estimates are incomplete due to data limitations: funding gaps for cities and counties do not include costs of certain difficult to quantify variables, including ADA compliance, active transportation, fish passage barrier removal, safety improvements, and deferred maintenance/preservation. It is likely that estimated need and funding gaps for local governments are even higher.

**Secondly, preservation directly competes with capital system improvements.** With limited revenue for all types of transportation needs, jurisdictions often delay critical maintenance and preservation projects, leading to higher lifetime costs and a patchwork of system improvements. This can lead to compounding costs, as it is more expensive to repair or upgrade infrastructure as levels of service decline.

**Thirdly, there is no clear path forward for major transportation project funding.** In addition to their own investment, jurisdictions must assemble project funding from a variety of unique, non-repeating, or cyclical sources, which takes greater time, coordination, and resources to manage. Local jurisdictions are particularly disadvantaged by this system, as the state can temporarily borrow funding from other projects when federal funding for a project is on hold. Delays or loss of funding can result in incomplete projects, even after significant investment has been made.

**Finally, there is no simple revenue solution.** To fully address funding gaps, the state and/or local governments will need to adopt multiple new sources of revenue. Proposals may have unintended consequences that must be considered, including equity concerns; many of these issues are being explored in Advisory Committee meetings.

### Revenue Options

The study explores three types of revenue options: new state revenue options, adjustments to existing revenue options, and local revenue options. The report does not contain in-depth analysis of the revenue options, instead evaluating each revenue option based on a few key criteria, including revenue-generating potential. Options creating the greatest magnitude of funding are below:

#### *New State Revenue Options*

1. Carbon pollution fee (\$15 per metric ton) - generates \$8.7 billion over 10 years
2. Road usage charge (assumes all new cars would be enrolled beginning in 2025) - generates \$2.5 billion over 10 years
3. Employee payroll tax (0.143% rate on payroll wages – burden on the employee) - generates \$830 million over 10 years

#### *Adjustments to Existing State Revenue Options*

1. Fuel tax increase (additional \$.06 or \$.08 per gallon) – an additional \$.06 would generate \$2.3 billion over 10 years. The state currently collects at a rate of \$.494 per gallon, which generates \$3 billion per biennium.
2. An indexed fuel tax - this would be a new revenue collection structure that would require the state to monitor inflation and prices and adjust the fuel tax rate in response. This would generate \$1.3 billion over 10 years.
3. Passenger vehicle weight fees (raising \$35 - 82 fees by \$10) - generates \$613 million over \$10 years

#### *Local Revenue Options*

1. Transportation benefit district options
  - a. TBD utility tax - generates \$1.6 billion over 10 years
  - b. TBD sales tax (doubling sales tax rate, doubling the duration of the rate, and allowing the tax to be imposed councilmanically) – generates \$710 million over 10 years



2. Local motor vehicle tax – this is an existing option for counties that no jurisdictions have enacted. Assuming that 50 percent of counties would impose a 5% tax rate - generates \$470 million over 10 years
  - a. This estimate also assumes changes would need to be made to the tax program to increase public understanding and use of the tax by jurisdictions.
3. Household excise tax (based on number of units, levied at \$1.50 per unit) - generates \$135 million over 10 years

For more information regarding revenue options, see the attached Appendix B of the report, Evaluation of Potential Funding Options, which provides a brief summary potential drawbacks and benefits of each revenue source considered.