



## Skagit County

### Legislative Report

February 25, 2023

#### SESSION CUTOFF CALENDAR

<i>February 24, 2023</i>	<i>Fiscal Committee Deadline</i>
March 8, 2023	Chamber-of-Origin Deadline
March 29, 2023	Opposite Chamber Policy Committee Deadline
April 4, 2023	Opposite Chamber Fiscal Committee Deadline
April 12, 2023	Opposite Chamber Deadline
April 23, 2023	Session adjourns - Sine Die

#### Overview

The Legislature's work this week was predominately focused on holding hearings and advancing bills out of the fiscal committees in advance of Friday's fiscal committee cutoff deadline. With over 1,670 bills introduced this legislative session, fiscal committees had to move quickly to keep priority legislation alive for the second half of the session. Policies related to housing, land use, the environment, and various public safety issues advanced to meet the policy and fiscal committee cutoff deadlines. On January 31, legislators held a bipartisan, bicameral press conference to highlight

#### Funding Requests

The County's budget requests have been submitted to budget leadership by delegation sponsors. We expect to see budget proposals in the last weeks of March, following the March 20 revenue forecast and will not have more to report on these items until budget proposals are released.

#### Skagit County Crisis Stabilization Center (SCCSC)

Skagit County is requesting \$12.7 million in the capital budget for Phase II of the Skagit County Crisis Stabilization Campus. This request would complete the funding for design and construction of a facility hosting 16 crisis stabilization beds and 32 co-occurring

treatment and acute detox beds. The request forms have been submitted in the House and Senate. We sent a letter to Capital Budget writers from members of the Skagit County delegation this week in support of the project to encourage the inclusion of funding in capital budget proposals.

### **Skagit County Culvert Package**

We are working with Representative Lekanoff on a request for \$1.8 million to backfill increased costs for the County's design for 11 culverts, funded in the 2022 legislative session. The request has been submitted both as a capital and transportation funding request. We will have more to report on this item once budget proposals are released, in March.

### **Voluntary Stewardship Program Funding**

A request has been submitted by Senator Ron Muzzall (R- 10<sup>th</sup> LD) for \$1 million for Skagit County under the Voluntary Stewardship Program. The funding would be used for riparian plantings on Skagit agricultural lands.

### **Samish Island Road Resiliency Study**

Representative Lekanoff submitted a transportation budget request for \$350,000 for the County to complete a resiliency study for Samish Island Road in response to sea-level rise.

## **Requests for Support & Funding Initiatives**

### **Support Salmon Recovery Efforts Utilizing a Collaborative Approach**

Two bills we were monitoring supporting salmon recovery will no longer be considered:

- **Riparian areas:** [Substitute House Bill 1720](#), sponsored by Representative Mike Chapman (D- 24<sup>th</sup> LD), directs the state Conservation Commission to develop and implement a riparian grant program to fund protection and restoration of critical riparian management zones. The program would be voluntary and designed to complement the "no net loss" standard for riparian habitat established in the voluntary stewardship program under the Growth Management Act. The substitute bill adds a riparian grant program to be administered by the Salmon Recovery Funding Board. The House Capital Budget Committee held a hearing on the bill early in the week. The bill was scheduled to move out of committee, but at the executive session, the Chair of the Capital Budget Committee stated that the bill would not advance, and that riparian area restoration will be addressed in the budget.
- **Net ecological gain:** [House Bill 1735](#), sponsored by Representative Debra Lekanoff (D- 40<sup>th</sup> LD), establishes an optional net ecological gain element under the Growth Management Act. The bill establishes a grant program which would allow for counties and cities that include a net ecological gain element in their comprehensive plans to apply for planning grant assistance of up to \$100,000. The bill did not move out of the House Appropriations Committee before fiscal committee cutoff and will no longer be considered.

**Standing joint committee on salmon recovery:** [House Bill 1686](#), sponsored by Representative Debra Lekanoff (D- 40<sup>th</sup> LD), continues to advance. The bill creates a Joint Salmon Recovery and Reform Committee to review and research salmon recovery and reform programs to educate and promote the dissemination of salmon recovery and reform research to state and local government policymakers. The bill advanced out of the House Agriculture and Natural Resources last week and was referred to the House Appropriations Committee, which held a hearing on the bill this week and voted to approve the bill on February 23.

### **Support Public Safety and Reduce Court Backlog**

**State v. Blake decision/controlled substance possession:** The Senate Law and Justice Committee considered four different proposals representing a spectrum of perspectives – from re-establishing possession of a control substance as a Class C felony, to fully decriminalizing it. The Committee chose to advance [Senate Bill 5536](#) sponsored by Senator June Robinson (D- 38<sup>th</sup> LD), which makes drug possession a gross misdemeanor with an emphasis on pretrial diversion. It allows charges to be dismissed if an individual completes a treatment program. It also makes treatment facilities (excluding safe injection sites) essential public facilities under the Growth Management Act for siting and permitting purposes. The Senate Law and Justice Committee passed a substitute bill that permits pre-charging diversion to programs like arrest and jail alternative programs and law enforcement-assisted diversion programs. It also removed the requirement that defendants waive the right to a jury trial in order to enter pre-trial diversion, among other modifications. It was then referred to the Senate Ways and Means Committee, which held a hearing last weekend and passed a second substitute bill on February 23 that requires courts to assist defendants participating in pre-trial diversion with obtaining a substance use disorder evaluation within seven days at no cost and requires the state to reimburse courts for costs associated with that provision. It states that defense attorneys may still seek to resolve drug possession charges through a therapeutic court instead of the pretrial diversion program. In simple possession cases, courts must sentence defendants to no less than 21 days in jail for the first two offenses if the individual will not comply with substance use disorder treatment as a condition of probation. For a third simple possession offense, the bill authorizes sentencing of a minimum of 45 days should the individual fail to comply with treatment.

**Relief for persons affected by State v. Blake:** [Substitute House Bill 1492](#), sponsored by Representative Tarra Simmons (D- 23<sup>rd</sup> LD), allows any person with a qualifying conviction related to possession of controlled or counterfeit substances or legend drugs prior to the *State v. Blake* decision on February 25, 2021, to be eligible to have their conviction vacated by the sentencing court. For each qualifying conviction, the prosecuting attorney must file a motion with the applicable court to dismiss and vacate the conviction. Any person with a qualifying conviction or non-conviction may apply to the sentencing court for a vacation of the conviction or a refund of non-conviction legal financial obligations. The policy committee adopted a substitute bill that revised the definition of “legal financial obligation” to separate collections costs from document-

verified costs and established a standard for when collection costs are ascertainable. The substitute bill establishes procedures for vacation or refund of legal financial obligations. The House Appropriations Committee heard the bill this week and approved the bill with an amendment to protect individuals' personal information. WSAC is opposed to this legislation as it would present significant cost to counties.

**Private right of action for harm from violations of the state Constitution or state law by peace officers:** [Substitute House Bill 1025](#), sponsored by Representative My-Linh Thai (D- 41<sup>st</sup> LD), would create a legal remedy under state law for individuals who are injured when a peace officer violates the state Constitution or state law. Plaintiffs may also name the officer's employer as a defendant, and employers are also independently liable if a proximate cause of the injury was the employer's failure to use reasonable care in hiring, training, supervising, or disciplining the officer. The House Civil Rights and Judiciary Committee approved a substitute bill that modified the language establishing a cause of action for violation of the state Constitution or state law and replaced it with language establishing the cause of action for violations of the state Constitution or specific state statutes restricting law enforcement regarding immigration and citizenship status or use-of-force. It also modified employer liability on the basis of an officer's substantial compliance with the employer's training, policies, and procedures. The House Appropriations Committee held a hearing on the bill this week and approved the bill on February 23.

**Law enforcement agency misconduct:** [Substitute House Bill 1445](#), sponsored by Representative Drew Hansen (D- 23<sup>rd</sup> LD), authorizes the Attorney General to investigate and bring an action against a law enforcement agency or local corrections agency for a violation of the Washington State Constitution or state law. The Attorney General can initiate investigations on its own initiative or in response to reports from independent oversight bodies. It also directs the Attorney General to develop and publish model policies for law enforcement agencies. The bill advanced out of the policy committee with amendments to require the Attorney General to confer with the Office of Independent Investigations (OII) when conducting an investigation, and to consult with the Criminal Justice Training Commission and the OII when developing model policies. The bill was referred to the House Appropriations Committee for further consideration. House Appropriations held a hearing last week and passed a substitute bill on February 22 that requires model practices for investigations and discipline to relate to serious misconduct.

## Behavioral Health

**Trueblood settlement- Competency evaluations and restoration services to persons suffering from behavioral health disorders:** [Substitute Senate Bill 5440](#) sponsored by Senator Manka Dhingra (D- 45<sup>th</sup> LD), requires the Department of Social and Health Services to contract with willing jails to fund construction and operational costs for clinical intervention units while defendants are awaiting competency services to stand trial. The role of forensic navigators is expanded to assess an individual's appropriateness for assisted outpatient treatment. The Department is also required to coordinate with cities and counties to identify locations that may be commissioned to

provide inpatient services for forensic patients. Courts are required to determine by direct observation of the defendant whether there is doubt as to competency before ordering a competency evaluation. The Senate Ways and Means Committee held a hearing on the bill on earlier this week and passed a substitute bill on February 23 that specified that defendants committed to the custody of DSHS for competency restoration must be placed in a facility operated or contracted by DSHS, added an emergency clause, and made other changes. The bill passed out of Committee with bi-partisan support.

There continues to be significant concern from WSAC and individual counties around the rapidly changing direction and flexible statutory language of this legislation, which provides little clarity around cost, the role of county corrections staff and burden on their time, coordination between DSHS and county staff, and intended length of the program. Some of these questions are being worked out between WSAC, WAPA, the bill sponsors, and the Governor's Office. We anticipate this bill will continue to change significantly as it advances through the Senate and potentially into the House.

**Contracting and procurement requirements for behavioral health services in medical assistance programs:** [Second Substitute House Bill 1515](#), sponsored by Representative Nicole Macri (D- 43<sup>rd</sup> LD), requires the Health Care Authority to make certain changes to the managed care procurement process, including adopting regional standards for behavioral health networks managed by managed care organizations (MCOs), providing for behavioral health provider participation in the process, and evaluating options to reduce provider administrative burden. This week, the House Appropriations Committee approved a second substitute bill that added language on cultural competency and states that the extent to which an MCO's approach to contracting simplifies billing and contracting burdens as a factor to be weighted in procurement.

**23-hour crisis relief centers:** [Substitute Senate Bill 5120](#) sponsored by Senator Manka Dhingra (D- 45<sup>th</sup> LD) establishes licensing criteria for 23-hour crisis relief centers for certification by the Department of Health. These community-based facilities will be open 24 hours per day, seven days per week, and accept walk-ins and drop-offs from public safety agencies. The centers must serve only adults. These facilities offer mental health and substance use care for no more than 23 hours and 59 minutes at a time per patient. If an individual brought to a 23-hour crisis relief center refuses to stay voluntarily, the professional staff may detain the person under specified circumstances until the designated crisis responder can authorize transfer to another facility or program, or other appropriate action. The Senate Health and Long Term Care Committee heard, amended and approved the bill, and it was referred to the Senate Ways and Means Committee. On February 23, the Senate Ways and Means Committee approved a substitute bill that shortened the deadline for rulemaking for the crisis relief centers from January 2025 to January 2024, and allows a peace officer who has reasonable cause to believe an individual has committed a crime to take the individual to a crisis relief center.

## Finance

**Rural public facilities sales and use tax:** [House Bill 1267](#), sponsored by Representative Steve Tharinger (D- 24<sup>th</sup> LD), and its companion legislation [Senate Bill 5613](#), sponsored by Sen. Lovelett (D- 40<sup>th</sup> 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. The House Local Government Committee adopted an amendment to address a concern from State Auditor's Office, requiring that the Office provide a publicly accessible report on projects and expenditures rather than a searchable database system. The bill as amended was passed out of committee and referred to the House Finance Committee, which passed the bill with no additional amendments last week. The House bill was placed on the second reading calendar and may be voted on any day. Last week, the Senate Local Government, Land Use, and Tribal Affairs Committee adopted the same amendments as those in the House version and advanced the bill out of committee. It was referred to the Ways and Means Committee, which did not act on the bill in time to meet Friday's fiscal committee deadline.

**Property tax cap lift:** [Senate Bill 5618](#), sponsored by Senator Patty Kuderer (D- 48<sup>th</sup> LD), revises the property tax cap for local governments to account for inflation and population growth up to three percent. The Senate Local Government, Land Use, and Tribal Affairs Committee held a public hearing last week and was scheduled to vote on the bill on February 16, but no action was taken. The bill could be considered "necessary to implement the budget" and is still under consideration.

[House Bill 1670](#), sponsored by Representative Timm Ormsby (D-3<sup>rd</sup> LD), similarly revises the property tax cap for local governments from one percent to three percent. It does not contain provisions related to inflation or population growth. The House Finance Committee held a hearing on the bill at the beginning of the week and voted to approve the bill on February 21 with no amendments.

## General Government

**Addressing the forensic pathologist shortage:** [Substitute Senate Bill 5523](#) sponsored by Senator Manka Dhingra (D- 45<sup>th</sup> LD) creates a loan repayment program for board-certified forensic pathologists who work in identified shortage areas of the state for four years. It requires the Washington Association of Coroners and Medical Examiners to conduct a study of the critical shortage of board-certified forensic pathologists. On February 24, the Senate Ways and Means Committee voted to approve the bill as referred by the policy committee with no further amendments.

**Contracting with community service organizations:** [Engrossed House Substitute Bill 1086](#), sponsored by Representative Clyde Shavers (D- 10<sup>th</sup> LD), increases local governments' ability to contract with community service organizations by modifying the current annual limit for such agreements from \$25,000 to \$75,000. The House of

Representatives passed the bill by a vote of 84-9 on February 6, and the legislation is now in the Senate Local Government, Land Use, and Tribal Affairs Committee.

**Support and services levies:** [House Bill 1022](#) sponsored by Representative Mike Chapman (D- 24<sup>th</sup> LD) amends the state statute pertaining to the optional property tax levy for the provision of community services for persons with developmental disabilities or mental health services and veterans' assistance. The proposal would set a floor of 1.125 cents per \$1,000 of assessed value for the property tax levy for veterans' assistance. The proposal also sets the limit factor for the veterans' assistance levy at the greater of 101 percent or 100 percent plus inflation. The levy for the provision of community services for persons with developmental disabilities and veterans' assistance is optional for counties. The House Local Government Committee voted to pass the bill out of committee last month and it was referred to the House Finance Committee for further consideration. The House Finance Committee passed the bill on February 16 with no amendments, and the bill is currently in the House Rules Committee.

**Prejudgment interest:** [Senate Bill 5059](#) sponsored by Senator Patty Kuderer (D- 48<sup>th</sup>) states that judgments founded on the tortious conduct of a public agency will bear interest from the date the cause of action accrued. Judgments founded on tortious conduct that occurred while the plaintiff was a minor will bear the same interest rate as that for other individuals from the date the action is commenced or the date the minor turns 18, whichever comes first. The Senate Law and Justice Committee passed the bill in January, and it was referred to the Senate Ways and Means Committee for further consideration. Senate Ways and Means held a hearing earlier this month and voted to advance the bill on February 23.

## Housing

**Flexibility on affordable housing and mental health funding:** [Substitute Senate Bill 5604](#) sponsored by Senator June Robinson (D- 38<sup>th</sup> LD) allows cities to use "HB 1406" revenues for rental assistance and allows counties to use chemical dependency and mental health sales tax revenues on modifications to existing facilities. The bill is now in the Senate Rules Committee.

**Real estate excise tax for affordable housing:** [Substitute House Bill 1628](#) sponsored by Representative Frank Chopp (D- 43<sup>rd</sup> LD) increases the state real estate excise tax (REET) on properties over \$5 million to 4% and dedicates the new revenue to the Housing Trust Fund and related accounts. The bill also authorizes cities to impose a 0.25 percent REET to fund affordable housing, with councilmanic approval. As amended by the policy committee, the bill allows cities and counties to use revenue from the tax on infrastructure costs associated with housing projects. It allows revenue from the second 0.25 percent REET to be used for any capital project for which the first 0.25 percent local REET can be used. The bill was heard in the House Finance Committee but has not yet been approved by the committee. It is "necessary to implement the budget" and still under consideration.

**Incentivizing annexation of unincorporated urban growth areas:** [Second Substitute House Bill 1425](#) sponsored by Representative April Berg (D- 44<sup>th</sup> LD) re-authorizes the credit against the state sales tax as an incentive for cities to annex unincorporated areas within their Urban Growth Areas. The start date is July 1, 2023, and the new expiration date would be January 1, 2029. On February 21, a second substitute bill was advanced by the House Finance Committee with clarifying amendments.

**SEPA exemption for housing:** [Substitute Senate Bill 5412](#) sponsored by Senator Jesse Salomon (D- 32<sup>nd</sup> LD) would provide a State Environmental Policy Act (SEPA) exemption for projects that propose to develop residential housing units in an urban growth area or middle housing types within an unincorporated urban growth area that meet specific criteria. Those criteria include consistency with the jurisdiction's comprehensive plan, the development would not exceed the density or intensity of use called for in the comprehensive plan, and the jurisdiction's comprehensive plan has been subject to an Environmental Impact Statement (EIS). The Senate Local Government, Land Use, and Tribal Affairs Committee amended the bill to only exempt projects that do not have a transportation system safety or operational deficiency and referred it to the Senate Transportation Committee for further consideration. On February 23, the Senate Transportation Committee approved an amended bill that removed inconsistent language regarding the requirement that projects have no transportation system deficiencies to qualify for the SEPA exemption.

*No Longer in Consideration*

**Housing approval requirements:** [Substitute Senate Bill 5609](#) sponsored by Senator John Braun (R- 20<sup>th</sup> LD) requires local governments to approve the construction of enough new homes to eliminate their respective shares of the state's total housing shortage through 2033. The Department of Commerce is directed to calculate each local government's share of the total housing shortage and share that information publicly by May 1, 2024. It prohibits distribution of the earnings of investments in the Local Real Estate Excise Tax (REET) Account to any local government that does not comply with the bill's requirements. The Senate Housing Committee heard and approved the bill earlier this month and it was referred to the Ways and Means Committee for further consideration. The Senate Ways and Means Committee held a hearing on the bill but did not advance it in time for the fiscal committee deadline.

**Local government permitting:** [House Bill 1611](#) sponsored by Representative Julia Reed (D- 36<sup>th</sup> LD) requires cities and counties to provide notice of whether a permit application is complete within 14 days for residential or mixed-use residential applications. Permits for projects that meet affordable housing requirements in the bill are deemed to be approved if the permit review is not completed within the required timeframe. It also prohibits a local government from imposing real estate excise tax on the first sale of a residential or mixed-use residential property unless the permit was issued within the required timeframe. The bill was approved in the House Housing Committee with no amendments and referred to the House Finance Committee, which did not take action on the bill in time for the fiscal committee deadline.



## Environment, Land Use, and Development

### **Revenue generation from natural climate solutions and ecosystem services:**

[Substitute House Bill 1789](#), sponsored by Representative Kristine Reeves (D- 30<sup>th</sup> LD), by request of the Department of Natural Resources, authorizes DNR to enter into contracts for ecosystem services projects – including carbon credit leases – to generate revenue on state-managed trust lands. The bill was amended in the policy committee to provide that ecosystem service projects must result in no net decrease in agricultural production or sustainable harvest volume and operable forestland acres. It also states that ecosystem service projects must result in a net increase in future sustainable harvest volume on forested trust lands within the sustainable harvest unit. The House Capital Budget held a hearing on the bill early in the week and voted to advance it out of committee on February 22. The hearing echoed previous testimony, with small timberland owners and trust land beneficiaries speaking against the bill. Negotiations are ongoing as the bill advances and it is likely to change significantly, if the bill continues to advance.

**Leasing of state lands:** [Substitute Senate Bill 5254](#) sponsored by Senator Kevin Van De Wege (D- 24<sup>th</sup> LD) requires the Board of Natural Resources to approve any new or existing lease subject to renewal. It directs the Department of Natural Resources to make all lease information for state public lands available to the public on a per parcel basis. The Senate Agriculture, Water, Natural Resources, and Parks Committee moved the substitute bill out of committee earlier this month and referred it to the Senate Ways and Means Committee for further consideration. The Ways and Means Committee held a hearing and approved the bill this week with an amendment stating that specified the kind of information to be provided to the public about leases of state lands.

**Wildland urban interface:** [Substitute House Bill 1578](#) sponsored by Representative Larry Springer (D- 45<sup>th</sup> LD), at the request of the Department of Natural Resources (DNR), directs DNR to assess areas at significant risk for wildfire and provide enough analysis to provide landowners, the public, local governments, and tribes with the information they need to develop strategies to mitigate wildfire risk, focused on the western side of the state. It must also expand its community resilience programming within the wildland urban interface in counties or regions of western Washington where wildfire and smoke exposure risk are present. The policy committee adopted a substitute bill specifying that DNR must consult with the State Emergency Management division, State Patrol, and city emergency managers in developing evacuation strategies, among other changes. It was referred to the House Appropriations Committee, which held a hearing this week and voted to advance the bill on February 23.

**Work group to evaluate costs of state energy performance standard for commercial buildings:** [Substitute Senate Bill 5057](#) sponsored by Senator Mark Mullet (D- 5<sup>th</sup> LD), was passed by the Senate Environment, Energy, and Technology Committee in a substitute form that tasks the Department of Commerce to convene a work group to report on the financial impacts to state-owned buildings required to comply with the state energy performance standard. The proposal would also task the

work group with making recommendations to the Legislature regarding energy efficiency in the building sector and requires the work group to report on financial impacts to all Tier I covered buildings, not just state-owned buildings. It adds a membership position on the work group for a local government representative. It delays by one year the Tier I covered buildings energy use intensity target reporting schedule required to comply with the standard. The Senate Ways and Means Committee held a hearing this week and voted to approve the bill with no further amendments on February 24.

**Extended Producer Responsibility (WRAP Act):** [Second Substitute House Bill 1131](#) sponsored by Representative Liz Berry (D- 36<sup>th</sup> LD) and, [Substitute Senate Bill 5154](#) sponsored by Senator Christine Rolfes (D- 23<sup>rd</sup> LD), the *Washington Recycling and Packaging Act*, requires producers of certain paper products and packaging to participate in and fund the operations for a producer responsibility organization to collect and manage the packaging from consumers. As the bills have advanced through the House and Senate policy committees, the proposal has evolved such that the definition of covered products is limited to only consumer products for non-commercial use, and the duration of initial plan implementation was increased from three to five years. The current language clarifies that if a deposit return system is established, qualifying beverage containers would not be implicated in the requirement to participate in a producer responsibility organization, among other changes. This week, the House Appropriations held a hearing on the bill and voted to approve a second substitute bill that made numerous changes, including exempting packaging for drugs used as animal medicines and products regulated as prescription drugs. The Senate version was referred to the Ways and Means Committee and did not advance in time to meet the fiscal committee deadline.

#### *No Longer in Consideration*

**Equity and environmental justice in the Growth Management Act:** [House Bill 1723](#) sponsored by Representative Davina Duerr (D- 1<sup>st</sup> LD) and [Substitute Senate Bill 5651](#) sponsored by Senator Liz Lovelett (D- 40<sup>th</sup> LD) adds an environmental justice goal to the GMA that requires the planning for reduction and prevention of environmental and health disparities and work towards eliminating disparate harms and disproportionate environmental and health impacts through the prioritization of overburdened communities. The environmental justice element must address how each mandatory element reflects consideration of environmental justice and identify overburdened communities within the planning area. The House Local Government held a hearing on the bill but did not advance it out of committee in time for the policy committee cutoff deadline. The Senate Local Government, Land Use, and Tribal Affairs Committee passed a substitute bill that modified the definition of environmental justice and overburdened communities and clarified the timelines for implementing the new element. The Senate bill was referred to the Ways and Means Committee for further consideration. The Ways and Means Committee did not advance the bill in advance of the fiscal committee deadline.