



## Skagit County

### Legislative Report

February 5, 2023

#### SESSION CUTOFF CALENDAR

February 17, 2023	Policy Committee Deadline
February 24, 2023	Fiscal Committee Deadline
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

This week, the Legislature continued its work to introduce new legislation, hold public hearings, and move bills out of committee with the first cutoff deadline coming up in just two weeks. Legislative committees continued to focus on high-priority issues to Democrats, including affordable housing and environmental stewardship. Bills that saw action this week include:

- Public hearings on vehicular pursuit legislation and [Senate Bill 5533](#), creating a model vehicular pursuits policy, advanced out of committee
- Public hearing on [Senate Bill 5440](#) addressing competency restoration under the *Trueblood* settlement

On January 31, legislators held a bipartisan, bicameral press conference to highlight housing supply issues. Remarks focused primarily on the role of cities, not counties, in contributing to housing supply. Representative Mia Gregerson (D- 33<sup>rd</sup> LD) made opening remarks about a package of bills that have been introduced to reform land use policies that have restricted the development of dense housing and housing types. Representative Andrew Barkis (R- 2<sup>nd</sup> LD) commented that these policies focus on the

supply of housing and while they won't fully solve the problem; they will chip away at it. Senator Marko Lias (D- 21<sup>st</sup> LD) noted the importance of transit-oriented development, increasing construction of middle housing types and expediting permitting timelines. In response to a question about why there are delays with permits, Senator Patty Kuderer (D- 48<sup>th</sup> LD) said that every city has their own way of issuing permits. Representative Strom Peterson (D- 21<sup>st</sup> LD) noted that many cities are struggling financially and some of these proposals will help cities with the specific needs to improve permit processing timelines.

## Funding Request

### 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. GTH and County staff have been working to draft a letter of support for our delegation to send to Capital budget writers; the Board approved the letter late last week. GTH will distribute the letter to our delegation for signatures early next week.

## Requests for Support & Funding Initiatives

### Support Salmon Recovery Efforts Utilizing a Collaborative Approach

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. We confirmed with Representative Lekanoff that the request has been submitted to capital budget staff. We will have more to report on this item once budget proposals are released, in March.

Additionally, we are tracking the progress of salmon recovery bills:

**Voluntary riparian restoration:** [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. This legislation replaces [House Bill 1215](#), which did not advance out of committee. The new bill is the product of negotiation between some tribes and agricultural interests. The Committee will hold a hearing on the bill on February 7.

**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 Department of Fish and Wildlife (WDFW) would adopt rules for establishing criteria for net ecological gain that

would be consistent with regional salmon recovery plans adopted by cities and counties. In adopting these rules, WDFW must consult with tribes affected by the planning jurisdiction and local governments when establishing rules for this program. Section 4.4 of the bill states that rules may not require or assume that individual private projects will be responsible for achieving net ecological gain; projects completed on private properties must meet the existing standard of no net loss of ecological function. WDFW must work with participating local governments to establish an environmental baseline to measure success of projects. A Joint Oversight Body on Net Ecological Gain is established. WDFW must conduct a study with the Joint Oversight Body to conduct a study of the current conservation programs, including fish passage barrier removal, salmon recovery funding, stormwater financial assistance, MTCA grants, and report back on the improvement towards improving net ecological function to the Legislature by June 30, 2024.

The bill will be heard in the House Environment and Energy Committee on February 7. **Representative Lekanoff has asked the County to support this proposal.** The bill intends to address several components of past, mandatory proposals that counties have found problematic: funding source, mandatory elements, reliance on statewide rulemaking rather than regional needs, impact to private projects, lack of local government coordination/input, no environmental baseline established, etc. **It would be helpful for County planning staff to review this proposal before the County takes a position.**

**Standing joint committee on salmon recovery:** [House Bill 1686](#), sponsored by Representative Debra Lekanoff (D- 40<sup>th</sup> LD), establishes a standing Joint Legislative Committee on Salmon Recovery & Reform. The committee would review and research salmon recovery and reform issues, specifically calling out programs dealing with hatchery, harvest, habitat, and water quality and quantity issues. The bill states that the group is intended to “promote the dissemination of salmon recovery and reform research to state and local government policymakers, including legislators and associated staff.” The bill is scheduled to be heard on February 8 in the House Agriculture and Natural Resources Committee.

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

### ***State v. Blake decision:***

Bills addressing the *State v. Blake* decision have been scheduled for a hearing in the Senate Law and Justice Committee on Monday, February 7. Commissioner Wesen will be testifying at the hearing at the request of the Skagit County Sheriff. The two proposals likely to advance are summarized below:

[Senate Bill 5467](#), sponsored by Senator Jesse Salomon (D- 32<sup>nd</sup> LD), responds to the *Blake* decision by making drug possession a gross misdemeanor with a focus on directing individuals to treatment in lieu of jail. It uses a DUI-type model to require probation and treatment with clear penalties for willful failure to complete treatment. The Senate Law and Justice Committee will hold a hearing on February 6 and is scheduled to vote on the bill on February 9.

[Senate Bill 5536](#), sponsored by Senator June Robinson (D- 38<sup>th</sup> LD), responds to the *Blake* decision by making drug possession a gross misdemeanor with an emphasis on encouraging pretrial diversion. The bill also makes treatment facilities essential public facilities for sitting and permitting purposes. The Senate Law and Justice Committee will hold a hearing on February 6 and is scheduled to vote on the bill on February 9.

**County sales and use tax for mental health and housing:** [Senate Bill 5604](#), sponsored by Senator June Robinson (D- 38<sup>th</sup> LD), allows counties to use the mental health and chemical dependency sales tax for the construction of behavioral health facilities; currently, statute limits the expenditure of this funding on capital expenses to cities. Counties are currently allowed to use this funding for operating costs. WSAC is supporting this bill at the hearing on February 7.

**Contracting and procurement requirements for behavioral health services in medical assistance programs:** [House Bill 1515](#), sponsored by Representative Nicole Macri (D- 43<sup>rd</sup> LD), establishes behavioral health network adequacy standards that are measurable and enforceable. Apple Health Medicaid Managed Care Organizations (MCOs) will be required to adhere to these standards to ensure adequate behavioral health providers are available to meet the needs of clients throughout the state. This is a priority for the Washington State Association of Counties (WSAC). The House Health Care and Wellness Committee heard the bill on February 3. The bill received support at the hearing from WSAC, the Association of BHASOs, behavioral health providers, and counties. Testimony was supportive with the recognition that stakeholders will continue to refine language. Proponents spoke to the need for accountability standards for service and more coordinated management of MCO responsibilities. The Health Care Authority testified as "other" on the bill and indicated they like the shift in their statutory responsibilities under the bill; HCA also mentioned that the re-procurement process for Managed Care Organization contractors, set to take place this year, is on hold indefinitely. The Association of Washington Healthcare Plans also requested technical changes to the bill.

**Competency evaluations and restoration services to persons suffering from behavioral health disorders:** [Senate Bill 5440](#) sponsored by Senator Manka Dhingra (D- 45<sup>th</sup> LD) by request of the Office of the Governor, as originally drafted, passed several state responsibilities under *Trueblood* down to counties, including requiring counties to complete competency restoration evaluations for most forensic mental health cases. Counties would have been required to run jail-based competency restoration services, defined as "alternative therapeutic units" in the legislation. On February 2, the Senate Law and Justice Committee heard a substitute bill proposed by the prime sponsor (who also serves as Chair of the committee). Senator Dhingra noted that, while it is unusual for substitute bill to be heard in lieu of a piece of Governor-requested legislation, she brought the substitute forward to respond to the significant concerns she heard from counties since the original bill was introduced. The substitute bill removes the responsibilities for counties to complete competency evaluations and treatment, but still allows the state to conduct forensic mental health restoration within county jails.

Testimony and sign-ins for the hearing were overwhelmingly in opposition. The Office of the Governor testified in opposition to the proposed substitute, stating that the original bill emphasized diversion and outpatient services while the substitute relies on the over-stressed competency restoration system. The Washington Association of Counties, individual counties, Disability Rights Washington, and other stakeholders testified that county jails are not suitable therapeutic settings and many lack adequate space for separate therapeutic units. There were concerns about staffing shortages and questions as to the long-term viability of jail-based competency restoration in a jail setting. Many suggested that more community-based facilities are necessary to solve this problem. There was testimony from social workers at Western State Hospital in support of the original legislation, citing the capacity constraints in state hospitals and that shifting lower-level cases to the community level would have allowed them to focus scarce resources more on the most severe cases.

The Committee received a briefing from the Department of Social and Health Services on the state of the mental health system to help set the stage for the bill hearing. The presentation from DSHS is available to review [here](#).

## **General Government and 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 held a public hearing on the bill on January 24. The 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. They also extended the deadline for implementation of SAO's requirements from December 31, 2025, to December 31, 2027. The bill as amended was passed out of committee on January 27. The House Finance Committee will hear the bill on February 7 and is scheduled to vote on the bill on February 9. The Senate Committee on Local Government, Land Use, and Tribal Affairs will hold a hearing on the bill on February 7.

**Property tax cap lift:** [House Bill 1670](#), sponsored by Representative Timm Ormsby (D- 3<sup>rd</sup> LD), revises the property tax cap for local governments to account for inflation and population growth up to three percent, a change in policy for which local governments have been advocating for several years. This proposal was one of the recommendations of the State Tax Structure Work Group. The bill was referred to the House Finance Committee. [Senate Bill 5618](#), sponsored by Senator Patty Kuderer (D- 48<sup>th</sup> LD), also revises the property tax cap for local governments to account for inflation and population growth up to three percent. The bill was referred to the Senate Local Government, Land Use, and Tribal Affairs Committee.

**Real estate excise tax for affordable housing:** [House Bill 1628](#), sponsored by Representative Frank Chopp (D- 43<sup>rd</sup> LD), expands the state real estate excise tax (REET) and dedicates the new revenue to the Housing Trust Fund and related accounts. The bill also authorizes a local option 0.25 percent REET that would be dedicated to affordable housing. The House Local Government Committee will hear the bill on February 7 and is scheduled to vote on the bill on February 10. WSAC will be supporting this proposal.

**Contracting with community service organizations:** [House 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 Local Government Committee passed the bill out of committee on January 20. It is now in the House Rules Committee awaiting to be pulled to the Floor for debate.

**Support and services levies:** [House Bill 1022](#), sponsored by Representative Mike Chapman (D- 24<sup>th</sup> LD), moves the Veteran's Assistance and Mental Health/Development Disability property tax levy outside of a county's general levy. This allows a county to levy the tax at its full rate - 1.125 cents per \$1,000 of assessed value – rather than having it detract from the county's general levy rate. The proposal also sets the limit factor for the veteran's assistance levy at the greater of 101 percent or 100 percent plus inflation. The House Local Government Committee passed the bill on January 20, and it was heard in the House Finance Committee on February 2.

**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. For judgments founded on tortious conducted by a public agency, any interest incurred prior to the date the judgment is entered applies only to arbitration awards and judgments entered following the trial of the matter. The Senate Law and Justice Committee held a public hearing on the bill on January 24. Stakeholders weighed in with significant opposition, with many stating that their organizations or public agencies are self-insured or belong to risk pools, and that they have no control over the pace at which cases move through the court system. The Committee passed the bill on January 26, and it was referred to the Senate Ways and Means Committee, which will hear the bill on February 7.

## **Housing, Land Use, and Development**

**Incentivizing annexation of unincorporated urban growth areas:** [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. The House Local Government Committee held a hearing on the bill on February 1. The Association of Washington Cities, Washington Association of Counties, and several local governments testified in support of the bill. The bill was

passed out of committee on February 3 with a technical change adding a statutory reference on interlocal agreements.

**Equity and environmental justice in the Growth Management Act:** [House Bill 1723](#) sponsored by Representative Davina Duerr (D- 1<sup>st</sup> LD) and its companion legislation [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 bill has not yet been scheduled for a hearing. The Senate Local Government, Land Use, and Tribal Affairs Committee will hear the bill on February 7. The Washington State Association of Counties is opposed to the bill, and the Association of Washington Cities has some concerns.

**Carbon sequestration and ecosystem services in the management of public lands:** [Senate Bill 5688](#) is a request from the Department of Natural Resources and sponsored by Sen. Liz Lovelett (D- 40<sup>th</sup> LD). The bill directs the Department to establish a program to provide assistance to any state agency or local government seeking to develop a carbon offset program to develop carbon credits that could be traded under the Climate Commitment Act. The Department is also authorized to enter into contracts for the sale of ecosystem services on all public lands managed by the Department. The Board of Natural Resources is not required to approve any such contract. The bill will be heard in the Senate Environment, Energy & Technology Committee on Friday, February 10. WSAC will be joined by mill owners and individual counties in voicing opposition, particularly since the Department did not conduct any outreach to them.