



## MEMO

**TO:** Snohomish County Council and Executive Somers

**CC:** Lacey Harper

**FROM:** Josh Weiss & Annika Vaughn

**DATE:** July 1, 2021

**RE:** Monthly Legislative Update

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### **New Law Effective Date: July 25**

Bills enacted by the 2021 Legislature will become effective on July 25, 2021 unless otherwise stated in the bill.

### **OPMA: In-Person Meeting Restrictions Lifted**

As of June 30, the Governor has rescinded restrictions on in-person public meetings under the “Miscellaneous Venues” COVID-19 guidance. Public agencies may now host in-person public meetings with no restrictions on capacity and no physical distancing requirements. Current masking guidance must be followed, meaning unvaccinated individuals must continue to wear masks. The updated guidance is not a requirement to host in-person public meetings; public agencies choosing not to host in-person public meetings may continue to do so virtually. However, all public agencies must continue to provide virtual access to the meeting, consistent with the Governor’s [Proclamation 20-28](#) regarding the Open Public Meetings Act, which remains in effect.

### **Referendums & Court Challenges from the 2021 Legislature**

The Legislature took bold action on several controversial items, many of which are now being challenged via referendum or court challenges.

Referendum measures call on voters to approve or reject bills enacted by the Legislature. In order to be included on the November ballot, each referendum must collect 162,258 valid signatures by July 24, 2021.

- Capital Gains Tax – The Legislature imposed a 7% capital gains tax, structured as an excise tax on the sale of any capital asset over \$250,000. Two lawsuits have been filed to challenge the tax – one filed by the Freedom Foundation, and a second filed by Former Attorney General and gubernatorial candidate Rob McKenna on behalf of a group of aggrieved taxpayers. The cases will likely be combined. Current Attorney General Bob Ferguson will defend the tax. He has asked the court to dismiss the two challenges on the basis that the tax is not effective until 2022 and, therefore, the plaintiffs have not yet paid the tax and lack

standing to bring the case forward. Both cases have been filed in Douglas County Superior Court. Ferguson has requested that they be moved to Thurston County Superior Court. Because the bill enacting the tax has an emergency clause on it, it cannot be challenged through a referendum.

- Low Carbon Fuel Standard/Cap and Invest: Tim Eyman has filed two referenda - one repealing portions of the bill establishing the low carbon fuel standard (R-94), and the other, repealing portions of the bill establishing the cap and invest program (R-95).

### **Transportation Revenue Package Discussions**

Legislators continue to discuss the possibility of meeting in a special session later this year to adopt a transportation revenue package. House and Senate Democrat Leadership have indicated that they will begin negotiating an agreement on a transportation revenue package throughout the summer months. Details about what these negotiations will look like remain unclear.

### **June State Revenue Forecast Update**

On June 23, the state Economic and Revenue Forecast Council provided a quarterly update on the state revenue forecast. State economic recovery remains strong: the state is projected to receive over \$2.2 billion in additional revenues over the remainder of the 2019-21 biennium (ending June 30) and through the 2021-23 biennium (beginning July 1). Sales, B&O, and utility tax collections remain much higher than anticipated while REET collections continue to increase.

For the current biennium (2019-21), the state is estimated to receive \$807.7 million more than projected at the last quarterly update in March. This increase accounts for a \$2 million reduction in projected revenues due to the cost of new legislation implemented in the 2021 session, including the Working Families Tax Credit. For the next biennium (2021-23), the state is projected to receive an additional \$1.239 billion, and an additional \$1.2 billion in the 2023-25 biennium. Revenues are expected to grow 15.4% between the 2017-19 and 2019-21 biennia and 9.9% between the 2019-21 and 2021-23 biennia. Forecasted general fund revenue now total:

- 2019-21 biennium: \$50.848 billion
- 2021-23 biennium: \$55.611 billion
- 2023-25 biennium: \$58.979 billion

You can access the [meeting materials here](#); the meeting may be [viewed here](#).

### **2021 Redistricting and Local Redistricting Deadlines**

Redistricting occurs every ten years and is the process of adjusting the boundary lines of each congressional and legislative district to ensure that an equal number of people are in each district. Typically, once the U.S. Census is complete, the Redistricting Commission will be appointed. However, due to the impacts of COVID-19, the release of data has been delayed several months, and the U.S. Census Bureau [announced](#) it will deliver redistricting data to all states by mid to late August 2021.

The Redistricting Commission has been meeting since February 2021. In preparation for the release of the data, the Commission has been conducting public outreach meetings to solicit input from Washingtonians around the state. There are five members of the Commission, four are appointed by the two major caucuses in the House and Senate. The fifth member is a non-partisan, non-voting Chair who is selected by the four appointed commissioners.

The current members of the Commission include:

- Sarah Augustine, Chair
- Joe Fain, Senate Republican Caucus Appointee
- Paul Graves, House Republican Caucus Appointee
- April Sims, House Democratic Caucus Appointee
- Brady Walkinshaw, Senate Democratic Caucus Appointee

With the anticipation of the preliminary U.S. Census data on August 16, Commissioners will use the six-week period (August 16 to September 30) to create their first preliminary district maps. The public will be able to comment on these maps between October 1 and October 15. During that 15-day period, the Commission could use this time to hold face-to-face meetings if permitted and desired. Lastly, the negotiation period would take place between October 15 and November 15.

The district maps must be approved by three of the four voting Commission members. If an agreement cannot be reached, the Washington State Supreme Court will instead develop new district maps. The district maps become final within 30 days after the beginning of the next special or regular legislative session. The Legislature may only make changes that affect no more than 2% of a district's population and are approved by two-thirds of the members of each legislative chamber. For more information on the Redistricting Commission and their progress, click [here](#).

### **AWC Legislative Agenda Development**

WSAC will not begin drafting their legislative agenda until September; however, the Association of Washington Cities has convened its Legislative Priorities Committee and has begun the process of feedback from cities on potential legislative agenda items. Below are potential city issues likely to carry over from the 2021 Legislative Session to the 2022 Legislative Session that may be relevant to counties:

#### *Open Public Meetings Act:*

- Last session, the Legislature considered two pieces of legislation that would have made changes to the Open Public Meetings Act. The first, [HB 1056](#), would have allowed public agencies to hold virtual meetings during city or state declared emergencies (e.g. snow storm). It would also give cities more predictability, rather than waiting from month-to-month on whether the OPMA would be extended, as occurred through the pandemic. The second, [HB 1329](#), would require public agencies to accept virtual public comment. Both bills will likely be considered in the 2022 legislative session, and very nearly passed in the 2021

session. The links to the bills are to the most recent versions that reflect several amendments that occurred throughout the 2021 session.

*Body Worn Cameras:*

- With many law enforcement agencies are acquiring body worn cameras, prompting the need for funding for retaining, storing, and redacting of police body camera footage.

*Police Reform Bills:*

- There are three bills that did not pass in 2021 that are likely to be revisited in 2022:
  - o House Bill 1202, creating a state civil cause of action for police misconduct
  - o House Bill 1203, requiring community oversight boards of law enforcement agencies
  - o House Bill 1507, authorizing independent prosecutions

*Blake Impacts:*

- AWC is going to ask cities to track data and costs related to the implementation of [SB 5476](#) to help inform a funding request for 2022.