Washington State
Association of Counties
The Voice of Washington Counties

2017 Session
End of Session Report

August 3, 2017
Prepared by WSAC Staff

Overview

Introduction

Clocking in at 195 days, the 2017 legislative session topped all previous records for the longest in duration. The “session” was actually composed of one regular 105 day session, and three 30 day special sessions. Legislators patted themselves on the back for finally answering the Supreme Court’s “landmark” McCleary mandate to fully fund K-12 education. However, this session is equally as memorable for being the year when the legislature failed to pass a capital budget. At the end of the day, the legislature couldn’t overcome an overwhelming focus on securing majority control next year, and in the end, good public policy lost, as did counties.

WSAC Priorities

The Washington State Association of Counties (WSAC) brought a very short but heavy list of priorities to the legislature. Unsurprisingly, not all of these requests made it across the line.

Replacing the 1% Property Tax Cap

2017 was the third year in a row that WSAC asked the legislature to replace the 1% cap on property tax growth with a new local option cap that would grow with inflation and population growth. We expected that if the legislature was going to take this action it would do so this year given the policy discussion about school levies. Unfortunately, the legislature rejected this proposal despite the fact that they exempted the state property tax levy for public education from the cap. Our effort was supported by eight months of public relations and media work, and though we were successful in garnering positive editorials from newspapers across the state, this was not enough to convince the legislature to act.

Two bills were introduced on this issue: HB 1764 by Representative Lytton and SB 5772 by Senator Pedersen. Both bills received committee hearings, and county, city and fire officials made an incredible showing of support. The only hard opposition was embodied by Initiative 747 sponsor, Tim Eyman. House Democrats included revenue from HB 1764 in their original budget proposal. However, this was insufficient to overcome opposition from Senate Republicans, and the final budget agreement did not include this issue.

Washington State
Association of Counties
The Voice of Washington Counties

2017 Session
End of Session Report

Table of Contents

Indigent Defense

This was the first year in recent history that WSAC has sought additional funding to offset the cost of trial court indigent defense. Counties currently pay 96% of the cost, with the state only contributing $6 million a year. Full funding would equate to $272 per biennium from the state. Despite the fact that Washington provides less state funding than 43 other states, the final budget provided no additional resources to this unfunded mandate.

WSAC also supported the introduction of several bills that would have highlighted the funding issue: HB 2012 by Representative Koster, and HB 2031 by Representative Appleton. However, neither of these measures gained any traction as the fiscal impact would have been significant for the state. In addition, SB 5376 sponsored by Senator Sheldon attempted to address the determination of indigence. The bill, in pertinent part, requires individuals who are indigent, yet still able to contribute, to pay a portion of their defense costs. The bill passed out of the Senate, but failed to pass out of the House.

Public Records

In June of 2016, Representatives McBride and Nealey convened a stakeholder group to discuss potential updates to the Public Records Act. The group ultimately included over 40 participants, including representatives from the Coalition for Open Government, the Allied Daily Newspapers, cities, counties, hospital districts, the State Auditor's Office and the Governor's office. The stakeholder group met five times as a whole and subcommittees of the group worked on draft legislation in the areas of alternative dispute resolution, cost recovery, agency responsiveness and extraordinary requests. The result of the seven-month stakeholder process was the introduction of House Bill 1594 and House Bill 1595. The legislature passed both bills. Key provisions of each bill are outlined below.

HB 1594 (McBride)

- Includes a study of establishing a statewide internet portal for public records management.
- Creates a grant program for local governments to improve their public records management systems.
- Requires training for records officers to address issues of retention, production and disclosure of electronic records.
- Authorizes a $1 surcharge on county recorded documents to fund the local competitive grant program and local training on records retention. The $1 surcharge and the grant program sunsets in 2020.
- Requires agencies to maintain a log of each records request.
- Requires agencies who have spent over $100,000 on public records in a fiscal year to report certain performance measures to the Joint Legislative Audit Review Committee (JLARC) and JLARC must establish a common reporting format. Agencies must annually report to JLARC on the following items:
    - Time to respond to public records requests;
    - Comparison of estimated and actual response times;
    - Number of requests where additional clarification was sought from the requester;
    - Number of requests denied or abandoned by the requester;
    - Number of requests fulfilled electronically;

Public Records continued

- Costs incurred in responding to records requests, managing and retaining records and litigating public records claims;
- Expenses recovered by the agency from requesters, and;
- Measures of requester satisfaction.

HB 1595 (Nealey)

- Authorizes a fee for electronic records of 10 cents/gigabyte. This fee is optional.
- Agencies may also choose to pursue a flat fee of up to $2, when the costs are expected to be $2 or more.
- Authorizes a customized service charge to recover actual costs for exceptionally complicated requests.
- Provides that a request for all or substantially all agency records is not a valid “identifiable records request” under the Public Records Act.
- Creates the ability to deny overwhelming automated computer generated requests.

The final budget includes resources for the Attorney General, Secretary of State, and Joint Legislative Audit and Review Committee to implement HB 1594.

Biennial Operating Budget

The final biennial operating budget was adopted by the legislature only hours before the end of the 2017 session and signed by the Governor after 11 p.m. on June 30th. The state spends over $43 billion in the new biennium. This is $5.3 billion more than the last biennium; more than 12% growth in expenditures. This increase was made possible by a projected $2.6 billion increase in revenue from existing revenue sources, which the legislature augmented with an additional $2 billion in new revenue.

In this biennium public education will become the largest area of state expenditures, topping 50% of the total budget, with social services falling to second. The legislature added $7.3 billion to state K-12 education spending, though $3 billion of this is generated by shifting revenue from local levy capacity and doesn’t represent “new” expenditures.

The legislature did generate new revenue from three sources:

1. $1.6 billion from an increase to the state property tax levy;
2. $431.8 million from uniformly collecting sales tax on internet sales (It is estimated that counties will receive at least $20 million beginning in 2019, or 18% of the total collections), and;
3. $15.6 million from eliminating tax breaks on extracted fuel and bottled water.

As passed by the legislature, the budget assumed a loss of $64 million over four years from a reduction in state business and occupation (B&O) taxes on manufacturing businesses. This would have brought the B&O rate for all manufacturing businesses to the same preferential rate that Boeing receives. However, this bill was vetoed by Governor Inslee.

This budget doesn’t include any major gains for counties and there are several shifts or reductions that will have a negative impact on the operation of county government.

County Finance & Administration

Shared Revenues

Most revenue sources provided to counties by the state were left intact in the final operating budget. The one exception to this was the distribution of streamlined sales tax mitigation dollars, which is unnecessary given the state's new law on the collection of sales tax on all internet sales. This distribution is eliminated in the second year of the biennium.

Marijuana Revenue

Counties and cities narrowly averted an effort to reduce the already paltry amount of revenue that is distributed from the state. The local government share was set at $6 million a year for the 2015 – 2017 biennium, and per statute was scheduled to increase to $15 million a year for 2017 – 2019. This budget provides that the cities and counties will only receive this additional distribution if the February 2018 revenue forecast indicates that the state will receive at least $18 million more than was forecasted in June of 2017. Current Revenue Forecast Council estimates that the state will exceed this amount. However, this budget indicates that it is the legislature's intent to cap revenue at $6 million a year in future biennia.

MRSC and Local Government Fiscal Notes Program

Despite past efforts by Senate budget writers to either eliminate or double-charge local governments for the services provided by the Municipal Research Service Center and the Local Government Fiscal Notes program, the final budget holds both of these programs intact. Consistent with past practice, funding is provided out of the county and city portion of the Liquor Revolving Fund.

Liquor Revenue

Since 2012, the amount of liquor revenue distributed to counties and cities has been capped, despite the fact that overall revenue from liquor taxes has increased. Local governments have consistently tried different approaches to gradually increase or remove this cap. In 2017 two bills (HB 1113 (Hays) and SB 5240 (Mullet)) would have phased in an increased amount of liquor revenue sharing. HB 1113 would have additionally required that sixty percent of the new resources be dedicated to public safety. While the Senate took little interest in this issue, HB 1113 successfully passed the Appropriations Committee, but was never considered by the full House.

Penalties for Delinquent Property Tax Payments

Representative Volz resurrected the perennial issue of reducing the amount that counties may collect on delinquent property tax payments with HB 1990. While this may be a reasonable policy, it would have a significant impact on county budgets, and WSAC has consistently expressed concerns. The bill did not gain traction this session but this issue seems to surface frequently and is likely to be seen again.

County Treasurer Administrative Costs

Representative Volz also brought forward a bill (HB 1992) that would have had a positive impact on county budgets. This measure would have allowed counties to charge other local governments for the treasury services they currently provide free of charge. WSAC supported the bill when it was heard in the House Local Government Committee, but opposition from fire districts was sufficient to keep it bottled up.

County Finance & Administration continued

Fiscal Flexibility

WSAC has consistently sought flexibility in the use of existing revenue sources. Representative Koster dropped HB 2006 as 2017's attempt at these issues. This bill would have done three things to make existing revenue tools easier to implement and more useful if implemented:

1. Remove non-supplant language from the local option mental health sales tax;
2. Remove the 90,000 population threshold from the county criminal justice property tax levy (currently only counties below 90,000 can seek voter approval for a criminal justice levy), and;
3. Remove non-supplant language from the property tax levy lid lift authority.

With strong bi-partisan sponsorship and support, the bill passed the House 87-10. It then hit a wall in the Senate, where initiative architect Tim Eyman called the bill a "sneaky" way for counties to get around the 1% property tax cap. In order to even get the bill out of committee, Senator Short removed the third component of the bill dealing with the property tax levy lid lift. The bill stalled thereafter.

Lodging Tax

Local government distribution of lodging tax revenues for the purpose of generating tourism revenue continues to be a hot-button topic for legislators. This is primarily a result of dissatisfaction from hotel and restaurant owners who view the hotel/motel tax as "their" money. SB 5827 was introduced by Senator Braun at the request of the Washington Hospitality Association, and would have required counties and cities to restrict the expenditure of revenue from this locally-imposed tax. Revenues raised from this tax could only be spent on tourism activities that would draw people from over 50 miles away. This issue was also brought up in 2013 when Senator Braun oversaw a negotiation between hoteliers, and cities and counties. At that time cities and counties acquiesced to a stronger role for lodging tax advisory committees, and in exchange the 50-mile restriction was tabled. We were severely disappointed that SB 5827 was brought forward, and pleased that it did not move out of the Senate.

Pensions

Pension policy and finance was an exciting area this session. The 2016 session saw a proposal to merge the Law Enforcement Officers' and Firefighters' Plan 1 (LEOFF 1) with the Teachers Retirement System Plan 1. Despite major studies being completed during the 2015 interim on LEOFF merger, this concept did not arise in the 2017 session.

However, the Senate Republicans did propose that the state withdraw from its obligation to fund a portion of LEOFF 2 contributions and shift the entire cost to local governments. Counties and cities fought vigorously against this proposal, and this idea did not move forward in the final budget. The 2017-2019 operating budget provides the state's contribution to LEOFF 2.

For the second biennium in a row the Governor vetoed a budget proviso that would allow the Law Enforcement Officers' and Firefighters' Retirement System Benefits Improvement Account through a transfer from LEOFF 2. Despite the healthy balance in the LEOFF 2 account, we are concerned with the precedent that these dollars be used for benefits that are not contractually obligated, and we appreciated the Governor's veto.

The Senate proposed a new pension funding concept that was both more innocuous and intriguing for counties. Senator Braun dropped SB 5900. It would have used $700 million from the state's

County Finance & Administration continued

rainy day fund to reduce the Public Employees Retirement System Plan 1 Fund in order to reduce the plan's underfunded liability. Employers (including counties) that currently pay a surcharge toward the plan's underfunded liability would pay a different surcharge to reimburse the state general fund. While this proposal likely wouldn't have hurt counties, it would have saved the state millions of dollars in interest. The bill did not move forward, and it seemed there were still some details to be ironed out.

Paid Family Leave

One of the bigger policy achievements of the 2017 legislature was the creation of a paid family leave program in Washington. This was largely due to polling conducted by labor unions showing that voters would handily approve a program if presented in an initiative. Business interests who would otherwise be opposed to a new cost driver were brought to the table by this political reality. The new program, beginning in 2020, will provide up to 12 weeks of paid leave after the birth or placement of a child, to care for a family member with a serious health condition, or because of a military exigency.

Employees must work 820 hours in the qualifying period to be eligible for the program, and will pay a premium of 0.40% of wages beginning on January 1, 2019. Employees must pay 100% of the premium portion that is for family leave and 45% of the premium portion that is for medical leave. Employers may pay the employee's share of the premium.

There is an exemption from the employer share of the premium for small businesses. Benefits will be based on the employee's wages, with lower wage employees receiving a higher percentage of wages in benefits. Employers who offer equal or better benefits may obtain a waiver for the program. There is no exemption for collective bargaining agreements, so counties will be required to take the new program into account during their contract negotiations. The legislature provided $172 million a biennium in the operating budget for the startup of the family leave fund and for program implementation at the Department of Labor and Industries.

Workers Compensation

Both the House and Senate considered proposals to expand what is considered an occupational disease under the state's workers' compensation program. Under HB 1655 (Lovick) members of the Law Enforcement Officers' and Firefighters' Retirement System (LEOFF) would be able to receive workers' compensation for stress-caused mental conditions. Post traumatic stress disorder would be presumed to be an occupational disease and eligible for compensation under the state program. Senator Zeiger's proposal (SB 5477) would expand the existing occupational disease presumption by 1) bringing fire investigators into the definition of "law enforcement officer" and; 2) adding strokes, additional listed cancers, heart problems, and infectious diseases into the list of presumptive diseases. Though neither bill passed, it is clear that law enforcement unions will continue to push to expand presumptive occupational diseases.

Collective Bargaining/OPMA

The House and Senate also saw proposals to require public employers to make their collective bargaining sessions subject to the Open Public Meetings Act (OPMA). In the House, Representative Manweller's bill (HB 1951) didn't get very far. However, Senator Wilson's SB 5545 successfully moved out of both policy and fiscal committees. While WSAC supports the ability of the county legislative authority to hold bargaining sessions in public, these measures would

County Finance & Administration continued

have mandated that this occur in every county, and created OPMA liability for counties that didn't hold open negotiations, or who inadvertently violated the OPMA's requirements. WSAC testified in opposition to the measure on these grounds.

Local Government Study

WSAC was surprised at the inclusion and subsequent Governor's veto of a proviso that would have required the Washington State Institute for Public Policy (at the Evergreen State College) to prepare a study using Liquor Revolving Fund dollars to compare the constitutional and statutory obligations and revenue capacity of local governments. WSAC had encouraged the introduction of HB 2011 by Representative Koster on this topic during session, of which, Representative Appleton killed in the House Local Government Committee. Representative McBride was successful in placing the proviso in the budget, and we were disappointed by the Governor's short-sighted veto.

Ballot Box Legislation

SB 5472 (Pearson) mandated a significant county investment in adding new ballot drop boxes. The legislative fiscal note for this bill indicated an initial cost of $1.28 million and an ongoing annual costs of $257,000. Despite these costs and opposition from both WSAC and Washington Association of County Officials (WACO), the legislature passed this bill without any additional resources for counties.

Election Cost Reimbursement

Currently the state does not reimburse counties for the cost of state elections in even calendar years, when most statewide races are conducted. HB 1903 (Koster) would have required the state to pay its costs in all elections, and would have saved significant cost for counties – about $13 million in larger election years. Despite strong bipartisan support, the bill did not even receive a hearing.

Voting Rights

For the fifth year running the American Civil Liberties Union and other organizations supported the introduction of legislation to address local elections where a minority group does not have an equal opportunity to elect their preferred candidate or influence the election. HB 1800 (Gregerson) and SB 5267 (Hunt) were the main vehicles for this policy, and would have created a new cause of action against a county where allegations of discriminatory elections are raised. The Senate Republicans again responded with their own approach in SB 5208 (Miloscia) which would have simply provided counties and cities with the authority to utilize district-based elections.

WSAC commissioned a legal opinion from constitutional lawyer, Hugh Spitzer, to assess the unique legal situation of counties under the Washington constitution. This confirmed WSAC's concern that a state-based lawsuit and court order requiring a non-charter county to elect its legislative authority using a district-only election would violate the constitutional requirement that there is uniformity in the form of county government. Though this was a solid legal position, it did not seem to persuade legislators who already had a political position staked out. None of these bills passed this year, though we expect the issue to return in 2018.

County Commissioner Election

HB 1535 (Riccelli) would have created similar issues as the voting rights bills. It would have

County Finance & Administration continued

required non-charter counties over 400,000 in population to conduct district-based elections for their commissioners. Aimed at Spokane County, WSAC testified in opposition for the same constitutional reasons it opposed the voting rights bills. The measure did not pass the House.

Land Use, Natural Resources and Environment

Department of Fish and Wildlife PILT

The final operating budget provided $2,196,000 of general fund state dollars for Payment in Lieu of Taxes (PILT). This is an increase in previous biennium funding of $998,000 dollars. This is not an across the board increase and according to the Washington Department of Fish and Wildlife (WDFW), these allocations are based on numbers sent in by counties.

Growth Management Act Policies

As common every year, several bills dealing with the Growth Management Act (GMA) were introduced. Though not many passed. Two bills dealing with Urban Growth Area (UGA) changes and annexation did not make it out of their respective committees (HB 1681(Appleton) and SB 5215 (Conway)). Senator Angel's bill, addressing the actions of the boundary review board, (SB 5652) made it only as far as the Rules committee, while the House version, HB 1682 (Fitzgibbon) did not make it out of committee.

GMA Vesting

The vesting discussion also came back from previous years, HB 2023 (Fitzgibbon), addressed the effective date of actions taken under the Growth Management Act while HB 2100 (Goodman) dealt with the statutory vested rights doctrine and rules for determining what regulations control decisions on project permit applications. In the Senate, SB 5212 (Wilson) related to the scope of land use control ordinances for purpose of vesting. None of these bills passed.

Kitsap County's Proposed Legislation

Kitsap County proposed a bill to amend the schedule of their comprehensive plan update (HB 1089 by Representative Appleton) that made it as far as the Rules Committee. Kitsap County also proposed HB 1683, also sponsored by Representative Appleton, addressing sewer service within urban growth areas. That piece of legislation made it to the Governor's desk and was signed into law.

Hosting the Homeless

Two bills dealing with the hosting of the homeless by religious organizations (HB 1987 and 2044 both by Representative McBride) came back again this year. Senator Miloscia introduced SB 5657 as a companion to HB 2044. None of the bills passed their House of origin.

Subdivision Applications

The Senate version of a bill addressing the approval process of a final subdivision application, SB 5674 (Palumbo) passed and was signed by the Governor.

Land Use, Natural Resources and Environment continued

Recording and Homelessness Fees

Senator Fain introduced a bill (SB 5254) that addressed both the sunset of the recording fee for the low-income housing and homelessness programs and the adequacy of buildable lands and zoning in urban growth areas. This bill passed and was signed by the Governor. The operating budget provided funding to the Department of Commerce to prepare guidance on the new requirements of the buildable lands report and the bill contains a clause that if funding is not provided to counties to perform the new report, the new requirements are null and void. Funding would need to be provided next biennium for counties to start preparing the new report.

Companion bills were introduced to deal with rail dependent uses allowed under the GMA: HB 1504 (Pike) and SB 5517 (Wilson). HB 1504 passed but was later vetoed by the Governor. During the second special session, an amended version of SB 5517 passed and was signed by the Governor.

HB 1121 (Muri) changed the frequency of the implementation strategy and science work plan under the Puget Sound action agenda.

SB 5790 (Short), concerning the economic development element of the GMA, passed the legislature vetoed the language that allowed rural counties flexibility in their comprehensive plan updates depending on economic growth factors.

School Siting

Siting schools outside of the urban growth area to serve children inside the urban growth area (UGA) has been an ongoing issue. Providing “urban” services such as sewer to a school outside the UGA, is not allowed under the Growth Management Act (GMA). House Bill 1017 (McCaslin) was the vehicle that ended up making it to the Governor for signature. The Governor vetoed the section that applied across the state, leaving only the section addressing the Bethel School District in Pierce County. During the second special session, a bills were dropped in both the House and Senate to deal with the rest of the state. SB 5945 (Zeiger) did not move, yet HB 2243 (McCaslin) passed and was signed by the Governor. HB 2243 allows the extension of urban services to the school.Where consistent with GMA and rural densities, others may hook up to the sewer service and the school may collect late-comer fees.

Model Toxics Account

Early in session both the House and Senate dropped bills relating to the tax on hazardous substances that funds the model toxics control account (HB 1663 (Peterson) / SB 5501 (Carlyle)). Neither of these bills passed and near the end of the regular session another bill was dropped in the House (HB 2182 (Peterson)) would have created a phased level of the tax. At the end of the day, non of these bills passed, leaving a significant hole in toxics funding for county programs.

The operating budget has a shift of $21 million dollars from the MTCA Local Toxics Account to the State Taxes Account. The Department of Ecology does not yet know what impact this will have on county programs. Apparently this shift was to cover a shift of costs out of the state general fund to the state toxics account. Local toxics generally funds Remedial Action Grants, storm-water grants and program work in solid waste and local public health. In previous years, the Coordinated Prevention Grants for solid waste and local health were moved to the State Building Construction Account, in the capital budget. With no capital budget, there is no state funding for the prevention, implementation, and enforcement of household hazardous waste.

Land Use, Natural Resources and Environment continued

The Department of Ecology stated that there is approximately $640 million dollars worth of capital projects not moving forward, and the MTCA account will be negative $69 million dollars.

Solid Waste

A paint stewardship program was again proposed with HB 1376 (Petersen). The solid waste managers believe this would be a helpful program, yet it did not pass this session. A bill of concern, SB 5735 (King) would have required county solid waste facilities to accept abandoned recreational vehicles. As written, this would put a burden on counties with no funding. In the Senate transportation budget, a proviso requires the Department of Licensing to work with Ecology and stakeholders on the issue of abandoned vehicles.

Water

The Senate dropped the first bill relating to the Hirst decision with SB 5239 (Warnick).The bill's general goal was to return water law to pre-Hirst practice. Another Senate bill, SB 5024 (McCoy), mirrored the case and gave no relief to counties or citizens. Two bills dropped in the House, HB 1885 (Springer) and HB 1918 (Stanford) looked at the GMA. HB 1885 was a hybrid to fix the GMA, building permit, and subdivision statutes, while authorizing Ecology to mitigate in stream flows with a state program. This bill had a one-time $250 dollar fee in closed basins, labeled as a data collection fee. The other bill, HB 1918 (Stanford) was similar to SB 5024. The Senate passed SB 5239 in all three sessions, though the House bills did not move.

Senate leaders, wary that the House wold not adequately address the issue, made passage of a Hirst fix a prerequisite for adoption of the capital budget. Despite concerted and intense negotiations involving all interested parties, an agreement could not be reached.

Conservation Futures.

Legislation to increase the amount of conservation futures dollars that may be used for the maintenance and operations of parks and recreational land, HB 1820 (Volz), was passed and signed by the Governor.

Remedial Actions

A Senate bill to allow independent remedial actions without a permit was proposed in SB 5170 (Ericksen). This would also have exempted a person conducting an independent remedial action from any county processes and it did not pass.

State Agency Rulemaking

Several bills dealt with state agency rulemaking. HB 1005 (Taylor) removed rulemaking authority from state agencies, HB 1014 (Shea) required peer review of the economic analysis and HB 1241 (Koster) required final approval of rules and updates by the legislature. None of these bills passed the legislature this session.

Human Services

Behavioral Health

Few behavioral health bills passed the legislature this session. One failed bill, HB 1388 (Cody), dealt with the behavioral health authority. This bill proposed to do a variety of things, including transferring responsibilities for the oversight and purchasing of behavioral health services from the Department of Social and Health Services (DSHS) to the Health Care Authority (HCA), except for the operation of the state hospitals. It transferred the responsibilities for the certification of behavioral health providers from DSHS to the Department of Health (DOH). The bill also required HCA to collaborate with county authorities within a regional service area (RSA), upon the counties' request, to establish an inter-local leadership structure. This structure was required to include participation from counties and managed health care systems and representation from physical and behavioral health providers, tribes, and other entities in the RSA. The purpose of the structure is to design and implement a fully integrated managed care model for the RSA and place clients at the center of care delivery, and support the integrated delivery of physical and behavioral health care.

Another failed bill, SB 5894 (O'Ban), would have transitioned state purchasing of long-term involuntary treatment services to a regionally-based system under a managed care framework, as well as modernized state hospital practices and focused state hospital resources on servicing forensic and higher-acuity civil patients. The bill required: (1) integration of risk for long-term involuntary treatment into managed care by January 1, 2020; and (2) the state to purchase long-term involuntary treatment capacity in community facilities to supplement and partially replace state hospital bed allocation. It reduced eligibility requirements, streamlined access, and expanded assisted outpatient mental health treatment. The bill also stated that the legislature intended to purchase expanded community behavioral health resources and placements for complex patients. A concern for counties with this bill was the proper funding and responsiveness of a regionally based involuntary treatment system. Furthermore, there was concern as to how risk would have been shifted from the state to the regional system.

The state will, however, spend significant amounts of money to address some of these issues in the budget that it was unable to accomplish by legislation.

- DSHS Long-Term Care: $126.7 million increase to fund collective bargaining agreements for home care workers and adult family homes to provide parity for home care agencies;
- BHO Medicaid Rates: Rate increase of approximately 2.5% for Behavioral Health Organizations for a total of $37 million;
- Medicaid Transformation Waiver: The new Medicaid Transformation Waiver allows for supportive housing and supported employment services to be provided to individuals who are most vulnerable and have complex care needs. ($19.5 million)

Mental Health

Issues related to mental health were of significant concern this session, specifically surrounding the state hospitals with regard to the Trueblood et. al v. Washington State DSHS decision. This decision found that the state was taking too long to get criminal defendants evaluated and into restoration treatment, and required that the state provide these services within seven days. The Court also ordered that a court monitor oversee DSHS's efforts to comply with the court's orders and provide monthly reports to the monitor, documenting the state's progress. In order to accomplish what the Court ordered, the state has had to implement a variety of new services, programs, hiring practices, and housing options. This year, many of these remaining issues, and tangentially related issues, were addressed primarily by way of the budget. Significant

Human Services continued

expenditures in this subject area include:

- $60 million increase for increased staffing levels and quality of care at the state hospitals;
- $3.3 million increase for 150 beds for individuals with a history of mental illness that consists of a mixture of low-barrier housing, shared permanent supportive housing, and independent permanent supportive housing;
- $18.6 million increase for 48 contracted community beds in the 17-19 biennium and two FTEs to implement program services for individuals on 90 and 180 day commitments. An additional 48 beds are assumed in the 19-21 biennium;
- $11 million increase to fund 96 beds in crisis walk-in centers to allow patients to stay up to 23 hours under observation;
- $10.4 million increase for increases to psychiatric inpatient rates for psychiatric inpatient providers;
- $10.5 million savings based on requiring DSHS to work with HCA to submit the appropriate waiver to allow Medicaid matching funds for stays in Institutions for Mental Diseases for both stays involving substance abuse and mental health treatment;
- $9.2 million increase of one-time funds from the Governor's Behavioral Health and Innovation Fund are used for a 24-bed expansion of contracted forensic restoration beds;
- $1.5 million increase to Clubhouse pilot programs. DSHS is required to identify and report back with options for making the Clubhouse programs a state plan service;
- $1.4 million increase to implement an additional Housing and Recovery through Peer Services team which provides housing and step-down services;
- $2.4 million increase to provide funds for BHOs to increase residential stepdown capacity by 32 beds in facilities that are able to maximize federal match;
- $774,000 increase to provide funds for three chemical dependency professionals to provide substance use disorder treatment at the state psychiatric hospitals;
- $6.5 million increase in funding is provided for additional state-operated living alternative beds for transitioning clients ready for discharge from the state psychiatric hospitals; and
- $140,000 in one-time funds is provided for the University of Washington School of Law to conduct a study on the impact of the Washington State Supreme Court decision, Volk v. DeMeerleer, on mental health care services in the state. Report due December 1, 2017. The bills that were introduced to address the Volk decision, SB 5800 (Baumgartner) and HB 1810, failed to pass. The bill would have provided that a mental health professional or an individual health care provider providing mental health services has a duty to warn of a patient's violent behavior only if the patient has communicated an actual threat of physical violence that poses a serious or imminent threat to the health or safety of a reasonably identifiable person or persons. The duty would be discharged if reasonable efforts were made to communicate the threat to the person identified and law enforcement personnel.

Substance Use

The opioid epidemic was a hot topic this session. One bill that passed, HB 1427 (Cody), removes some of the regulatory burden of siting treatment facilities and creates a prescription drug monitoring program.

For being an extremely high profile issue, very little else was accomplished this session on this topic. One failed bill, HB 1339 (Cody), would have required practitioners to complete one hour of continuing education regarding best practices in the prescribing of prescription drugs. It also would have required disciplining authorities to adopt rules establishing requirements for prescribing opioid drugs. Senator Miloscia's safe injection site bill, SSB 5223, failed to pass, which would have

Human Services continued

preempted any safe injection sites within the state. Another failed bill, SB 5811 (O'Ban), would have allowed the detention of a person for involuntary substance use disorder treatment when the person has an opioid use disorder characterized by active use of heroin and meets a modified definition of gravely disabled.

There were a few opioid related budget items that included mainly federal funds:

- $21.5 million in federal fund authority and FTEs are increased to allow DSHS to implement a federal grant awarded by the Substance Abuse and Mental Health Services Administration to prevent opioid use;
- $2.25 million in federal funds to provide increased federal funding authority to allow DSHS to implement a federal demonstration grant awarded the Substance Abuse and Mental Health Services Administration to prevent deaths related to prescription drug and opioid overdose; and
- The legislature provided $200,000 of state funds for a pilot program for substance use treatment for inmates at the Snohomish County Jail who are undergoing detoxification from heroin and other opioids and for connecting them with treatment providers in the community upon their release.

Developmental Disabilities

We worked hard this session, together with other constituency groups and developmental disability (DD) advocates, to defeat SB 5201 (O'Ban). The most recent iteration of this bill would have allowed high acuity clients to transition to community access services after participating in employment services for only 90 days rather than nine months – an insignificant amount of time for this population. Washington State has been a leader in supported employment because of the nine-month employment requirement. Removing this requirement would have set the state back and detracted from the ability of these individuals to live a full life. The legislature provided in the budget $250,000 for the Joint Legislative Audit and Review Committee to evaluate employment and community access services provided by DSHS for individuals with developmental disabilities.

The legislature also provided funding in the state budget for a variety of other DD issues, including:

- $52.7 million in funds to implement the 2017-19 collective-bargaining agreement with individual providers (IPs) of in home personal care services. The agreement includes phased-in wage increases to raise the seniority-based wage scale to a minimum of $15 per hour by January 2019;
- $11.5 million increase in funds are provided to implement the 2017-19 collective bargaining agreement with adult family homes. The agreement includes increases to the base daily rates, other specialized rates including private duty nursing, mileage reimbursements, and community integration payments;
- $9.4 million increase to provides vendor rate increases of 2% on July 1, 2017, and an additional 2% on July 1, 2018 for service providers for individuals with long-term care needs or individuals with developmental disabilities. These increases apply to assisted living facilities, area agencies on aging, service providers specializing in employment support, respite, and other community based services, and the home care agency administrative rate;
- $5.4 million increase to provide funds for Development Disabilities Administration (DDA) clients who will be leaving high school, but are not currently receiving services authorized under a Medicaid wavier, to participate in employment programs in the 17-19 biennium; and
- $40 million increase for the hourly benchmark rate for the DDA community residential service providers.

Human Services continued

Economic Services Administration

The Temporary Assistance for Needy Families (TANF) program is important to many families in the state. It helps families with low incomes pay for shelter, clothing, and essential needs while they work or meet Work First participation requirements. The state realized savings in different areas of these programs in the following manner:

- $14.8 million savings are assumed from reduced costs associated with Working Connections Child Care program and WorkFirst contracts related to the extension of the TANF exemption to include families with children under the age of 2 years old;
- Diversion Cash Assistance provides alternative assistance for families who have short-term need and do not need to receive longer-term assistance through the TANF program. This program was under-expended in FY 2016. $3.1 million in savings are achieved as a result of anticipated caseload declines commensurate with declines experienced, and anticipated, in the TANF caseload;
- The Department of Early Learning annually receives $2 million per year via the TANF program for home visiting services. Due to delays in contracts for TANF home visiting services, there is a balance in the Home Visiting Services Account available for these services. A one-time savings of $1.4 million are realized in 2018;
- In the 2015-17 biennium, an additional $1.0 million was provided to expand transportation services offered to WorkFirst clients. The use of these funds included working with the courts and collection agencies to assist participants in resolving outstanding traffic related warrants, traffic tickets, fines, and penalties. Funding for this enhancement is reduced by $500,000; and
- $4 million increase for a 2.5% increase in TANF cash assistance payments.

Homelessness

Housing and homelessness were topics of great importance this session. The bills that were dropped generally dealt with the document recording fee (DRF), affordable housing, assistance surcharges, studies of assistance programs, and homeless encampments. There was great debate regarding the DRF and whether to allow it to sunset, remove the sunset altogether, or extend it for some period of time. In the end, a four-year extension of the DRF was passed within a more comprehensive buildable lands and zoning bill, SB 5254 (Fain).

One bill that failed to pass, HB 1570 (Macri), proposed to make the DRF permanent. It would have also allowed counties by a councilmanic vote, to charge and retain an additional surcharge of up to $50 for homeless housing and assistance. Another housing related bill, SB 5252 (Angel), passed this session which requires the Department of Commerce to: (1) develop performance measures to determine the effectiveness of the document recording fee (DRF) surcharge funds in supporting homeless programs and to report its findings and recommendations regarding the new performance measures to the legislature by December 1, 2017; and (2) develop a process to increase the effectiveness of its biennial report to the Governor and legislature on the state and local governments' performance in furthering the goals of their homeless housing plans. The Joint Legislative Audit and Review Committee is required to review how DRFs are being expended to address homelessness and report its findings to the legislature by December 1, 2022.

Two other related bills that failed to pass, SB 5656 and SSB 5864 that were sponsored by Senator Miloscia, attempted to put more restrictions around the use of the DRFs, audit the effectiveness around the DRF, preempt homeless encampments, and create new crimes surrounding homelessness, amongst other things. This rather comprehensive approach at solving homelessness was not looked upon favorably by any constituency group.

Human Services continued

Money was allocated in the budget to try to address some homelessness issues, including:

- $6 million increase to provide an increase in expenditure authority for the Consolidated Homeless Grant Program;
- $3.5 million increase to provide funds for the Office of Homeless Youth to reduce youth exits from state systems into homelessness and to increase crisis residential center and HOPE center capacity;
- $1 million increase to provide funds for staff and grants to expand temporary rent assistance for homeless families;
- $280,000 increase to create a behavioral health supportive administrator position within Commerce to coordinate the development of behavioral health housing options and services statewide to aid in the discharge of individuals from the state psychiatric hospitals; and
- $500,000 to provide funds to evaluate and compare the cost efficiency of market rate housing in Washington to publicly subsidized housing to assist low-income households.

Public Safety

Discover Pass Penalty Distributions

WSAC, with the help of various commissioners, Washington State Parks, and the District and Municipal Court Judges Association, tried to amend and pass 2SSB 5342 (King), the companion bill was HB 1478 (Blake), which would have required counties with a population of less than 100,000 to retain 25% of the penalty money received from Discover Pass, vehicle access pass, or day-use permit infractions, rather than transferring all of the penalty money to the state. The bill also prevented any county that dismissed more than 12% of Discover Pass infractions in the previous year from retaining any penalty money. Any additional revenues from the Discover Pass infractions would have been helpful. However, the penalty language, added by Senator Ranker, made the bill rather contentious. In the end, the bill did not pass.

Language of Public Notices

A heavily negotiated bill, HB 1540 (Santos)/SB 5046 (Hasegawa), with the counties, cities, military department, and minority associations passed this session. Our goal was to ensure that counties would not bear the brunt of any financial obligation or unfunded mandate. The final version of the bill requires state agencies to provide public notices of public health, safety, and welfare, in a language other than English, in a manner that has been determined to be most effective in communicating with significant segments of their diverse communities.

Political subdivisions, or their emergency management contractors, are required, when issuing notices during emergencies including evacuation notices and shelter information, to share that information in a manner determined to be most effective for communicating with significant segments of the community who speak a language other than English. Political subdivisions are required to maintain or have access to updated demographic data for their jurisdictions and information on the language represented as well as grant access to the information to those authorized to issue emergency notices on their behalf. An increase of $372,000 was allocated in the state budget for this bill.

Legal Financial Obligations

The legal financial obligations (LFO) system was created by the legislature as a way to help counties recoup some of the crime related costs for which counties have been responsible. Counties have since relied on the money from LFOs to help pay for the related services. The bill, HB 1783 (Holy) would have eliminated interest accrual on the nonrestitution portions of LFOs. It would have prohibited courts from imposing costs on defendants who are indigent at the time of sentencing. It would have also established provisions governing payment plans and priority of payment of LFOs. The bill passed the House but never made it out of the Senate.

Felony DUI

The legislature, once again, tightened its laws around driving under the influence (DUI). This bill, SB 5037 (Padden) raised the classification of DUI and physical control from a gross misdemeanor to a felony upon the 4th, rather than 5th, offense. It also imposed a $50 fee for various vehicular crime convictions to fund grants for organizations that operate programs to reduce driving under the influence of alcohol or drugs. Funding is provided in the amount of $2.5 million to reflect a projected increased prison population as a result of sentencing changes making a DUI a felony upon 4th conviction.

Public Safety continued

Convicted Persons

The original versions of these two bills, SB 5934 (Padden) and SB 5904 (Braun), neither of which passed, dealt with multiple types of crimes, sentencing enhancements, and community custody terms, and would have shifted significant cost burdens onto counties. However, the most current versions no longer have a significant impact on counties.

Parents Representation Program

The Office of Public Defense contracts with attorneys to represent indigent parents, custodians, and legal guardians involved in child dependency and termination of parental rights proceedings. The program operates in 31 of Washington's 39 counties. This session, the legislature provided an increase of $8 million in the state budget to expand the Parents Representation Program statewide and address caseload increases in dependency filings starting with Lincoln, Okanogan, Pierce, and San Juan counties in FY 2018, and the remaining counties, Adams, Douglas, Island, Lewis, and Walla Walla, in FY 2019.

Judicial Information System

The Judicial Information System (JIS) is the primary system for courts in Washington. It provides case management automation to appellate, superior, limited jurisdiction, and juvenile courts. It serves as a statewide clearinghouse for criminal history information, domestic violence protection orders and outstanding warrants. The legislature provided an increase of $26 million from the JIS Account for judicial information technology projects and case management.

Criminal Justice Training Commission

The Criminal Justice Training Commission provides training for the Basic Law Enforcement Academy. The 720 hour Basic Academy curriculum is designed to provide recruit officers with the basic knowledge and skills necessary for safe, proper, and effective law enforcement service. The legislature provided $3.7 million for six additional Basic Law Enforcement Academy classes each fiscal year. Each class has up to 30 students.

Public Health

Foundational Public Health Services

This was WSALPHO's primary legislative priority for this session. HB 1432 (Robinson)/SB 5353 (Rivers) would have established the core public health services account. Foundational Public Health Services (FPHS) addresses the protection of the public's health in the state through core public health services and essential capabilities. It emphasizes the role of local health jurisdictions (LHJs) in serving as the chief health strategist in their communities – developing and implementing public health improvement plans that target population health and impact.

While these bills did not pass the Legislature, they served as a vehicle for WSALPHO to advocate for FPHS funding in the biennium budget. Allocated in the 2017-2018 budget is $12 million in one-time funding for FPHS to improve local governmental public health capacity. $10 million is allocated specifically to 35 local health jurisdictions to improve their ability to address communicable disease monitoring and prevention and chronic disease and injury prevention with an emphasis on shared services. WSALPHO was very pleased that FPHS was included in the biennium budget given that many new initiatives were not.

County Public Health Assistance Account

The 2017-2018 operating budget maintains funding at the 2015-2017 budget level of $72.8 million. This funding is used by the 35 LHJs to implement a number of public health programs and services, including public health nursing. Funds are allocated to individual LHJs as outlined in the operating budget.

Tobacco and Vapor Products

Tobacco prevention and control is a long standing public health issue. In the 2017 Session, tobacco prevention and vapor products was a legislative priority for many community-based public health organizations as well as WSALPHO and LHJs. HB 1054 (Harris) would have raised the legal age to purchase tobacco products to 21 years of age. This bill had some movement, passing in both the Healthcare and Wellness, and Finance Committees. WSALPHO supported this bill as it is a research-supported policy to decrease smoking and tobacco use among youth.

Two bills were introduced that addressed taxes on vapor products such as e-cigarettes. HB 2144 (Pollet) clarified that the tax on tobacco products applies to electronic cigarettes, electronic devices, vape pens, and other vaping products. The bill also clarified the definition of "tobacco products" to address new and emerging electronic nicotine delivery systems and similar products. HB 2165 (Harris) addressed requirements for and the sale and taxation of vapor products, e-cigarettes, and nicotine products. While neither bill had movement this year, the General Fund allocated $163,000 to the Liquor and Cannabis Board to implement and enforce vapor product licensing, packaging, and sales regulations. Vapor products have become an important public health issue in recent years and WSALPHO anticipates that it will remain a legislative priority for the organization in years to come.

Lead Exposure

Childhood lead poisoning prevention was a legislative priority for WSALPHO this year, and ensuring safe drinking water is a foundational service of local public health. SB 5745 (Kuderer) addressed contaminated drinking water stemming from the lead content in drinking water infrastructure, including pipes, connections, and fixtures for public schools. The bill made it out of two committees in the Senate, before dying on the floor. However, the Department of Health (DOH) was allocated $3 million to test water fixtures in schools, conduct screening, and provide case management for

Public Health continued

children at risk of having elevated lead. This funding will prioritize the oldest schools across the state as well as children who are at greatest risk for lead poisoning.

Prescription Monitoring Program

Local health jurisdictions work closely with local human services, mental and primary health care providers, health systems, and the State Department of Health in implementing a number of strategies to combat the opioid epidemic. The passage of HB 1427 (Cody) expands access to the Prescription Monitoring Program (PMP) by allowing local health officers to receive data in order to provide patients with care after an overdose event. This data will also help local health jurisdictions understand opioid issues in their communities and inform program design and implementation. It also allows the PMP to notify the patient's health care provider after an overdose event, encouraging quicker referral to treatment services. Funding was provided to DOH through the General Fund for $1.215 million to assist in the implementation of this legislation.

Safe Disposal for Medications

HB 1047 (Petersen) had little movement through the House this year. The proposed bill would have established a state-wide drug take back program for the safe and secure collection and disposal of unwanted medications. It would have also exempted proprietary information submitted to the department of health from public records disclosure. WSALPHO was in support of this legislation as this program is strongly supported as an evidence-based strategy in reducing access to prescription drugs.

Rapid Health Information Network Data Reporting

Local health jurisdictions uses data and health information from the DOH to conduct a health needs assessment to identify and prioritize the health needs of their communities. The passage of SB 5514 (Rivers) requires hospitals with emergency departments to submit patient care information to the DOH for analysis and dissemination. Access to this information at a county level supports local health jurisdictions acting as chief health strategist in identifying causes for emergency room visits and research injury prevention strategies that target these causes.

Preventing Unfunded Mandates Involving On-Site Sewage Systems from Affecting Local Governments and Property Owners

Passed during the regular session, HB 1503 (Short) declares that the Growth Management Act (GMA) does not preclude counties from certifying homeowners, or their family members or tenants, to inspect their on-site sewage systems (OSS). This bill limits the self-inspection of OSS in counties where failing OSS have been identified as impacting water quality to only be allowed under certain circumstances where six qualifying criteria are met. WSALPHO has concerns this may negatively impact water quality.

Addressing Sewer Service within Urban Growth Areas

WSALPHO supported this bill which was passed during the first special session, HB 1683 (Appleton). Through this legislation, counties and cities that have adopted a capital facility plan to provide sewer service within a UGA during a 20-year planning period are not obligated to install sanitary sewer systems to certain properties within the UGA before the end of the planning period. Some properties exempt from the requirement if certain conditions are met.

Public Health continued

Addressing Transient Accommodations Contaminated by Methamphetamine

Environmental public health provides assistance in the remediation and decontamination of properties contaminated with hazardous waste. HB 1757 (Hayes) was passed and added transient accommodations to the list of properties subject to inspection, condemnation, and decontamination when contaminated by certain hazardous chemicals. It also added methamphetamine in transient accommodations to the list of hazardous chemicals that may contaminate properties.

Water Recreation Facilities

The State Board of Health is charged with adopting and revising rules for water recreation facilities. Local health jurisdictions are tasked with inspecting local water recreation facilities in order to protect the public from waterborne illnesses and exempted facilities may put the public's health at risk. The passage of HB 1449 (Manweller) requires the state board of health to consider the most recent Centers for Disease Control and Prevention's Model Aquatic Health Code in adopting rules related to recreational water contact facilities. The law also exempts inflatable equipment operated at a temporary event, including inflatable water slides from the requirements for water recreation facilities.

Other General Fund Allocations

Allocated in the General Fund were funds for a few specific public health programs. $41 million was allocated to Hepatitis C in order to expand treatment to Medicaid clients with less severe liver disease whose coverage has been mandated by court order. $15 million was allocated to HIV case management, expanding this service for high-risk populations and increasing access to other health services such as dental, mental health, and housing for persons with HIV.

Transportation

The state transportation budget was adopted in the waning days of the regular legislative session. The budget provided little in the way of new projects or funding, primarily focusing on updating of schedules for projects and increased funding to cover transportation-related labor agreements.

For counties, the 2017-19 budget funded the amounts promised to counties with the adoption of the Connecting Washington Act adopted in 2015. The act provides an increase of $70 million to the County Road Administration Board spread out over 16 years and $187.5 million in direct distribution to counties, again spread out over the same 16-year period. The distribution to CRAB for 2017-19 is $4.8 million, each, for the rural arterial program and the county arterial preservation program. Counties will receive $25.1 million in direct distribution quarterly from the state treasurer.

Overall, there were few transportation related bills that were passed this session. One of the most significant transportation related bill was the passage of SB 5289 (Rivers), which further restricts texting while driving. The bill provided for a 2019 implementation, but the Governor vetoed that section making the law effective in July. The new law prohibits holding a personal electronic device in either hand, using your hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data, and watching video on a personal electronic device.

Capital Budget

For the first time that anyone can remember the legislature adjourned without adopting a capital budget. Senate Republicans had signaled very early in session that they did not intend to vote on a capital budget until a compromise was reached on the Hirst issue (see Water, above). They held true to that threat when a deal couldn't be reached by the end of the third special session. We are still assessing the impact this will have on counties.

Contact

Josh Weiss
Director, Policy & Legislative Relations
(360) 489-3015
jweiss@wsac.org

Laura Berg
Policy Director
(360) 489-3024
lberg@wsac.org

Jaime Bodden
Managing Director, Washington State Association of Local Public Health Officials (WSALPHO)
(360) 489-3011
jbodden@wsac.org

Juliana Roe
Policy Director
(360) 489-3012
jroe@wsac.org

Gary Rowe
Managing Director, Washington State Association of County Engineers (WSACE)
(360) 489-3014
growe@wsac.org

Axel Swanson
Research Director
(360) 489-3021
aswanson@wsac.org

Jennifer Ziegler
Policy Consultant
(360) 790-6089
jennifer@zieglergov.com