

May 5, 2021



BOARD OF DIRECTORS MEETING

**The Davenport Grand Hotel
Spokane County
Spokane, Washington**

Count	ByLaws Ref	Population	Executive Board Seat	Title	First Name	Last Name	County
14	< Quorum						
Executive Committee							
1	3.4a		President	Commissioner	Michael	Largent	Whitman
2	3.4a		1st Vice-President	Councilmember	Jamie	Stephens	San Juan
3	3.4a		2nd Vice-President	Commissioner	Mary	Kuney	Spokane
4	3.4b, 3.17.2		IP-President	Commissioner	Robert	Gelder	Kitsap
Board of Directors							
			Board Seat	Title	First Name	Last Name	County
5	3.4b		P-President	Commissioner	Scott	Hutsell	Lincoln
6	3.4b		P-President	Councilmember	Stephanie	Wright	Snohomish
7	3.4b		P-President	Commissioner	David	Sauter	Klickitat
8	3.4f	2,226,300	King County Executive	Executive	Dow	Constantine	King
9	3.4e 1	2,226,300	King County Council	Councilmember	Joe	McDermott	King
10	3.4e 2	888,300	Pierce County	Councilmember	Ryan	Mello	Pierce
11	3.4e 3	818,700	Snohomish County	Councilmember	Megan	Dunn	Snohomish
12	3.4e 4	515,250	Spokane County	Commissioner	Josh	Kerns	Spokane
13	3.4e 5	488,500	Clark County	Councilor	Eileen	Quiring O'Brien	Clark
14	3.4e 6	285,800	Thurston County	Commissioner	Tye	Menser	Thurston
15	3.4e 7	270,100	Kitsap County	Commissioner	Charlotte	Garrido	Kitsap
16	3.4e 8	255,950	Yakima County	Commissioner	LaDon	Linde	Yakima
17	3.4e 9	225,300	Whatcom	Executive	Satpal	Sidhu	Whatcom
18	3.4e 10	201,800	Benton	Commissioner	Will	McKay	Benton
19	3.4d 1		Eastern Region	Commissioner	Ron	Anderson	Yakima
20	3.4d 2		Eastern Region	Commissioner	Chris	Branch	Okanogan
21	3.4d 3		Eastern Region	Commissioner	Al	French	Spokane
22	3.4d 4		Eastern Region	Commissioner	Cory	Wright	Kittitas
23	3.4c 1		Western Region	Councilmember	Nate	Nehring	Snohomish
24	3.4c 2		Western Region	Councilmember	Kathy	Lambert	King
25	3.4c 3		Western Region	Commissioner	Janet	St. Clair	Island
26	3.4c 4		Western Region	Commissioner	Vicki	Raines	Grays Harbor
			Board Alternate Seat	Title	First Name	Last Name	County
1	3.4f	2,226,300	King County Executive	Councilmember	Reagan	Dunn	King
2	3.4e 1	2,226,300	King County Council	Councilmember	Vacant	Vacant	King
3	3.4e 2	888,300	Pierce County	Councilmember	Derek	Young	Pierce
4	3.4e 3	818,700	Snohomish County	Councilmember	Vacant	Vacant	Snohomish
5	3.4e 4	515,250	Spokane County	Commissioner	Vacant	Vacant	Spokane
6	3.4e 5	488,500	Clark County	Councilor	Temple	Lentz	Clark
7	3.4e 6	285,800	Thurston County	Commissioner	Gary	Edwards	Thurston
8	3.4e 7	270,100	Kitsap County	Commissioner	Vacant	Vacant	Kitsap
9	3.4e 8	255,950	Yakima County	Commissioner	Vacant	Vacant	Yakima
10	3.4e 9	225,300	Whatcom	Councilmember	Rud	Browne	Whatcom
11	3.4e 10	201,800	Benton	Commissioner	Jerome	Delvin	Benton
12	3.4d 1		Eastern Region	Commissioner	Chris	Seubert	Asotin
13	3.4d 2		Eastern Region	Commissioner	Wes	McCart	Stevens
14	3.4c 1		Western Region	Commissioner	Mark	Ozias	Clallam
15	3.4c 2		Western Region	Commissioner	Dennis	Weber	Cowlitz
Affiliate Presidents							
			Board Affiliates (Non-voting Mbrs)		First Name	Last Name	County
			ACCIS		Daniel	Key	City of Tacoma
			ACHS		Mari	Clark	Benton
			WACCCs		Julie	Kjorsvik	Kittitas
			WCAA		Mike	Thomas	San Juan
			WSACE		Scott	Lindblom	Thurston
			WSACRPD		Lynn	Deitrick	YVCOG
			WSALPHO		Astrid	Newell	Whatcom
			WSEMA		Chandra	Fox	Spokane
			WSUEXT		Carrie	Backman	Wahkiakum
			WACSWM	Co-Chair	Deb	Geiger	Spokane
				Co-Chair	Travis	Dutton	Clark



**WSAC BOARD OF DIRECTORS MEETING AGENDA &
WSAC BOARD OF DIRECTORS 2021 PLANNING MEETING**

The Davenport Grand Hotel
Spokane County
Spokane, Washington

Wednesday, May 5, 2021, 6:00 p.m. - 9:00 p.m.

WSAC Board of Directors Regular Meeting, Board Members, Alternates, Staff
No Food Service; Coffee and Water Available

Thursday, May 6, 2021, 8:30 a.m. - 5:00 p.m.

WSAC Board of Directors 2021 Planning Meeting; Board Members, Alternates, Staff

Friday, May 7, 2021, 8:30 a.m. - Noon

WSAC Board of Directors 2021 Planning Meeting; Board Members, Alternates, Staff

Virtual Zoom Meeting Option

Board of Directors Meeting | May 5, 2021

<https://wsac-org.zoom.us/meeting/register/tJwvdeGqpzwvHNFftli0eILakCghfWoAQfJu>

Board of Directors Planning Meeting | May 6-7, 2021

<https://wsac-org.zoom.us/meeting/register/tJUkc-yvqj4sH9fu-LL6v6tiu-4BBVMngZun>

TIME*	Encl.	PRESENTER(S)	AGENDA	TYPE
WEDNESDAY, MAY 5th				
6:00 p.m.		President Largent	No Food Service; coffee and water available CALL TO ORDER and Introductions Establish Quorum of the WSAC Board of Directors	
6:10 p.m.		Eric Johnson	1. Meeting and Agenda Review; Technology/Web-Based/Hybrid Meeting Protocols	
6:15 p.m.	√	President Largent	2. Approve Agenda	Action
	√	President Largent	3. APPROVE MINUTES: February 3, 2021	Action
		President Largent	4. President's Report and Recognitions	Report
LEGAL AFFAIRS				
6:20 p.m.	√	Eric Johnson Mellani McAleenan Paul Lawrence	5. Potential or Pending Litigation - Litigation Update - WSAC Legal and Litigation Process Overview Possible Executive Session - Complaint Overview - Legal Committee Recommendation	Report Possible Action

TIME*	Encl.	PRESENTER(S)	AGENDA	TYPE
			<ul style="list-style-type: none"> - Legislative Steering Committee Recommendation - Review Estimated Timeline and Budget - Discussion on Potential Litigation - Consideration of Litigation and Actions <p><i>Possible Action: Consider Litigation – Indigent Defense</i> Resolution: 2021-08</p> <p>Review of “Blake Decision” Litigation</p>	
	√	Mellani McAleenan	6. Amicus Update	Report
WSAC BUSINESS				
7:45 p.m.	√	Bridget Lockling Eric Johnson	7. 2020 Un-Audited Financials	Report
8:15 p.m.	√	Derek Anderson	8. Statewide Boards and Commissions <i>Actions: Consider Adopting Nominations and Appointments</i> Resolutions: 2021-09 ~ 2021-16	Action
8:30 p.m.	√	Eric Johnson	9. WSAC Comprehensive Policy Manual Amendment Part 1 – Member Travel, Record Keeping Requirements <i>Actions: Consider WSAC Comprehensive Policy Manual Amendment</i> Resolution: 2021-17	Action
STAFF REPORTS – PROVIDED IN WRITING				
	√	Eric Johnson	10. Executive Director	Report
	√	Bridget Lockling	11. Business and Finance	Report
	√	Derek Anderson	12. Communications and Member Services	Report
	√	Mellani McAleenan	13. Policy and Legislative	Report
OTHER BUSINESS				
8:45 p.m.		Commissioner Gelder Councilmember Wright Commissioner Weber Other Members	14. NACo Reports	Report
		President Largent	15. WSAC Board of Director Reports from activities on Statewide Boards and Commissions <i>Presentation by WSAC Board Members on Current Issues relating to Statewide Boards and Commissions they serve/represent WSAC on</i>	Report
		President Largent	16. Other Business	Report
9:00 p.m.		President Largent	MEETING RECESSED	

*Times are approximate only

THURSDAY, MAY 6th - WSAC Board of Directors 2021 Planning Meeting

7:30 a.m. – 8:30 a.m.			BREAKFAST PROVIDED	
8:30 a.m.		Eric Johnson	1. Welcome, Introductions, Overview	Discussion
		WSAC President Largent	2. Opening Remarks	Discussion
8:45 a.m.		Robin Read	3. Hopes & Expectations for the meeting	Presentation and Discussion
9:00 a.m.		Matt Chase Executive Director National Association of Counties	4. Integration: NACo and State Association Planning and Actions	Presentation and Discussion
10:00 a.m.			BREAK	
10:15 a.m.		Eric Johnson Robin Read	5. Context/History of WSAC Planning 6. Planning Process Overview & Outcomes 7. Vision, Mission, Values 8. Strategic Areas	Presentation and Discussion
Noon			LUNCH PROVIDED	
1:00 p.m.		Robin Read	9. Prioritization 10. Goal Statements	Presentation and Discussion
3:00 p.m.			BREAK	
3:15 p.m.		Robin Read Eric Johnson	11. Strategies 12. Next Steps 13. Debrief & Closing	Presentation and Discussion
4:30 p.m.			ADJOURN	

Dinner and evening on your own in Spokane County

FRIDAY, May 7th - WSAC Board of Directors 2021 Planning Meeting

7:30 a.m. – 8:30 a.m.			BREAKFAST PROVIDED	
8:30 a.m. - 10:00 a.m.		Robin Read	14. Review of Accomplishments 15. Vision, Mission, Values Check In 16. Action Planning	
10:00 a.m.			BREAK	
10:15 a.m.		Robin Read	17. Next Steps	
10:30 a.m.		President Largent	18. WSAC Board of Directors may Reconvene for Possible Action: • Consideration of Potential Strategic Goals/Actions	
11:15 a.m.		President Largent Eric Johnson	Wrap Up Closing Thoughts Adjourn	
11:30 a.m.			ADJOURN	

***Times are approximate only**



Next Meeting of the WSAC Board of Directors

Tentative

**Thursday, September 16, 2021, 8:30 a.m. – noon
Kittitas County**

Hal Holmes Community Center
201 Ruby St, Ellensburg, WA 98926

Washington State Association of Counties
MINUTES OF MEETING OF THE BOARD OF DIRECTORS

February 3, 2021

Opening

A regularly scheduled meeting (conducted via Zoom) of the Board of Directors of the Washington State Association of Counties (WSAC) held on Wednesday, February 3, 2021, starting at approximately 1:00 p.m. All directors and alternates were appropriately notified of the meeting, according to the Association Bylaws.

Board members present: President Michael Largent, 1st Vice President Jamie Stephens, 2nd Vice President Mary Kuney, Immediate Past President Robert Gelder, Past President Scott Hutsell, Past President Stephanie Wright, Past President David Sauter, Chris Branch, Rud Browne, Megan Dunn, Al French, Charlotte Garrido, Kathy Lambert, LaDon Linde, Wes McCart, Will McKay, Ryan Mello, Tye Menser, Nate Nehring, Mark Ozias, Eileen Quiring O'Brien, Vickie Raines, Janet St. Clair, Chris Seubert, Dennis Weber, Cory Wright, and Derek Young. A quorum was present.

Staff and others present: Eric Johnson, Mellani McAleenan, Bridget Lockling, Derek Anderson, Neil Aaland, Jason Bergquist, Jaime Bodden, Brynn Brady, Lynn Fiorillo-Lowe, Paul Jewell, Paul Lawrence, Mitch Netzer, Juliana Roe, Court Stanley, and Jane Wall

Other Attendees: Astrid Newell, Tom Baribault, Dan Barrett, Mari Clark, Kyle Cline, Parham Eftekhari, Scott Lindblom, Brandon Natsuhara, Mark Rasmussen, Joe Rulison, Court Stanley, Geoffrey Thomas, Mike Thomas, and Barbara Wyse

Call to Order and Approval of Agenda: The meeting was called to order at 12:00 p.m. It was moved by David Sauter, seconded by Vickie Raines, to approve the agenda as proposed. The motion passed.

Approval of Minutes of the previous meeting: It was moved by Robert Gelder and seconded by Scott Hutsell to approve the minutes as drafted. The motion carried to adopt the minutes of the November 16, 2020 meeting as drafted. The motion passed.

President's Report: President Largent thanked the WSAC members for their hard work and dedication during the COVID-19 challenge.

WSAC Business Actions

The Board announced an **EXECUTIVE SESSION**, in compliance with RCW 42.30. 110(1)(i), to discuss current and potential litigation at 1:12 p.m. for forty minutes. WSAC's legal counsel, Paul Lawrence, was present and provided updates. No decisions were made. The **EXECUTIVE SESSION** concluded at 1:57 p.m.

Mellani McAleenan updated the members on the current Amicus Brief requests (report included in board packet) that WSAC is involved. A handout is included in the board packet.

WSAC Conflict of Interest Policy Review: Bridget presented the background and content on WSAC's Conflict of Interest Policy.

Resolution #2021-01: A motion was made by Scott Hutsell and seconded by Chris Branch to approve Resolution #2021-01, which certifies that WSAC Board of Directors entitled to vote in accordance with the Association Bylaws, and Alternate Directors acting on behalf of a Director, have a duty to promptly disclose any direct or indirect financial or other material interest that he or she has or reasonably expects to have in any proposed or existing Arrangement with WSAC; and WSAC must inform Directors and Alternates that the Conflict of Interest Policy exists. The motion passed.

Appointment of Audit, Investment and Finance Committee: Bridget presented the new appointments for the Audit, Investment and Finance Committee recommended by President Largent.

Resolution #2021-02: A motion was made by Jamie Stephens and seconded by David Sauter to approve Resolution #2021-02, which supports the nominations of Todd Kimball, Brett Wachsmith, and Rud Browne to the Audit, Investment, and Finance Committee, their terms would expire December 31, 2023. The motion passed.

Washington State Association of Counties
MINUTES OF MEETING OF THE BOARD OF DIRECTORS

February 3, 2021

Statewide Boards and Commissions: Derek Anderson presented the State Boards and Commissions positions up for approval.

Resolution #2021-03: A vacancy on the County Road Administration Board population 30,000 – 150,000 exists. A motion was made by Vickie Raines and seconded by Chris Seubert to approve **Resolution #2021-03** to appoint Gary Stamper, Lewis County Commissioner to fill the County Road Administration population 30,000 – 150,000 position. The motion passed.

Resolution #2021-04: A motion was made by Kathy Lambert and seconded by Eileen Quiring O'Brien to approve **Resolution #2021-04** to appoint Megan Dunn, Snohomish County Council member, to the Puget Sound Salmon Recovery Council. Motion passed.

Resolution #2021-05: A motion was made by Eileen Quiring O'Brien, seconded by Mary Kuney, to approve **Resolution #2021-05** to nominate LaDon Linde, Yakima County Commissioner, to fill the vacancy on the Affordable Housing Advisory Board. The motion passed.

Resolution #2021-06: A vacant position on the State Board of Health. Marty Campbell, Pierce County Councilmember, Temple Lentz, Clark County Councilor, Amanda McKinney, Yakima County Commissioner, Lindsey Pollock, Lewis County Commissioner, and Greg Tompkins, Walla Walla County Commissioner, are seeking the appointment. Janet St. Clair made a motion, seconded by Jamie Stephens, to approve **Resolution #2021-06** and transmit the names to the Governor's Office. Motion passed.

Resolution #2021-07: A vacancy exists on the Community Economic Revitalization Board. Karen Bowerman, Clark County Councilor, Jim Nelson, Garfield County Commissioner, Kevin Shutt, Mason County Commissioner, Satpal Sidhu, Whatcom County Executive, and Mark Stedman, Lincoln County Commissioner, are seeking the nomination. A motion was made by Jamie Stephens, seconded by LaDon Linde, to approve **Resolution #2021-07** and transmit the names to the Office of the Director of Commerce for Washington State.

Reports

Member Reports & Staff Reports: Member and staff reports were made available in the board packet.

Closing

Next Meeting: The next meeting of the Board of Directors will be on Wednesday, May 5, 2021.

Adjourn: There being no further business, President Michael Largent adjourned the meeting at 5:06 p.m.

Respectfully submitted:

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President

ACTIVE

Unfunded Mandate – WSAC, Snohomish County, Kittitas County, Whitman County v. the State of Washington

This case challenges Senate Bill 5472 (Ballot Drop Box Bill) as a violation of RCW 43.135.060, Prohibition of new or expanded programs without full reimbursement.

- Legal action authorized by WSAC Board of Directors, November 13, 2018.
- Regular and ongoing briefings with the Washington State Association of County Auditors (WSACA), Washington Association of County Officials, and Washington Association of Prosecuting Attorneys (WAPA) on potential and pending litigation.
- Gary Rowe (WSAC Contractor) worked with County Auditors/Election Managers from all 39 counties regarding Ballot Drop Box installation costs, operation costs, claims filed. Cross-checked with data from the Secretary of State's Office.
- February 2019. Facilitated meeting with WSAC and WSACA leadership to discuss pending litigation. Briefed WSACA members during the 2019 session.
- WSAC Board/LSC briefed on May 8, 2019, regarding litigation options.
- Updated WSACA on June 10, 2019. October 2, 2019.
- Briefed WAPA on June 19, 2019. October 2, 2019. December 12, 2019. April 21, 2020. October 5, 2020.
- Complaint reviewed by selected County Auditors and Prosecuting Attorneys for feedback and comment
- Snohomish County, Whitman County, Kittitas County joined WSAC as co-plaintiffs.
- Highlighted claims made by other counties for unfunded mandate/ballot drop box expenses and denied by the State. Association will attempt to secure payment on behalf of those counties through standing in the case.
- Complaint filed in King County Superior Court on December 11, 2019.
- Media press release. Minimal coverage - <https://www.heraldnet.com/news/county-sues-state-to-recoup-costs-of-new-ballot-drop-boxes/>
- State response received
- Counsel and state are communicating on response, briefing schedule, discovery requirements, association standing, etc.
- Updated WACO Board of Trustees, March 5, 2020.
- Working on Schedule for Discovery/Trial – Both WSAC and State confirming financial/budget/expenditure information.
- Data gathering/fact-checking on county costs and claims information and data.
- Determining the effect of HB 2421 - Concerning state reimbursement of election costs, on the case. This will likely be the subject of the first court hearing.
- WSAC (Pacifica) submitted on August 14th, Motion for Partial Summary Judgment, declarations, and other materials.
- Pacifica working on updating claims and expenditures on Ballot Drop Box Installation and Operating Costs required by HB2421.
- King County Superior Court Judge Nelson K. H. Lee heard oral arguments on October 2, 2020.
- On October 14, 2020, Judge Lee ruled in a Partial Summary Judgement that SB 5472, which mandated County Auditors to significantly increase the number of ballot drop boxes statewide at an estimated capital cost of over one million dollars plus yearly operating and maintenance costs, **"is an unfunded mandate pursuant to RCW 43.135.060."**
- <https://www.seattletimes.com/opinion/editorials/ballot-drop-box-ruling-shows-legislature-must-accept-fiscal-reality/>
- <https://www.heraldnet.com/news/state-demanded-more-drop-boxes-and-now-it-must-pay-for-them/>
- Case schedule amended for remaining issues to be settled in King County Superior Court on April 19, 2021.

- The State sought discovery. Co-Plaintiff counties and counties who submitted claims included in our litigation have to produce information and provide responses.
- WSAC is reminding other counties to continue to submit claims for ballot box installation and operations to the State.
- The State appealed Summary Judgement directly to the State Supreme Court. WSAC brief opposed proceeding to the State Supreme Court but articulated the issues to consider if the Court accepted.
- On January 29, 2021, the Washington State Supreme Court granted the State's motion for discretionary review and retained the case for a decision on the merits.
- The State's brief is due June 14, 2021, and the WSAC brief is due July 14, 2021. The Court has not yet set an oral argument date, but it will likely be Fall 2021.

POTENTIAL LITIGATION

Indigent Defense

Potential legal action regarding the State's constitutional duty to provide trial court indigent defense funding.

- Pacifica Law Group conducted research and analysis regarding potential and likely claims – statutory and constitutional.
- WSAC filed Amicus Brief on a case that asks if the State of Washington or the Washington State Office of Public Defense has an actionable duty to cure claimed systemic and significant deficiencies in a county's provision of indigent defense services to juveniles charged with criminal offenses. (Davison v. State of Washington and Washington State Office of Public Defense Supreme Court, No. 96766-1)
 - In 2017, the plaintiff, supported by the ACLU, sued the state, alleging Grays Harbor County systemically failed to provide a constitutionally adequate indigent juvenile defense. Grays Harbor County was not named as a party to the suit. Davison asked the Thurston County Superior Court to declare that the State and OPD have a duty to act when they become aware of a systemic failure by a county to provide a constitutionally adequate indigent juvenile defense.
 - The trial court ruled that the State has a duty to act if it knows of a county's systemic failure to provide constitutionally adequate indigent juvenile defense, without regard to whether the county could more appropriately remedy the problem itself.
 - The State filed a motion for direct review to the Supreme Court on January 28, 2019, and the Court accepted review.
 - Formal request by the Grays Harbor Board of County Commissioners for WSAC to submit an Amicus Curiae Brief.
 - The WSAC Executive Committee approved amicus involvement on April 7, 2019.
 - The Pacific Law Group, on behalf of WSAC, submitted Amicus Curiae Brief on September 27, 2019:
 - The State of Washington has an *Affirmative Constitutional Duty* to assure adequacy of Indigent Defense.
 - Who (State or County) has the responsibility to fund indigent defense is not properly before the court and should not be ruled upon.
 - Oral arguments occurred on November 12, 2019, before the Washington State Supreme Court.

- Supreme Court Ruling 6/25/20 - <https://www.courts.wa.gov/opinions/pdf/967661.pdf>
- Washington Supreme Court confirmed that ultimately the State bears the duty to provide indigent defense services as required under the U.S. and Washington Constitutions. While the State has the discretion to delegate to local governments responsible for providing these services, *in so doing, the State must provide local governments with the authority and means necessary to furnish constitutionally adequate indigent defense*. The Court remanded for consideration of whether the systemic and structural deficiencies in the current state system, as alleged by the plaintiffs and described in WSAC's amicus brief, violate the State's constitutional duties.
- Plaintiff sought Supreme Court Re-Consideration.
- WSAC prepared Amicus Brief to support Re-Consideration.
- Supreme Court asked the State to respond to the request for reconsideration (9/1/2020).
- Supreme Court denied reconsideration on 10/20/2020.
- Reviewing potential concurrent or subsequent legal actions.
- WSAC initiated work on data gathering associated with indigent defense and county expenditures, systems of delivery, county revenues and expenditures, etc.
- WSAC staff will reach out to secure points of contact for each County regarding this potential litigation as necessary.
- WSAC staff established data/information steering committee with county budget and policy staff.
- WSAC contractor established indigent defense data set and dashboard for Counsel to refer to.
- WSAC exploring/identify potential co-plaintiffs as part of potential litigation, including individual counties.
- WSAC Counsel working on indigent defense complaint.
- WSAC is doing a political and environmental scan on filing complaint – and timing.
- WSAC will need to consider intervening in Davison v. State of Washington and Washington State Office of Public Defense Supreme Court, No. 96766-1 on remand in Thurston County Superior Court should it proceed.
- WSAC Legal Committee and Legislative Steering Committee have both met to consider potential litigation. Both Committees recommend the following to the WSAC Board of Directors:
 - There are merits and reasonable grounds to support a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services; and
 - The WSAC Legislative Steering Committee and the Board of Directors should consider, respectively, recommending and authorizing a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services.

CLOSED LITIGATION

Spokane County - Spokane County, et al v. State of Washington 19-2-00934-32

This case challenged the constitutionality of Senate House Bill 2887 (2018), requiring Spokane County to elect a five-member, by district, Board of County Commissioners. WSAC alleged that this legislation violated the uniformity clause of Article XI of the Washington State Constitution and created a precedent for the legislature to impose different requirements on different counties.

- Legal action authorized by WSAC Board of Directors, November 13, 2018.
- Attorney General Ferguson declined our request to "Investigate and Institute Legal Proceedings on the Unconstitutionality of Senate House Bill 2887".
- WSAC filed a complaint for Summary Judgment in Spokane County Superior Court on February 26, 2019, that the imposition of differing systems of government violates the Constitution's uniformity requirements. Const. art. XI, §§ 4, 5; art. II, § 28.
- Plaintiffs were Washington State Association of Counties, Spokane County, Al French, and John Roskelley (former Spokane County Commissioner).
- Communication activities:
 - Spokane County contract lobbyist Mike Burgess and Eric Johnson met with most Spokane area Legislators;

- Eric Johnson, President Hutsell, and Spokane County Commissioner Kuney met with local media;
 - Communicated to WSAC Members.
- State's response to complaint submitted March 11th.
- WSAC Motion for Summary Judgment submitted April 26, 2019.
- State Response Submitted May 13, 2019.
- WSAC Response Submitted May 20, 2019.
- Hearing and oral arguments heard by Spokane County Superior Court Judge Maryann Moreno on Friday, May 31, 2019.
- Judge Moreno's ruled on August 16, 2019, in favor of the State, stating that she is "*not convinced that SHB 2887 violates the Washington State Constitution. I am not satisfied that the County has met the burden of proof beyond a reasonable doubt.*"
- WSAC Board of Directors authorized direct appeal to the Washington Supreme Court, September 20, 2019.
- Spokane County, WSAC, and Co-Plaintiffs filed Notice of Appeal to the Washington Supreme Court on September 26, 2019.
- State concurred with direct appeal to the Supreme Court.
- Counsel submitted Spokane/WSAC's brief to the Supreme Court.
- Washington State Supreme Court accepted the case on direct appeal.
- Oral Arguments occurred on June 25th:
 - <https://www.tvw.org/watch/?clientID=9375922947&eventID=2020061173&startStreamAt=38>
- On August 20, 2020, the Washington Supreme Court ruled that:
 - "We hold that SHB 2887 is constitutional under article XI, sections 4 and 5. Under article XI, section 4, SHB 2887 properly sets forth a "uniform system" such that any non-charter county that exceeds 400,000 people in population will be subjected to SHB 2887's requirements. Further, under article XI, section 5, the legislature may classify counties by population for any purpose that does not violate other constitutional provisions, and SHB 2887 is a general law that properly implements district-only elections for noncharter counties of a certain size."

Attorney General Opinion – Appointment to Vacant State Legislative Position

- Pacifica Law Group developed an analysis of AGO Opinion 1985-01 (as well as other AGOs spanning a period of 1965-1987), which opines that a sitting county commissioner (council member) cannot be appointed to a vacancy in the legislature.
- Pacifica Law Group analysis found that “under the Washington State Constitution and state law, a sitting county commissioner or councilmember should be eligible to be appointed to a vacant state legislative position.”
- February 22, 2019 – WSAC Legal Committee reviewed the Pacifica Law Group legal analysis and agreed to reach out to Skagit County Prosecuting Attorney Rich Wyrich, asking him to seek a new AGO on the issue.
- Both San Juan County Prosecuting Attorney Randy Gaylord and Whatcom County Prosecuting Attorney Eric Richey sought an AGO in April 2019.
- AGO accepted Prosecutor Richey’s request - <https://www.atg.wa.gov/pending-attorney-generals-opinions#richey>.
- Pacifica updated the original analysis and provided it to the Office of the Attorney General on behalf of WSAC.
- AGO issued an opinion consistent with WSAC position - <https://wsac.org/ago-rules-on-county-appointment-procedures/>

Washington State Auditor’s Office - .09 Rural Economic Development Uses

RCW 82.14.370 authorizes “rural” counties to impose a sales and use tax up to 0.09 percent for specific purposes, provided certain statutory criteria. WSAC (Pacifica) prepared an opinion on behalf of Benton County, Washington State Association of Counties, and Washington Public Ports Association (WPPA), to address concerns raised by the State Auditor’s Office (SAO) regarding county distribution of revenues received under RCW 82.14.370 directly to port districts to (1) finance certain port facilities and/or (2) finance certain port district personnel.

The SAO believes counties may be barred from distributing revenues collected under RCW 82.14.370 directly to port districts for qualifying projects. Specifically, the SAO contends:

Under RCW 82.14.370, Counties can use these monies to finance public facilities serving economic development purposes; however, we don’t see where transferring the money directly to the ports is an allowable use. Ports do not have the authority to collect these types of tax revenues and therefore cannot receive the funds directly; however, the County can finance the projects as described in the RCW.

WSAC put forth a legal analysis based on the plain language of the statute, its legislative history, Attorney General Opinions, prior SAO treatment of direct funding schemes under the statute, and actual county practice -- direct county distribution to port districts for port facilities and personnel that otherwise meet the statutory criteria for funding is permissible under RCW 82.14.370.

May 5, 2021

TO: WSAC Board of Directors and Alternates

FROM: Eric Johnson, Executive Director

SUBJECT: WSAC Legal Committee and Legislative Steering Committee Recommendation – Indigent Defense

WSAC Legal Committee and Legislative Steering Committee Recommendation

The Washington State Association of Counties' (WSAC) Legal Committee and Legislative Steering Committee (LSC) met independently to consider potential indigent defense litigation.

Both Committees recommend the following to the WSAC Board of Directors:

- There are merits and reasonable grounds to support a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services; and
- The WSAC Legislative Steering Committee and the Board of Directors should consider recommending and authorizing a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services.

Background

In 2018 (2019 update attached), the WSAC Board of Directors established a decision-making process to determine engagement in legal activities and litigation. To initiate litigation activities such as that being considered, a three-step process is set forth by policy as follows:

1. The Legal Committee will evaluate, review, and make recommendations;
2. The LSC will consider the Legal Committee's recommendations. The LSC may modify, recommend, alter, or change said recommendations to provide to the WSAC Board of Directors; and
3. The WSAC Board of Directors will review all recommendations, analysis, and information and make the final decision whether to pursue legal activities.

Legal Committee

The WSAC Legal Committee met on Thursday, March 25, 2021, to consider potential litigation.

The WSAC Legal Committee is currently comprised of the following:

- The Honorable Michael Largent, Commissioner, Whitman County
- The Honorable Jamie Stephens, Councilmember, San Juan County
- The Honorable David Sauter, Commissioner, Klickitat County
- The Honorable Scott Hutsell, Commissioner, Lincoln County (Absent)
- The Honorable Mary Kuney, Commissioner, Spokane County (Absent)
- The Honorable Derek Young, Councilmember, Pierce County
- The Honorable Rob Gelder, Commissioner, Kitsap County
- The Honorable Janet St. Clair, Commissioner, Island County
- The Honorable Jon Tunheim, Thurston County Prosecuting Attorney
- The Honorable Greg Zempel, Kittitas County Prosecuting Attorney (Absent)
- Kevin Wright, Chief Civil Deputy, King County
- Ryan Brown, Chief Civil Deputy, Benton County

Ex-Officio

- The Honorable Timothy Fitzgerald, Clerk of Superior Court, Spokane County
- The Honorable Thad Duvall, Auditor, Douglas County
- Mr. Derek Bryan, WCRP Executive Director (Absent)
- Mr. Russ Brown, WAPA Executive Director

The WSAC Legal Committee reviewed WSAC's Integrated Strategic Legal Activities, Advocacy and Communication Program Policy decision-making process in addition to a briefing from WSAC's legal counsel, Pacifica Law Group, on the potential legal challenge to the State's unfunded delegation of indigent defense duties to counties.

Legislative Steering Committee

On April 16, 2021, the LSC met to review the recommendation from the WSAC Legal Committee. The LSC:

- Reviewed WSAC's Integrated Strategic Legal Activities, Advocacy and Communication Program Policy decision-making process;
- Received a briefing from WSAC's legal counsel, Pacifica Law Group, on the potential legal challenge to the State's unfunded delegation of indigent defense duties to counties;
- Received and reviewed the WSAC Legal Committee findings and recommendations; and
- Reviewed a preliminary draft timeline and budget.

Following deliberation and consideration, the LSC unanimously supported the Legal Committee's recommendation that the WSAC Board of Directors proceed with a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services.

On Friday, April 16, 2021, the LSC voted unanimously to recommend the WSAC Board of Directors proceed on a legal challenge to require the State to fully fund constitutionally required trial court level indigent defense services.

WSAC Board of Directors

WSAC Policy requires notification to WSAC members prior to consideration by the WSAC Board of Directors of possible litigation. WSAC members were provided notice that the WSAC Board of Directors would be considering this potential litigation action and that it is on the draft agenda for the Wednesday, May 5, 2021, WSAC's Board of Directors Regular Meeting.

The issue of potential litigation is properly placed before the WSAC Board of Directors.

The following items are attached for review:

1. WSAC Policy – Part 12 – Integrated Strategic Legal Activities, Advocacy and Communication Program Policy;
2. Pacifica Law Group Legal Analysis;
3. WSAC Legal Committee Recommendation; and
4. Preliminary Litigation Schedule and Budget Estimate.

Conclusion

Legal Committee and LSC members openly discussed and recognized a myriad of factors and layers in making a prudent decision to proceed with litigation. Committee members cautiously and judiciously focused on the legal merits, the risks, political implications, public relations and appearance issues, fiduciary and budget concerns, and other potential consequences – both identified and unexpected.

Both committees recommend that the WSAC Board of Directors proceed in authorizing litigation to require the State to fully fund constitutionally required trial level indigent defense services and that the disparities created by the State in the current system improperly violates the fundamental rights of indigent defendants.

Part 12 –Integrated Strategic Legal Activities, Advocacy, and Communication Program Policy

Purpose

It is the intent of the Association to implement a prudent, judicious, and integrated approach to legislative advocacy, communication, and legal activities. Communications and the use of legal actions are meant to be used as tools to advance the WSAC policy agenda in coordination with legislative advocacy strategies and actions.

As an organization, WSAC believes that legal actions should be used sparingly and as a last resort. WSAC Members and our affiliate organizations desire to develop and maintain positive, collaborative, and respectful partnerships with organizations we conduct business with, in particular our important partnership with Washington State legislature and executive branch agencies. We commit to building, cultivating, and strengthening these relationships.

For county elected and appointed officials to carry out their constitutional and statutory duties and assure that state policy is effectively implemented, they simply must have adequate resources to do so. County elected and appointed officials must work with the legislature and agencies to assure adequate resources are available. As currently constructed, counties cannot currently deliver essential programs and services because flaws in the county finance structure make counties fiscally unsustainable. Further, the legislature continually requires counties to pay for and deliver new or expanded state required programs and services without providing money to do so, a clear violation of RCW 43.135.060, and routinely reduce county revenues through legislation and/or administrative rule making.

The WSAC Board of Directors intends to assure that the Association has a complete set of tools available to support and advance Association policy objectives. Our actions and resources will be utilized in an integrated, interwoven approach including government relations, communications, and where appropriate legal actions. These strategies and techniques include:

Government Relations

- Develop and Maintain Relationships with Legislators, Governor's Office and Executive Branch Agencies, and Independently Elected State Officials;
- Collaboration with Partner Organizations;
- Annual Adoption and Advocacy to Advance a WSAC Legislative Agenda;
- Regularly Update and Maintain WSAC Policy Statement;
- Support WSAC Legislative Steering Committee Activities.

Communications

- Communications and Public Education that Support Policy Objectives;
- Educational Efforts Explaining Issues Facing County Government;
- Brand Awareness;
- Public Education;
- Issue Specific Information;
- Conduct Public Opinion Research to Develop Key Messages for Communications Work;
- Internal Membership Communication.

Legal Actions

- Maintain a Unified Legal Strategy to Advance Organizational Policy Objectives;
- Confer with Counties Regarding Pending Litigation;
- Submit Amici Curiae Briefs consistent with *WSAC Amicus Brief Policy and Process*;
- Intervene in Cases Before the Courts as Appropriate;
- Coordinate Litigation with Counties and Partners;
- Seek Formal and Informal Attorney General Opinions;
- Pursue “Friendly Lawsuits” with Other Parties to seek Judicial Recognition of a Settlement to the Issue or Conflict;
- Conduct Research and Analysis Around Potential Litigation, Causes of Action and Strategies;
- Initiate Litigation as a Plaintiff.

Legal Action Process Phases

To incorporate litigation as a tool for achieving its policy objectives, WSAC will utilize a four-tiered structure:

Legal Committee

WSAC will utilize its Legal Committee for vetting ideas and requests for WSAC legal action, and to develop, screen, and make recommendations about potential issues and strategies associated with potential litigation. Initial vetting shall be done to assure that any proposed litigation or legal request for consideration and analysis is consistent with the goal that our government relations, communication, and legal activities are completely harmonized and integrated.

The Legal Committee shall make recommendations for legal action based on the criteria herein. Each recommendation shall include a proposed budget, likely timeline, and may include any dissenting points of view on the merits of a particular course of action, and any recommendations for the Executive Board to consider for members of a case management committee if the Board of Directors approves legal activities.

Legal Committee, as appointed by the WSAC Executive Committee, shall consist of:

- Four members from the WSAC Board of Directors, two from eastern Washington, and two from western Washington. At least two of the members must be members of the WSAC Legislative Steering Committee;
- Four members representing WAPA, two from eastern Washington, and two from western Washington. Two of which shall be Chief Civil Deputies;
- The WSAC President and Vice-President;
- Two members representing separately elected county officials serving as ex-officio, non-voting members;
- An ex-officio member from the Washington Counties Risk Pool staff;
- The Legal Committee may invite the ex-officio participation of other attorneys, county staff, or partner organizations as is deemed appropriate.

In developing their recommendation the Legal Committee shall, as appropriate:

- Communicate with the Washington Association of County Officials (WACO), affiliates representing independently elected or appointed officials as appropriate, or other partner organizations during the development and screening of potential legal action, and should:
 - Include a clear explanation that WSAC is considering potential legal action.
 - Seek fiscal or other impacts of any potential case on their offices.
- WSAC members should seek the views of the other elected officials in their counties but are not required to do so.
- Seek input and advice from the Washington Association of Prosecuting Attorneys (WAPA) on case development and screening.

Legislative Steering Committee

- As provided for herein, the Legislative Steering Committee (LSC) shall review the Legal Committee's recommendation for the following two legal actions:
 - Where WSAC will formally request to intervene in cases before the courts as appropriate;
 - Where WSAC will initiate litigation proceedings as the Plaintiff.
- LSC may modify, recommend, alter, or change the recommendation from the Legal Committee.
- Any proposed legal action must receive a 2/3 affirmative vote of those present for the LSC to recommend proceeding with legal action to the Board of Directors.
- Shall provide, to the Board of Directors, a recommendation that shall include a summary of any views differing from the majority.

Board of Directors

- A legal action recommendation from the LSC may not be voted upon by the Board of Directors without a minimum 10 day notification to WSAC members;
- WSAC Board of Directors may modify, recommend, alter, or change the recommendation from the Legal Committee or the Legislative Steering Committee;
- Unless otherwise provided for herein, the WSAC Board of Directors shall make the final decision on pursuing legal activities;
- The WSAC Board shall retain settlement authority, unless otherwise delegated to executive committee with a set of sideboards defining an acceptable settlement;
- Participation in Amicus Curiae shall remain consistent with *WSAC Amicus Brief Policy and Process*; The Board may direct staff to serve as a coordinator or facilitator of legal action taken by one or more WSAC members to which WSAC itself is not a party;
- The WSAC Board of Directors, under limited time sensitive conditions, delegates legal action decision making to the Executive Committee.

Case Management Committee

For the following legal actions, the Executive Committee shall appoint a Case Management Committee:

- Where WSAC has intervened in cases before the courts as appropriate;
- Where WSAC has initiated litigation proceedings as the Plaintiff.

WSAC may invite participation from partner organizations, and affiliates or members as appropriate to the subject matter of the case.

Each specific Case Management Committee appointed by the Executive Committee shall be responsible for engaging with legal counsel, receiving regular reports on the case, discussing case strategy and advise on managing individual case legal action.

Communications within WSAC during Litigation

- The Case Management Committee shall be responsible for engaging with legal counsel, receiving regular reports, and discussing strategy.
- The WSAC Board shall receive updates at Regular and/or Special Board meetings in executive session, with budget information.
- WSAC membership shall receive regular process updates without any confidential information (for example, information that is already subject to the Public Records Act such as schedule, timing and court actions, briefs filed, etc.), to protect attorney-client privileged information while keeping members informed.
- WSAC staff shall continue to educate members on how legal action informs overall WSAC objectives through routine communication and will consider using WSAC website to disseminate and maintain available information regarding each case.
- Communication with WSAC Members will be as open and transparent as possible while protecting attorney client privileged communication as necessary

Legal Action Criteria and Evaluation

The Legal Committee, as supported by WSAC Staff or outside counsel, shall thoroughly vet all potential options for legal action, utilizing evaluation and criteria described herein to develop and provide information and a recommendation to the LSC and, the Board of Directors as appropriate, by following the guidelines below for their review when considering legal action.

The set of evaluation questions, criteria and decision making process may be different for six possible legal or litigation applications:

Recommendation of the Legal Committee to be submitted to the WSAC Board of Directors or as delegated to the WSAC Executive Committee:

- Submit Amici Curiae Briefs – consistent with *WSAC Amicus Brief Policy and Process*;
- Coordinate litigation with counties and partners (but not have WSAC intervene on its own behalf)
- Seek formal and informal Attorney General Opinions

- Proceed with friendly lawsuits with other parties to seek judicial recognition of a settlement to the issue or conflict

Recommendation of the Legal Committee to be submitted directly to the WSAC Legislative Steering Committee to execute legal action decision making procedure as described herein:

- Intervene in cases before the courts as appropriate
- Initiate litigation proceedings

It is recognized that WSAC has a significant interest in many legal issues, but shall use any legal actions in a prudent and judicious manner. WSAC desires to identify legal issues and arguments that recognize that counties have unique and identifiable authorities and powers as defined by the state constitution, statutes, and regulations.

WSAC's primary legal interest is to assure counties have the resources and ability to deliver high-quality public services that are required by our constitution, statutes, administrative rules or our citizens. It is clear that counties cannot currently meet this goal because flaws in the county finance structure make counties fiscally unsustainable. In general, WSAC shall focus its legal actions on the following:

- Instances that relate to county structure;
- Organic powers;
- Fiscal impacts affecting long term fiscal sustainability;
- Pre-emption of authorities;
- Unfunded mandates.

The WSAC Legal Committee shall consider and provide analysis regarding three broad evaluative criteria:

- Legal issues;
- Communications and public relations;
- Case management and administration.

The Legal Committee shall consider, at a minimum, the following questions in developing their recommendation:

Legal Issues

- Do we understand the current case law?
- Do the facts support a good case? Will the case provide an answer and some certainty, irrespective of whether we prevail?
- What is our analysis of the public policy issues involved in the case?
- Can we shape the argument around which aspects of the case will we pursue?
- Do we understand the facts and law the opponents will use?

Communications and Public Relations

- Understand public opinion on the issue – what will the public perception be on the case specifically and the general, larger narrative around the function of government?
- Can we succinctly explain why WSAC is pursuing legal activities?
- How will legislators react and respond to the case?

- Have we fully considered the consequences of the case beyond the obvious initial impacts?
- Are there relevant examples and personal encounters, individual county stories, or case studies that we can use to strengthen the public relations narrative?
- What internal stories do our members have to assist us with public relations?

Case Management and Administration

- What is the likelihood of success?
- What are consequences of winning and losing?
- Is this case a candidate for an alternative to litigation, i.e., Attorney General Opinion?
- Who are our allies and our opponents? Can we expect them to join or oppose in the case?
- Coordination, friendly lawsuit simply to settle the law?
- What does success look like, both short and long term?
- Is this case supportive of our long term strategy?
- What parameters would we be comfortable settling on?
- What are the potential or likely discovery or public records request requirements?
- Is our current general counsel or outside counsel adequate to proceed or do we need to consider alternative counsel/approach?
- Can we avoid losing attorney's fees?
- What the likelihood of opposition within the county family – and who and why?
- Do we have the financial and human resources to follow the case to its conclusion?
- Have we tried other strategies to resolve the issue?
- Have we thought through the entire arc of the case (e.g. are we trying to settle, or go to Supreme Court)?

Legal Committee Recommendation

The Legal Committee recommendation shall be accompanied by the following information:

- 1) A brief summary of issues and findings associated with the proposed action:
 - a. Legal Issues
 - b. Communications and Public Relations
 - c. Case Management and Administration
- 2) Case history and current status if applicable;
- 3) Probably timeline and schedule;
- 4) A concise and brief statement of the issue or issues on which argument is desired;
- 5) A brief and succinct statement as to whether and how the decision will broadly affect Washington counties;
- 6) State in particular how the results sought would be of benefit to the counties;
- 7) Is there any county that is, or might be, party on the other side of the case and/or that would oppose or would be expected to oppose WSAC's participation in this legal activity? Are there members of the Legal Committee that have a differing view than the majority of members? If yes, please list, and state the known or anticipated bases for opposition.

MEMORANDUM

TO: Washington State Association of Counties

FROM: Pacifica Law Group LLP

DATE: March 22, 2021

SUBJECT: Legal Challenge to State Delegation of Indigent Defense Duties to Counties

ATTORNEY PRIVILEGED & CONFIDENTIAL WORK PRODUCT

I. EXECUTIVE SUMMARY

Washington is one of a minority of states where trial court indigent defense services are administered and largely funded by counties, with minimal funding from the State. Because counties historically provided funding for county superior courts, after the U.S. Supreme Court's decision in *Gideon v. Wainwright*¹, the State determined not to provide funding to counties to meet the State's obligation to provide indigent criminal defense services.

County expenditures for indigent defense costs have increased exponentially in recent years. The resulting strain on county budgets is forcing counties to make difficult decisions and cut funding for other important county services. County-level funding and administration also has led to inequities in the provision of services in counties across Washington. Meanwhile, the Legislature repeatedly has rejected proposals by the Washington State Association of Counties (WSAC) and others to fund trial court indigent defense costs or ease the financial strain by other means. Given this untenable situation, WSAC asked us to evaluate potential grounds for a lawsuit challenging the current system of funding indigent defense services in Washington.

Based on our analysis, we believe counties have reasonable grounds to challenge the State's indigent defense system. In 2020, the Washington Supreme Court held that while the Legislature has discretion to delegate to counties responsibility for the provision of indigent defense services, the State retains the ultimate duty for providing a statutory scheme that sufficiently safeguards the constitutional right to counsel. The Court explained that if plaintiffs (there, indigent juvenile defendants) could prove that the existing scheme fails to provide counties across Washington with the means necessary to provide constitutionally adequate services, they would be entitled to relief from the State. Although it may be an uphill battle, we believe that counties—together with other allies—may be able to make this showing. Below, we provide an overview of the State's indigent defense scheme, analyze potential legal claims, and provide a high-level assessment of litigation against the State.

¹ 372 U.S. 335 (1963).

II. BACKGROUND

A. County Indigent Defense Costs Have Grown Exponentially.

Under current Washington law, indigent defense at the trial court level is carried out and funded almost exclusively by counties. Counties pay over 96 percent of the cost of trial court indigent defense, amounting to more than \$150 million annually in recent years.² Counties use a variety of public defense systems to deliver services, including county-based public defense offices; county contracts with private attorneys monitored by county employees specializing in public defense; and county contracts with private attorneys without specialized oversight.

Unlike many states, Washington has no statewide agency overseeing the effectiveness of trial level indigent defense services. Nor has the Legislature itself adopted any standards governing the provision of these services. Instead, the Legislature delegated responsibility to the counties to adopt local standards.³ Further, in 2012, the Washington Supreme Court promulgated Standards for Indigent Defense pursuant to its rulemaking authority. Among other things, the Standards establish caseload limits for public defense attorneys that are intended to ensure effective representation.

Since the Court's adoption of the 2012 Standards, the cost of indigent defense services has grown exponentially, while state funding has remained about the same.⁴ Other factors contributing to increased county indigent defense expenditures include population growth and inflation, as well as local improvements to indigent defense services made in light of recent court decisions holding local governments liable for systemic flaws that deprived indigent defendants of their right to assistance of counsel and imposing substantial attorney fee liability.⁵

B. County Revenue Sources Are Insufficient to Fund Indigent Defense Services, in Addition to Other County Functions.

Counties lack regular and dependable sources of funding for trial court indigent defense. Counties must be authorized by the Legislature to impose local taxes. Yet, the Legislature has not established a dedicated funding source for counties to pay for indigent defense services. As a result, counties rely primarily on unrestricted local tax revenues to pay for such services.

Counties' primary unrestricted tax revenue source is the general property tax. However, the Legislature has imposed a 1 percent growth cap on the general property tax. Due to this cap, property tax revenue grows at a rate significantly lower than the rate of increase in the cost of providing critical county services, including indigent defense. Other county revenue sources require voter approval, meaning any revenue available from those sources is subject to the

² Although the State provides counties with limited trial court indigent defense funds for specific purposes, this funding is unreliable and inadequate, only covering about 4 percent of total expenditures.

³ RCW 10.101.030.

⁴ For example, counties' public defense costs increased from about \$110 million in 2012 to \$150 million in 2018—an accumulated growth rate of more than 45 percent. State funding only increased from \$5.6 million in 2012 to \$5.8 million in 2018—an accumulated growth rate of only 3.6 percent.

⁵ See, e.g., *Wilbur v. City of Mount Vernon*, 989 F. Supp. 2d 1122 (W.D. Wash. 2013).

whims of the electorate, and/or are statutorily restricted to certain purposes (e.g., county road levy, affordable housing levy).

In addition to providing indigent defense services, Washington counties must perform numerous other essential public services for their residents. Many of these essential services lack any dedicated funding source and, thus, must also be paid for from unrestricted local tax revenues. These include expenditures related to public health, elections, and law and justice other than indigent defense (e.g., jails, courts, law enforcement, prosecution). In balancing county budgets, elected officials are often forced to choose between keeping up with growing indigent defense costs or maintaining other essential public health and safety programs and services.

C. The State's System of Funding Indigent Defense Has Resulted in Inequities in the Level of Justice That Counties Can Afford to Provide Across Washington, but the Legislature Has Ignored Repeated Calls for Reform.

Because the State leaves counties to shoulder the financial costs of providing indigent defense services, the resources available for defense functions such as representation and investigation vary across county lines. These variations result from disparities in counties' tax bases, uneven state funding, and differences between counties in the prioritization and use of funds.⁶ Oversight of indigent defense counsel also varies by county, as do pay rates for indigent defense counsel (even accounting for differences in delivery model).

Over the past several decades, numerous reports and studies have found systemic and structural deficiencies in the State's indigent defense system and recommended that the State fund these services. Bills have been introduced in the Legislature—including several proposed or sponsored by WSAC—that would have required the State to partially or fully fund trial court indigent defense. To date, the Legislature has failed to act, leaving counties to bear this burden without any stable, dependable, and regular revenue source.

III. ANALYSIS

A. The State Has Violated Its Constitutional Duty to Provide Constitutionally Adequate Indigent Public Defense.

The right to effective assistance of counsel is guaranteed by the U.S. and Washington Constitutions.⁷ Both the U.S. and Washington Supreme Courts have acknowledged that the State must provide counsel for indigent defendants who cannot afford to hire a lawyer to represent them.⁸ This right to counsel requires the appointment of effective counsel with the opportunity and resources necessary to contest the criminal charges in a meaningful way, with the ultimate purpose of providing all criminal defendants—regardless of indigent status—with a fair trial.⁹

⁶ For example, in 2018, county spending per case ranged from \$372 per case in Asotin County to \$3,914 per case in King County.

⁷ U.S. Const. amend. VI, XIV; Wash. Const. art. I, §§ 3, 12, 22.

⁸ *Gideon v. Wainwright*, 372 U.S. 335, 342-45 (1963); *Davison v. State*, 196 Wn.2d 285, 293 (2020).

⁹ *See Powell v. Alabama*, 287 U.S. 45, 58-59, 71-72 (1932); *State v. A.N.J.*, 168 Wn.2d 91, 97-98 (2010).

In 2020, the Washington Supreme Court confirmed that “the State bears responsibility to enact a statutory scheme under which local governments can adequately fund and administer a system of indigent public defense.”¹⁰ In *Davison*, indigent juvenile defendants in Grays Harbor County sued the State (but not the county) based on alleged egregious systemic failures in the juvenile indigent public defense system. The Court held that the State’s knowledge of these deficiencies was not sufficient to support state liability. However, the Court also articulated a pathway to challenge the adequacy of the State’s system, explaining that claims “alleging systemic, structural deficiencies in the state system of public defense remain viable.”¹¹ To prevail on such a claim, the Court explained that plaintiffs “must show that the current statutory scheme systemically fails to provide local governments, across Washington, with the authority and means necessary to furnish constitutionally adequate indigent public defense services.”¹²

Here, the State has delegated responsibility for trial court indigent defense to counties, but arguably has failed and continues to fail to furnish counties with the stable, dependable, and regular state funding necessary to provide constitutionally adequate and uniform defense services to indigent criminal defendants across the state. As summarized above, the current scheme forces counties to choose between providing constitutionally adequate indigent defense services and maintaining other critical county services, creates significant disparities in the quality of representation based on no factor other than indigency and/or geography, and undermines the fairness of Washington’s criminal justice system.

The issues here are similar to the State’s previous improper reliance on local special levies to pay for public school operations, which the Washington Supreme Court held violated the State’s paramount duty to provide regular and dependable basic education funding.¹³ Like local school levies, the county-based indigent defense system improperly leaves defendants’ fundamental constitutional rights to “the whim of the electorate” and “practical politics, rather than need....”¹⁴ If anything, the concerns are even greater for fundamental rights of criminal defendants, who are politically disfavored and often disenfranchised.

B. The State’s Indigent Defense System Arguably Violates Equal Protection.

The State’s indigent defense system also arguably violates the Equal Protection Clause.¹⁵ Strict scrutiny applies to laws that infringe upon a fundamental right (i.e., infringement must be narrowly tailored to serve a compelling state interest). Based on early U.S. Supreme Court

¹⁰ *Davison*, 196 Wn.2d at 289.

¹¹ *Id.*

¹² *Id.* at 300-01.

¹³ *Seattle Sch. Dist. No. 1 of King Cty. v. State*, 90 Wn.2d 476, 524-26 (1978). In so holding, the Court emphasized that the Washington Constitution specifically makes basic education funding the State’s paramount duty. *Id.* at 523. While there is no similar constitutional mandate for funding indigent defense services, the “constitutional right to effective counsel is a cornerstone of ‘any meaningful modern concept of ordered liberty.’” *Davison*, 196 Wn.2d at 303-04 (González, J. concurring) (quoting *A.N.J.*, 168 Wn.2d at 96); *see also id.* at 294 n.1 (declining to decide whether indigent defense creates a positive constitutional right).

¹⁴ *Seattle Sch. Dist. No. 1*, 90 Wn.2d at 525.

¹⁵ U.S. Const. amend. XIV; Wash. Const. art. I, § 12.

precedent that has never been overturned, the right to counsel is a critical component of access to justice and a fundamental right subject to strict scrutiny.¹⁶

Here, the State's current statutory scheme with primary financial responsibility at the county level results in inadequacies and disparities in the defense services afforded to indigent defendants based solely on their ability to pay and/or the jurisdiction where they are charged, infringing on their fundamental right to counsel. This infringement arguably is not narrowly tailored to any compelling state interest. The Legislature enjoys discretion in determining how best to provide indigent defense services, but the disparities in the current system improperly violates the fundamental rights of indigent defendants. For similar reasons, the state's indigent defense system may also violate the Washington Constitution's privileges and immunities clause.¹⁷

C. Other Potential Claims.

Unfunded Mandate. Washington's unfunded mandate statute (RCW 43.135.060) is likely inapplicable here. The idea that the delegation of indigent defense responsibilities and costs to counties constitutes an "unfunded mandate" intuitively makes sense, but the statute is limited to new programs or increases in service levels imposed by the Legislature after July 1, 1995. Here, the Legislature's delegation to counties of responsibility for trial level indigent defense pre-dates 1995 (and in fact counties' provision of indigent defense services long predates the relevant statutory scheme), and the Court's 2012 Standards are not legislative.

Constitutional Uniformity. Constitutional uniformity claims likely would not be successful.¹⁸ Courts have determined that these constitutional provisions are not violated where state law applies to all counties equally, even if the result is that counties differ in how they implement and address the state law.¹⁹ Under this precedent, the fact that counties' provision of trial level indigent defense services is not uniform does not implicate the constitutional uniformity provision absent some disparate treatment of counties by the Legislature. Here, no such disparity exists.

IV. OVERALL ASSESSMENT AND CONCLUSION

Davison provides a roadmap for a systemic constitutional challenge to the indigent defense system established by the State. We believe that success on these claims will depend on building a robust record to demonstrate the inadequacy and inequities of the existing system. This is borne out by systemic challenges in other states (typically class actions by indigent defendants), which

¹⁶ See Lauren Sudeall Lucas, *Reclaiming Equality to Reframe Indigent Defense Reform*, 97 Minn. L. Rev. 1197 (2013) (compiling and describing authority).

¹⁷ Wash. Const. art. I, § 12.

¹⁸ See Wash. Const. art. XI, § 4 ("The legislature shall establish a system of county government, which shall be uniform throughout the state...."); art. XI, § 5.

¹⁹ See *Nelson v. Troy*, 11 Wash. 435 (1895); *Mount Spokane Skiing Corp. v. Spokane Cty.*, 86 Wn. App. 165 (1997).

have met with success in court or through settlement where the plaintiffs demonstrated deficiencies through anecdotal and empirical evidence.²⁰

Last year, we worked with WSAC consultant Gary Rowe to collect and analyze data, including exponential growth in indigent defense costs, challenges counties face in meeting this need, and inequities across Washington. If we proceed, we expect to retain experts to conduct additional research and testify about the systemic, structural deficiencies inherent in the State's system.

We note that we are cautiously optimistic about recent changes on the Washington Supreme Court since *Davison*, with Justices Whitener and Montoya-Lewis replacing Justices Fairhurst and Wiggins (who were in the 6-justice *Davison* majority). The three concurring justices in *Davison* – Justices González, Yu, and Gordon McCloud – would have gone further to hold that when “the State knows that a county cannot or will not provide a constitutionally adequate defense, it has some duty to act.”²¹ These three justices, together with the two new justices, may be receptive to a systemic challenge as described above.

We would be pleased to assist further as WSAC proceeds with its efforts to require the State to fully fund constitutionally required trial level indigent defense services.

²⁰ *Quitman County v. State*, 910 So.2d 1032 (Miss. 2005) is the only case we have identified brought by a county. Notably, the court agreed the county had standing but dismissed on the merits because the county failed to demonstrate beyond a reasonable doubt the cost of an effective indigent defense system and the county's inability to fund such a system. *Id.* at 1037. See also Margaret A. Costello, *Fulfilling the Unfulfilled Promise of Gideon: Litigation as a Viable Strategic Tool*, 99 Iowa L. Rev. 1951, 1961-72 (2014) (compiling cases).

²¹ 196 Wn.2d at 308 (González, J., concurring).

April 12, 2021

TO: WSAC Legislative Steering Committee
FROM: Eric Johnson, Executive Director
SUBJ: WSAC Legal Committee Recommendation – Indigent Defense

WSAC Legal Committee Recommendation

The Washington State Association of Counties' (WSAC) Legal Committee recommends that:

- There are merits and reasonable grounds to support a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services; and
- The WSAC Legislative Steering Committee and the Board of Directors should consider, respectively, recommending and authorizing a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services.

Background

In 2018 (updated in 2019), the WSAC Board of Directors established decision-making processes to determine engagement in legal activities and litigation. To initiate litigation activities, a three-step process is set forth as follows:

1. Legal Committee will evaluate, review, and make recommendations;
2. Legislative Steering Committee (LSC) will consider the Legal Committee recommendations. The LSC may modify, recommend, alter, or change said recommendations to provide to the WSAC Board of Directors;
3. The WSAC Board of Directors will review all recommendations, analysis, and information, and make the final decision whether to pursue legal activities.

The WSAC Legal Committee met on Thursday, March 25, 2021, to consider potential litigation. The WSAC Legal Committee is currently comprised of the following:

- The Honorable Michael Largent, Commissioner, Whitman County
 - The Honorable Jamie Stephens, Councilmember, San Juan County
 - The Honorable David Sauter, Commissioner, Klickitat County
 - The Honorable Scott Hutsell, Commissioner, Lincoln County (Absent)
 - The Honorable Mary Kuney, Commissioner, Spokane County (Absent)
 - The Honorable Derek Young, Councilmember, Pierce County
 - The Honorable Rob Gelder, Commissioner, Kitsap County
 - The Honorable Janet St. Clair, Commissioner, Island County
 - The Honorable Jon Tunheim, Thurston County Prosecuting Attorney
 - The Honorable Greg Zempel, Kittitas County Prosecuting Attorney (Absent)
 - Kevin Wright, Chief Civil Deputy, King County
 - Ryan Brown, Chief Civil Deputy, Benton County
- Ex-Officio
- The Honorable Timothy Fitzgerald, Clerk of Superior Court, Spokane County

- The Honorable Thad Duvall, Auditor, Douglas County
- Mr. Derek Bryan, WCRP Executive Director (Absent)
- Mr. Russ Brown, WAPA Executive Director

The WSAC Legal Committee reviewed WSAC's Integrated Strategic Legal Activities, Advocacy and Communication Program Policy decision-making process in addition to a briefing from WSAC's Legal Counsel, Pacifica Law Group, on the potential legal challenge to the State's unfunded delegation of indigent defense duties to counties.

Legal Committee Findings

Finding #1

In 2020, the Washington Supreme Court ruled in Davison, et. al. v Washington, et. al. that:

“...the State bears responsibility to enact a statutory scheme under which local governments can adequately fund and administer a system of indigent public defense.”

In Davison, indigent juvenile defendants in Grays Harbor County sued the State (but not the county) based on alleged egregious systemic failures in the juvenile indigent public defense system. The Court held that the State's knowledge of these deficiencies was not sufficient to support state liability but in doing so described a pathway to challenge the adequacy of the State's system, explaining that claims “...alleging systemic, structural deficiencies in the state system of public defense remain viable.”

To prevail on such a claim, the Court explained that plaintiffs must:

“...show that the current statutory scheme systemically fails to provide local governments, across Washington, with the authority and means necessary to furnish constitutionally adequate indigent public defense services.”

Finding #2

The WSAC Legal Committee agrees that counties have reasonable grounds to challenge the State's indigent defense system. Although the Legislature has discretion to delegate to counties responsibility for the provision of indigent defense services, the State retains the ultimate duty for providing a statutory scheme including funding that sufficiently safeguards the constitutional right to counsel.

The Court in Davison explained that if a plaintiff proves the existing scheme fails to provide counties across Washington with the means necessary to provide constitutionally adequate services, they would be entitled to relief from the State. To be clear, this will be difficult to show, but it is felt that counties—together with other allies—may be able to prevail.

Finding #3

The WSAC Legal Committee has requested some additional legal analysis of the proper venue in which to file: Federal or State Court. There was discussion about potential remedies and how the Legislature would respond should counties prevail depending on the venue. Pacifica Law Group will do additional review of this issue.

Finding #4

There is risk. The Court could find that:

1. The State has the right to delegate the delivery of indigent defense services to counties;
2. The State has fulfilled its duty and counties have sufficient authority and resources to meet their statutory and constitutional responsibilities;
3. There are systemic structural failures but the State can appropriately delegate this duty to counties, which would include the responsibility for counties to correct the deficiencies and pay for it; and/or
4. It's a county responsibility, potentially exposing counties to liability for ineffective counsel.

Finding #5

The timing is right. In the early stages of the pandemic, many Legal Committee members noted that it was not the right time for WSAC to initiate this litigation. But with a strong revenue forecast in state funds for the 2021-23 biennium, combined with an additional \$4.8 billion in revenue from the American Rescue Plan, the State should have ample funding to contribute more than 4% to the cost of constitutionally required trial court indigent defense services.

Finding #6

There are reasonable communication messages to support our position:

- Disparities in the current system improperly violate the fundamental rights of indigent defendants;
- The Washington State Legislature has had floor debates where it was stated that counties cannot equally apply justice because of their unequal ability to pay:
 - “Inequalities in the administration of justice that come from having a system where probably only 4 counties can even afford to pursue death penalty cases and in the rest of the state if you commit the exact same crime you are likely to go without that as a possibility of a punishment”. Senator Jamie Pedersen, 43rd Legislative District, January 31, 2020, SB 5339 Death Penalty Elimination, Senate Floor Debate;
- Washington State is one of the minority of states that requires virtually all (96%) of the trial court indigent defense costs be funded by counties;
- The rising cost of indigent defense and associated services (interpreters, investigators, etc.) has forced cuts in other county programs and services; and
- The cost to deliver indigent defense services between 2012 and 2018 increased 45%, while at the same time the state increased its contribution 3.6%.

Finding #7

In 2010, the Washington Supreme Court adopted court rule amendments to CrR 3.1, CrRLJ 3.1, and JuCR 9.2, requiring that, to be appointed to represent an indigent person, counsel must certify compliance with “applicable Standards for Indigent Services to be approved by the Supreme Court.” In 2012, based largely on the earlier standards, the Washington Supreme

Court adopted its Standards and amendments to the Standards, with effective dates of October 1, 2012 and October 1, 2013. Then Chief Justice Barbara Madsen wrote:

“Public defense attorney certification and caseload guidelines will require changes in policy and practice, but such changes are necessary to address documented ongoing flaws in indigent defense programs throughout the state. Judicial branch leaders understand the delicate balance between providing a constitutional right to an attorney and the monetary impact on courts and local governments.”

According to reports provided by the Office of Public Defense, the increased cost for counties to deliver indigent defense services after these 2012 caseload standards were established went from \$109 million in 2012 to \$150 million in 2018. A nearly 40% increase in six years. During this time the state increased its public defense contribution only 3.6%.

Finding #8

WSAC has made significant attempts to bring this issue forward for legislative consideration. Here are excerpts from of our most recent legislative priority materials that have all included indigent defense:

- 2015 – Indigent Defense Court Rules: New funding is required to offset increased costs associated with implementation of the Supreme Court’s Indigent Defense Rules establishing case load standards and increasing counties’ costs;
- 2016 - Provide Adequate Funding for Indigent Defense Services: Access to a defense attorney in criminal matters is a basic constitutional right. Counties were assigned by the Legislature the duty to provide adequate defense for indigent citizens; yet the state funds less than five percent of what counties currently spend for these services. Nearly a decade ago, the Board of Judicial Administration completed its report, Justice in Jeopardy: The Court Funding Crisis in Washington State, and identified a target level of funding at \$190 million per year. Counties currently spend approximately \$135 million annually with the state providing only \$5 million to cities and counties;
- 2017 Legislative Priority – Increased Funding for the Trial Court System. In order to continue effective access to justice, the Legislature must fund the full cost of indigent defense services - \$137 million additional in the next fiscal year;
- 2018 - In order to continue effective access to justice, the Legislature must fund the full cost of indigent defense services - \$260 million additional in the next biennium.

Providing adequate funding for indigent defense services. Access to a defense attorney in criminal matters is a basic constitutional right. Counties were assigned by the Legislature to provide adequate defense for indigent residents; yet, the state funds less than 5% of the cost for these services. Counties currently spend approximately \$136 million annually with the state providing only \$5 million to cities and counties;

- 2019 - Increased Funding for Trial Court Public Defense The state’s financial contribution to the constitutional right for effective and adequate legal representation can only be described as wholly inadequate. Despite the Legislature’s continued recognition of the state’s obligation that “effective legal representation must be provided for indigent persons...consistent with the constitutional requirements of

- fairness, equal protection, and due process,” our state has failed to make progress toward funding this obligation. See RCW 10.101.005;
- 2020 - For equal access to justice, the Legislature must fund the full cost of trial court public defense services. After years of efforts in the form of studies, budget requests, and a variety of bills, the State once again failed to provide additional funding to counties for trial court public defense services. Counties continue to pay for 96% of the obligation at a cost of more than \$156 million annually; and
 - 2021 - Ending Racial Disparities and Social Inequities. Public defense. Adequate funding for trial court public defense costs to ensure the constitutionally protected right to a defense attorney for all.

Legal Committee members recognize there are a myriad of factors and layers in making a prudent decision to proceed with litigation. Legal Committee members attempted to keep their focus on the legal merits of the case recognizing there are political implications, public relation and appearance issues, fiduciary and budget concerns, and other potential consequences – both identified and unexpected. Yet, in considering the legal issues, it is the belief of the WSAC Legal Committee there are reasonable grounds to consider a legal challenge to require the State to fully fund constitutionally required trial level indigent defense services.



April 2021

Potential Indigent Defense Litigation - Timeline and Budget Estimates

As Provided by Pacifica Law Group

TIMELINE

If authority to proceed is granted by the WSAC Board of Directors in May 2021, the following schedule is anticipated:

- Filing in July 2021
- Document Discovery in Fall 2021
- Fact Depositions/Expert Reports/Expert Depositions Winter 2021/2022
- Motion Practice/Trial Preparation Spring 2022
- Trial Summer 2022
- Appeal directly to the Supreme Court
- Briefing Fall 2022
- Argument Winter/Spring 2023
- Final Decision Fall 2023

BUDGET ESTIMATES

The following are estimated costs:

- Attorney's Fees through Trial: \$350,000
- Expert Fees Through Trial: \$50,000
- Attorney's Fees through Appeal: \$75,000

Resolution 2021-08

WHEREAS, the Washington State Association of Counties' (WSAC) Board of Directors has the "general supervision over the affairs of the Association" (WSAC Bylaw 3.1 General Powers); and

WHEREAS, the WSAC Board of Directors "shall make the final decision on pursuing legal activities" (WSAC Comprehensive Policy Manual, Part 12 –Integrated Strategic Legal Activities, Advocacy, and Communication Program Policy); and

WHEREAS, WSAC Board of Directors established a three step decision-making process to determine engagement in legal activities and litigation; and

WHEREAS, the WSAC Legal Committee and Legislative Steering Committee have recommended the following to the WSAC Board of Directors:

- *There are merits and reasonable grounds to support a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services; and*
- *The WSAC Legislative Steering Committee and the Board of Directors should consider recommending and authorizing a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services.*

WHEREAS, WSAC members were provided notice that the WSAC Board of Directors would be considering this potential litigation on Wednesday, May 5, 2021, at WSAC Board of Directors Regular Meeting;

NOW THEREFORE, BE IT RESOLVED that the WSAC Board of Directors concurs with the WSAC Legal Committee and Legislative Steering Committee and finds there are merits and reasonable grounds to support a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services; and

BE IT FURTHER RESOLVED, the WSAC Board of Directors authorize a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President



AMICUS UPDATE – Cases pending or decided in 2019-2021

April 23, 2021

CASES PENDING

1) Butts v. Constantine

- Supreme Court, No. 98985-1

Issue

Did the trial court err in finding a provision of the King County charter that allocates residual and implied powers in the executive unconstitutional because they were not explicitly granted by the council to the executive? Did the trial court err in ruling that county inquests cannot exceed the scope of the 1854 Coroner's Statue, RCW 36.24, despite a charter county's ability to utilize inquest procedures that exceed the state process?

Background

Petitions for extraordinary writs (mandamus/prohibition/review) and petitions for declaratory and injunctive relief were filed by several parties in Superior Court contesting the King County Executive's executive orders on inquests were substantially re-vamped beginning in late 2018. The change in the policy was a response to growing community concern that the inquest process was a rubber stamp for police use of force. Families of 3 decedents killed by law enforcement officers argued that the policy changes didn't go far enough, and cities and individual police officers (police parties) argued that the policy changes went too far.

In this case, the Supreme Court's decision will determine the ability of counties to adopt home rule charter provisions that establish a strong executive form of government. If such charter provisions are precluded under the Washington Constitution, a common government structure open to charter cities (*i.e.*, a strong mayor-type government) would no longer be possible for home rule county governments. Whereas charter counties may currently rely on implied executive authority to execute the laws, the Superior Court's notion that laws must be "specific, not general" in specifying executive authority would require extremely long ordinances to detail each power an executive could exercise in carrying out each particular law. For charter counties with a strong executive form of government, this case will resolve what amounts to a constitutional crisis over the proper scope of county executive authority.

Status

The Supreme Court accepted King County's request for direct review. Amicus briefs were due the first week of December, and oral arguments were heard on January 19, 2021.

Counsel

Tim Leyh, Tyler Farmer, Randall Thomsen, Kristin Ballinger, and Caitlin Pratt of Harrigan, Leyh, Farmer, and Thomsen.

2) Fite v. City of Puyallup and Mudd

- Div. II, Court of Appeals, No. 54325-7-II

Issue

Did the trial court err in giving a jury instruction stating, "Whether a roadway or crosswalk is reasonably safe for ordinary travel must be determined based on the totality of the circumstances. A roadway or crosswalk can be unsafe for ordinary travel even when there is no violation of statutes, regulations, or guidelines concerning roadways and crosswalks." because the two sentences appear to be contradictory and misstate the law in favor of one party?

Background

An allegedly intoxicated skateboarder and a pickup truck collided in a marked crosswalk in the City of Puyallup. The crosswalk complied with national, state, and city road-design standards. The jury awarded the skateboarder \$6.5 million. The City appealed, citing the jury instruction and excluding evidence of the skateboarder's intoxication and eyewitness evidence under a ruling that the skateboarder did not need to look both ways before entering the intersection.

There is an unacceptable trend that municipalities are in effect becoming insurers of persons using crosswalks. Jury awards and settlements are becoming a huge tax on crosswalks paid with public funds despite driver and pedestrian fault. The Court of Appeals should reinstate the standard that municipalities and users of crosswalks have a duty to exercise ordinary care.

Status

WSAC's amicus brief was due on October 26, 2020. Oral argument is scheduled for May 11, 2021.

Counsel

Jacquelyn M. Aufderheide, Kitsap County Chief Civil Deputy Prosecuting Attorney
Elizabeth Doran, Kitsap County Senior Deputy Prosecuting Attorney

CASES DECIDED

3) Mancini v. City of Tacoma, et al.

- Supreme Court, No. 97583-3

Issue

Did the Court of Appeals err by deciding the plaintiff's negligence claim, as presented at trial, was a negligent investigation claim and thus, not cognizable (within the jurisdiction of a court), where the alleged negligent acts were the police's failure to make a controlled buy and conduct surveillance before obtaining a controlled substance warrant for the plaintiff's home?

Background

This case involves the execution of a search warrant on a suspected meth dealer in Federal Way. Unfortunately, the confidential informant misidentified the building, and the warrant was issued for and executed on Kathleen Mancini's apartment. Police believed that Mancini was the suspect's mother and that she was renting the apartment in her name to keep him off the grid. Mancini sued, alleging negligence, invasion of privacy, assault, and battery, and false arrest, among other claims.

The case was initially dismissed on summary judgment, and Division I reversed these four claims. The matter went to trial, and the jury found for the city on the intentional torts (invasion of privacy, assault/battery, and false arrest) but found for the plaintiff on the negligence claim. The theory of negligence the plaintiff presented to the jury was the city was negligent in how the warrant was obtained by failing to do a controlled buy and by not conducting more surveillance before seeking and executing the warrant.

On appeal, in Mancini II, Division I agreed the plaintiff's theory of liability at trial was a negligent investigation, and the claim was not cognizable. Division I reversed and directed a verdict to be entered for the city. The plaintiff brought a motion for reconsideration, which was denied. The plaintiff then filed a petition for discretionary review in the Supreme Court, with amicus support from the Washington State Association for Justice, and the Court accepted review.

Traditionally, courts have not recognized a claim of "negligent investigation." If the Supreme Court were to reverse Division I's decision, the potential liability is far-reaching for county police agencies. Then, any time police agencies are involved in investigating a crime, a plaintiff may claim that the case was not adequately investigated.

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Status

The petitioner sought a 30-day extension for the supplemental briefs, which the Court granted, so the parties' supplemental briefs were due February 3, 2020. WSAC filed a joint brief with the Washington Association of Sheriffs and Police Chiefs, filed the brief on March 27, 2020. The Supreme Court heard oral arguments on May 5, 2020.

- On January 28, 2021, the Supreme Court reversed the Court of Appeals and reinstated the jury's verdict, stating "the Washington State Legislature has enacted a broad waiver of sovereign immunity. Consistent with that waiver, we hold that the standard tort duty of reasonable care applies with full force to police executing a search warrant." The Court did not reach the question regarding whether police may be separately liable for the tort of "negligent investigation."

Counsel

DPA Doug Mitchell of Kittitas County

DPA Dan Hamilton of Pierce County

4) Teamsters Local 839 v. Benton County

- Div. III, Court of Appeals, No. 36974-9-III

Issue

Does RCW 41.56 (public employees' collective bargaining) trump RCW 49.48.200 and .210 (collection of overpayment of wages) such that public employers must collectively bargain the collection of overpayments?

Background

In November 2016, the Benton County Auditor's Office discovered the accidental overpayment of wages to corrections officers and patrol deputies in the Sheriff's Office. The Auditor's Office notified the Sheriff's Office, who communicated with the affected employees. The Teamsters filed a preemptive grievance, which was withdrawn, and not until members timely challenged the occurrence or amounts of the overpayments.

Instead of litigation to recover the undisputed debt owed the county, and according to express statutory authority in RCW 49.48.200 and .210, the Auditor's Office had the employees served with notice and deducted the overpayments in subsequent pay periods per the statutory requirements. The Teamsters filed two Unfair Labor Practice complaints against the county alleging they should not have dealt directly with represented employees and should have provided the Teamsters with the opportunity to bargain a repayment plan.

The Teamsters and the County filed simultaneous, pre-hearing cross-motions for summary judgment. Without a full evidentiary hearing, the examiner ruled the county committed unfair labor practices. The county was ordered to return the overpaid funds, including interest if requested, to the employees and bargain and negotiate a payment plan with the Teamsters. PERC affirmed the examiner's decision. The county filed a petition to review PERC's administrative decision in superior court, which affirmed the decision.

Status

Appellant, Benton County, filed their initial brief on December 13, 2019. WSAC joined with the Washington State Association of Municipal Attorneys in filing an amicus brief. The Court of Appeals arguments were set for September 18, 2020, but were rescheduled.

- On November 12, 2020, Division III of the Court of Appeals ruled, with all three judges concurring, against Benton County and in favor of the Teamsters. The court held that recovery of overpaid wages from a union member's future paychecks or accrued leave is a mandatory subject of bargaining.

Counsel

DPA Christopher Horner of Kittitas County for WSAC

Charlotte Archer of Inslee Best for WSAMA

5) Davison v. State of Washington and Washington State Office of Public Defense

- Supreme Court, No. 96766-1

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Issue

Does the State of Washington or the Washington State Office of Public Defense have an actionable duty to cure claimed systemic and significant deficiencies in a county's provision of indigent defense services to juveniles charged with criminal offenses?

Background

In 2017, the plaintiff, supported by the ACLU, sued the state, alleging Grays Harbor County systemically failed to provide a constitutionally adequate indigent juvenile defense. Grays Harbor County was not named as a party to the suit. Davison asked the Thurston County Superior Court to declare the state and OPD have a duty to act when they become aware of a systemic failure by a county to provide a constitutionally adequate indigent juvenile defense.

The trial court ruled that the state has a duty to act if it knows of a county's systemic failure to provide constitutionally adequate indigent juvenile defense, without regard to whether the county could more appropriately remedy the problem itself.

The state filed a motion for direct review to the Supreme Court on January 28, 2019, and the Court accepted review.

Status

The WSAC Executive Committee approved amicus involvement in March. Pacifica Law Group submitted a brief for WSAC at the end of September. The Court heard oral arguments on November 12, 2019.

- As WSAC argued in its amicus brief, the Washington Supreme Court confirmed that ultimately the State bears the duty to provide indigent defense services as required under the U.S. and Washington Constitutions. While the State has the discretion to delegate to local governments responsible for providing these services, in so doing, the State must provide local governments with the authority and means necessary to furnish constitutionally adequate indigent defense. The Court remanded for consideration of whether the systemic and structural deficiencies in the current state system, as alleged by the plaintiffs and described in WSAC's amicus brief, violate the State's constitutional duties.
- The plaintiffs filed a motion for reconsideration to the Supreme Court in July, and WSAC filed an amicus brief in support of the review. The Court denied the motion for reconsideration.

Counsel

Pacifica Law Group

6) Colvin v. Inslee

- Supreme Court, No. 98317-8

Issue

May the Supreme Court compel the state executive branch – specifically the Governor and secretary of the Department of Corrections (DOC) – to release prison inmates immediately to reduce the spread of COVID-19?

Background

Columbia Legal Services and the American Civil Liberties Union filed a Petition for a Writ of Mandamus with the state Supreme Court, later seeking an amendment to include Habeas Corpus and/or Personal Restraint Petition, on behalf of five named inmates and all similarly situated inmates - approximately 11,700 persons - seeking their release from state custody due to the global pandemic, without regard to the risk of dangerousness, victims' rights, or supervision requirements.

The petitioners initially filed in late March, seeking an emergency motion to accelerate review, the appointment of a special master, and immediate relief on April 9. After the reply brief was submitted on April 10, the Court directed the Governor and Secretary Sinclair to immediately take all necessary steps to protect

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the health and safety of the named petitioners and all DOC inmates and report to the Court on April 13 with an update required on April 17. On April 10, Governor Inslee and Secretary Sinclair submitted to the Court a plan to release up to 950 inmates, taking into consideration the crimes for which they were convicted, scheduled release dates, and approved release plans.

The April 10 order did not appoint a special master; however, three of the justices dissented, stating they would have ruled to release the named petitioners immediately.

Status

Deputy prosecuting attorneys for Skagit and Kitsap Counties volunteered to draft an amicus brief on behalf of WSAC opposing the release due to fiscal and health-related concerns. WASPC is also submitting an amicus brief, as is WAPA – with each brief focused on specific matters. The briefs are due April 16, 2020.

- The Court heard oral argument via videoconference on the morning of April 23, 2020. Respondent's counsel referenced WSAC's amicus brief in his argument. On the afternoon on April 23, the Court ruled, in a 5-4 oral decision, against the petitioners on both counts. The Court released the written decision in July.

Counsel

Haley W. Sebens, Skagit County Senior Deputy Prosecuting Attorney
Nathaniel Block, Skagit County Deputy Prosecuting Attorney
Jacquelyn M. Aufderheide, Kitsap County Chief Civil Deputy Prosecuting Attorney

7) Kittitas County v. WA State Department of Transportation

- Div. II, Court of Appeals, No. 52329-9-II

Issue

Must the state Department of Transportation pay its share of a county's noxious weed program's costs?

Background

As required by state law, Kittitas County provides noxious weed services to all landowners in the county, including DOT. Kittitas County is appealing a superior court summary judgment order exempting DOT from paying for noxious weed services to DOT-owned land.

Kittitas County appealed the case to the Court of Appeals and requested an amicus brief from WSAC.

Status

WSAC's amicus brief, drafted by Pacifica Law Group, was filed with the Court of Appeals on March 1, 2019, upon leave from the court to file late. The court heard an oral argument on October 24, 2019.

- On April 21, 2020, the Court of Appeals held that a weed assessment is a special assessment. The county lacks the explicit authority to impose the weed assessments against the Department and affirmed the ruling of the trial court.

Counsel

Pacifica Law Group

8) Sandra Ehrhart et al v. King County et al

- Supreme Court No. 96464-5

Issue

Does WAC 246-101-505, which directs a county to "[r]eview and determine appropriate action" when it receives notice of a "notifiable condition," such as a Hantavirus infection, create a duty upon which tort liability can be imposed, or does the public duty doctrine bar tort liability as a matter of law?

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Background

In December 2016, a commercial diagnostic lab notified King County that a resident of rural Redmond had tested positive for Hantavirus. Consistent with the Department of Health (DOH) guidelines, King County sent a Public Health Nurse Investigator to review the case.

Health Departments send information to the public on various health topics, including certain “notifiable conditions,” i.e., diseases or conditions of public health importance. To that end, the Health Department’s communications office, in consultation with its Local Health Officer and condition-specific guidance from the Washington State Department of Health (“DOH”), determines when health notifications should be issued.

Due to the noncontagious nature of Hantavirus and the isolated nature of the resident, King County’s Local Health Officer determined it was not necessary to issue a public notice.

In February 2017, King County was notified of Brian Erhart’s unexplained death. He had been treated for flu-like symptoms at Swedish Hospital and discharged. The next day, his condition worsened, and he went to Overlake Hospital, where he later died. King County launched an investigation to determine the cause of death, which revealed he died of acute Hantavirus infection.

Mr. Erhart’s estate sued his treating physician, Swedish Health Services, and King County for negligence and wrongful death. The estate claims the Health Department should have sent a health advisory to area healthcare providers after being notified of the December 2016 case of Hantavirus.

The trial court refused to grant King County’s motion for summary judgment and instead “conditionally” granting the estate’s motion for summary judgment on the public duty doctrine dependent on the jury’s factual findings at trial. The Supreme Court accepted the case on a motion for direct discretionary review.

Status

This case was set for oral argument on November 12, 2019. Having not found a volunteer DPA to draft this brief, WSAC general counsel submitted a brief for WSAC on September 27, 2019. Oral argument was heard on November 12, 2019.

- On April 2, 2020, the Court ruled King County owed no individual tort duty to Ehrhart and remanded the case back to the trial court to enter summary judgment in favor of King County on its affirmative defense asserting the public duty doctrine.

Counsel

Mellani McAleenan

9) Tulalip Tribes v. Smith

- US Court of Appeals, 9th Circuit, Nos. 18-36062, 18-36075

Issue

Does federal law preempt the State and County’s imposition of taxes on non-Indian businesses in transactions with non-Indian customers?

Do the taxes interfere with Tulalip’s sovereign right to make and be governed by its laws by depriving the Tribes of funds for education and social welfare of tribal members and those living on the reservation?

Does the Indian Commerce Clause carve out a zone of economic interests—including taxation—in which only the federal government, not state and local governments, may regulate?

Background

The Tribes, joined by the United States as a plaintiff-intervenor, sought a declaration and injunction prohibiting the State of Washington and Snohomish County from collecting retail sales and use taxes, business and occupation taxes, and personal property taxes within a part of the Tulalip Reservation known

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as Quil Ceda Village. The plaintiffs argued these taxes should not be imposed because they are preempted by federal law, violate the Indian Commerce Clause, and infringe on Tulalip's tribal sovereignty.

The US District Court first granted summary judgment on one count, holding the plaintiffs did not state a viable claim of relief under the Indian Commerce Clause. The district court then concluded the State and County's taxes were not preempted under that test because there is no pervasive or comprehensive federal regulatory scheme governing *retail sales* activity in the Village, and Tulalip could not demonstrate more than a basic financial interest implicated by the State and County taxation. The court also held the taxes do not infringe on Tulalip's tribal sovereignty.

Both the Tribes and the United States appealed to the 9th Circuit Court of Appeals. Briefs were drafted, and settlement negotiations ensued.

Status

The WSAC Executive Committee approved amicus involvement. WSAC was exploring the option of filing a joint brief with WSAMA. However, the parties reopened settlement negotiations in late April, and the briefing schedule was vacated.

- Settlement negotiations proved to be successful, and the parties entered into a Memorandum of Understanding, which was finalized by SHB 2803, which allows the Governor to enter into the compact.

Counsel

WSAMA, but no brief was filed due to settlement

10) The Judges of the Benton and Franklin Counties Superior Court et al. v. Michael Killian, Franklin County Clerk, Superior Court of WA for Franklin County

- Supreme Court, No. 96821-7

Issue

May a court compel a board of county commissioners to fund expenditures absent clear, cogent, and convincing evidence those expenditures are necessary to hold court, conduct the administration of justice efficiently, or fulfill the court's constitutional duties?

Background

Benton and Franklin County Superior Courts adopted a court rule to order the Franklin County Board of Commissioners to appropriate additional funds for the Franklin County Clerk to maintain paper records after the electronic Odyssey record system was operational.

Kittitas County Superior Court Judge Scott Sparks heard the case. The court scheduled the plaintiff's motion for summary judgment seeking a writ of mandamus for hearing on December 7, 2018. The Kitsap County Board of Commissioners requested, and the Kitsap County Prosecuting Attorney agreed to appear for WSAC as amicus in the case. The Kitsap County Prosecuting Attorney, by and through Chief Deputy Jacquelyn Aufderheide and Senior DPA Lisa Nickel, prepared and submitted the necessary briefing.

On December 10, 2018, Judge Scott Sparks ruled in favor of the judges, holding that it is the judges and not the clerk who decides when the timing of going paperless should occur. The Franklin County Superior Court Clerk is not authorized to disregard the authority of the court.

The Franklin County Clerk filed a petition for review to the Supreme Court and asked WSAC to continue its amicus support. Former WA Supreme Court Justice Phil Talmadge filed a brief on behalf of the Washington State Association of County Clerks.

Status

On July 26, 2019, Chief Civil Deputy Aufderheide submitted a new amicus brief similar to the one filed with the trial court, except it responded to argument/contentions made in the Franklin County Superior Court's answer to WSAC's amicus brief and expanded WSAC's brief to describe the numerous functions county governments perform, which may be affected when judges demand extra-budget expenditures for judicial projects. The Supreme Court heard oral arguments on November 12, 2019.

- On March 19, 2020, the Supreme Court held the Franklin County Superior Court abused its authority in using rule-making to resolve a dispute in the court's favor with another elected official. Instead, the superior court should have sought a declaratory judgment ruling so a neutral arbitrator could decide the dispute.

Counsel

Jacquelyn M. Aufderheide, Kitsap County Chief Civil Deputy Prosecuting Attorney

11) Bednarczyk, et al. v. King County

- Supreme Court, No. 96990-6

Issue

Whether jurors are entitled to minimum wage as employees under the Washington Minimum Wage Act.

Background

Washington's counties, including King County, pay jurors within a \$10 to \$25 range according to state law. The plaintiffs are hourly wage earners whose employers do not pay for jury service. They filed a claim in Pierce County Superior Court claiming jurors should be paid minimum wage under the Washington Minimum Wage Act. They also sought a declaratory judgment on the grounds that insufficient juror pay necessitating economic hardship excusals effectively excludes jurors from services based on economic status. They included a racial disparity class and claim but voluntarily dismissed it. While they aimed for a class action, no class was ever certified.

King County moved for and prevailed on summary judgment. The plaintiffs sought direct review and were denied. The Court of Appeals affirmed the grant of summary judgment in favor of King County by a vote of 2-1, holding (1) economic status is not a protected class under the Washington Law Against Discrimination, (2) an implied cause of action, and remedy of increased juror pay is inconsistent with the legislative intent of the underlying statute, and (3) rejecting the argument that jurors are employees for purposes of the Minimum Wage Act.

Status

The plaintiffs sought review in the Washington Supreme Court, which the Court granted on July 29, 2019. The Court heard an oral argument on October 29, 2019. Pam Loginsky, of the Washington Association of Prosecuting Attorneys, drafted a joint brief for WSAC and the County Clerks and filed it at the end of September.

- The Supreme Court ruled on April 9, 2020, that jurors are not employees entitled to the minimum wage under the Minimum Wage Act because no employer-employee relationships exist statutorily under RCW 49.46.010(3)(d) or otherwise. The Court stated the solution for low juror pay rests with the legislature, not the courts.

Counsel

Pam Loginsky, Washington Association of Prosecuting Attorneys

12) Edward Kilduff v. San Juan County

- Supreme Court, No. 95937-4

Issue

Must a public records requestor exhaust administrative remedies before filing a claim in superior court?

Background

If a public records requestor in San Juan County is not satisfied with the response they receive, the county code has a procedure requiring the requestor to submit a written request for review to the prosecuting attorney and allow two days to respond before initiating a public records lawsuit. The plaintiff, in this case, did not follow that procedure and filed the suit without first requesting a review from the prosecuting attorney.

In this case, the plaintiff filed a broad public record request with the county for a file of the prosecuting attorney. The prosecuting attorney spoke with the requestor to clarify his request and understood the requestor/plaintiff wanted the final report issued by the prosecutor, which had listed other documents the prosecutor had reviewed. If the other documents were wanted, then a follow-up would occur. The public records clerk sent a follow-up letter to the requestor/plaintiff stating this understanding, providing the final report, and closing the request. The letter ended by saying, "if you have any questions related to this request or believe we should have provided additional documents, please let me know."

The requestor/plaintiff received the final report and letter but did not contact the public records clerk, nor did he notify the prosecuting attorney in writing as required by the county code. Instead, he waited almost a full year after the County's response to his public records request and then went straight to court, asserting he never intended to narrow his request during his telephone conversation and claiming damages. Had the plaintiff followed administrative remedies and contacted the prosecuting attorney, the alleged miscommunication could have been identified, and the records he sought promptly provided.

The superior court dismissed the plaintiff's claim for failure to exhaust his administrative remedies as required by the San Juan County Code.

Status

The Supreme Court accepted review on July 11 and heard oral argument on October 29, 2019. Having no DPA volunteers, WSAC engaged Pacifica Law Group to draft the brief. The Association of Washington Cities, the AWC Risk Management Service Agency, and the Washington State Transit Risk Pool joined the brief.

- The Supreme Court ruled against Snohomish County, holding that "nothing in the PRA gives local governments the right to create another layer of administrative review or to require administrative exhaustion before the public may seek judicial review."

Counsel

Pacifica Law Group

13) King County v. King County Water Districts Nos. 20, 45, 49, 90, 111, 119, 125, et al. and Ames Lake Water Association, Dockton Water Association, Foothills Water Association, Sallal Water Association, Tanner Electric Cooperative, and Union Hill Water Association

- Supreme Court, No. 96360-6

Issue

May a county enact an ordinance requiring reasonable rental compensation for the use of a county right-of-way, and may a county require minimum terms and conditions governing the use of the right-of-way in its franchise agreements?

Background

King County Ordinance 1803 requires water, sewer, gas, and electric utilities to pay reasonable rental compensation through a negotiated franchise agreement for their use of county rights-of-way (ROW). To date, public and private utilities have mostly used county ROW for free. Shortly following the passage of the ordinance, several district utilities declared their opposition and stated their intent to sue King County.

04/23/21

King County then filed an action for declaratory judgment seeking a ruling to confirm its legal authority to enact the ordinance. King County named the district utilities as defendants, and the private utilities were subsequently interviewed. The utilities argued King County lacked the authority to charge reasonable rental compensation and imposed an illegal tax.

On cross-motions for summary judgment, the trial court ruled King County did not have the authority to enact the ordinance. The court invalidated not only the franchise rental compensation but also ruled the county could not require any minimum terms and conditions governing the use of the ROW in its franchise agreements.

King County sought direct review by the Supreme Court and filed its opening brief on March 1, 2019.

Status

Having found no DPA to volunteer to draft an amicus brief, WSAC engaged Arete Law Group to prepare the brief, which focused mainly on the issue of minimum terms and conditions because Pacifica Law Group represented King County. Arete Law filed WSAC's brief on August 9, 2019, and the utilities objected to the filing, which necessitated a reply by WSAC. The Court accepted the brief over the objections of the utilities on August 16, 2019. The Court heard oral argument on September 17, 2019.

- The Court ruled in favor of King County, holding King County could collect franchise compensation.

Counsel

Arete Law Group

14) Ron Gipson v. Snohomish County

- Supreme Court, No. 96164-6

Issue

Did the county correctly claim investigative records exempt under RCW 42.56.250(6) when the investigation into discrimination was active and ongoing as of the date of the request?

Background

This case involves a question of first impression: does an agency determine the applicability of an exemption on the date the request is received or on the date responsive records are produced?

In this case, the county received the request on December 1, 2014. On that date, the EEOC investigation sought was active and ongoing. The investigation closed on February 2, 2015. In response to the December request, the county produced five installments of responsive records. The county provided four after the investigation was closed. The county applied the exemption found at RCW 42.56.250(6) as of the date the request was received and continued to apply it throughout the production of installments. Mr. Gipson challenged the continued use of the exemption after February 2, 2017, arguing the exemption no longer applied once the investigation had closed, and the county violated the PRA by applying the exemption as of the date the request was received.

The trial court ruled in the county's favor, and the Court of Appeals affirmed the trial court's decision.

The Supreme Court granted review on November 27, 2018, and heard oral argument on February 26, 2019. WSAC joined in a brief from the Washington State Association of Municipal Attorneys, which was prepared and submitted by Charlotte Archer of Inslee Best.

Status

- The Supreme Court found in favor of Snohomish County, holding they had correctly applied the "active and ongoing investigation" exemption. Installments are not new stand-alone requests but are part of the single request and should be treated as such, with the determination regarding whether any exemption applies made at the time of the request and not at the time of the installment.

04/23/21

Counsel

Charlotte Archer of Inslee Best

15) Thurston County ex rel Snaza v. City of Olympia

- Supreme Court, No. 95586-7

Issue

May counties seek reimbursement from cities for a felon's pretrial medical expenses if city law enforcement officers initially arrested the offender?

Background

Thurston County brought suit against the cities that refused to pay (Olympia, Lacey, Tumwater, Yelm) for felony pretrial medical expenses. Tenino intervened. Mason County Superior Court ruled in favor of the cities by finding the statute (RCW 70.480.130(6)) does not require cities to pay.

Thurston County petitioned for direct review to the Supreme Court, which the cities agreed was appropriate. WSAC Board approved amicus involvement in January 2018.

Status

The Supreme Court accepted direct review, and John Purves, Kitsap County Deputy Prosecuting Attorney, submitted the brief for WSAC in January.

- The Supreme Court ruled against Thurston County in May, holding that, in the absence of a prior interlocal agreement, a county is not entitled to seek reimbursement from cities for the cost of medical services provided to jail inmates who are arrested by city officers and held in the county jail in felony charges.

Counsel

John Purves, Kitsap County Deputy Prosecuting Attorney

16) Kittitas County v. WSLCB

- Div. III, Court of Appeals, No. 35874-7-III

Issue

Does the LSCB need to consider local development regulations when reviewing applications for cannabis licenses?

Background

Kittitas County Superior Court ruled in favor of Kittitas County, and the LCB appealed to the Court of Appeals.

Status

WSAC had planned to file a joint amicus brief with WSAMA. The lead attorneys were Milt Rowland with Foster Pepper and Dan Lloyd with the City of Vancouver. However, due to the transition in staffing, WSAMA filed the brief without WSAC in early September 2018.

- The Court of Appeals ruled against Kittitas County in April 2019, holding the county's zoning code did not provide grounds for the WSLCB to deny the applicant a marijuana/processor license because neither the Growth Management Act nor Washington's marijuana licensing laws require the WSCLB to issue licenses in conformity with local zoning laws.

Counsel (on behalf of WSAMA only)

Milt Rowland, Foster Pepper

Dan Lloyd, City of Vancouver

04/23/21

May 5, 2021



BUSINESS ACTION AND REPORTS

May 5, 2021

TO: WSAC Board of Directors

FROM: Eric Johnson, Executive Director

PREPARED BY: Bridget Lockling, Business and Financial Services Director

SUBJECT: 2020 Un-Audited Financials

Cash

WSAC ended 2020 with a total cash position of \$661,591. This is about \$10k higher than ending cash last year, primarily due to reduced spending in 2020.

Budget to Actual Activity

The combined All Funds Actual vs. Budget in Summary 12/31/2020 report shows a positive \$75,082 bottom line. This is almost \$150k more than budgeted and significantly better than the 2019 change in net assets. The following items highlight significant budget variances and the reason for the negative bottom line in the financial report:

Revenues

- Contract Services – Revenue projections from contract services were much lower than anticipated. All contracts had some deviation from projected. Some loss comes from not utilizing it to offset some budgeted staffing costs. Some were due to a transition in subcontractors. And there was a change in accounting for revenue earnings in our BHO assessment.
- Affiliate Services – Revenue here offsets staffing costs and provides 12% earnings. There were fewer affiliate expenses to offset because of reduced staffing costs from WSACE as the DOT contract picked up about \$45k of those expenses. There was also a reduction of about \$25k from our conference planning services to WSACA and ACCIS. We removed a quarter's worth of activity due to conference cancellations.
- Special Assessments were higher than budgeted due to the Marbled Murrelet project. Money collected in 2019 was not earned revenue until 2020.

Expenses

- Payroll and Benefits – The slight variance was due to staffing changes in hours during the 4th quarter.
- Meetings, Travel & Conferences – There were significant reductions in spending due to canceled travel and conferences.
- Contract Services – Overage mostly due to unbudgeted Marbled Murrelet contract work.

Non-Dues Revenue

Endorsement and Marketing revenues for NACo Nationwide Deferred Compensation were almost 14% higher than budgeted in 2020. The newly structured Omnia program ended a quarter earlier than budgeted.

Program	Budget	Actual
NACo LLC Deferred Comp	\$130,000	\$154,369
NACo US Communities/Omnia	15,000	11,250
NACo Live Healthy Prescription Discount Card	2,000	5,279
NACo eConnectDirect	2,500	0
Liberty Mutual	<u>5,000</u>	<u>5,299</u>
	<u>\$154,500</u>	<u>\$176,197</u>

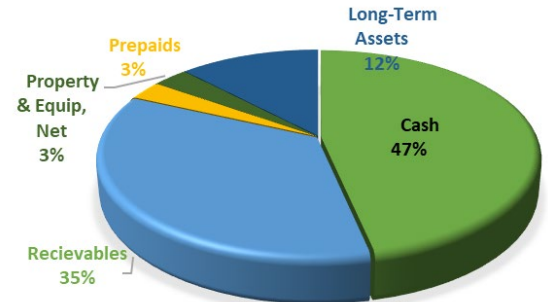
December 31, 2020 Financial Dashboard

STATEMENT OF FINANCIAL POSITION

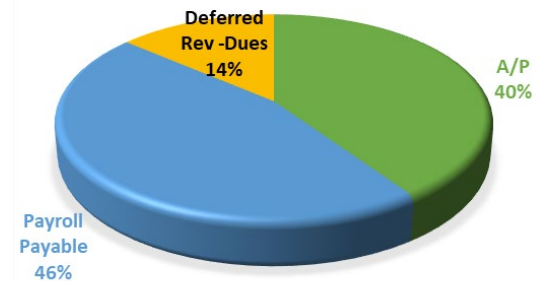
AS OF 12/31/2020

Litigation \$188,554	Litigation \$160,926	Litigation \$27,629
Special \$761,358	Special \$760,775	Special \$583
Operating \$469,464	Operating \$93,202	Operating \$376,261
Total Assets, \$1,419,376	Net Assets/Equity, \$1,014,903	Total Liabilities, \$404,473

ASSET COMPOSITION

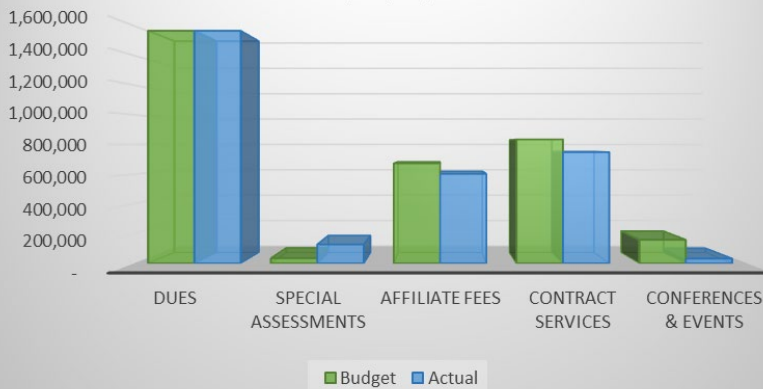


LIABILITIES COMPOSITION



2020 Revenues Budget to Actual

as of 12/31/2020



2020 Operating Fund

Revenues are 94% of Budgeted YTD

Expenses are less than 93% of Budgeted YTD

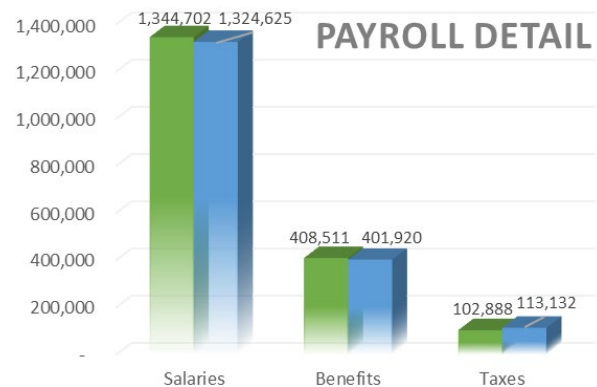
We saved \$50k from budgeted

2020 Expenses Budget to Actual

as of 12/31/2020



PAYROLL DETAIL



Statement of Financial Position, by Fund
For the Current Ending Period and 3 Years Prior

	Operating Fund	Special Fund	Litigation Fund	Total 12/31/2020	12/31/2019	12/31/2018	12/31/2017
Assets							
Cash & Cash Equivalents	\$ (225,297)	\$ 715,641	\$ 171,248	\$ 661,591	\$ 651,808	\$ 749,560	\$ 851,197
Receivables & Other Current Assets	453,868	45,717	-	499,586	442,365	645,315	296,786
Prepays	24,391	-	17,307	41,698	36,861	4,973	5,000
Property & Equipment, Net	43,669	-	-	43,669	61,581	81,703	71,125
Long-Term and Other Assets							
Counties Building Partnership	172,771	-	-	172,771	155,142	167,943	178,686
NACo RMA LLC Partnership	62	-	-	62	62	62	(744)
Total Assets	\$ 469,464	\$ 761,358	\$ 188,554	\$ 1,419,376	\$ 1,347,818	\$ 1,649,556	\$ 1,402,050
Liabilities & Unrestricted Equity							
Accounts Payable	\$ 142,373	\$ 583	\$ 20,437	\$ 163,393	\$ 133,611	\$ 397,400	\$ 290,477
Payroll Payable	178,261	-	7,192	185,453	154,185	112,704	131,736
Deferred Revenues-Dues	55,627	-	-	55,627	72,000	-	-
Net Assets							
Undesignated	93,202	640,775	78,926	812,903	786,022	937,451	777,838
Board Designated	-	120,000	82,000	202,000	202,000	202,000	202,000
Total Net Assets	\$ 93,202	\$ 760,775	\$ 160,926	\$ 1,014,903	\$ 988,022	\$ 1,139,451	\$ 979,838
Total Liabilities & Unrestricted Equity	\$ 469,464	\$ 761,358	\$ 188,554	\$ 1,419,376	\$ 1,347,818	\$ 1,649,556	\$ 1,402,050

*This financial statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Key factors for changes in WSAC's Assets and Equity between 2017 and 2020:

- Litigation Fund - a new fund based on the 2018 budget adopted by the members at the November 2017 General Board Member Meeting.
- Cash –Cash flow is higher in the beginning of the year and is reduced as it is used throughout the year on general expenses. Cash remained stable from previous year as expenditures were lower than anticipated.
- Receivables & Other Current Assets - The receivables at the end of the 4th quarter in 2020 is related to quarterly billing of affiliates. There are also a few remaining dues assessments and outstanding state contracts waiting for payment.

Actual vs. Budget in Summary For the Current Ending Period and 3 Years Prior

Operating Fund	Total Budget	Budget 12/31/2020	Actual 12/31/2020	Variance (unfavorable)	12/31/2019	12/31/2018	12/31/2017
Revenue							
Dues	\$ 1,564,072	\$ 1,564,072	\$ 1,564,077	\$ 5	\$ 1,525,193	\$ 1,491,284	\$ 1,268,294
Business Partner Fees	-	-	-	-	-	-	300
Special Assessments	35,000	35,000	127,000	92,000	35,000	35,000	216,750
Affiliate Assessments	672,323	672,323	601,977	(70,346)	596,107	598,051	636,061
Contract Services	833,961	833,961	747,908	(86,053)	407,451	632,793	600,567
Conferences and Events	159,000	159,000	32,000	(127,000)	205,781	136,438	228,431
Other Miscellaneous Revenues	500	500	-	(500)	-	4	-
Total Revenue	\$ 3,264,856	\$ 3,264,856	\$ 3,072,961	\$ (191,895)	\$ 2,769,532	\$ 2,893,570	\$ 2,950,403
Operating Expense							
Payroll and Benefits	\$ 1,856,101	\$ 1,856,101	\$ 1,839,677	\$ 16,424	\$ 1,799,807	\$ 1,500,345	\$ 1,568,421
Meetings, Travel and Hosting	156,200	156,200	33,333	122,867	174,567	149,894	141,609
Conferences and Events	164,150	164,150	7,878	156,272	190,090	140,191	168,577
Contract Services	809,400	809,400	865,089	(55,689)	442,959	737,132	639,420
Professional Services Other	137,944	137,944	133,999	3,945	119,595	150,420	235,869
Technology and Telecom	44,309	44,309	52,962	(8,653)	47,442	46,865	44,477
General Operating	161,750	161,750	155,547	6,203	184,008	177,039	163,403
Total Operating Expense	\$ 3,329,854	\$ 3,329,854	\$ 3,088,484	\$ 241,370	\$ 2,958,468	\$ 2,901,886	\$ 2,961,778
Changes in Net Assets	\$ (64,998)	\$ (64,998)	\$ (15,523)	\$ 49,475	\$ (188,936)	\$ (8,316)	\$ (11,375)
Dues as a % of Total Revenue	47.9%		50.9%		55.1%	51.5%	43.0%
# of Permanent Staff	14		14		14	12	12
Payroll Exp as % of Total Exp	56%		60%		61%	52%	53%
Net Income as % of Revenue	-2%		-1%		-7%	0%	0%

*This financial statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Actual vs. Budget in Summary For the Current Ending Period and 3 Years Prior

Special Fund	Total Budget	Budget 12/31/2020	Actual 12/31/2020	Variance (unfavorable)	12/31/2019	12/31/2018	12/31/2017
Revenue							
Business Partner Fees	-	-	-	-	650	650	-
Marketing and Royalties	154,500	154,500	176,197	21,697	198,413	194,096	209,651
Other Miscellaneous Revenues	500	500	-	(500)	-	-	-
Interest Earnings	15,000	15,000	10,273	(4,727)	18,436	6,116	3,350
Total Revenue	\$ 170,000	\$ 170,000	\$ 186,470	\$ 16,470	\$ 217,499	\$ 200,862	\$ 213,002
Operating Expense							
Meetings, Travel and Hosting	55,000	55,000	26,791	28,209	40,824	54,302	64,191
Conferences and Events	25,000	25,000	-	25,000	4,096	27,140	30,000
Professional Services Other	7,500	7,500	7,500	-	19,406	7,500	7,500
Technology and Telecom	3,700	3,700	4,414	(714)	11,380	4,224	842
General Operating	8,650	8,650	10,531	(1,881)	17,784	9,404	16,316
Total Operating Expense	\$ 99,850	\$ 99,850	\$ 49,236	\$ 50,614	\$ 93,490	\$ 102,569	\$ 118,848
Changes in Net Assets	\$ 70,150	\$ 70,150	\$ 137,234	\$ 67,084	\$ 124,009	\$ 98,293	\$ 94,153
Dues as a % of Total Revenue	0.0%		0.0%		0.0%	0.0%	0.0%
# of Permanent Staff	14		14		14	12	12
Payroll Exp as % of Total Exp	0%		0%		0%	0%	0%
Net Income as % of Revenue	41%		74%		57%	49%	44%

*This financial statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Actual vs. Budget in Summary
 For the Current Ending Period and 3 Years Prior

Litigation Fund	Total Budget	Budget 12/31/2020	Actual 12/31/2020	Variance (unfavorable)	12/31/2019	12/31/2018	12/31/2017
Revenue							
Dues	\$ 400,000	\$ 400,000	\$ 399,999	\$ (1)	\$ 400,003	\$ 399,997	\$ -
Total Revenue	\$ 400,000	\$ 400,000	\$ 399,999	\$ (1)	\$ 400,003	\$ 399,997	\$ -
Operating Expense							
Payroll and Benefits	\$ 120,939	\$ 120,939	\$ 120,582	\$ 357	\$ 81,065	\$ 61,106	\$ -
Meetings, Travel and Hosting	15,000	15,000	-	15,000	1,377	28,273	-
Conferences and Events	-	-	-	-	2,500	849	-
Professional Services Other	340,000	340,000	326,047	13,953	337,686	154,746	-
Technology and Telecom	1,968	1,968	-	1,968	315	2,397	-
General Operating	500	500	-	500	311	3,821	-
Total Operating Expense	\$ 478,407	\$ 478,407	\$ 446,628	\$ 31,779	\$ 423,254	\$ 251,192	\$ -
Changes in Net Assets	\$ (78,407)	\$ (78,407)	\$ (46,629)	\$ 31,778	\$ (23,251)	\$ 148,805	\$ -
Dues as a % of Total Revenue	100.0%		100.0%		100.0%	100.0%	#DIV/0!
# of Permanent Staff	14		14		14	12	12
Payroll Exp as % of Total Exp	25%		27%		19%	24%	#DIV/0!
Net Income as % of Revenue	-20%		-12%		-6%	37%	#DIV/0!

*This financial statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Actual vs. Budget in Summary
 For the Current Ending Period and 3 Years Prior

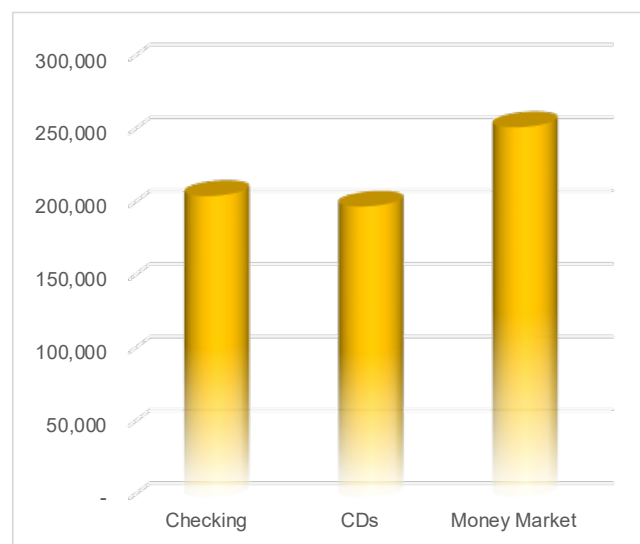
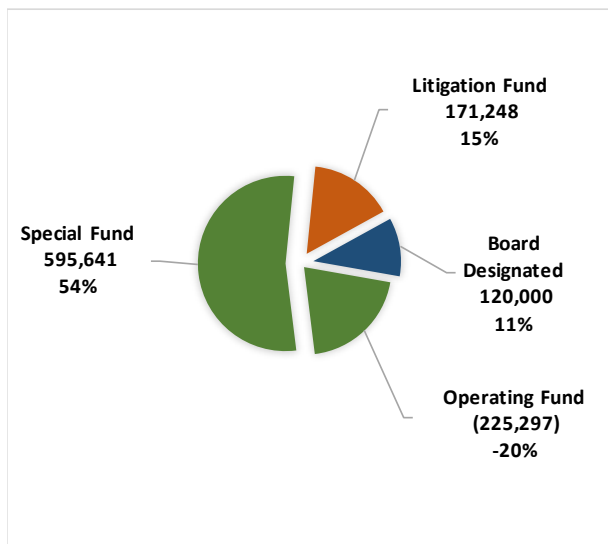
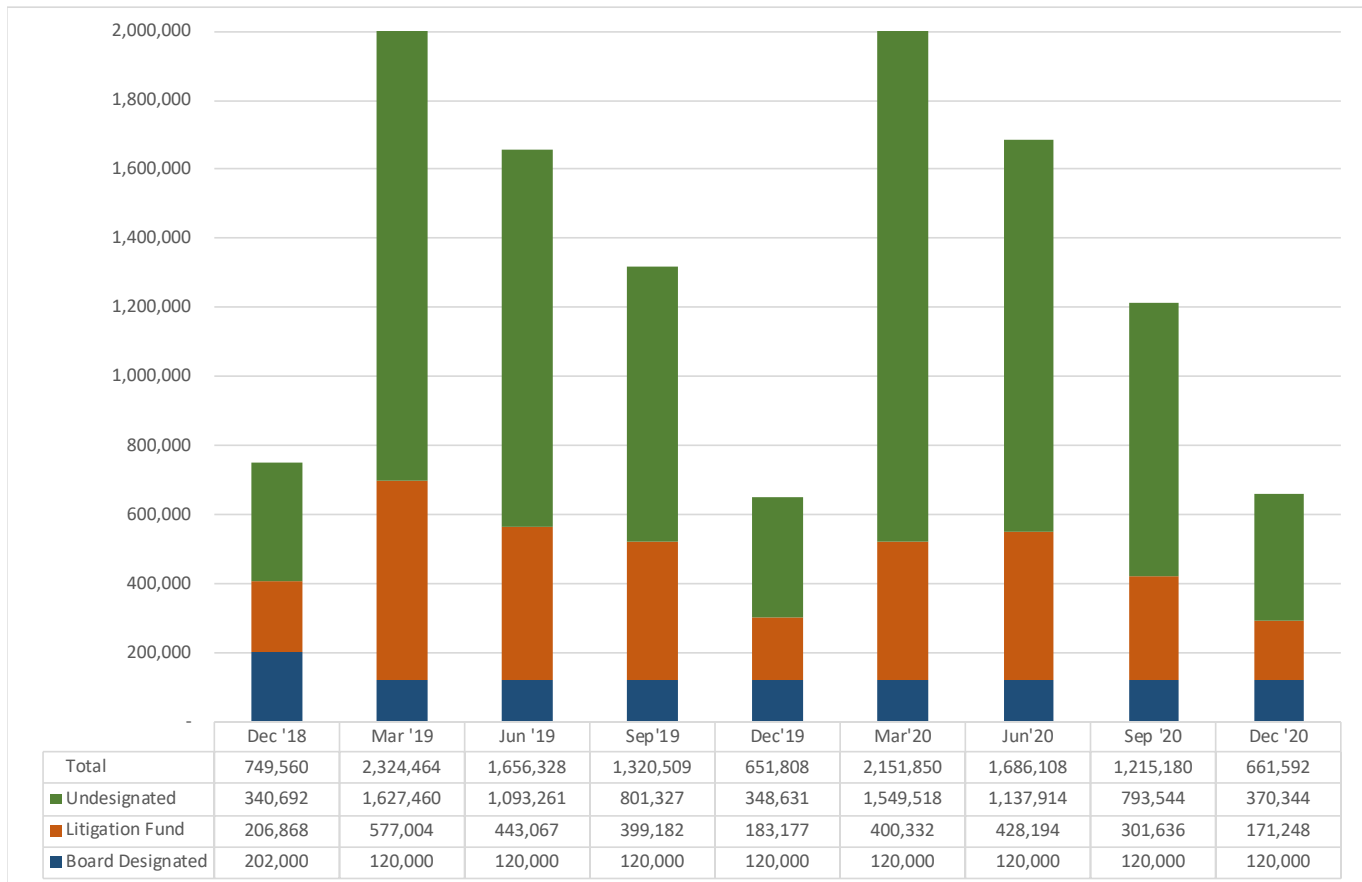
	Total Budget	Budget 12/31/2020	Actual 12/31/2020	Variance (unfavorable)	12/31/2019	12/31/2018	12/31/2017
Revenue							
Dues	\$ 1,964,072	\$ 1,964,072	\$ 1,964,076	\$ 4	\$ 1,925,196	\$ 1,891,281	\$ 1,268,294
Business Partner Fees	-	-	-	-	650	650	300
Special Assessments	35,000	35,000	127,000	92,000	35,000	35,000	216,750
Affiliate Assessments	672,323	672,323	601,977	(70,346)	596,107	598,051	636,061
Contract Services	833,961	833,961	747,908	(86,053)	407,451	632,793	600,567
Conferences and Events	159,000	159,000	32,000	(127,000)	205,781	136,438	228,431
Marketing and Royalties	154,500	154,500	176,197	21,697	198,413	194,096	209,651
Other Miscellaneous Revenues	1,000	1,000	-	(1,000)	-	4	-
Interest Earnings	15,000	15,000	10,273	(4,727)	18,436	6,116	3,350
Total Revenue	\$ 3,834,856	\$ 3,834,856	\$ 3,659,431	\$ (175,425)	\$ 3,387,033	\$ 3,494,430	\$ 3,163,404
Operating Expense							
Payroll and Benefits	\$ 1,977,040	\$ 1,977,040	\$ 1,960,258	\$ 16,782	\$ 1,880,872	\$ 1,561,451	\$ 1,568,421
Meetings, Travel and Hosting	226,200	226,200	60,124	166,076	216,767	232,468	205,801
Conferences and Events	189,150	189,150	7,878	181,272	196,686	168,181	198,577
Contract Services	809,400	809,400	865,089	(55,689)	442,959	737,132	639,420
Professional Services Other	485,444	485,444	467,546	17,898	476,687	312,666	243,369
Technology and Telecom	49,977	49,977	57,375	(7,398)	59,137	53,486	45,318
General Operating	170,900	170,900	166,078	4,822	202,103	190,264	179,719
Total Operating Expense	\$ 3,908,111	\$ 3,908,111	\$ 3,584,348	\$ 323,763	\$ 3,475,211	\$ 3,255,647	\$ 3,080,626
Changes in Net Assets	\$ (73,255)	\$ (73,255)	\$ 75,082	\$ 148,337	\$ (88,178)	\$ 238,782	\$ 82,778
Dues as a % of Total Revenue	51.2%		53.7%		56.8%	54.1%	40.1%
# of Permanent Staff	14		14		14	12	12
Payroll Exp as % of Total Exp	51%		55%		54%	48%	51%
Net Income as % of Revenue	-2%		2%		-3%	7%	3%

*This financial statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Key factors for changes in WSAC's income and expenses between 2017 and 2020:

- 2020 Dues revenue increases from 2017 are a result of the addition of the SLAC program in 2018 and small COLA adjustments each year.
- Affiliate assessment revenues are based on actual expenses from the affiliates WSAC manages (recorded within Operating Expense) with a 12% overhead charge added.
- Payroll and Benefits - The increase in staff from 2017 to 2018 with no corresponding increase in expense is due to one position remaining unfilled for 9 months as well as turnover of four positions in 2018 that remained unfilled for anywhere from one to four months. 2019 had 1 vacant position not filled and another position vacant for 2.5 months. 2020 was fully staffed with some minor changes in the 4th quarter.
- Professional Services Other – The 2017 increase from 2016 is due to Special Assessment projects (can be found in related revenue) including a Media Campaign, Columbia River Treaty, PILT, and Coastal Counties. Professional service increases in 2019 are mostly from the SLAC legal and communication expenses.

Total Cash & Investment Position - All Funds
For The Quarter Ended December 31, 2020



May 5, 2021

TO: WSAC Board of Directors

FROM: Eric Johnson, Executive Director

PREPARED BY: Derek Anderson, Director, Member Services and Communications

SUBJECT: Appointments and Nominations to Statewide Boards & Commissions

The following nominations were received for open county represented positions on statewide boards and commissions. Attached are applications and statements of interest from each candidate.

Appointments by the WSAC Board of Directors

County Road Administration Board

Eligibility: County Elected Official – Population between 30k -150k
Number of Positions: One | Applications Received: Two

Lisa Janicki, Skagit County Commissioner
Greg Young, Stevens County Commissioner

County Road Administration Board

Eligibility: County Elected Official – Population over 150k
Number of Positions: One | Applications Received: Two

Kathy Lambert, King County Councilmember
Carolina Mejia, Thurston County Commissioner

County Road Administration Board

Eligibility: County Engineer – Population over 150k
Number of Positions: One | Applications Received: Two

Chad Coles, Spokane County Engineer
Douglas McCormick, Snohomish County Engineer

Criminal Justice Treatment Account Panel

Eligibility: County Elected Official – Alternate
Number of Positions: One | Applications Received: Two

Sean Swope, Lewis County Commissioner
Cindy Wolf, San Juan County Council Member

Nominations to the Governor

Forensic Investigations Council (FIC)

Eligibility: County Elected Official
Number of Positions: One | Applications Received: One

Julie Olson, Clark County Councilor

Nominations to the Governor – Continued

Public Records Exemptions Accountability Committee (Sunshine Committee)

Eligibility: General Public

Number of Positions: One

Number of Applications Received: One

Jamie Stephens, San Juan County Council Member

Public Works Board

Eligibility: Public Works Director or Manager

Number of Positions: One | Applications Received: One

Kelly Snyder, Snohomish County Public Works Director

Nominations to the Department of Commerce

Community Economic Revitalization Board

Eligibility: County Elected Official

Number of Positions: One | Applications Received: Nine

Karen Bowerman, Clark County Councilor
Kate Dean, Jefferson County Commissioner
Tom Handy, Whitman County Commissioner
Tom Lannen, Skamania County Commissioner
Mark Ozias, Clallam County Commissioner
Janet St. Clair, Island County Commissioner
Sean Swope, Lewis County Commissioner
Dennis Weber, Cowlitz County Commissioner
Cory Wright, Kittitas County Commissioner

Openings Receiving No Nominations

E-911 Advisory Board – Alternate

Eligibility: County Elected Official – Western WA

WSAC Nominates, Appointed by Adjutant General

Positions available: One

Housing Finance Commission

Eligibility: County Elected Official with experience in local housing programs

WSAC Nominates, Appointed by the Governor

Positions available: One

State Interoperability Executive Committee

Eligibility: County Elected Official

WSAC Nominates, Appointed by State CIO

Positions available: One

WSAC will continue to recruit for these positions acknowledging that the Executive Board may make appointments prior to the September Board of Director's meeting if nominations/applications are received.

WSAC Policy on Board Appointment/Nomination Process

For Boards or Commissions where the WSAC Board of Directors are responsible for nominating individuals, the following process will be used:

Board of Directors' may approve that all nominees be forwarded to the appointing authority for further review via voice vote.

For Boards or Commissions where the WSAC Board of Directors have appointing authority, the following process will be used:

For positions receiving two statements of interest, the Board of Directors shall conduct a hand vote to determine which candidate is the nominee/appointee. For positions receiving more than two statements of interest and where it is necessary to reduce the number of nominees, the board shall conduct an exhaustive ballot voting system until it is determined which candidate(s) are the nominee/appointee.

The exhaustive ballot voting system provides that each board member cast a single vote for his or her selected nominee. If no candidate is supported by an overall majority of votes, then the candidate with the fewest votes is eliminated and a further round of voting occurs. This process is repeated for as many rounds as necessary until one nominee has a majority of the Board of Directors present to vote. If more than one nominee needs to be selected, the Board shall continue to vote until a second nominee has a majority, and so on.

Member Nomination Form

Position of Interest:

County Road Administration Board (Elected - 30-150k)

Name

Lisa Janicki

Title

Commissioner

County:

Skagit County

If elected official, your current term ends?

Saturday, December 31, 2022

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

WSAC Board of Directors,

I would like to continue my work with the CRABoard where I am currently serving as the 2nd Vice President. With the recent and/or pending transitions of Executive Director, Deputy Director, and Executive Administrator, continuity of the Board will strengthen the organization through these significant personnel changes. I am specifically looking forward to working with incoming Exec Director Wall to go through a strategic planning process as transportation faces the challenges of reduced motor vehicle fuel tax revenue and ongoing deferred maintenance across all counties.

My background includes working with engineers on large projects, applying new technologies, and evaluating multi-year financial impacts so the work of CRAB is right in my wheelhouse. Please appoint me to another term on CRAB.

Member Nomination Form

Position of Interest:

County Road Administration Board (Elected - 30-150k)

Name

Greg Young

Title

commissioner

County:

Stevens County

If elected official, your current term ends?

Tuesday, December 31, 2024

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I am a recently elected County Commissioner and very committed to the district that I represent. I would appreciate the opportunity to learn from highly qualified people serving on this board.

Thank you
Greg Young

Member Nomination Form

Position of Interest:

County Road Administration Board (Elected - over 150K)

Name

Kathy Lambert

Title

Councilmember

County:

King County

If elected official, your current term ends?

Friday, December 31, 2021

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I am interested in being reappointed for another term on the County Roads Administration Board (CRAB). I really enjoy being on this board and seeing all the benefits that CRAB brings to Washington's counties. They have lots of technical expertise and a willingness to collaborate with all the counties to achieve results. CRAB has developed many new resources, trainings, and programs to assist and give county engineers more resources.

CRAB is also undergoing many changes, new state budget allocations, and recently hiring a new director as well as many retirements on the staff. During this time of transition, I think it would be good for there to be continuity and consistency on the board. I would appreciate the

opportunity to serve another term. Thank you for your consideration.

Member Nomination Form

Position of Interest:

County Road Administration Board (Elected - over 150K)

Name

Carolina Mejia

Title

Commissioner Carolina Mejia

County:

Thurston County

If elected official, your current term ends?

Saturday, January 4, 2025

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I represent a County with over 150k population, I sit on the Thurston Regional Planning Council's Transportation Policy Board, I am the current Chair of the Thurston County Transportation Benefit District and I sit on the Board of Intercity Transit. Roads and Transportation is very important to me.

Member Nomination Form

Position of Interest:

County Road Administration Board (Engineer - over 150K)

Name

Chad Coles

Title

County Engineer

County:

Spokane County

If elected official, your current term ends?

Invalid date

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I have worked with the County Road Administration Board (CRAB) for my entire 30-year career at Spokane County. It performs a vital regulatory function, provides vital funding sources, technical assistance and is an essential communication link to Executive and Legislative branches of the State. In my career the Board and Staff have done these functions extremely well. Beyond that, what is truly unique and valuable about CRAB is their focus on making each County successful in their mission.

I have added my resume below, not to show that I cannot hold down a job, but to show the variety of my experience. That experience combined with the unique mix of urban and rural environments in Eastern Washington has shaped my perspective. I would like the opportunity to use that experience and perspective maintain and advance the excellent work that CRAB does.

Chad W. Coles – P.E.

ccoles@spokanecounty.org
(509) 869-5746

HIGHLIGHTED EXPERTISE

Public Agency Administration: Managing fund budgets in excess of \$80 million per year.

Capital Programs: Developing and implementing over \$15 million in road and bridge construction annually.

Maintenance & Operations: Asset need based operations, maintenance and preservation program.

Equipment Repair & Replacement: Establishing rate setting and equipment purchase program.

Transportation Planning: Researching, developing and adopting Six-Year Transportation Improvement Program.

EMPLOYMENT

County Engineer – *Spokane County* 2017-Present
Public Works Department head. Working with Elected Officials to provide leadership and vision in all aspects of the Department's mission.

Assistant County Engineer – *Spokane County* 2008-2017
Overall management and direction of all aspects of maintenance, operations and preservation of county roads, transportation capital program, equipment repair and replacement fund, Gieger Spur rail line, and fund budgets.

Plans and Contract Engineer – *Spokane County* 2003-2008
Oversaw the design section of the Spokane County Engineer's Office. Responsible for the development of transportation projects from concept design to contract award. Developed and maintained design standards and standard plans.

Utilities Engineer – *Spokane County* 2001-2003
Design of County sewer collection systems. Developed and managed the industrial pretreatment program in cooperation with the Department of Ecology and the Environmental Protection Agency. Managed the inspection section of the Utilities Department.

Construction Engineer – *Spokane County* 1997-2001
Acted as the construction manager for County construction contracts provided construction management, inspection, surveying, and material testing for all County road, bridge and sewer contracts.

Pavement Management Engineer – *Spokane County* 1991-1997
Researched, developed and implemented a pavement management system for the County, including road condition management, cost efficient maintenance and rehabilitation strategies, and performance prediction models.

Engineer – *The Boeing Company* 1983-1991
Performed a variety of functions ranging from writing technical manuals for jet engines to structural design to fatigue and damage tolerance testing.

EDUCATION

B.S. in Civil Engineering – *Washington State University* 1978-1983
Member of Tau Beta Pi Engineering Honor Society.

Graduate studies in Structural Mechanics – *University of Washington* 1989-1990
No degree received.

License

Professional Engineer in Washington State since 1992

Member Nomination Form

Position of Interest:

County Road Administration Board (Engineer - over 150K)

Name

Douglas McCormick

Title

Dep. Director/County Engineer

County:

Snohomish County

If elected official, your current term ends?

Invalid date

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I am interested in serving on the CRAB Board as I have found this organization to be very beneficial to assisting and promoting good practice with all of Washington Counties weather they are small or large. They are a professional organization that I have had the privilege of working with in various positions with Snohomish County. I also serve as the Western Rep on the WASCE Board of Directors. I bring 35+ years of engineering experience in the public sector. 5 years at WSODT and nearly 31 years at Snohomish County Public Works, Please see my resume below:

Douglas W. McCormick, P.E.

4765 Arbors Cir.

Mukilteo, WA
98275

Douglas W. McCormick, P.E.

*4765 Arbors Cir.
Mukilteo, WA 98275
425.388.6655 (W)
425.238.5925 (C)*

P R O F E S S I O N A L R E S U M E

S U M M A R Y O F Q U A L I F I C A T I O N S

Snohomish County Public Works
Everett, WA

July 2017 to Present

DEPUTY DIRECTOR/COUNTY ENGINEER, PUBLIC WORKS

SERVE AS THE COUNTY ENGINEER AND DIRECT AND CONTROL THE DESIGN, CONSTRUCTION AND MAINTENANCE ACTIVITIES FOR PUBLIC WORKS PROJECTS FOR ROADS, BRIDGES, SURFACE WATER AND SOLID WASTE.

- ASSIST THE DIRECTOR OF PUBLIC WORKS IN THE OVERALL MANAGEMENT AND OPERATIONS OF THE DEPARTMENT.
- SERVE AS THE COUNTY ENGINEER TO PLAN, DIRECT, MANAGE, REVIEW AND APPROVE PROFESSIONAL ENGINEERING WORK IN THE PUBLIC WORKS DEPARTMENT.
- DIRECT OVERSIGHT OF
- REPRESENT THE DIRECTOR OF PUBLIC WORKS BEFORE THE EXECUTIVE AND COUNCIL.
- COORDINATE REVIEW OF THE TRANSPORTATION ELEMENTS OF PRIVATE DEVELOPMENT PROPOSALS AND OTHER
- DEVELOP AND IMPLEMENT DEPARTMENT LONG RANGE BUSINESS AND STRATEGIC PLAN, POLICIES, PROCEDURES.
- NEGOTIATES AND ADMINISTERS SERVICE CONTRACTS WITH OTHER PUBLIC AGENCIES.
- REVIEW AND ANALYZE LEGISLATIVE PLANS AND PROGRAMS
- PARTICIPATES IN THE DEVELOPMENT OF COUNTY PROPOSALS FOR AMENDMENTS TO COLLECTIVE BARGAINING AGREEMENTS
- REPRESENTS THE DEPARTMENT AT PUBLIC MEETINGS AND HEARINGS, JOINT ACTIVITIES WITH OTHER AGENCIES.
- DIRECTS THE COMPLETION OF AUTHORIZED CAPITAL IMPROVEMENT PROGRAMS
- EVALUATE DEPARTMENTAL OPERATIONS; PREPARE OR SUPERVISE THE PREPARATION OF OPERATIONAL POLICIES AND PROCEDURES
- MONITOR HIRING, TRAINING, SCHEDULING AND ASSIGNMENT OF EMPLOYEES; CONDUCT PERFORMANCE EVALUATIONS, COACHING, COUNSELING AND DISCIPLINE AS NEEDED.

Snohomish County Public Works
Everett, WA

Dec. 2016 to July 2017

DIVISION DIRECTOR (TRANSPORTATION AND ENVIRONMENTAL SERVICES)

DIRECT THE DAY TO DAY OPERATIONS OF 70 PROFESSIONALS WORKING IN THE TRAFFIC OPERATIONS, COMMUNICATIONS, PROGRAM PLANNING AND ENVIRONMENTAL SERVICES SECTIONS FOR THE TES DIVISION OF PUBLIC WORKS.

- ASSIGN, SUPERVISE AND EVALUATE THE WORK OF EMPLOYEES.
- DEVELOP AND IMPLEMENT DEPARTMENT POLICIES, PROCEDURES.
- PREPARE AND MONITOR AND IMPLEMENT THE TES DIVISION BUDGET.
- OVERSEE TRAFFIC OPERATIONS INCLUDING:
 - COLLECTION OF TRAFFIC DATA AND ANALYSIS
 - TRAFFIC INVESTIGATIONS
 - SIGNAL MAINTENANCE AND OPERATIONS
 - RIGHT OF WAY USE, RESEARCH AND PERMITTING
- DIRECT PROGRAM DEVELOPMENT OF PUBLIC WORKS PROJECTS WHICH INCLUDES:
 - THE COORDINATION OF PROJECT PRIORITIZATION,
 - LONG RANGE TRANSPORTATION MODELING AND PLANNING,
 - PROGRAMMING AND FUNDING FOR CAPITAL TRANSPORTATION PROJECTS,
 - ENVIRONMENTAL PROCESS AND PERMITTING FOR CAPITAL PROJECTS AND OPERATIONS.
- OVERSEE THE COMMUNICATIONS AND PUBLIC INFORMATION SERVICES FOR PUBLIC WORKS AND OTHER DEPARTMENTS
- COORDINATE OPERATIONS AND PROMOTE PARTNERSHIP WITH OUTSIDE AGENCIES.
- PROVIDE TECHNICAL ASSISTANCE TO OTHER PUBLIC AGENCIES AND PARTNERS.
- SUPERVISE REVIEW OF STUDIES, DESIGN REPORTS AND PS&E PACKAGES.
- RECOMMEND MODIFICATIONS TO APPLICABLE ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS.
- PREPARE REPORTS AND RECOMMENDATIONS FOR THE COUNTY COUNCIL AND EXECUTIVE'S OFFICE.
- PARTICIPATE IN PUBLIC HEARINGS AND OPEN HOUSES TO EXPLAIN TRANSPORTATION PROGRAM.
- PREPARE GRANT APPLICATIONS AND OTHER DOCUMENTS TO OBTAIN ALTERNATIVE OR SUPPLEMENTAL FUNDING SOURCES FOR PROJECTS AND PROGRAMS.
- REVIEW RECOMMENDED MODIFICATIONS TO COUNTY CODES AND ASSOCIATED REGULATIONS, PROCEDURES AND ENGINEERING STANDARDS.

Snohomish County Public Works

Everett, WA

Apr. 2016 to Dec. 2016

INTERIM DIRECTOR (TRANSPORTATION AND ENVIRONMENTAL SERVICES)

DIRECT THE DAY TO DAY OPERATIONS OF 70 PROFESSIONALS WORKING IN THE TRAFFIC OPERATIONS, COMMUNICATIONS, PROGRAM PLANNING AND ENVIRONMENTAL SERVICES SECTIONS FOR THE TES DIVISION OF PUBLIC WORKS.

- ASSIGN, SUPERVISE AND EVALUATE THE WORK OF EMPLOYEES.
- DEVELOP AND IMPLEMENT DEPARTMENT POLICIES, PROCEDURES.
- PREPARE AND MONITOR AND IMPLEMENT THE TES DIVISION BUDGET.
- OVERSEE TRAFFIC OPERATIONS INCLUDING:
 - COLLECTION OF TRAFFIC DATA AND ANALYSIS
 - TRAFFIC INVESTIGATIONS
 - SIGNAL MAINTENANCE AND OPERATIONS
 - RIGHT OF WAY USE, RESEARCH AND PERMITTING
- DIRECT PROGRAM DEVELOPMENT OF PUBLIC WORKS PROJECTS WHICH INCLUDES:
 - THE COORDINATION OF PROJECT PRIORITIZATION,
 - LONG RANGE TRANSPORTATION MODELING AND PLANNING,
 - PROGRAMMING AND FUNDING FOR CAPITAL TRANSPORTATION PROJECTS,
 - ENVIRONMENTAL PROCESS AND PERMITTING FOR CAPITAL PROJECTS AND OPERATIONS.

- OVERSEE THE COMMUNICATIONS AND PUBLIC INFORMATION SERVICES FOR PUBLIC WORKS AND OTHER DEPARTMENTS
- COORDINATE OPERATIONS AND PROMOTE PARTNERSHIP WITH OUTSIDE AGENCIES.
- PROVIDE TECHNICAL ASSISTANCE TO OTHER PUBLIC AGENCIES AND PARTNERS.
- SUPERVISE REVIEW OF STUDIES, DESIGN REPORTS AND PS&E PACKAGES.
- RECOMMEND MODIFICATIONS TO APPLICABLE ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS.
- PREPARE REPORTS AND RECOMMENDATIONS FOR THE COUNTY COUNCIL AND EXECUTIVE'S OFFICE.
- PARTICIPATE IN PUBLIC HEARINGS AND OPEN HOUSES TO EXPLAIN TRANSPORTATION PROGRAM.
- PREPARE GRANT APPLICATIONS AND OTHER DOCUMENTS TO OBTAIN ALTERNATIVE OR SUPPLEMENTAL FUNDING SOURCES FOR PROJECTS AND PROGRAMS.
- REVIEW RECOMMENDED MODIFICATIONS TO COUNTY CODES AND ASSOCIATED REGULATIONS, PROCEDURES AND ENGINEERING STANDARDS.
- ASSIST THE DEPARTMENT DIRECTOR IN DEVELOPING AND IMPLEMENTING SYSTEMS, PROGRAMS, AND LONG RANGE PLANS TO PROVIDE FOR EFFECTIVE DPW OPERATIONS.
- RESPOND TO INQUIRIES FROM ELECTED OFFICIALS AND THE PUBLIC REGARDING SPECIFIC PROBLEMS OR ISSUES.

Snohomish County Public Works
Everett, WA

Dec. 2009 to Apr. 2016

PUBLIC WORKS MANAGER (PROGRAM PLANNING/ENVS)

MANAGE THE DAY TO DAY OPERATIONS OF 28 PROFESSIONALS WORKING IN THE PROGRAM PLANNING AND ENVIRONMENTAL SERVICES GROUPS FOR THE TES DIVISION OF PUBLIC WORKS.

- ASSIGN, SUPERVISE AND EVALUATE THE WORK OF EMPLOYEES.
- DEVELOP AND IMPLEMENT POLICIES, PROCEDURES AND BUDGETS.
- MANAGE PROGRAM DEVELOPMENT OF PUBLIC WORKS PROJECTS WHICH INCLUDES THE COORDINATION OF PROJECT PRIORITIZATION, LONG RANGE TRANSPORTATION PLANNING, FUNDING AND ENVIRONMENTAL PERMITTING.
- COORDINATE OPERATIONS AND PROMOTE PARTNERSHIP WITH OUTSIDE AGENCIES.
- PROVIDES TECHNICAL ASSISTANCE TO OTHER PUBLIC AGENCIES AND PARTNERS.
- SUPERVISE REVIEW OF STUDIES, DESIGN REPORTS AND PS&E PACKAGES.
- RECOMMEND MODIFICATIONS TO APPLICABLE ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS.
- PREPARE REPORTS AND RECOMMENDATIONS FOR THE COUNTY COUNCIL AND EXECUTIVE'S OFFICE.
- PARTICIPATE IN PUBLIC HEARINGS AND OPEN HOUSES TO EXPLAIN TRANSPORTATION PROGRAM.
- PREPARE GRANT APPLICATIONS AND OTHER DOCUMENTS TO OBTAIN ALTERNATIVE OR SUPPLEMENTAL FUNDING SOURCES FOR PROJECTS AND PROGRAMS.
- RECOMMEND MODIFICATIONS TO COUNTY CODES AND ASSOCIATED REGULATIONS, PROCEDURES AND ENGINEERING STANDARDS.
- ASSIST THE DIVISION DIRECTOR IN DEVELOPING AND IMPLEMENTING SYSTEMS, PROGRAMS, AND LONG RANGE PLANS TO PROVIDE FOR EFFECTIVE DPW OPERATIONS.
- RESPOND TO INQUIRIES FROM ELECTED OFFICIALS AND THE PUBLIC REGARDING SPECIFIC PROBLEMS OR ISSUES.

Snohomish County Public Works
Everett, WA

Aug. 2006 to Dec. 2009

PUBLIC WORKS GROUP SUPERVISOR IV (PROGRAM PLANNING SUPERVISOR)

SUPERVISE THE DAY TO DAY OPERATIONS OF 16 PROFESSIONALS WORKING IN THE PROGRAM PLANNING GROUP FOR THE TES DIVISION OF PUBLIC WORKS.

- ASSIGN, SUPERVISE AND EVALUATE THE WORK OF EMPLOYEES.
- DEVELOP AND IMPLEMENT POLICIES, PROCEDURES AND BUDGETS.
- SUPERVISE PROGRAM DEVELOPMENT OF PUBLIC WORKS PROJECTS WHICH INCLUDE THE COORDINATION OF PROJECT PRIORITIZATION, LONG RANGE TRANSPORTATION PLANNING AND FUNDING OF PROGRAMS.
- COORDINATE OPERATIONS AND PROMOTE PARTNERSHIP WITH OUTSIDE AGENCIES.
- PROVIDES TECHNICAL ASSISTANCE TO OTHER PUBLIC AGENCIES AND PARTNERS.
- SUPERVISE REVIEW OF STUDIES, DESIGN REPORTS AND PS&E PACKAGES.
- PREPARE REPORTS AND RECOMMENDATIONS FOR THE COUNTY COUNCIL AND EXECUTIVE'S OFFICE.
- PREPARE GRANT APPLICATIONS AND OTHER DOCUMENTS TO OBTAIN ALTERNATIVE OR SUPPLEMENTAL FUNDING SOURCES FOR PROJECTS AND PROGRAMS.
- RECOMMENDED MODIFICATIONS TO APPLICABLE ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS.
- PARTICIPATE IN PUBLIC HEARINGS AND OPEN HOUSES TO EXPLAIN PROGRAM PLANS.
- PREPARE SHORT TERM AND LONG RANGE WORK PROGRAM AND SERVICE PLANS WHICH IDENTIFY AND PRIORITIZE PROPOSED PROJECTS AND PROGRAMS.
- ASSIST THE DIVISION DIRECTOR IN DEVELOPING AND IMPLEMENTING SYSTEMS, PROGRAMS, AND LONG RANGE PLANS TO PROVIDE FOR EFFECTIVE DPW OPERATIONS.
- RESPOND TO INQUIRIES FROM ELECTED OFFICIALS AND THE PUBLIC REGARDING SPECIFIC PROBLEMS OR ISSUES IN AREA OF ASSIGNMENT.

Snohomish County Public Works
Everett, WA

Jan. 2006 to Aug. 2006

ACTING CONSTRUCTION MANAGER

MANAGE THE DAY TO DAY OPERATIONS OF 15 PROFESSIONALS WORKING IN THE CONSTRUCTION SECTION FOR THE ES DIVISION OF PUBLIC WORKS.

- ASSURE THAT CONSTRUCTION PROJECTS ARE CONSTRUCTED TO THE REQUIRED SPECIFICATIONS, WITHIN THE APPROVED BUDGET AND SPECIFIED TIME FRAME.
- PLAN, SCHEDULE, ASSIGN AND EVALUATE WORK OF SUBORDINATE EMPLOYEES.
- PROVIDE ASSISTANCE, TRAINING AND PERFORMANCE APPRAISALS OF EMPLOYEES.
- HIRE, PROMOTE AND DISCIPLINE SUBORDINATE EMPLOYEES.
- COORDINATE OPERATIONS AND PROMOTE PARTNERSHIP WITH OUTSIDE AGENCIES, CITIZEN
- RECOMMENDED MODIFICATIONS TO APPLICABLE ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS.
- OVERSEE THE SELECTION, NEGOTIATION AND MONITORING OF CONSULTANTS.
- REPRESENT THE COUNTY AT PUBLIC HEARINGS OR MEETINGS WITH PUBLIC OFFICIALS, AGENCIES, SPECIAL INTEREST GROUPS AND CITIZENS.
- MAKE PUBLIC PRESENTATIONS AND RESPOND TO INQUIRIES FROM CITIZENS AND THE PRESS CONCERNING THE DEVELOPMENT AND SCHEDULING OF DEPARTMENT PROJECTS.
- ACT AS ENGINEERING EXPERT WITNESS IN COURT CASES RELATING TO AREA OF ASSIGNMENT.
- REPRESENT THE ENGINEERING SERVICES DIRECTOR OR DIRECTOR OF PUBLIC WORKS.

Member Nomination Form

Position of Interest:

Criminal Justice Treatment Account Panel

Name

Cindy Wolf

Title

County Council Member

County:

San Juan County

If elected official, your current term ends?

Tuesday, December 31, 2024

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

San Juan County has excellent Judges who have instituted a very successful "Drug Court" in our county. I have seen first-hand the difference a behavioral health approach to criminal behavior entangled with substance abuse issues can make to a community and would like to support this change of in the Justice system.

Member Nomination Form

Position of Interest:

Criminal Justice Treatment Account Panel

Name

Sean Swope

Title

Commissioner

County:

Lewis County

If elected official, your current term ends?

Wednesday, January 1, 2025

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

However we can help those who are struggling with addiction overcome, I want to be apart of that process. We are in a pivotal time in Washington State as we are working on ways to reform how we provide help to those who are struggling with addiction. I look forward to being apart of this team.

Member Nomination Form

Position of Interest:

Forensic Investigations Council (FIC)

Name

Julie Olson

Title

Clark County Councilor

County:

Clark County

If elected official, your current term ends?

Saturday, December 31, 2022

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I have served on the FIC for the last 3.5 years. We have considered many important topics from delayed Toxicology Lab results, SAK backlog and the new DNA lab built right here in Clark County. I have enjoyed my service on the Council. I would like to continue on the FIC if possible. Thank you for your consideration.

Member Nomination Form

Position of Interest:

Public Records Exemptions Accountability Committee
(Sunshine Committee)

Name

Jamie Stephens

Title

Council Member

County:

San Juan County

If elected official, your current term ends?

Saturday, December 31, 2022

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I am interested in the peoples right to know balanced with common sense regulations. I serve as our County's public records officer. I also served as WSAC's representative on the legislative taskforce on public records reform.

Member Nomination Form

Position of Interest:

Public Works Board

Name

Kelly Snyder

Title

Public Works Director

County:

Snohomish County

If elected official, your current term ends?

Invalid date

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

The Public Works Board and PWTF is an important organization and funding source for jurisdictions and especially counties across the state. The funding allocation has been disrupted many times in the past few years and keeping a strong and consistent funding appropriation is incredibly important. I'd like to help in that effort. As the past Executive Director of the PWB, I'm very familiar with the staff, operations and board. I would hope to contribute from a different point of view as WASC representative and PW Director of Snohomish County. I'm volunteering to serve if WASC is unable to find another candidate.

Member Nomination Form

Position of Interest:

Community Economic Revitalization Board (CERB)

Name

Cory Wright

Title

Commissioner

County:

Kittitas County

If elected official, your current term ends?

Tuesday, December 31, 2024

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

As an elected Kittitas County commissioner, I represent an area that has been designated twice in the last decade by the U.S. Census Bureau as one of the fastest-growing micro areas in the nation. I also represent a county that is one of six in the state without a port district, the only county in Washington to ever disband one, and personally participated in a campaign to reinstate a port district in 2018 – which was soundly defeated. It is this dichotomy that has made economic development a primary focus of mine as a commissioner.

Prior to office, I spent 20 years in the private sector serving in the maritime industry. As part of a market segment heavily dependent on public infrastructure maintenance and improvement, I became well acquainted with the larger positive ripple effects on our population when strategic public investments are made to support economic vitality. Presently, I lead a county pivoting to change our past mistakes and unfriendly business reputation to capitalizing on being a blank slate for future growth. I have already worked to expand our

airport and surrounding business park by investing in staffing, equipment, and mitigation of land conditions which would create a barrier to private investment.

As a part of the Community Economic Revitalization Board, I believe my previous private experience, combined with leading a county lacking competitive resources, will bring a creative perspective to problem-solving the needs of cities, counties, and regions around the state. Additionally, representing a rural county directly proximate to our state's major population center gives me a unique understanding of the pressures our outlying areas are under to attract new employers while trying to maintain affordability for existing families.

I look forward to the opportunity to serve on CERB and appreciate the consideration given to my application.

Member Nomination Form

Position of Interest:

Community Economic Revitalization Board (CERB)

Name

Sean Swope

Title

Commissioner

County:

Lewis County

If elected official, your current term ends?

Wednesday, January 1, 2025

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I have worked in the private sector helping businesses grow for the last decade. When government and the private sector works together in unison the community thrives. I love what this board is about. This is the very reason as to why I decided to run for County Commissioner, to build the relationships necessary to move our communities in Lewis County in the right direction that produces positive growth for everyone. I look forward to being apart of this board.

Member Nomination Form

Position of Interest:

Community Economic Revitalization Board (CERB)

Name

Janet St Clair

Title

Commissioner

County:

Island County

If elected official, your current term ends?

Saturday, December 31, 2022

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

Dear colleagues,

I would be honored to represent WSAC on the CERB Board. While broadband access and equity is clearly the leading edge of my interest especially as we anticipate significant investments and opportunities to shape broadband policy. Assuring those opportunities reach every corner of our state is a high priority in representing WSAC.

In addition, the work of CERB on other critical infrastructure is of strong interest to me. The importance of water and wastewater investments serves all. I also think we need to add additional focus on storm water, an area of focus in my own county.

I appreciate your consideration for this position. Thank you.

Janet

Member Nomination Form

Position of Interest:

Community Economic Revitalization Board (CERB)

Name

Kate Dean

Title

Commissioner

County:

Jefferson County

If elected official, your current term ends?

Tuesday, December 31, 2024

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

Before being elected as Commissioner, I was the Director of our Regional Economic Development District, covering the North Olympic Peninsula. I am particularly interested in rural economic development, the importance of infrastructure plays in supporting rural economic development, and the challenges that GMA presents for rural communities to fund infrastructure. I would like to serve on CERB to engage in state-level conversations about these important topics. I also see infrastructure as a key tool for addressing equity. Investing in under-served communities is a long-standing tradition in America and has demonstrated impacts in poverty reduction. I'm very interested in how Washington State can invest strategically to improve quality of life for all residents.

Member Nomination Form

Position of Interest:

Community Economic Revitalization Board (CERB)

Name

Dennis Weber

Title

Commissioner

County:

Cowlitz County

If elected official, your current term ends?

Tuesday, December 31, 2024

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I have been asked to apply to this board by a former commissioner who previously served. As someone who have actually testified in front of this board, I understand it's importance in providing another economic development tool. As such, it is also vital that WSAC interests are fully represented. I feel that my eight years of service to WSAC equip me to do exactly that.

Member Nomination Form

Position of Interest:

Community Economic Revitalization Board (CERB)

Name

Tom Handy

Title

County Commissioner

County:

Whitman County

If elected official, your current term ends?

Tuesday, December 31, 2024

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I have been a business owner in Pullman for the past 20+ years. I have been very active and held top leadership rolls with the Pullman Chamber of Commerce, Whitman County Business Development Association (no longer active), and most recently the Pullman Downtown Association which is seeking accreditation in the Main Street program to revitalize Pullman's Downtown Business District. I have also participated on numerous other boards over the course of time.

As County Commissioner, I am involved with most of the Economic Development organizations in Whitman County and have made it one of my priorities as an elected official to work with those groups and help coordinate their efforts. I am on the board of our local ADO designee as well. I am active with the revitalization efforts in the towns of Malden and Pine City which were substantially destroyed by fire last Labor Day.

Because of this experience on the business side, I have a good appreciation for the infrastructure required for business development.

Prior to my time as a business owner, I was Chief Broadcast Engineer at WSU for about 16 years. I have a strong telecommunications background as well and am well versed in technology.

I would look forward to working on Economic Revitalization on a larger scale through this Board.

Member Nomination Form

Position of Interest:

Community Economic Revitalization Board (CERB)

Name

Karen Bowerman

Title

Councilor

County:

Clark County

If elected official, your current term ends?

Tuesday, December 31, 2024

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

Please compose or copy & paste your statement of interest here.

Economic revitalization through public infrastructure to support private business growth and expansion is essential to our communities. Of course it is critical now to post-pandemic recovery, but actually it is critical at all times because without ongoing infrastructure improvements, our communities cannot thrive. I bring expertise in business and economic development having served over thirty years in higher education as professor of business and public administration and as Dean of the College of Business & Public Administration at California State University, San Bernardino where I was named *Dean Emeritus* upon retirement and relocating to the Great Northwest. As Clark County Councilor, I serve on the Executive Board and as a Director on the Columbia River Economic Development Council, the Cowlitz Tribal Foundation Clark County Fund, SW Washington Convention and Visitors Bureau, and the Executive Board of the Workforce Development Council. My work with these related boards would complement service on CERB.

Member Nomination Form

Position of Interest:

Community Economic Revitalization Board (CERB)

Name

Tom Lannen

Title

County Commissioner

County:

Skamania County

If elected official, your current term ends?

Wednesday, December 31, 2025

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

My interest stems from the impact that the CV-19 Pandemic and a multitude of other factors are having on rural counties. With increasing societal demands and diminishing local funds, out-of-county revenues are an increasing need. My career started as a science teacher, moved into the private sector and spent the last 37 years in sales, marketing, product develop and a variety of management positions. . Eleven of those years in overseas assignments. A significant portion of time was in project oversight and system startups. I retired in 2006 and moved to Skamania county and became involved in the Emergency Operations Center, and the Community Emergency Response Team. In 2012, I founded Saving Skamania County, a non-profit to advocate for sustainable and responsible forest management. I was elected to my current position in 2016.

Member Nomination Form

Position of Interest:

Community Economic Revitalization Board (CERB)

Name

Mark Ozias

Title

County Commissioner

County:

Clallam County

If elected official, your current term ends?

Sunday, December 31, 2023

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

I have worked closely with the variety of economic development entities in our county to ensure coordination and leveraging of efforts and am currently leading a push to do some detailed economic analysis of previous investments to better understand how to deploy resources in the most strategic manner. Living in and representing an "economically distressed" county I understand first-hand the difference that investments of resource from the Department of Commerce and other sources can make and look forward to helping shape the future of investment in communities across the state.

COUNTY ROAD ADMINISTRATION BOARD

COUNTY COMMISSIONERS/ COUNCIL MEMBERS

COUNTY ENGINEERS

1965:	<p>Harry Sprinker, Pierce Lee Crossen, Yakima Frank Guest, Island M. O. "Bud" Olsen, Lincoln John Pearseall, Grays Harbor Jack Abrams, Okanogan</p>	<p>Emil Barcklay, Pend Oreille John Arrasmith, Spokane Cecil Kinder, Clark</p>
1966:	<p>Jack Abrams, Okanogan Lee Crossen, Yakima Frank Guest, Island M. O. "Bud" Olsen, Lincoln John Pearsall, Grays Harbor Harry Sprinker, Pierce, Chair</p>	<p>Emil Barcklay, Pend Oreille Cecil Kinder, Clark John Arrasmith, Spokane</p>
1967:	<p>Jack Abrams, Okanogan Lee Crossen, Yakima Frank Guest, Island M. O. "Bud" Olsen, Lincoln John Pearsall, Grays Harbor Harry Sprinkler, Pierce, Chair</p>	<p>Emil Barcklay, Pend Oreille Cecil Kinder, Clark John Arrasmith, Spokane</p>
1968:	<p>Harry Sprinkler, Pierce Jack Abrams, Okanogan Angus McDonald, Yakima Frank Guest, Island M.O. "Bud" Olsen, Lincoln</p>	<p>John Arrasmith, Spokane Emil Barcklay, Pend Oreille Cecil Kinder, Clark Don West, Chelan</p>
1969:	<p>Frank Guest, Island George Huntingford, Jefferson Angus McDonald, Yakima Wes P. Brown, Benton Wallace Ramsdell, Pierce Lloyd Farmer, Douglas</p>	<p>Harry Martin, Snohomish Donald West, Chelan Mitt Sanstrom, San Juan</p>
1970:	<p>Wes Brown, Benton Lloyd Farmer, Douglas Thomas Forsythe, King George Huntingford, Jefferson Lee Strand, Stevens Angus McDonald, Yakima</p>	<p>Harry Martin, Snohomish Jack Norelius, Skamania Donald West, Chelan</p>

**COUNTY COMMISSIONERS/
COUNCIL MEMBERS**

COUNTY ENGINEERS

1971:	Wes Brown, Benton Lloyd Farmer, Douglas Thomas Forsythe, King Russell Hawkins, San Juan Lee Strand, Stevens Angus McDonald, Yakima	Peter Hemstead, Grant Gary Gasaway, Columbia Harry Martin, Snohomish
1972:	Thomas Forsythe, King Lee Strand, Stevens Russell Hawkins, San Juan Martin Auseth, Mason E. W. "Bill" Parsons, Spokane Wes Brown, Benton	Harry Martin, Snohomish Gary Gasaway, Columbia Peter Hemstead, Grant
1973:	Don Whitmill, San Juan Bill Parsons, Spokane Martin Auseth, Mason Lee Strand, Stevens Thomas Forsythe, King Wes Brown, Benton	Peder Hemstead, Grant Harry D. Martin, Snohomish Gary Gasaway, Columbia
1974:	Don Whitmill, San Juan Bill Parsons, Spokane Martin Auseth, Mason Lee Strand, Stevens R. A. "Omar" Youmans, Grays Harbor Thomas Forsythe, King	Gary Gasaway, Columbia Harry D. Martin, Snohomish Lloyd Johnson, Skagit
1975:	Don Whitmill, San Juan Lenore Lambert, Yakima Terry Unger, Whatcom Lee Strand, Stevens R. A. "Omar" Youmans, Grays Harbor Thomas Forsythe, King	Glen Oliver, Lincoln Lloyd Johnson, Skagit Harry Martin, Snohomish
1976:	Don Whitmill, San Juan Lenore Lambert, Yakima George Sheridan, Pierce Harry Wegner, Whitman R. A. "Omar" Youmans, Grays Harbor Terry Unger, Whatcom	Glen Oliver, Lincoln Jan Rosholt, Clark Lloyd Johnson, Skagit

**COUNTY COMMISSIONERS/
COUNCIL MEMBERS**

COUNTY ENGINEERS

1977:	Jack Peek, Wahkiakum Ray Christensen, Spokane Jim Rogers, Franklin Terry Unger, Whatcom Pat Gallagher, Pierce Harry Wegner, Whitman	Jan Rosholt, Clark John Trent, Pacific Glen Oliver, Lincoln
1978:	Jack Peek, Wahkiakum Ray Christensen, Spokane Harold Cooper, Lewis Pat Gallagher, Pierce Jim Rogers, Franklin Harry Wegner, Whitman	Glen Oliver, Lincoln Jan Rosholt, Clark John Trent, Pacific
1979:	Jack Peek, Wahkiakum Harold Cooper, Lewis Pat Gallagher, Pierce Roy Lumaco, Kittitas Ray Christensen, Spokane Jim Rogers, Franklin	Glen Oliver, Lincoln John Trent, Pacific Jerry Weed, Snohomish
1980:	Jack Peek, Wahkiakum Harold Cooper, Lewis Pat Gallagher, Pierce Harmon Johnson, Walla Walla Roy Lumaco, Kittitas Ray Christensen, Spokane	Glen Oliver, Lincoln Gene Sampley, Skagit Jerry Weed, Snohomish
1981:	Jack Peek, Wahkiakum Harold Cooper, Lewis Jake Bujacich, Pierce Chuck Klarich, Yakima Roy Lumaco, Kittitas Harmon Johnson, Walla Walla	Herb Pease, Pend Oreille Gene Sampley, Skagit Jerry Weed, Snohomish
1982:	Jack Peek, Wahkiakum Harold Cooper, Lewis Roy Lumaco, Kittitas Harmon Johnson, Walla Walla Jake Bujacich, Pierce Chuck Klarich, Yakima	Herb Pease, Pend Oreille Gene Sampley, Skagit Jerry Fay, Clark

**COUNTY COMMISSIONERS/
COUNCIL MEMBERS**

COUNTY ENGINEERS

1983:	Andy Rustemeyer, Lincoln Harold Cooper, Lewis Roy Lumaco, Kittitas Harmon Johnson, Walla Walla Jake Bujacich, Pierce Chuck Klarich, Yakima	Herb Pease, Pend Oreille Al Williams, Thurston Jerry Fay, Clark
1984:	Jack Bujacich, Pierce Harmon Johnson, Walla Walla Roy Lumaco, Kittitas Annette McGee, Mason Andy Rustemeyer, Lincoln Chuck Klarich, Yakima	Jerry Fay, Clark Herbert Pease, Pend Oreille Al Williams, Thurston
1985:	Jack Bujacich, Pierce Harmon Johnson, Walla Walla Bruce Whitmarsh, Franklin Annette McGee, Mason Andy Rustemeyer, Lincoln Chuck Klarich, Yakima	George Stillman, Clark Herbert Pease, Pend Oreille Al Williams, Thurston
1986:	Jack Bujacich, Pierce Don Sorenson, Kittitas Bruce Whitmarsh, Franklin Andy Rustemeyer, Lincoln Chuck Klarich, Yakima Annette McGee, Mason	George Stillman, Clark Al Williams, Thurston Marv Carroll, Whitman
1987:	W.H. "Bill" Mahan, Kitsap Don Sorenson, Kittitas Bruce Whitmarsh, Franklin Brian Corcoran, Snohomish Annette McGee, Mason Andy Rustemeyer, Lincoln	George Stillman, Clark Marvin Carroll, Whitman Gary Gasaway, Columbia
1988:	W.H. "Bill" Mahan, Kitsap Don Sorenson, Kittitas Bruce Whitmarsh, Franklin Don Britton, Snohomish Annette McGee, Mason Andy Rustemeyer, Lincoln	Lou Haff, King Marvin Carroll, Whitman Gary Gasaway, Columbia

**COUNTY COMMISSIONERS/
COUNCIL MEMBERS**

COUNTY ENGINEERS

1989:	Jay Weber, Douglas Richard Maruhn, Cowlitz Charles Gorden, Pierce Douglas Corliss, San Juan Annette McGee, Mason Graham Tollefson, Yakima	Lloyd Berry, Chelan Lou Haff, King Gary Gasaway, Columbia
1990:	Jay Weber, Douglas Richard Maruhn, Cowlitz Gordon Koetje, Island Marie Bremner, Ferry Bill Stoner, Pierce Graham Tollefson, Yakima	Lloyd Berry, Chelan Lou Haff, King Gary Gasaway, Columbia
1991:	Jay Weber, Douglas Richard Maruhn, Cowlitz Gordon Koetje, Island Marie Bremner, Ferry Bill Stoner, Pierce Graham Tollefson, Yakima	Lloyd Berry, Chelan Jay Armstrong, Thurston Gary Gasaway, Columbia
1992:	Bill Stoner, Pierce Win Granlund, Kitsap Gordon Koetje, Island Marie Bremner, Ferry Jay Winter, Lewis Jay Weber, Douglas	Steve Stanton, Walla Walla Jay Armstrong, Thurston Gary Gasaway, Columbia
1993:	Jay Weber, Douglas Bill Stoner, Pierce Marie Bremner, Ferry Robby Robinson, Skagit Win Granlund, Kitsap Mary Seubert, Kittitas	Jay Armstrong, Thurston Steve Stanton, Walla Walla Ron Loewen, San Juan
1994:	Marie Bremner, Ferry Robby Robinson, Skagit Win Granlund, Kitsap Mary Seubert, Kittitas Jay Weber, Douglas John Magnano, Clark	Steve Stanton, Walla Walla Ron Loewen, San Juan Jay Armstrong, Thurston

**COUNTY COMMISSIONERS/
COUNCIL MEMBERS**

COUNTY ENGINEERS

1995:	Win Granlund, Kitsap Mary Seubert, Kittitas Jay Weber, Douglas John Magnano, Clark Harvey Wolden, Skagit Gary Kohler, Ferry	Steve Stanton, Walla Walla Ron Loewen, San Juan Jay Armstrong, Thurston
1996:	Robert Imhof, Whatcom Mary Seubert, Kittitas Jay Weber, Douglas Ken Madsen, Pierce Harvey Wolden, Skagit Gary Kohler, Ferry	Steve Stanton, Walla Walla Walt Olsen, Pend Oreille Jack Bilsborough, Snohomish
1997:	Robert Imhof, Whatcom Mary Seubert, Kittitas Jay Weber, Douglas Harold Moss, Pierce Harvey Wolden, Skagit Gary Kohler, Ferry	Steve Stanton, Walla Walla Walt Olsen, Pend Oreille Jack Bilsborough, Snohomish
1998:	Robert Imhof, Whatcom Mary Seubert, Kittitas Don Scheibe, Asotin Harold Moss, Pierce Harvey Wolden, Skagit Gary Kohler, Ferry	Steve Stanton, Walla Walla Walt Olsen, Pend Oreille Jack Bilsborough, Snohomish
1999:	Robert Imhof, Whatcom Tim Snead, Grant Don Scheibe, Asotin Harold Moss, Pierce Harvey Wolden, Skagit Gary Kohler, Ferry	Ken Stone, Cowlitz Walt Olsen, Pend Oreille Jack Bilsborough, Snohomish
2000:	Robert Imhof, Whatcom Tim Snead, Grant Don Scheibe, Asotin Harold Moss, Pierce Harvey Wolden, Skagit Gary Kohler, Ferry	Ken Stone, Cowlitz Walt Olsen, Pend Oreille Randy Casteel, Kitsap

**COUNTY COMMISSIONERS/
COUNCIL MEMBERS**

COUNTY ENGINEERS

2001:	Robert Imhof, Whatcom Tim Snead, Grant Don Scheibe, Asotin Harold Moss, Pierce David Carey, Walla Walla Dean Burton, Garfield	Ken Stone, Cowlitz Robert Breshears, Lincoln Randy Casteel, Kitsap
2002:	Judie Stanton, Clark Tim Snead, Grant Don Scheibe, Asotin Harold Moss, Pierce David Carey, Walla Walla Dean Burton, Garfield	Ken Stone, Cowlitz Robert Breshears, Lincoln Randy Casteel, Kitsap
2003:	Judie Stanton, Clark Tim Snead, Grant Don Scheibe, Asotin Harold Moss, Pierce David Carey, Walla Walla Dean Burton, Garfield	Jim Whitbread, Stevens Robert Breshears, Lincoln Randy Casteel, Kitsap
2004:	Patty Lent, Kitsap Judie Stanton, Clark Tim Snead, Grant Don Scheibe, Asotin David Carey, Walla Walla Dean Burton, Garfield	Thomas Ballard, Pierce Jim Whitbread, Stevens Robert Breshears, Lincoln Brian Stacy, Pierce
2005:	Dean Burton, Garfield David Carey, Walla Walla Patty Lent, Kitsap Greg Partch, Whitman Ray Thayer, Klickitat Marc Boldt, Clark	Jim Whitbread, Stevens Robert Breshears, Lincoln Tod LeFevre, Skamania Brian Stacy, Pierce
2006:	Dean Burton, Garfield David Carey, Walla Walla Patty Lent, Kitsap Ray Thayer, Klickitat Marc Boldt, Clark Doug Mattoon, Asotin	Jim Whitbread, Stevens Tod LeFevre, Skamania Brian Stacy, Pierce

**COUNTY COMMISSIONERS/
COUNCIL MEMBERS**

COUNTY ENGINEERS

2007:	Dean Burton, Garfield David Carey, Walla Walla John Koster, Snohomish Ray Thayer, Klickitat Marc Boldt, Clark Doug Mattoon, Asotin	Jim Whitbread, Stevens Tod LeFevre, Skamania Brian Stacy, Pierce Drew Woods, Columbia
2008:	Dean Burton, Garfield David Carey, Walla Walla John Koster, Snohomish Ray Thayer, Klickitat Marc Boldt, Clark Doug Mattoon, Asotin	Jim Whitbread, Stevens Brian Stacy, Pierce Drew Woods, Columbia
2009:	Dean Burton, Garfield David Carey, Walla Walla John Koster, Snohomish Ray Thayer, Klickitat Marc Boldt, Clark Doug Mattoon, Asotin Dale Snyder, Douglas	Jim Whitbread, Stevens Brian Stacy, Pierce Drew Woods, Columbia
2010:	Dean Burton, Garfield John Koster, Snohomish Ray Thayer, Klickitat Marc Boldt, Clark Doug Mattoon, Asotin Dale Snyder, Douglas	Jim Whitbread, Stevens Brian Stacy, Pierce Drew Woods, Columbia
2011:	Dean Burton, Garfield John Koster, Snohomish Ray Thayer, Klickitat Dale Snyder, Douglas Bob Koch, Franklin Mike Leita, Yakima	Brian Stacy, Pierce Drew Woods, Columbia Derek Pohle, Grant
2012:	Dean Burton, Garfield John Koster, Snohomish Ray Thayer, Klickitat Dale Snyder, Douglas Bob Koch, Franklin Mike Leita, Yakima	Brian Stacy, Pierce Drew Woods, Columbia Derek Pohle, Grant

**COUNTY COMMISSIONERS/
COUNCIL MEMBERS**

COUNTY ENGINEERS

2013:	Dean Burton, Garfield John Koster, Snohomish Dale Snyder, Douglas Bob Koch, Franklin Mike Leita, Yakima Bill Schulte, Lewis Rob Coffman, Lincoln	Brian Stacy, Pierce Drew Woods, Columbia Derek Pohle, Grant Mark Storey, Whitman
2014:	Dale Snyder, Douglas Bob Koch, Franklin Todd Mielke, Spokane Bill Schulte, Lewis Rob Coffman, Lincoln Ken Klein, Snohomish	Brian Stacy, Pierce Drew Woods, Columbia Mark Storey, Whitman
2015:	Dale Snyder, Douglas Bob Koch, Franklin Todd Mielke, Spokane Bill Schulte, Lewis Rob Coffman, Lincoln Ken Klein, Snohomish Lisa Janicki, Skagit Kathy Lambert, King	Brian Stacy, Pierce Drew Woods, Columbia Mark Storey, Whitman
2016:	Dale Snyder, Douglas Bob Koch, Franklin Todd Mielke, Spokane Bill Schulte, Lewis Rob Coffman, Lincoln Ken Klein, Snohomish Lisa Janicki, Skagit Kathy Lambert, King Al French, Spokane	Brian Stacy, Pierce Drew Woods, Columbia Mark Storey, Whitman
2017:	Bob Koch, Franklin Helen Price Johnson, Island Rob Coffman, Lincoln Lisa Janicki, Skagit Kathy Lambert, King Al French, Spokane	Brian Stacy, Pierce Drew Woods, Columbia Mark Storey, Whitman

**COUNTY COMMISSIONERS/
COUNCIL MEMBERS**

COUNTY ENGINEERS

2018:	Bob Koch, Franklin Helen Price Johnson, Island Rob Coffman, Lincoln Lisa Janicki, Skagit Kathy Lambert, King Al French, Spokane	Brian Stacy, Pierce Drew Woods, Columbia Mark Storey, Whitman
2019:	Bob Koch, Franklin Randy Ross, Grays Harbor Rob Coffman, Lincoln Lisa Janicki, Skagit Kathy Lambert, King Al French, Spokane	Brian Stacy, Pierce Grant Morgan, Garfield Mark Storey, Whitman
2020:	Bob Koch, Franklin Randy Ross, Grays Harbor Rob Coffman, Lincoln Lisa Janicki, Skagit Kathy Lambert, King Al French, Spokane	Brian Stacy, Pierce Grant Morgan, Garfield Mark Storey, Whitman
2021:	Brad Peck, Franklin Rob Coffman, Lincoln Lisa Janicki, Skagit Kathy Lambert, King Al French, Spokane Gary Stamper, Lewis	Brian Stacy, Pierce Grant Morgan, Garfield Mark Storey, Whitman



Resolution 2021-09

WHEREAS, the Washington State Association of Counties' Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments' interests are fully represented on statewide boards, commissions and committees; and

WHEREAS, there is a vacancy on the County Road Administration Board; and

WHEREAS, the following County Commissioners, Councilmembers, and Councilors have sought nomination for this vacancy:

Lisa Janicki, Skagit County Commissioner
Greg Young, Stevens County Commissioner

NOW THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties' Board of Directors appoints the following WSAC member to the County Road Administration 30,000 - 150,000 pop. seat:

BE IT FURTHER RESOLVED, that WSAC staff be directed to immediately transmit the appointee's name to the County Road Administration Board; and

BE IT FURTHER RESOLVED, that WSAC staff is directed to contact the appointee(s) of their selection; and

BE IT FURTHER RESOLVED, that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President



Resolution 2021-10

WHEREAS, the Washington State Association of Counties' Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments' interests are fully represented on statewide boards, commissions and committees; and

WHEREAS, there is a vacancy on the County Road Administration Board; and

WHEREAS, the following County Commissioners, Councilmembers, and Councilors have sought nomination for this vacancy:

Kathy Lambert, King County Councilmember
Carolina Mejia, Thurston County Commissioner

NOW THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties' Board of Directors appoints the following WSAC member to the County Road Administration Greater than 150K pop. seat:

BE IT FURTHER RESOLVED, that WSAC staff be directed to immediately transmit the appointee's name to the County Road Administration Board; and

BE IT FURTHER RESOLVED, that WSAC staff is directed to contact the appointee(s) of their selection; and

BE IT FURTHER RESOLVED, that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President



Resolution 2021-11

WHEREAS, the Washington State Association of Counties' Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments' interests are fully represented on statewide boards, commissions and committees; and

WHEREAS, there is a vacancy on the County Road Administration Board; and

WHEREAS, the following County Engineers have sought nomination for this vacancy:

Chad Coles, Spokane County Engineer
Douglas McCormick, Snohomish County Engineer

NOW THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties' Board of Directors appoints the following County Engineer to the County Road Administration Greater than 150K pop. seat:

BE IT FURTHER RESOLVED, that WSAC staff be directed to immediately transmit the appointee's name to the County Road Administration Board; and

BE IT FURTHER RESOLVED, that WSAC staff is directed to contact the appointee(s) of their selection; and

BE IT FURTHER RESOLVED, that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President



Resolution 2021-12

WHEREAS, the Washington State Association of Counties' Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments' interests are fully represented on statewide boards, commissions and committees; and

WHEREAS, there is a vacancy on the Criminal Justice Treatment Account Panel; and

WHEREAS, the following County Commissioners, Councilmembers, and Councilors have sought nomination for this vacancy:

Sean Swope, Lewis County Commissioner
Cindy Wolf, San Juan County Council Member

NOW THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties' Board of Directors appoints the following WSAC member to the Criminal Justice Treatment Account Panel alternate seat:

BE IT FURTHER RESOLVED, that WSAC staff be directed to immediately transmit the appointee's name to the Health Care Authority; and

BE IT FURTHER RESOLVED, that WSAC staff is directed to contact the appointee(s) of their selection; and

BE IT FURTHER RESOLVED, that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President



Resolution 2021-13

WHEREAS, the Washington State Association of Counties' Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments' interests are fully represented on statewide boards, commissions and committees; and

WHEREAS, there is a vacancy on the Forensic Investigations Council; and

WHEREAS, the following County Commissioners, Councilmembers, and Councilors have sought nomination for this vacancy:

Julie Olson, Clark County Councilor

NOW THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties' Board of Directors nominates the following WSAC member(s) to the Forensic Investigations Council:

BE IT FURTHER RESOLVED, that WSAC staff be directed to immediately transmit the nominee's name(s) to the Office of the Governor of Washington State; and

BE IT FURTHER RESOLVED, that WSAC staff is directed to contact the nominees of their selection; and

BE IT FURTHER RESOLVED, that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President



Resolution 2021-14

WHEREAS, the Washington State Association of Counties' Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments' interests are fully represented on statewide boards, commissions and committees; and

WHEREAS, there is a vacancy on the Public Records Exemptions Accountability Committee; and

WHEREAS, the following County Commissioners, Councilmembers, and Councilors have sought nomination for this vacancy:

Jamie Stephens, San Juan County Council Member

NOW THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties' Board of Directors nominates the following WSAC member(s) to the Public Records Exemptions Accountability Committee:

BE IT FURTHER RESOLVED, that WSAC staff be directed to immediately transmit the nominee's name(s) to the Office of the Governor of Washington State; and

BE IT FURTHER RESOLVED, that WSAC staff is directed to contact the nominees of their selection; and

BE IT FURTHER RESOLVED, that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President



Resolution 2021-15

WHEREAS, the Washington State Association of Counties' Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments' interests are fully represented on statewide boards, commissions and committees; and

WHEREAS, there is a vacancy on the Public Works Board – Public Works Director or Manager; and

WHEREAS, the following Public Works Directors have sought nomination for this vacancy:

Kelly Snyder, Snohomish County Public Works Director

NOW THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties' Board of Directors nominates the following County Public Works Director(s) to the Public Works Board:

BE IT FURTHER RESOLVED, that WSAC staff be directed to immediately transmit the nominee's name(s) to the Office of the Governor of Washington State; and

BE IT FURTHER RESOLVED, that WSAC staff is directed to contact the nominees of their selection; and

BE IT FURTHER RESOLVED, that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President



Resolution 2021-16

WHEREAS, the Washington State Association of Counties' Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments' interests are fully represented on statewide boards, commissions and committees; and

WHEREAS, there is a vacancy on the Community Economic Revitalization Board; and

WHEREAS, the following County Commissioners, Councilmembers, and Councilors have sought nomination for this vacancy:

Karen Bowerman, Clark County Councilor
Kate Dean, Jefferson County Commissioner
Tom Handy, Whitman County Commissioner
Tom Lannen, Skamania County Commissioner
Mark Ozias, Clallam County Commissioner
Janet St. Clair, Island County Commissioner
Sean Swope, Lewis County Commissioner
Dennis Weber, Cowlitz County Commissioner
Cory Wright, Kittitas County Commissioner

NOW THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties' Board of Directors nominates the following member(s) to the Community Economic Revitalization Board:

BE IT FURTHER RESOLVED, that WSAC staff be directed to immediately transmit the nominee's name(s) to the Office of the Director of Commerce of Washington State; and

BE IT FURTHER RESOLVED, that WSAC staff is directed to contact the nominees of their selection; and

BE IT FURTHER RESOLVED, that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President



May 5, 2021

TO: WSAC Board of Directors and Alternates

FROM: Eric Johnson, Executive Director

SUBJECT: WSAC Comprehensive Policy Manual Amendment

Background

The Washington State Association of Counties Board of Directors is responsible for the adoption and maintenance of a Comprehensive Policy Manual to guide the administration of the Association's business processes and functions.

Specifically, the Washington State Association of Counties Board of Directors is charged with two areas recommended for amendments:

Adopting and maintaining policies governing the general supervision over the affairs of the Association (WSAC Bylaw 3.1.a)

The Board shall adopt a travel policy for all activities of the Association. (WSAC Bylaw 3.1.f)

On May 6, 2020, the WSAC Board of Directors approved a complete update of the WSAC Comprehensive Policy Manual. From time to time, WSAC staff or members will initiate updates or additions for consideration.

WSAC staff proposes to add increased controls in the member travel voucher reimbursement process to protect against intentional or unintentional double reimbursement. I have long been concerned that this was a potential risk, and recent events, in fact, demonstrate that this is a fraudulent risk that we need to take steps to help guard against.

Discussion

WSAC staff and board members have long sought to uphold strong internal fiscal controls and integrity in our financial management. As such, staff recommends an additional step be provided for in **Part 1 – Member Travel, Record Keeping Requirements.**

Currently, WSAC requires members seeking reimbursement to sign beneath this statement on the Association Reimbursement Form:

"I certify that these are true and correct claims for necessary expenses in all matters relating to work I performed. I further certify, where applicable, that this report accurately reflects expenses incurred by me for business-related travel, and the appropriate copies are attached."

WSAC staff looked at two alternatives in the member travel voucher reimbursement process to aid in protecting against intentional or unintentional double reimbursement. We have discussed these alternatives with the WSAC Executive Committee and several County Auditors.

Alternative #1

WSAC would only reimburse incurred eligible travel costs claimed by the member county itself. About half of our travel reimbursement requests come via a member County; many members use their own personal credit cards and funds for WSAC related travel and then seek reimbursement per WSAC Policy. The risk has always existed that a WSAC member could claim travel reimbursement from both the county, another organization, and/or WSAC, either knowingly or unknowingly. Our goal is to provide a protocol to reduce this risk.

This alternative is the simplest process for WSAC to implement. WSAC would only accept travel reimbursement claims submitted from a member county – and only make payment to a member county. This does add a challenge to member counties having to appropriately budget each year or make budget adjustments to capture member travel expenditures and revenue. While this can be routine and consistent for most member counties, the amount for those counties where a member serves on the WSAC Executive Committee, a NACo Board, or represent WSAC in other venues can vary widely in WSAC travel reimbursement from year to year.

Alternative #2

WSAC will continue to allow personal reimbursement to individual members who follow the amended WSAC policy as proposed:

Recordkeeping Requirements

Travel reimbursement claims shall be reported on an Association Expense Form with receipts attached and certify that:

- a. These are true and correct claims for necessary expenses in all matters relating to work I performed.
- b. That this report accurately reflects expenses incurred by me for business related travel, and the appropriate copies are attached.
- c. That I am not claiming reimbursement for any of these claims to my county, any other jurisdiction, entity, or organization.

For claims in excess of reimbursement maximum allowances, members will be notified so that they may claim the difference through other sources as allowed. I further understand that a copy of this completed claim form and other payments made on my behalf by WSAC will be submitted to my County Auditor or other county fiscal agent.

Travel reimbursement claims should be submitted to WSAC within 30 days from the time of travel. In no case will WSAC reimburse otherwise eligible member travel expenses not submitted to WSAC by January 31st of the calendar year following the year in which the travel occurred. For example, costs incurred in 2020 must be submitted no later than January 31, 2021.

Members shall submit receipts for expenses charged directly to WSAC, e.g., hotels and/or car rentals. WSAC will process payment for reimbursements on the first available check run following authorization.

This alternative permits the current practice to continue, but with minor modifications to our form and certification statement. The WSAC process is changed to require WSAC to forward a copy of each personal reimbursement claim to the appropriate County Auditor or, where applicable, another county fiscal agent as an internal check and control to assure no dual claims are made.

Recommendation

WSAC Staff recommends that the WSAC Board of Directors approve Alternative #2 as an appropriate amendment to the WSAC Comprehensive Policy Manual to safeguard and minimize the risk of intentional or unintentional double travel reimbursement.



Resolution 2021-17

WHEREAS, the Washington State Association of Counties' Board of Directors is charged with adopting and maintaining the WSAC Comprehensive Policy Manual, and

WHEREAS, the Washington State Association of Counties' Board of Directors acknowledges its responsibility to periodically modify and amend WSAC Comprehensive Policy Manual; and

WHEREAS, WSAC staff recommends an amendment to the WSAC Comprehensive Policy Manual:

Part 1 – Member Travel, Record Keeping Requirements

WHEREAS, the WSAC Board of Directors has reviewed the proposed alternatives and the need to protect against intentional or unintentional double member travel reimbursement; and

WHEREAS, the WSAC Board of Directors has discussed the merits of this proposed amendment;

NOW THEREFORE, BE IT RESOLVED that the Washington State Association of Counties' Board of Directors approves:

Alternative #2 amendment to the **Part 1 – Member Travel, Record Keeping Requirements**

BE IT FURTHER RESOLVED, this amendment is intended to safeguard and minimize the risk of intentional or unintentional double travel member reimbursement.

Approved by the Board of Directors of the Washington State Association of Counties on May 5, 2021.

Michael Largent, WSAC President

Mary Kuney, WSAC Second Vice President

May 5, 2021



STAFF REPORTS

May 5, 2021

TO: WSAC Board of Directors

FROM: Eric Johnson, Executive Director

SUBJECT: Executive Director Report

And so, it continues...

In February 2020, WSAC staff began briefing LSC members on "Coronavirus," including guest speakers and updates at both our Thursday LSC meetings in Olympia and our Friday afternoon LSC webinars.

By March 2020, WSAC expanded to webinars for all WSAC members every Friday, included guest speakers, and increased our steady flow of information and communication related to COVID-19. We began thinking through an "18-month pandemic response and recovery outline for counties"... people thought we were crazy. Here we are 15 months (and counting) later...

Over the past year, we have been "All Things Covid":

- Establishing and Maintaining <https://wsac.org/coronavirus/>
- Monday Virtual Assembly for all WSAC Members
- Regular Communication, Social Media, Postings, Emails
- Created "DAILY COVID-19 NEWSLETTER" that is now bi-weekly
- Weekly/bi/weekly/monthly Zoom meetings for WSAC Members and Affiliate Groups
 - County IT Directors
 - WSALPHO
 - County Administrators
 - County and Regional Planners
 - County Engineers/Public Works
 - Solid Waste Managers
 - Human Services
- Call with Governors Staff/State Agencies
 - Guidelines, Metrics, Phased Re-Opening Plans
 - Orders and Proclamations
 - OMPA/PRA Orders
 - CARES Coronavirus Relief Fund – Counties Under 500K
 - American Rescue Plan
- Thinking through an 18-month pandemic response and recovery outline for counties
- Media Calls and Inquiries
- Participating and Being a Resource in-state, other state Associations, and National Calls
- Responding to Inquiries for Information
- Participating in Weekly Multi-Jurisdictional Calls
- Weekly calls with Governor's staff
- Federal Advocacy on Resources
- State Agency Coordination and Communication
- WSAC Business Decisions
 - Remote Workplace Initiated March 16th
 - Prepared COVID-19 Policy for Re-Opening Office/Business Practices
 - Limiting Access to WSAC/Washington Counties Building
- Legislative Session

- Remote Testimony
 - All Virtual LSC Meetings
 - Virtual County Lobbyist Meetings
- Meetings, Events, Conferences
 - Cancellations
 - Virtual
 - Conference Platforms for WSAC and Affiliates
 - Hybrid
 - In-person
- WSAC Financial Implications – Planning, preparing
 - 2020 Budget Adjustment
 - 2021 Budget Implications
 - 2022 Forecast

National Association of Counties (NACo)

Several WSAC members participated in the NACo Virtual Legislative Conference in March. They will participate in the NACo Annual Conference held July 9 – 12, 2021, in-person & virtual, in Prince George's County, Maryland. Registration information will be out in the next few weeks.

[HTTPS://WWW.MARRIOTT.COM/EN-US/HOTELS/WASGN-GAYLORD-NATIONAL-RESORT-AND-CONVENTION-CENTER/OVERVIEW/](https://www.marriott.com/en-us/hotels/wasgn-gaylord-national-resort-and-convention-center/overview/)

Other Upcoming NACO activities include:

- NACO Western Interstate Region Board of Directors
 - May 26-28
 - Ravalli County, Montana
 - Commissioner McCart has announced his intent to seek a WIR Leadership Position – 2nd Vice-President
- NACO Western Interstate Region Annual Conference
 - Salt Lake County, Utah
 - October 13-15

NACo County Leadership Institute (CLI) 2021 – Each year, the WSAC Executive Committee selects a member to attend the NACo [County Leadership Institute](#) prescribed in WSAC Comprehensive Policy Manual. With travel and gathering restrictions still in place, NACo postponed the 2021 until November 7 – 11, in person at NACo's headquarters in Washington, D.C.

For those unfamiliar with CLI, this is a rigorous four-day program that brings together county leaders to discuss their most pressing leadership challenges. Attendees collaborate in an intimate group setting to analyze challenges and develop real-world solutions. Through the adaptive leadership model, participants learn how to use an innovative approach to problem-solving led by expert faculty.

Each state association is allowed to nominate an elected or appointed county official who exhibits exemplary leadership in county government or your state association. WSAC will soon be accepting nominations/applications. WSAC offsets the cost of attendance.

NACo Steering Committees – Currently, there are nearly 25 Washington State elected and appointed county officials serving on NACo Steering Committees and Caucuses. If you would like to join a NACo Steering Committee or Caucus, please contact me.

Steering Committees follow the 8/2 rule – only eight members from the same state and two from the same county may serve on any one steering committee at a time – presidential appointments do not count toward that total.

WSAC will be distributing additional information to WSAC members regarding membership on NACo Steering Committees.

NACo Presidential Appointments – the Presidential Appointment Application will open soon. You should receive an email directly from NACo. This is for all chairs, vice-chairs, subcommittee chairs, and vice-chairs. It also includes membership on standing committees (Membership, Programs & Services, IT, etc.), Caucuses (LUCC and RAC), ad hoc, task force, and advisory committees (Veterans and Military Services, International Economic Development Task Force, Immigration Reform Task Force, Healthy Counties, Resilient Counties, Deferred Compensation, etc.). There will be an online form provided to complete.

Courthouse Briefings

Each year the WSAC President and occasionally other Executive Committee members, along with a member of the WSAC staff, try and get to about ½ of the counties for "Courthouse Briefings." These meetings are an opportunity for WSAC leaders to meet with WSAC members and other elected and appointed officials to review WSAC programs and services, discuss legislative and litigation activities, discuss local issues, and get input directly from the members. This year, we prioritize the 12 counties with two or more new members of their county legislative authority. We have set our June calendar (tentatively) as follows:

- June 1, Klickitat County, 2:00 p.m. – 4:00 p.m.
- June 2, Adams County, 9 a.m. – 11:00 a.m.
- June 2, Grant County, 2:00 p.m. – 4:00 p.m.
- June 3, Yakima County, 1:00 p.m. – 3:00 p.m.
- June 9, Okanogan County, 9:00 a.m. – 11:00 a.m.
- June 10, Chelan County, 1:30 p.m. – 3:30 p.m.
- June 23, Pend Oreille County, 9 a.m. – 11:00 a.m.
- June 23, Stevens County, 2:30 p.m. – 4:30 p.m.
- Ferry County, Pending
- Douglas County, Pending

Federal Delegation Meetings

WSAC Executive Committee and Federal Issues and Relations Committee Members met in March (via Zoom) with each member of our federal delegation (except Representative Herrera Beutler) to discuss our 2021 Federal Priorities:

- State and Local Funding for Covid-19 Response
 - How Counties Used CARES Coronavirus Relief Funds
 - American Rescue Plan Funds
 - Direct to All Counties
 - Public Health Funding Needs
- Infrastructure Funding
- Permanent Funding Need – FFY 2022 Appropriation Needed
 - Secure Rural Schools
 - Payment in Lieu of Taxes
- Medicaid Inmate Exclusion

Outreach

Since the February WSAC Board of Directors meeting, I have been active in communicating and meeting with key partner organizations and individuals.

Washington State Association of Local Public Health Officials
Washington State Association of County Engineers
Washington County Administrative Association
Association of County/City Information Services

Association of County Human Services
Washington Counties Risk Pool
Washington County Insurance Fund
Washington State Association of Solid Waste Managers
Washington State Association of County Auditors
Washington Association of Prosecuting Attorneys
Washington State Department of Transportation
Washington Association of County Officials
Washington Forest Protection Association
Foundational Public Health Services Steering Committee
Department of Health
Association of Washington Business
Association of Washington Cities
Washington Public Ports Association
Washington Farm Forestry Association
Department of Natural Resources
Secretary of State
State Auditor
Governor's Office
Office of Financial Management
Department of Fish and Wildlife
Ruckelshaus Center Advisory Board
Health Care Authority
Okanogan County Board of Health

Executive Board

Executive Committee Members continue to meet at least twice per month via Zoom, and occasionally weekly, to receive organizational updates and provide input on issues. If you have items to discuss or consider, please let one of them know or give me a call. They have been very busy dealing with COVID-related issues and responding to issues that need quick input.

The WSAC Executive Board is scheduled to meet in August for its annual WSAC Executive Committee Planning Meeting. This annual meeting provides an opportunity to review WSAC programs and develop a preliminary 2021 Annual WSAC Budget for presentation to the WSAC Board of Directors, September 17, 2020, in Kittitas County.

Courthouse Briefings and County Meetings – Virtual or In Person

WSAC staff and officers will soon start our work with Clerks of the Boards/Councils to set up meetings between Board of County Commissioners/County Councils and WSAC officers. Our target is to get to 50% of the counties each year. WSAC is preparing to provide "virtual" courthouse briefings if in-person meetings are not permitted. The general meeting format for this year is:

- Strategic Litigation and Communication Program Update
- Legislative Report
- WSAC Members and Program Services Update
- County Issues

Remote Workplace – Return to Office Post Covid

WSAC's Comprehensive Policy Manual provides guidance and outlines the Association expectation for allowing "Teleworking/Remote Workplace." Before March 16, 2020, when all WSAC employees became "virtual" for several weeks, this policy was not used too much. Currently, about 70% of the staff are still working "remotely."

Recently, we completed a staff survey about the remote workplace and return to work. Over the next several weeks, WSAC staff will:

- Analyze survey results and have discussions with staff about returning to the office and the potential to continue remote workplace options;

- Review current WSAC policy and understanding how we continue to support remote workplace practices going forward, modify our current policy, and prepare alternatives for Board consideration;
- Establishing the expectations for returning to the office on an ongoing basis;
- Determining the timing for return to work;
- Reviewing "hybrid" options for staff.

WSAC Staff

As reported earlier to you, Jane Wall, Managing Director for the Washington State Association of County Engineers (WSACE), leaves WSAC to become the Executive Director for the County Road Administration Board.

Jane joined WSAC in July 2018, becoming just the second WSACE Managing Director, bringing a unique blend of experiences in policy development, advocacy, knowledge of transportation issues, and serving membership organizations. Working with the leadership of WSACE, a strategic plan was developed, a County Transportation Revenue Study was completed, and significant progress was made towards achieving county by county fish passage barrier inventories. Jane also worked closely with county and state legislative leaders to make sure that counties' funding and policy needs were well understood.

I want to personally thank Jane for her professionalism, integrity, and commitment to public service. I sincerely appreciate her time at WSAC, her guidance on transportation policy, her ability to help WSACE mature as an organization, and being a delightful member of our WSAC staff.

WSAC has initiated the recruitment for the WSACE Managing Director. Application materials are due by May 9, 2021.

Jason Bergquist has also announced his departure to join the staff at the County Road Administration Board. Details about Jason's departure are forthcoming.

Long-time WSAC program contractor Neil Aaland is retiring on June 30th. Neil was our initial program facilitator for the Columbia River Caucus, provided services to the Coastal Caucus for a spell, and worked on coordination of several WDFW projects for WSAC. Neil also worked with many counties on implementing their Voluntary Stewardship Programs. Many thanks to Neil for all his service to counties for almost 15 years! Staff is analyzing options to support the Columbia River Caucus and other natural resource-based programs, including coastal caucus, fish passage barrier removal, timber and forest, water, land use, etc.

May 5, 2021

TO: WSAC Board of Directors
FROM: Eric Johnson, Executive Director
PREPARED BY: Bridget Lockling, Business and Financial Services Director
SUBJECT: March 31, 2021 Finance Report

Cash

WSAC ended the first quarter of 2021 with a total cash position of \$1,875,570, which is about \$1.2 million higher than 2020 year-end. This is because we receive most dues payments in the first quarter. However, the cash balance is about \$276k less than this time last year. Uncollected dues and higher accounts receivable from state contracts are a large part of this difference.

Liabilities

1st quarter total liabilities are highest this time of year due to booking deferred revenue for annual dues billed in January and not “earned” until the year progresses.

Budget to Actual Activity

The combined All Funds Actual vs. Budget Summary 2021 report shows a positive bottom line of \$82,725. While the 1st quarter would usually show a negative due to heavier spending during session, the virtual legislative session resulted in savings. The continued reduction of overall travel costs created significant savings as well. We developed the budget with much less travel anticipated but with room for conference attendance if some resumed. Variances highlighted in the financial report include:

- Payroll and Benefits – The YTD difference is mainly due to a vacancy of a position. With other staffing changes happening, this will continue to be under budget.
- Meetings & Travel - This item is underspent as travel restrictions and social distancing have affected conferences and meetings. Costs may catch up if travel is pushed back to late summer or fall.
- Contract Services – Higher spending in contracts also results in higher revenue earnings. This is primarily due to the Department of Transportation project as subcontractors try to spend out.

2021 Dues

The 2020 dues billings were sent out the 1st week of January. We’ve already received general dues payments from over half of the counties.

Current tracking information is as follows:

Dues

General Dues – 97% collected (1 county remaining)
Transportation Dues – 97% collected (1 county remaining)
Public Lands Dues – 95% collected (2 counties remaining)
Human Services Dues – 90% collected (4 counties remaining)
Litigation & Communication Dues – 95% collected (2 counties remaining)
Solid Waste Dues – 92% collected (3 counties remaining)

Special Assessments

Coastal Counties Special Assessment – 86% collected (2 counties remaining)

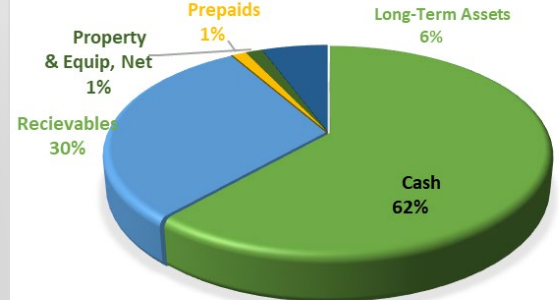
March 31, 2021 Financial Dashboard

STATEMENT OF FINANCIAL POSITION

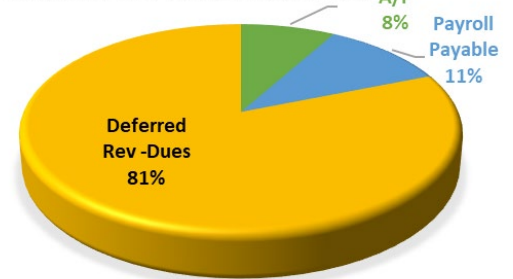
AS OF 3/31/2021

Litigation \$489,844	Litigation \$26,792	Litigation \$163,053
Special \$792,636	Special \$223	Special \$792,191
Operating \$1,761,667	Operating \$1,643,236	
Total Assets, \$3,044,148	Total Liabilities, \$1,970,251	Net Assets/Equity, \$1,073,897

ASSET COMPOSITION

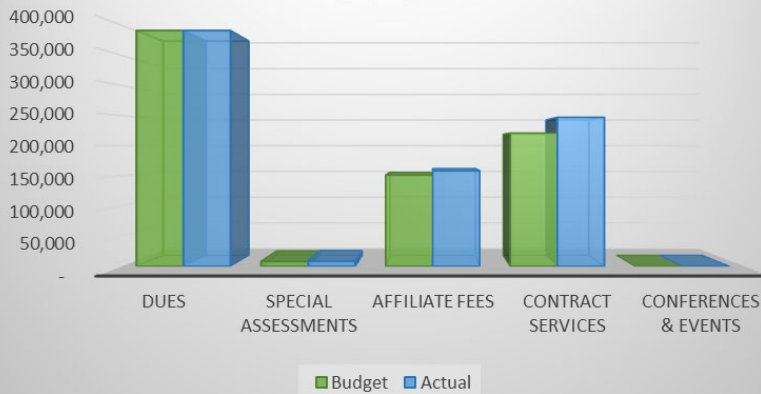


LIABILITIES COMPOSITION



2021 Revenues Budget to Actual

as of 3/31/2021



2021 Operating Fund

Revenues are 104% of Budgeted YTD

Expenses are less than 95% of Budgeted YTD

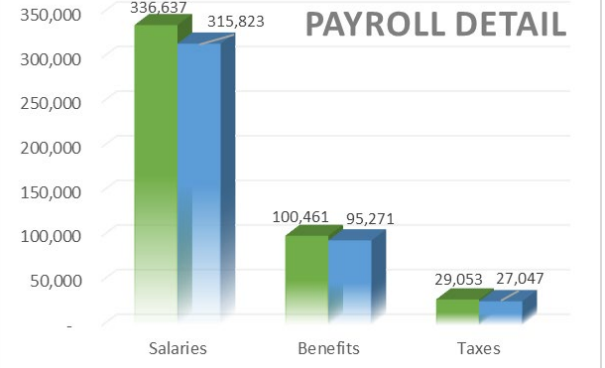
Savings highest in salaries and benefits from one less FTE than budgeted.

2021 Expenses Budget to Actual

as of 3/31/2021



PAYROLL DETAIL



Statement of Financial Position, by Fund
For the Current Ending Period and 3 Years Prior

	Operating Fund	Special Fund	Litigation Fund	Total 3/31/2021	12/31/2020	12/31/2019	12/31/2018
Assets							
Cash & Cash Equivalents	\$ 722,827	\$ 758,191	\$ 394,551	\$ 1,875,570	\$ 661,591	\$ 651,808	\$ 749,560
Receivables & Other Current Assets	799,672	34,445	80,719	914,837	499,586	442,365	645,315
Prepays	22,666	-	14,574	37,240	41,698	36,861	4,973
Property & Equipment, Net	43,669	-	-	43,669	43,669	61,581	81,703
Long-Term and Other Assets							
Counties Building Partnership	172,771	-	-	172,771	172,771	155,142	167,943
NACo RMA LLC Partnership	62	-	-	62	62	62	62
Total Assets	\$ 1,761,667	\$ 792,636	\$ 489,844	\$ 3,044,148	\$ 1,419,376	\$ 1,347,818	\$ 1,649,556
Liabilities & Unrestricted Equity							
Accounts Payable	\$ 157,395	\$ 223	\$ 2,119	\$ 159,737	\$ 163,393	\$ 133,611	\$ 397,400
Payroll Payable	187,806	-	24,673	212,479	185,453	154,185	112,704
Deferred Revenues-Dues	1,298,035	-	300,000	1,598,035	55,627	72,000	-
Net Assets							
Undesignated	140,766	672,414	81,053	894,232	812,903	786,022	937,451
Board Designated	-	120,000	82,000	202,000	202,000	202,000	202,000
Total Net Assets	\$ 140,766	\$ 792,414	\$ 163,053	\$ 1,096,232	\$ 1,014,903	\$ 988,022	\$ 1,139,451
Total Liabilities & Unrestricted Equity	\$ 1,784,002	\$ 792,636	\$ 489,844	\$ 3,066,483	\$ 1,419,376	\$ 1,347,818	\$ 1,649,556

*This financial statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Key factors for changes in WSAC's Assets and Equity between 2017 and 2020:

- Litigation Fund - a new fund based on the 2018 budget adopted by the members at the November 2017 General Board Member Meeting.
- Cash –Cash flow is higher in the beginning of the year and is reduced as it is used throughout the year on general expenses. Cash remained stable from previous year as expenditures were lower than anticipated.
- Receivables & Other Current Assets - The receivables at the end of the 4th quarter in 2020 is related to quarterly billing of affiliates. There are also a few remaining dues assessments and outstanding state contracts waiting for payment.

Actual vs. Budget in Summary
 For the Current Ending Period and 3 Years Prior

Operating Fund	Total Budget	Budget 3/31/2021	Actual 3/31/2021	Variance (unfavorable)	12/31/2020	12/31/2019	12/31/2018
Revenue							
Dues	\$ 1,564,072	\$ 391,018	\$ 391,018	\$ -	\$ 1,564,077	\$ 1,525,193	\$ 1,491,284
Special Assessments	32,500	8,125	8,750	625	127,000	35,000	35,000
Affiliate Assessments	605,134	151,284	158,347	7,063	601,977	596,107	598,051
Contract Services	744,051	220,929	247,042	26,113	747,908	407,451	632,793
Conferences and Events	25,000	-	-	-	32,000	205,781	136,438
Other Miscellaneous Revenues	-	-	-	-	-	-	4
Total Revenue	\$ 2,970,757	\$ 771,356	\$ 805,157	\$ 33,801	\$ 3,072,961	\$ 2,769,532	\$ 2,893,570
Operating Expense							
Payroll and Benefits	\$ 1,890,240	\$ 466,151	\$ 438,141	\$ 28,010	\$ 1,839,677	\$ 1,799,807	\$ 1,500,345
Meetings, Travel and Hosting	87,250	23,137	10,133	13,004	33,333	174,567	149,894
Conferences and Events	20,500	3,000	1,515	1,485	7,878	190,090	140,191
Contract Services	685,400	203,350	209,445	(6,095)	865,089	442,959	737,132
Professional Services Other	103,000	25,100	26,494	(1,394)	133,999	119,595	150,420
Technology and Telecom	44,387	15,858	11,854	4,003	52,962	47,442	46,865
General Operating	166,110	60,227	58,615	1,612	155,547	184,008	177,039
Total Operating Expense	\$ 2,996,887	\$ 796,822	\$ 756,197	\$ 40,625	\$ 3,088,484	\$ 2,958,468	\$ 2,901,886
Changes in Net Assets	\$ (26,130)	\$ (25,467)	\$ 48,959	\$ 74,426	\$ (15,523)	\$ (188,936)	\$ (8,316)
Dues as a % of Total Revenue	52.6%		48.6%		50.9%	55.1%	51.5%
# of Permanent Staff	14		14		14	12	12
Payroll Exp as % of Total Exp	63%		58%		60%	61%	52%
Net Income as % of Revenue	-1%		6%		-1%	-7%	0%

*This financial statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Actual vs. Budget in Summary
 For the Current Ending Period and 3 Years Prior

Special Fund	Total Budget	Budget 3/31/2021	Actual 3/31/2021	Variance (unfavorable)	12/31/2020	12/31/2019	12/31/2018
Revenue							
Business Partner Fees	-	-	-	-	-	650	650
Marketing and Royalties	139,500	34,875	34,398	(477)	176,197	198,413	194,096
Other Miscellaneous Revenues	500	-	-	-	-	-	-
Interest Earnings	10,000	2,500	746	(1,754)	10,273	18,436	6,116
Total Revenue	\$ 150,000	\$ 37,375	\$ 35,144	\$ (2,231)	\$ 186,470	\$ 217,499	\$ 200,862
Operating Expense							
Meetings, Travel and Hosting	55,000	11,750	398	11,352	26,791	40,824	54,302
Conferences and Events	10,000	-	-	-	-	4,096	27,140
Professional Services Other	7,500	-	-	-	7,500	19,406	7,500
Technology and Telecom	3,700	-	-	-	4,414	11,380	4,224
General Operating	8,650	1,250	3,108	(1,858)	10,531	17,784	9,404
Total Operating Expense	\$ 84,850	\$ 13,000	\$ 3,506	\$ 9,494	\$ 49,236	\$ 93,490	\$ 102,569
Changes in Net Assets	\$ 65,150	\$ 24,375	\$ 31,638	\$ 7,263	\$ 137,234	\$ 124,009	\$ 98,293
Dues as a % of Total Revenue	0.0%		0.0%		0.0%	0.0%	0.0%
# of Permanent Staff	14		14		14	12	12
Payroll Exp as % of Total Exp	0%		0%		0%	0%	0%
Net Income as % of Revenue	43%		90%		74%	57%	49%

*This financial statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Actual vs. Budget in Summary
 For the Current Ending Period and 3 Years Prior

Litigation Fund	Total Budget	Budget 3/31/2021	Actual 3/31/2021	Variance (unfavorable)	12/31/2020	12/31/2019	12/31/2018
Revenue							
Dues	\$ 400,000	\$ 100,000	\$ 100,000	\$ -	\$ 399,999	\$ 400,003	\$ 399,997
Total Revenue	\$ 400,000	\$ 100,000	\$ 100,000	\$ -	\$ 399,999	\$ 400,003	\$ 399,997
Operating Expense							
Payroll and Benefits	\$ 151,558	\$ 37,373	\$ 30,205	\$ 7,168	\$ 120,582	\$ 81,065	\$ 61,106
Meetings, Travel and Hosting	15,000	1,500	-	1,500	-	1,377	28,273
Conferences and Events	-	-	-	-	-	2,500	849
Professional Services Other	295,000	73,500	67,668	5,832	326,047	337,686	154,746
Technology and Telecom	2,202	550	-	550	-	315	2,397
General Operating	500	125	-	125	-	311	3,821
Total Operating Expense	\$ 464,260	\$ 113,048	\$ 97,873	\$ 15,175	\$ 446,628	\$ 423,254	\$ 251,192
Changes in Net Assets	\$ (64,260)	\$ (13,048)	\$ 2,127	\$ 15,175	\$ (46,629)	\$ (23,251)	\$ 148,805
Dues as a % of Total Revenue	100.0%		100.0%		100.0%	100.0%	100.0%
# of Permanent Staff	14		14		14	12	12
Payroll Exp as % of Total Exp	33%		31%		27%	19%	24%
Net Income as % of Revenue	-16%		2%		-12%	-6%	37%

*This financial statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Actual vs. Budget in Summary
 For the Current Ending Period and 3 Years Prior

	Total Budget	Budget 3/31/2021	Actual 3/31/2021	Variance (unfavorable)	12/31/2020	12/31/2019	12/31/2018
Revenue							
Dues	\$ 1,964,072	\$ 491,018	\$ 491,018	\$ -	\$ 1,964,076	\$ 1,925,196	\$ 1,891,281
Business Partner Fees	-	-	-	-	-	650	650
Special Assessments	32,500	8,125	8,750	625	127,000	35,000	35,000
Affiliate Assessments	605,134	151,284	158,347	7,063	601,977	596,107	598,051
Contract Services	744,051	220,929	247,042	26,113	747,908	407,451	632,793
Conferences and Events	25,000	-	-	-	32,000	205,781	136,438
Marketing and Royalties	139,500	34,875	34,398	(477)	176,197	198,413	194,096
Other Miscellaneous Revenues	500	-	-	-	-	-	4
Interest Earnings	10,000	2,500	746	(1,754)	10,273	18,436	6,116
Total Revenue	\$ 3,520,757	\$ 908,731	\$ 940,301	\$ 31,570	\$ 3,659,431	\$ 3,387,033	\$ 3,494,430
Operating Expense							
Payroll and Benefits	\$ 2,041,798	\$ 503,524	\$ 468,346	\$ 35,178	\$ 1,960,258	\$ 1,880,872	\$ 1,561,451
Meetings, Travel and Hosting	157,250	36,387	10,531	25,856	60,124	216,767	232,468
Conferences and Events	30,500	3,000	1,515	1,485	7,878	196,686	168,181
Contract Services	685,400	203,350	209,445	(6,095)	865,089	442,959	737,132
Professional Services Other	405,500	98,600	94,162	4,438	467,546	476,687	312,666
Technology and Telecom	50,289	16,408	11,854	4,553	57,375	59,137	53,486
General Operating	175,260	61,602	61,722	(120)	166,078	202,103	190,264
Total Operating Expense	\$ 3,545,997	\$ 922,871	\$ 857,576	\$ 65,295	\$ 3,584,348	\$ 3,475,211	\$ 3,255,647
Changes in Net Assets	\$ (25,240)	\$ (14,140)	\$ 82,725	\$ 96,865	\$ 75,082	\$ (88,178)	\$ 238,782
Dues as a % of Total Revenue	55.8%		52.2%		53.7%	56.8%	54.1%
# of Permanent Staff	14		14		14	12	12
Payroll Exp as % of Total Exp	58%		55%		55%	54%	48%
Net Income as % of Revenue	-1%		9%		2%	-3%	7%

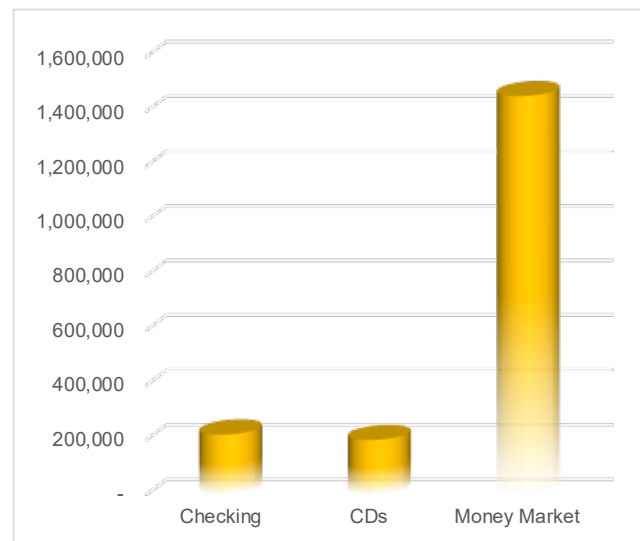
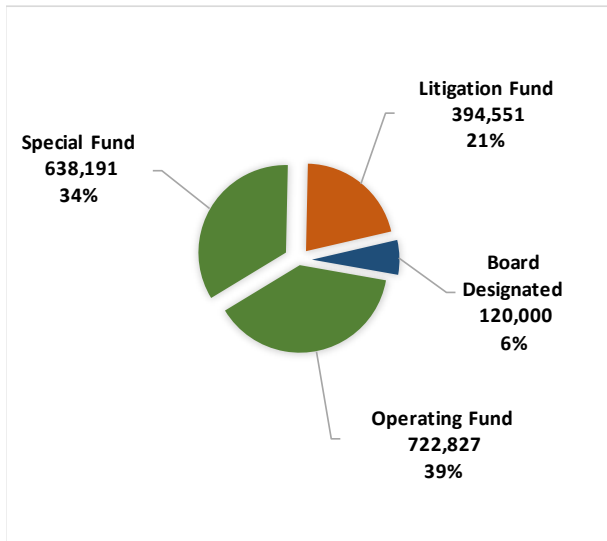
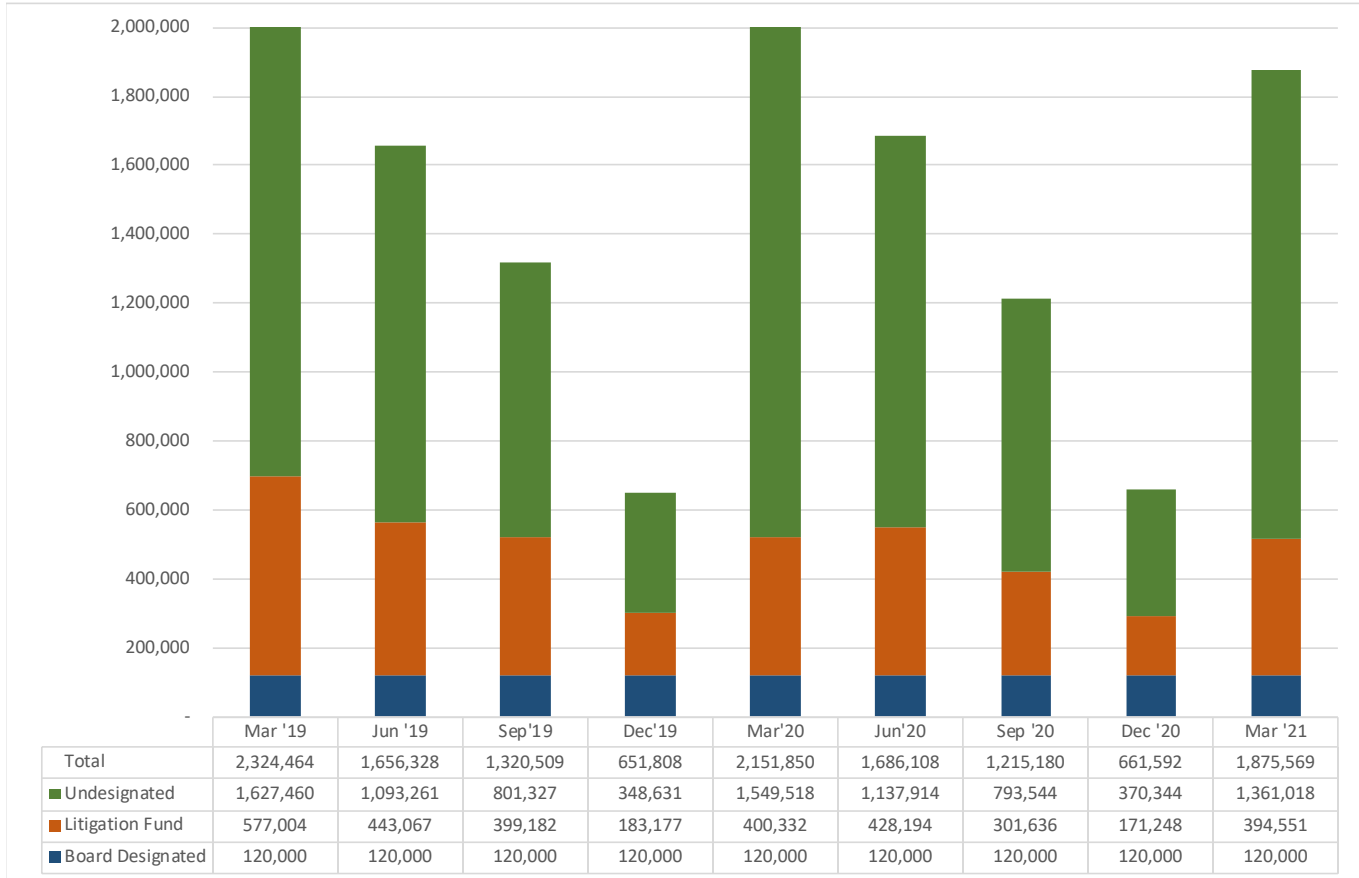
*This financial

statement is produced directly from WSAC's MIP Fund Accounting Software through DrillPoint Reports.

Key factors for changes in WSAC's income and expenses between 2017 and 2020:

- 2020 Dues revenue increases from 2017 are a result of the addition of the SLAC program in 2018 and small COLA adjustments each year.
- Affiliate assessment revenues are based on actual expenses from the affiliates WSAC manages (recorded within Operating Expense) with a 12% overhead charge added.
- Payroll and Benefits - The increase in staff from 2017 to 2018 with no corresponding increase in expense is due to one position remaining unfilled for 9 months as well as turnover of four positions in 2018 that remained unfilled for anywhere from one to four months. 2019 had 1 vacant position not filled and another position vacant for 2.5 months. 2020 was fully staffed with some minor changes in the 4th quarter.
- Professional Services Other – The 2017 increase from 2016 is due to Special Assessment projects (can be found in related revenue) including a Media Campaign, Columbia River Treaty, PILT, and Coastal Counties. Professional service increases in 2019 are mostly from the SLAC legal and communication expenses.

Total Cash & Investment Position - All Funds
For The Quarter Ended March 31, 2021



May 5, 2021

TO: WSAC Board of Directors

FROM: Eric Johnson, Executive Director

PREPARED BY: Derek Anderson, Director, Communications & Member Services

SUBJECT: Communications and Member Services Division Report

Communications

Newsletter Survey

WSAC recently surveyed its newsletter subscribers to better understand audience needs and interest in its publications. Ninety-one submissions were received, and 81% indicated that WSAC's current publications effectively provide information to the overall needs of members. Results also showed that WSAC's weekly Friday Five publication is more popular than its monthly *Insider* publication. With this feedback in hand, WSAC staff will begin developing new templates to merge these two publications starting in June.

Meetings & Events

Virtual, Hybrid, and In-Person Events

WSAC continues to provide conference planning support to several affiliate organizations. As Covid-19 restrictions begin to lift, hybrid meetings are gaining popularity, and some are returning to full in-person meetings. Below you will find a complete list of events WSAC staff have been or will be supported through June:

WSACA Licensing User Group | February & April | *Virtual*
WSACA Finance Conference | March | *Virtual*
ACCIS Spring Conference | April | *Virtual*
WSACE Annual Conference | June 8-11, 2021 | Chelan County | *In-Person*
WSACA Elections Conference | June 8-10 & June 15-17, 2021 | *Virtual*
WACSWM Annual Conference | June 15-17, 2021 | Chelan County | *Hybrid*
WSACA Annual Conference | June 22-24, 2021 | Asotin County | *Hybrid*

Programs and Services

Business Partners | Connect & Learn

WSAC hosted its first County Connect & Learn via Zoom on March 31. One of WSAC's newest Business Partners, CashVest by Three+One, provided information on how its solution can assist counties with Cash/Liquidity Management. This solution is of great interest as counties prepare to receive funds from the American Rescue Plan. Additional opportunities to participate in the County Connect & Learn Series will be announced in early May.

County Development Institute of Washington

The County Development Institute of Washington welcomed 25 newly elected members to its first cohort of the year. Participants began their journey on becoming a Certified Public Official in March and are on track to complete the 11 online courses before the County Leaders Conference in November. Additional opportunities for current elected officials and staff to begin earning their CPO certificate will be available this fall.

Appointments to Statewide Boards & Commissions

Affordable Housing Advisory Board

LaDon Linde, Yakima County Commissioner

State Board of Health

Temple Lentz, Clark County Councilor

Traffic Safety Commission

Sam Low, Snohomish County Councilmember

May 5, 2021

TO: WSAC Board of Directors

FROM: Eric Johnson, Executive Director

PREPARED BY: Mellani McAleenan, Director, Government Relations

SUBJECT: Policy and Legislative Report

The Legislature adjourned *sine die* as scheduled on Sunday, April 25th. Given the difficulties of a Zoom-based legislative session, legislators were encouraged to introduce fewer bills and focus on legislation that addresses COVID-19 challenges, improve racial equity, advance economic recovery, address climate change, and increase revenue. They stuck to their word with just over 800 bills introduced this year. In a “normal” long session, more bills are introduced by just one of the houses.

While the Legislature may have tackled a smaller number of bills and a narrower focus this year, they did not limit themselves to minor issues. The 2021 legislative session undertook climate change, tax policy, police reform, and other significant matters, including one imposed upon them by the state supreme court. As they did in the 2019 long session, they waited until the last day to finish the operating budget.

While the House draft of the operating budget contained an \$86 million allocation for counties to cover the cost of pending legislation, the final budget only included \$30 million to cover criminal justice costs. Some of the bills they’d included in the original calculation did not pass. They also increased the marijuana revenue sharing allocation for the first time in years from \$30 million to \$40.

The remote nature of the session made traditional “lobbying” impossible, leaving staff to rely on 30-second testimony, telephone and video meetings, and email. Despite the difficulties, WSAC staff worked hard and achieved good outcomes for counties.

WSAC PRIORITIES

Due in part to the uncertainties facing the state – remote session, potential budget deficit, pandemic response - WSAC entered the 2021 legislative session with priorities that, while important, were also familiar to most legislators.

- **Infrastructure**
 - Fish Passage Barriers
 - Transportation/Road Maintenance and Funding
 - Broadband Access
 - Capital Investment
- **Environment**
 - Growth Management Act
 - Climate Change
 - Water
 - Forest Maintenance
 - Solid Waste

- **Fiscal**
 - Short-term Recovery
 - Long-term Change
- **Social Justice & Equity**
 - Public Health
 - Medical Services Provided in Jail
 - Behavioral Health
 - Affordable Housing
 - Access to Judicial Equity
- **Emergency Response and Recovery**
 - OPMA/PRA
 - Coronavirus
 - Fire

INFRASTRUCTURE

Investments in infrastructure are vital to economic growth and essential for maintaining vibrant communities yet have remained underfunded for decades.

Fish Passage Barriers – Jane Wall

The state is under court order to fix all of their fish blocking culverts by 2030. Fish cannot differentiate between a state or county-owned culvert, and without addressing other culverts in the same stream systems, the problem will continue. Counties have thousands of fish blocking culverts that need to be repaired or replaced, which will cost billions of dollars counties don't have.

The Legislature made only modest investments for local governments to address fish passage barrier removal by funding the Fish Passage Barrier Removal Board at \$26.79 million. This is less than half of what was requested.

For the state's obligation, the Legislature appropriated over \$1 billion for the Washington State Department of Transportation to address its obligation. However, \$529.5 million of federal American Rescue Plan dollars are assumed in this figure. If that money is deemed ineligible, then \$400 million of Connecting Washington dollars will be utilized as backfill.

Transportation/Road Maintenance and Funding – Jane Wall

Counties own over half of Washington's roads that residents rely on to get to school, work, and move products to market, but counties receive \$500 million less per biennium than previously. They do not have enough money to meet our transportation system's needs.

It was well known this session was going to be significant for transportation. Senate Transportation Chairman Steve Hobbs has had a multi-year revenue proposal on the table for the past two years. House Transportation Chairman Jake Fey spent the interim meeting with stakeholders to help inform his own revenue package. Both Senators introduced their packages early in the session, and much of the transportation conversation centered around those proposals all session long.

House Proposal

Representative Fey introduced his “Miles Ahead” proposal in the third week of the session. With a massive \$26 billion, 16-year revenue package, the plan was ambitious and vast. It invested significant revenues into transportation preservation and maintenance as well as carbon reduction initiatives.

For counties, the proposed investments were considerable – more than we have seen in decades. The plan proposed \$582 million to CRAB programs. It also included investments into transportation electrification, transit, pedestrian and bicycle programs, Safe Routes to Schools, and our ferry fleets.

The \$26 billion in revenue was raised through two primary mechanisms, an 18-cent gas tax increase over a two-year period and a carbon fee over three biennia. The proposal also levied a 3-cent diesel tax and numerous vehicle and weight fees.

While bold, the plan never really took off. Representative Fey held a public hearing on the proposal, but we never saw actual revenue, spending, and bonding bill language, and legislation was never acted on.

Senate Proposal

Senator Hobbs released an updated version of his “Forward Washington” transportation revenue package in the fourth week of the session and held a preliminary work session with public comment on January 28. Investments to counties and our partner agencies remained relatively unchanged from his previous proposals.

Senator Hobbs’ proposal included two separate funding scenarios, one under a “Cap and Invest”-based proposal (aka cap and trade) and the other under a “Carbon Fee”-based proposal. The full Cap and Invest proposal raised \$18.2 billion in revenue, while the full Carbon-Fee proposal raised \$19.1 billion in revenue. Both proposals spanned 16 years.

In the Cap and Invest proposal, the package raised \$5.1 billion through cap and trade. In the carbon proposal, \$8.5 billion was raised through a carbon fee. Both relied on billions in bonding and a 6-cent fuel-tax increase. They both also proposed \$1 billion through an air quality surcharge fee, \$1.1 billion from a statewide transportation benefit assessment (fees assessed on activities such as construction and manufacturing), and various smaller fees and assessments on everything from rental cars, for-hire vehicles, drones, and bicycle sales.

The Senate proposal invested heavily in state highway preservation and maintenance (\$2.5 billion); stormwater improvements (\$500 million); state, local, and tribal improvement projects (i.e., individual transportation projects); and in state and local fish passage barrier removal (\$3.5 billion). The proposal allocated \$80 million to the County Road Administration Board and an additional \$375 million in direct fuel-tax distribution to cities and counties. All of these investments were over a sixteen-year period.

Senator Hobbs continued to refine his proposal, re-introducing a moderately different version later in the session. He held multiple hearings on the package as well as a hearing on a revenue and bond bill. He was able to get the bills out of committee on a party-line vote, but the bills never advanced further.

Carbon

A significant part of the transportation revenue conversation throughout the session was centered around taxing carbon emissions and how much, if any, of the revenues from those taxes would go to the transportation budget. Both the house and senate packages relied heavily on carbon revenue. The policy and budget conversations became so linked that the term “grand bargain” was coined to describe how they would fit together.

After a lot of “will they, won’t they,” they were able to get a portion of the “grand bargain” finished. The Legislature passed both a low carbon fuels standard (HB 1091) and a Cap and Invest bill (SB 5126). However, both bills include language that stipulates they will not take full effect until an additive transportation revenue package is adopted.

Biennial Transportation Budget

The 2021-2023 transportation budget was officially adopted on April 24. As we headed into session, the budget outlook was bleak. The COVID-19 pandemic has significantly affected transportation revenues. The gas tax, toll, and ferry revenues have all been negatively impacted over the course of the last year. As a result, we came into session facing a multi-million dollar hole that needed to be filled. Additionally, the state needed to address its fish passage barrier removal mandate – a roughly \$700-\$1 billion commitment for the 2021-2023 biennium.

Fortunately, the federal government saved the day. The American Rescue Plan invested billions into Washington, and the Legislature was able to use some of those dollars to offset losses in transportation. Consequently, critical programs that counties rely on were held harmless, and in some cases, received backfills to offset losses from the past year.

Specifically, programs administered by the County Road Administration Board were fully funded. They received additional one-time transfers to offset losses from the last year (\$9.6 million to CAPA and \$12.4 million to RATA). Its newly created Emergency Loan Program also received a \$2 million appropriation.

While we did not receive significant new increases, the biennial budget is a good one for county roads.

Legislation

Most of the session's conversations were dominated by carbon and the additive transportation revenue proposals. However, several bills of interest to counties did pass the Legislature. These include:

HB 1023 increases the threshold for construction projects requiring to predesign from \$5 million to \$10 million and establishes the same threshold for all capital project types. It also allows OFM the authority to waive some or all predesign requirements on capital projects exceeding the \$10 million thresholds.

Known as the "low carbon fuel standards or "LCFS" bill, **HB 1091** directs the Department of Ecology to adopt rules establishing a Clean Fuels Program (CFP) to limit the aggregate, overall greenhouse gas (GHG) emissions per unit of transportation fuel energy. The bill also requires an increase in the gas tax of at least 5 cents that will contribute to an additive transportation revenue act before Ecology may assign compliance obligations or allow for actual credit generation to coordinate and synchronize the CFP with other transportation-related investments.

HB 1137 reorders the state's six transportation policy goals to prioritize health and safety and preservation and maintenance as the state's foremost priorities for transportation investments.

HB 1502 allows counties to use "best-value" bidding for the procurement and design of electric ferries.

SB 5031 creates a community aviation revitalization board, consisting of county representation, to make direct loans to airport sponsors of public-use airports in the state for the purpose of airport improvements.

SB 5032 extends the use of alternative public works contracting procedures until July 1, 2031. It also makes changes to the Capital Projects Advisory Review Board (CPARB) makeup; amends the design-build, general contractor/construction manager, and job order contracting procedures; and requires the CPARB to develop best practices for increasing and sustaining access to contracting opportunities in alternative public works for minority, women, and veteran-owned businesses, and small businesses.

SB 5126 establishes a cap and invest (or cap and trade) program in the State of Washington. The bill tasks the Department of Ecology with establishing a cap and investment program for greenhouse gas (GHG) emissions. Specifically, a cap and invest program would directly distribute auction revenues for specified purposes, including clean transportation, natural climate resiliency, clean energy transition and assistance, and energy efficiency projects. For a full summary, see the Land Use and Planning section.

Broadband Access – Mellani McAleenan

The pandemic made clear that broadband access is critical to the modern economy, essential for education, and vital to innovative health equity, but geographic, economic, and other variables hinder access to quality high-speed broadband for too many Washington residents, with inadequate and unaffordable service in every county across the state. Increasing access to underserved areas was a WSAC priority this year.

SHB 1064 adds questions about the availability of internet service to the seller disclosure statement for residential property.

ESHB 1336 and **2SSB 5383** both authorize expanded retail opportunities for the public entities to provide broadband. While the bills take different approaches, it is generally believed that both can be implemented. ESHB 1336 authorizes public utility districts, port districts, second-class cities, towns, and counties to provide retail telecommunications services. It allows a county, city, or town planning under the Growth Management Act (to receive financial assistance for a public works project that increases access to broadband even if it has not adopted a comprehensive plan, including a capital facilities plan element and development regulations as required by the GMA. 2SSB 5383 allows public utility districts and port districts to provide retail telecommunications services to end-users in unserved areas under certain conditions.

ESHB 1457 makes it the policy of the state that limited access highway rights-of-way be used to accommodate the deployment of broadband facilities as a critical part of the state's infrastructure. It requires the Department of Transportation to adopt and maintain an agency policy to provide broadband facility owners with information about planned highway projects, authorizes DOT to have its contractors install broadband conduit as part of road construction projects if no owners want to participate, authorizes DOT to grant franchises to use a state highway for construction and maintenance of fiber optic facilities. It also requires the Joint Transportation Committee to oversee a study to provide recommendations on DOT's role in broadband service expansion efforts.

2SSB 5368 instructs the Public Works Board, the Community Economic Revitalization Board, the Utilities and Transportation Commission, and Commerce that it need not require a county to comply with the GMA to receive financial assistance in the form of grants and loans for specific broadband projects.

The Legislature also invests heavily in broadband. A total of \$411 million is provided in the capital budget for loans and grants to be competitively awarded for promoting expanding access to broadband, including \$60 million to the Public Works Assistance Account, \$326 million to the State Broadband Office, and \$25 million to the Community Economic Revitalization Board (CERB). Funds are provided in the operating budget for digital navigators (\$7.5 M), the Universal Communications Services Account for expansion of rural broadband (\$10 M), to fund 2SSB 5383 (\$311 M), to study digital equity (\$250,000), to supplement funds committed to a telecom company to expand rural broadband on behalf of an eligible government entity (\$800,000), and \$25 per pupil to support broadband internet connectivity needs for families.

Capital Investment – Jane Wall and Mellani McAleenan

Investing in infrastructure spurs economic development - every \$1 invested generates \$1.50 in economic output. Investments in "core infrastructure" like roads and railways are even higher. Counties also need capital investments in sewer, water, landfills, and buildings to keep communities safe and functional.

\$129 million is provided in the capital budget to be competitively awarded by the Public Works Board to finance loans for projects related to cities, counties, and special purpose districts for sewer, drinking water, solid waste, street, and stormwater projects statewide. These include preconstruction, construction, and emergency projects. For the first time in years, no funds were diverted to the Education Legacy Trust Account.

\$40 million is provided for loans and grants to be competitively awarded by the CERB for projects that construct, repair, and acquire local public facilities to encourage business development and expansion in areas seeking economic growth

ENVIRONMENT

Counties want to protect farm and forest lands, rivers and lakes, and other sensitive environments for the good of their residents and economies. Still, the Legislature must be realistic regarding what counties can and cannot do.

Growth Management Act – Paul Jewell

Planning is expensive, and without reliable and sustainable funding, counties will continue to struggle to satisfy legal requirements. Counties cannot absorb new planning requirements without the Legislature providing ongoing financial support for any additional responsibilities and support local flexibility for planning.

Several GMA-related bills were proposed that would have added new requirements and implemented reforms. Although the bills appeared to be moving through the process methodically, nearly all died at the end. The proposals included new goals and planning elements to address climate change and salmon recovery, new requirements for tribal engagement in local planning, and new rules for appeals of specific planning actions. The reforms included extending the update cycle for comprehensive plans and shorelines to 10 years, creating flexibility for developments in LAMIRDs, changes to the annexation process, and new ways to reduce liability from appeals. Even though most of the bills did not ultimately find success, they will likely be back in play next session.

Funding is provided in the operating budget for Commerce to conduct more work with interested parties on GMA reforms and updates during the interim. Funding is also included for Commerce to consider incorporating a standard of net ecological gain into the state's planning framework.

Finally, WSAC was able to find sponsors in the House and Senate to request funding to begin implementing recommendations from the Legacy Pesticide Working Group final report. Dealing with potential lead arsenate contamination on former orchard grounds being converted to other uses in Central Washington, \$200,000 is provided to Ecology study the feasibility of developing soil banks in strategic locations. Additional funding is offered (\$100,000) for drafting model codes for local governments to utilize in adopting regulations within their permitting processes to assure transparent and consistent application of testing and mitigation requirements.

SB 5225 creates an option for direct review by the court of appeals upon certification by the superior court of specific appeals under the Administrative Procedures Act and the Land Use Petition Act. Certain conditions apply before the superior court can make the certification.

2SSB 5368 creates a new method for cities to annex lands within UGAs through an interlocal agreement with the county. The interlocal agreement must address balancing annexations, so any potential loss or gain of tax revenue is considered and distributed fairly; the development, ownership, and maintenance of infrastructure; and the potential for revenue-sharing agreements. The bill also instructs the Public Works Board, the Community Economic Revitalization Board, the Utilities and Transportation Commission, and Commerce that it need not require a county to comply with the GMA to receive financial assistance in the form of grants and loans for specific broadband projects.

Climate Change – Paul Jewell

Climate change impacts county residents and the environment. Counties can help the state meet its goals for reducing climate change causes but cannot take on more responsibilities without additional funding. Counties face different impacts, and solutions for meeting climate change-related goals should be flexible and tailored to local conditions.

Significant effort and attention were focused on the legislative proposals to enact a carbon management policy and revenue package this session. WSAC advocacy efforts centered primarily on the impacts of such policies on local government planning requirements, solid waste programs, and transportation.

Funding was provided to the Department of Commerce to develop guidance and a model planning element for counties that may address GHG emissions and climate change-related impacts in their comprehensive plans. Funding was also provided to the Office of Financial Management to develop a report to the Legislature on how to incorporate a “net ecological gain” standard into the state’s planning framework, replacing the current requirement of “no net loss” of ecological function.

E2SSB 5126 implements the Washington Climate Commitment Act, a new cap and trade program for addressing greenhouse gas emissions in the state. Under the program, emission levels are capped, and the state issues allowance certificates for auctions held at least four times per year. Covered entities defined in the bill must purchase enough allowances at auction to offset their emissions. Over time, the allowance “cap” is decreased, creating increasing pressure on the cost of the limited allowances at auction and presumably, creating a financial incentive for covered entities to emit less.

County interests include how emissions from waste to energy (WTE) facilities and from landfills are regulated by the new law. The bill consists of a delay in imposing requirements on WTE and landfills and allows revenue from the program to be utilized for projects to reduce emissions from those facilities.

The revenue from the sales of emissions is reinvested into programs that are designed to reduce the climate impacts from GHG emissions in the state through offsetting projects and other investments. Funding is not allowed to be utilized for roads and other infrastructure that does not reduce GHGs.

The program is not effective until a transportation revenue package with at least \$500 million in additive funding is approved by the state.

Water – Paul Jewell

Water is vital to local economies, agriculture, recreation, and environmental health. Counties have a strong interest and responsibility in managing water to meet current and future demand. Fair and equitable water distribution is essential to meeting the needs of all counties. Programs that improve water quality or support and enhance water supplies for various uses, including environmental, require funding.

WSAC partnered with Trout Unlimited, the Yakama Nation, and the Washington Water Policy Alliance to successfully push for budget provisos that would implement recommendations from the report on water banking and the trust water program issued by the Department of Ecology last fall. The provisos direct funding and create instructions for Ecology to develop greater transparency in the development of water banks while also providing grant funds to develop water banks for a public benefit in certain qualifying rural counties. The operating budget includes \$9 million in funding for the grant program, and the capital budget includes an additional \$5 million. The language for the grant program was being negotiated right up until the final budgets were drafted, so there may have ultimately been some confusion on these appropriations that could result in a veto of one of them.

SSB 5230 is specific to the Columbia Basin Project and the agreements that exist with the United States to allocate groundwater. The bill allows allocations by Ecology without requiring compliance with the procedures in the state groundwater code for declarations of claims of ownership of artificially stored groundwater. It also requires that agreements for groundwater allocation that result from the Columbia Basin Project fulfill the requirements of the groundwater code for determinations of availability of public groundwater. These changes create a co-management relationship between the Bureau of Reclamation and Ecology for about 6mAF of existing and unallocated groundwater in the Pasco subarea.

Forest Maintenance – Paul Jewell

Forestlands are essential resources that create jobs, support education and other services, and meet cultural and recreational needs. Forest health is critical to a healthy environment, clean water, and wildlife habitat. Active forest management strategies like thinning, prescribed burning, and logging are vital for maintaining forest health. When forestlands are unharvested to support wildlife, forest health management must continue. County revenues and rural jobs must be supported by replacing affected forestlands with other harvest opportunities or through other means.

WSAC and the Washington Farm Forestry Association worked in partnership to request additional funding for participation grants to support both organizations' work in DNR's Adaptive Management Program. We successfully secured \$168,000 in new funding for expanding our work with the Cooperative Monitoring, Evaluation, and Research (CMER) Committee.

HB 1168 provides new funding and authorizations for DNR to implement the 20-year forest health strategic plan, the wildland fire protection 10-year plan, and the Washington state forest action plan. It includes investments in fire preparedness activities, fire prevention activities, and forest health improvements. Forest health activities are funded at no less than 25% of the biennial appropriated funding, and community resilience activities are funded at no less than 15%. Appropriated funding is \$130.423 million for the next biennium.

DNR is also required to hire a third-party contractor to assist in updating its forest inventory and to review, analyze, and advise the department's forest growth and yield monitoring. In the absence of any litigation, JLARC is instructed to oversee and conduct an independent review of the methodologies and data utilized to develop the sustainable harvest calculation.

E2SSB 5141 implements the Environmental Justice Task Force report recommendations developed as part of a proviso in the 2019-21 biennial operating budget. Also known as the HEAL Act, the bill requires certain state agencies to incorporate environmental justice principles into future agency actions. Initial concerns from WSAC and others related to DNR's obligations under the act and potential impacts that would delay and add costs to timber sales on trust lands were addressed through amendment.

SB 5159 pertains to the WDFW PILT program and implements one of the 2013 Department of Revenue report recommendations. Under the bill, responsibility for making the PILT payments is moved from WDFW to the State Treasurer. This aligns WDFW PILT payment responsibility with the DNR PILT program. It should result in more consistent and reliable payments to counties.

Solid Waste – Paul Jewell

Managing garbage and recycling collection and hazardous waste disposal is primarily the responsibility of counties. These services are not uniform statewide, and costs can vary widely. Significant changes in recycling markets and service level adds to the confusion. Counties support a uniform standard for recycling available to all residents with consistency to minimize confusion and improve recycling markets. State support for county solid waste management has declined by over 62% since 2013.

Solid waste-related proposals introduced an extended producer responsibility program that would dramatically change how recycling is handled and paid for in Washington. Another suggestion would have implemented new broad requirements for managing organic wastes to divert them from landfills. In the end, neither proposal was successful, but both are likely to spur ongoing discussions throughout the interim and more legislative proposals next session. A budget proviso was enacted for \$331,000 to WSU to conduct an organic waste study on different aspects of compost, including local and state government usage. The local solid waste financial assistance program (LSWFA) that provides grants to county programs to implement their comprehensive solid waste management plans received \$14 million in increased ongoing funding for a restored funding level of \$24 million per biennium.

E2SSB 5022 adds a new requirement for beverages, household cleaning products, and personal care products sold in plastic containers for the containers to contain up to 50% postconsumer recycled content. Similar requirements are enacted for trash bags. Certain expanded polystyrene products are prohibited from being sold or distributed in Washington beginning June 1, 2024, including portable containers for cold storage, foodservice products, and void-filling packaging products like packing peanuts. The bill also requires that food services businesses only provide single-use foodservice products, like utensils, straws, condiment packaging, and beverage cup lids, after affirming the customer wants the item. Exceptions are provided in each section of new requirements.

FISCAL

Short-term Recovery – Mike Hoover

The pandemic wreaked havoc on local revenues. Convincing the Legislature to all local governments to make fiscal decisions that best suit their specific situations is key to getting through the pandemic and a 2021 WSAC priority.

HB 1069 is the so-called “fiscal flexibility” bill. Back in April of last year, WSAC started working with other local government groups and key legislators on solutions for the budget shortfalls expected from the pandemic’s economic downturn. There was hope that the counties would receive both federal and state relief, but there was also a practical recognition that neither the state nor the federal government was likely to cover all losses, and any money that did come would likely come with strings attached and spending limitations. To help local governments help themselves, this bill was drafted to allow certain existing revenues to be used for broader purposes for a limited time (generally, through the end of 2023). Specifically, the bill:

- Allows revenue from criminal justice sales taxes, the Criminal Justice Assistance Accounts, and certain King County excess property tax levies to supplant existing funds through December 31, 2023; and
- Reduces restrictions on the allowed use of funds from criminal justice sales taxes and real estate excise taxes through December 31, 2023.

This bill does not increase any revenue or impose any new taxes; it affects only existing revenue sources. Nothing in it is mandatory or automatic; any spending changes would need to be undertaken by counties through their existing budget processes. It is not expected that this bill will solve all of the budget woes that may result from the pandemic, but it is hoped that this bill, along with federal aid, can provide flexibility in meeting and minimizing those shortfalls. This bill was a major priority for WSAC, and it passed the Legislature and is expected to be signed by the Governor into law shortly, to take effect immediately (the bill contains an emergency clause).

Long-term Change – Mellani McAleenan

Beyond the pandemic, counties face three primary challenges with the revenue sources available to fund essential state services at the local level: lack of revenue diversity, flexibility in how they can use revenue, and revenue streams that do not keep pace with expanding population and inflation. Moving the county financial structure to meet the needs of modern county governments continues to remain a WSAC priority.

While likely more helpful to cities, **ESHB 1189** authorizes local governments to designate tax increment financing areas and to use increased local property tax collections to fund public improvements.

Had it passed, **SHB 1333** would have extended until December 31, 2054, the expiration of the local sales and use tax for public facilities in rural counties for those counties imposing the tax prior to August 1, 2009.

Once again, a bill was introduced to address the one percent property tax growth limit, and, once again, the bill failed to progress in the Legislature. Despite interest from a number of House Democrats, **HB 1362** did not survive past its hearing in the House Finance Committee.

SB 5106 repeals the limitation that a credit union may only accept deposits greater than the maximum insured amount from a public funds depositor that either is a county with a population of 300,000 persons or less or is a public funds depositor located within a county with a population of 300,000 persons or less.

SOCIAL JUSTICE & EQUITY

Public Health – Jaime Bodden

Local health jurisdictions are the frontline defenders against an expanding list of threats like infectious diseases, chronic illness, harmful environmental exposures, and public health emergencies. Local public health works to reduce health disparities created when specific populations have worse health outcomes or are more susceptible to illness and injury due to systemic and institutional barriers. Local public health must be well-funded to increase capacity, modernize, and quickly adapt to manage both new threats and long-standing health impacts.

This session proved to be pivotal for public health, particularly local health jurisdictions. Both Democrats and Republicans from both chambers identified public health funding as a budget priority, as the pandemic laid bare the impact chronic underfunding had on the public health system.

The Operating Budget passed with several key public health wins:

- **Foundational Public Health Services (FPHS):** In addition to the existing \$28 million ongoing funding, an additional \$147 million ongoing was appropriated, bringing the total FPHS allocation to the governmental public health system to \$175 million ongoing. This allocation will work through the concurrence process outlined in RCW 43.70.515 for how FPHS is funded at state, local, tribal, and shared levels.
- **Group B Water Systems:** An ongoing budget challenge session after session has been securing funding for local Group B Water programs. The budget included \$984,000 ongoing for the implementation of these programs.
- **County Public Health Assistance Account:** This is an ongoing account that provides flexible state dollars to local health jurisdictions. Total appropriation remains consistent with past sessions at \$72.7 million.

A Governor Inslee proposal, **SHB 1152**, would have dismantled the current local health jurisdiction structures to create regionalized models. Both WSAC and WSALPHO expressed concern and frustration over this bill, including that the bill itself contained several problematic sections, the lack of input and collaboration in the bill's development, timing, and disconnection to existing foundational public health services work. Many of the issues raised by WSAC and WSALPHO were addressed, and the bill changed dramatically as it progressed through the House and Senate. The final bill removed all provisions around regionalization and instead created a public health advisory board to the State Department of Health and required membership criteria for local health boards. The House concurred on the Senate amendments, and we believe the Governor will sign it, despite the changes to the original bill.

2SHB 1161 authorizes the State Department of Health to approve more than one drug-take back program and modifies current drug-take back program specifications. The bill received no opposition in either chamber and is awaiting the Governor's signature.

Public health is a leading field in addressing health disparities. To further respond to the needs of communities with high health disparities, **SSB 5052** requires the Department of Health, LHJs, and other state and local partners to identify health equity zones. These zones must be populated by communities of color, Native communities, communities experiencing poverty, or immigrant communities. They must be small enough for targeted interventions to impact health outcomes and health disparities significantly.

HB 1031 would allow families who gave birth that resulted in a stillbirth the ability to request and receive a certificate of birth as well as a death certificate from state or local registrars. This bill has taken several years to work its way through the Legislature and is now in Senate Rules for a floor vote.

Medical Services Provided in Jail – Juliana Roe

Under federal law, a person's Medicaid benefits are suspended during incarceration, even when they have not been found guilty, placing them at risk for changes in health treatments. Under federal law, states can seek a waiver of certain Medicaid requirements that allow states to demonstrate Medicaid innovations like expanding eligibility, providing services not typically covered, and using innovative service delivery systems. This session, we asked the Legislature to apply for a waiver to allow people to maintain their Medicaid benefits while incarcerated until judgment.

The Legislature passed two bills to address this concern. **SHB 1348** requires the Health Care Authority to seek a waiver from the federal government to allow an incarcerated individual to maintain his or her Medicaid benefits for the first 29 days of incarceration at a state or local institution. **E2SSB 5304** requires the Health Care Authority to apply for a Medicaid waiver to allow those in confinement to use their Medicaid benefits up to 30 days prior to the individuals release or discharge. These two bills will save counties money on jail health care costs if the federal government grants the waivers and would provide for a more successful recovery and reentry into our communities.

Behavioral Health – Juliana Roe

Mental health and substance use disorder treatment programs are essential county services made even more significant during a pandemic. The pandemic has increased the need for care of those with mental health and substance use problems and those suffering from the psychosocial consequences of the pandemic.

In response, the Legislature provided \$517 million in state and federal funds to increase behavioral health services, including provider rate increases, community supports, and crisis teams. It also passed a variety of bills to address these issues.

One bill that passed is **E2SHB 1477**. It establishes the 988 Mental Health Crisis Hotline system that Congress passed in October 2020. The Department of Health and the Health Care Authority is required to collaborate to establish state crisis call center hubs and an enhanced crisis response system that enables cross-system collaboration to prepare for the implementation of the 988 crisis hotline. It establishes a Crisis Response Improvement Strategy Committee to plan for the implementation of the 988 crisis hotline and the crisis response system enhancements. It imposes a tax on radio access lines, voice-over-internet protocol service lines and switched access lines to fund activities related to an enhanced crisis response. The hope is that providing individuals with a direct line to obtain immediate mental health attention and services will divert them away from the criminal justice system and into the types of supports they need.

The Legislature also passed **SHB 1314**, which requires facilities to inquire about an individual's veteran's status when they arrive at a behavioral health facility. If the individual identifies as a veteran or is eligible for a veteran's status, the facility is required to ask the individual if he or she would be amenable to treatment by the Veteran's Health Administration (VHA), and that information must be shared with the Designated Crisis Responder (DCR). If the person is amenable, the DCR must refer the individual to the VHA for behavioral health treatment at a facility that meets the individual's needs. If accepted for treatment at a VHA facility, the DCR, the VHA, and the facility in which the individual is located must coordinate transport to the VHA facility. While this is a great step forward toward coordination with the VHA, the VHA informed us that there are very few beds at the Seattle VHA facility, so this bill does very little to help individuals in need.

Affordable Housing – Juliana Roe and Paul Jewell

Even before the pandemic, Washington communities faced a massive affordable housing shortage and a growing number of persons entering homelessness. The pandemic created even greater strains on our communities - with increasing unemployment, growing numbers of people facing eviction or foreclosure, and a decreasing supply of affordable housing.

In response, the Legislature invested in stabilizing housing situations for both tenants and homeowners. Not only did the Legislature provide over \$1 billion toward affordable housing and homelessness, rental and mortgage and foreclosure assistance, and legal services, the Legislature also passed a variety of bills to help minimize this crisis.

The Legislature passed **E2SHB 1277**, which establishes a \$100 surcharge on recorded documents to fund various housing services, including the Affordable Housing for All Account for the operations, maintenance, and services costs for permanent supportive housing; a landlord mitigation program; and the Home Security Fund Account. It also creates the Eviction Prevention Rental Assistance Program to prevent evictions that will be administered by the Department of Commerce and be awarded in the form of grants for uses such as rent or utility assistance and administrative costs of the nonprofits getting the grants. The bill also directs Commerce to work with the Ruckelshaus center to study the housing and services provided to those who are at risk of homelessness and develop a strategy to improve those services and outcomes. This strengthens a significant and ongoing funding source for housing-related services.

HB 1220 adds more specific requirements for GMA counties to plan affordable housing to all economic segments of the population within the housing element of comprehensive plans. GMA counties must include goals, policies, and objectives for allowing “middle housing” in UGA’s. There are also new requirements that sufficient land be identified for moderate, low, very low, and extremely low-income households and that adequate provisions for those economic segments are also included. Counties are also required to consider housing locations with employment locations, identify and address any local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing. Local government costs related to this bill were not funded in the budget. Therefore, according to statute (RCW 36.70A.070(9)), counties are not obligated to meet the new requirements until funding sufficient to cover costs is appropriated.

ESSB 5235 prohibits counties from imposing or enforcing owner-occupancy requirements on any housing or dwelling unit on a lot with an ADU unless the ADU is offered or used as a short-term rental, with some exceptions. The bill also authorizes local incentives to encourage the construction or development of ADUs if they meet certain conditions. It also prohibits counties from regulating or limiting the number of unrelated persons that may occupy a household or dwelling unit.

E2SSB 5287 changes the definition of a county under the Multi-family Tax Exemption (MFTE) program to those with an unincorporated population of at least 170,000. This change expands eligibility to utilize the MFTE program to Clark, King, Kitsap, and Snohomish Counties. It also makes it more flexible for Pierce County.

Access to Judicial Equity – Juliana Roe

Access to a defense attorney is a fundamental constitutional right, the responsibility for which the Legislature passed down to counties. Improving access to justice is a critical component in tackling inequality and ensuring that access is equal, regardless of where you live. With the Legislature funding less than 4% of trial court public defense costs, counties are left to foot the ever-increasing \$160 million bill with dwindling and unequal resources, which risks the funding for other non-constitutional but equally important human services. Nevertheless, the Legislature failed to provide additional funding for trial court public defense services despite the growth in the state budget.

EMERGENCY RESPONSE & RECOVERY

OPMA/PRA, Functions of Government – Mike Hoover and Mellani McAleenan

The pandemic and the need to take precautions (such as social distancing) greatly affected the way that counties conduct business. In particular, commission and council meetings could not always be conducted in person or traditional facilities, and the need to accommodate public participation while observing safety mandates was a challenge. All in all, counties adjusted well, holding online meetings and establishing ways for people to participate remotely. This highlighted inadequacies in the Open Public Meeting Act (OPMA), which was not drafted to account for extended emergencies, remote participation, and new technologies (such as Zoom or Teams). As a result, numerous proclamations were issued from the Governor as work-arounds or suspensions of various OPMA mandates so that meetings could be held remotely. While these emergency orders did allow counties to meet remotely, they were clumsy and had to be constantly renewed and modified to adapt to changing conditions—again, largely because the OPMA was simply not drafted with a pandemic or remote technologies in mind.

WSAC started working on a legislative fix to these OPMA problems in May of last year, along with other local government groups and key legislators. The goal was simple: allow for local government to hold remote meetings during an emergency (either statewide or local) while leaving as many current OPMA and emergency powers as possible unaffected. Several drafts were circulated over the summer and fall, and the bill was ready to go by January's 2021 Session.

HB 1056 is the bill to allow local government to hold remote meetings throughout an emergency, regardless of duration (be it relatively short, such as a flood or wildfire; or relatively long, like an ongoing pandemic), and regardless of whether that emergency was statewide or local. The bill was universally supported by all stakeholders, key legislators, and the Governor. It passed out of the House of Representatives unanimously, and it also passed out the Senate policy committee unanimously. Unfortunately, despite this widespread support, the bill failed to make it out of the full Senate by a key cutoff date and is dead for 2021. It is believed the bill simply failed (along with many other bills) because of the press of business and logistics: too many bills trying to move through too little time through a process made tougher by the delays that come with a virtual Session. The sponsors have agreed to try again next year, and WSAC believes we will be able to get it through in the 2022 Session. In the meantime, counties can continue to conduct business per the existing emergency orders, so there is no immediate impact on counties' ability to hold in-person or remote meetings during the pandemic.

EHB 1271 removes requirements for physical attendance for court clerks attending a virtual proceeding, county assessors making a review of taxable real property, and for public auctions of real property under execution; adds coroners and medical examiners to the Emergency Management Council, to the list of first responders who must be provided information by personal emergency service providers during an emergency, and to the government agencies that may access Department of Licensing photos; allows county auditors to satisfy public document inspection requirements by posting the documents online; and allows the State Auditor to extend the due date of a local government financial report by 30 days during an emergency.

HB 1329 is another bill dealing with remote meetings. This was not a bill that WSAC requested; it came from a legislator who wanted to increase the ability of the public (particularly persons with disabilities) to participate remotely. WSAC worked with the sponsor and stakeholders to ensure that this bill would work with counties' existing processes and not burden local government with new mandates. Ultimately, a compromise was reached, which made most of the provisions voluntary, thereby giving local governments flexibility to try out new technologies and processes but not making any particular system mandatory. This bill, too, did not pass (it made it out of the House and died in the Senate), again because it fell victim to there being too many bills and too little Floortime. WSAC will monitor this bill for next year, and its failure to pass has no impact on current OPMA practices.

Coronavirus – Jaime Bodden

The COVID-19 pandemic has severely impacted all facets of our health, well-being, and society and spotlights the critical need for a strong local public health response in several crucial areas. The Legislature must support counties in case investigation, vaccination, and community outreach. A culturally appropriate workforce is needed to identify and control the spread of COVID-19. The Legislature must continue to support counties in disease containment and suppression and the coordination of care for individuals and families in isolation and quarantine who need support beyond testing. A multi-faceted, ongoing outreach and education campaign is necessary to help Washingtonians navigate COVID-19 health and safety guidance.

The Legislature extended the Governor's Emergency Orders until termination of the COVID-19 State of Emergency (**SCR 8402**). This continues the statewide mask mandate, business operating guidance, and reopening metrics. Additionally, several other bills focused on the pandemic response and recovery were passed, including addressing education barriers, housing, healthcare protections, access, and economic recovery.

The budget includes robust support for public health's ongoing coronavirus response – roughly \$1.5 billion of the state's federal allocation to support vaccine distribution and administration, COVID testing and contact tracing, and general response work. Funding is directed to the State Department of Health who is required to dedicate funding to local health jurisdictions. WSALPHO will be working in coordination in the coming months to identify local response needs.

Additional Federal COVID Relief Spending Authorized:

- \$1.7 billion for school reopening, addressing learning loss, and other allowable costs under Elementary and Secondary School Emergency Relief 2
- \$658 million to extend the state's rental assistance program
- \$528 million for childcare grants and provider rates
- \$500 million in state funds for Unemployment Insurance benefit relief
- \$340 million for grants to adults who have been impacted by COVID-19 but are unable to access other benefits due to their citizenship status
- \$187 million to help prevent foreclosure for individuals under 100 percent area median income
- \$170 million for family leave during the period of the pandemic

HB 1340 would have created a pandemic preparation and response task force. While the bill died in the House, the final operating budget did include \$500,000 to the Military Department to facilitate a task force to conduct an After-Action Review of the state's pandemic response and recovery. WSAC and WSALPHO both have membership in this review task force.

WSALPHO continues to work closely with the Department of Health on vaccine administration and distribution. Local health jurisdictions serve as the organizers and intermediaries for local vaccination efforts and the larger state vaccine strategy.

The fourth wave of the pandemic is here, with cases and hospitalizations rising across the state. WSALPHO is working closely with local health care to mitigate the impact of increasing cases on the healthcare system by continuous testing and contact tracing work. Partnerships with business and private sectors remain critical in addressing community-based outbreaks.

Fire – Paul Jewell

Wildfires affect all counties and are becoming more frequent across the state, and air quality has been highly hazardous for long periods due to smoke. The Legislature should dedicate more resources to improving forest health and enhance fire resiliency for communities in all high fire hazard areas. Immediate rehabilitation is necessary to prevent catastrophic flooding, and the Department of Ecology should collaborate with the counties

on prescribed burns. Legislative investment is needed to increase the ability of local fire districts and the Department of Natural Resources to respond to and contain wildland fires, with more airplanes and helicopters, trained firefighters, and engines. Investments in redundant power and emergency communications (e.g., 911) systems are critical to effective fire response.

HB 1168 provides new funding and authorizations for DNR to implement the 20-year forest health strategic plan, the wildland fire protection 10-year plan, and the Washington state forest action plan. It includes investments in fire preparedness activities, fire prevention activities, and forest health improvements. Forest health activities are funded at no less than 25% of the biennial appropriated funding, and community resilience activities are funded at no less than 15%. Appropriated funding is \$130.423 million for the next biennium.

DNR is also required to hire a third-party contractor to assist in updating its forest inventory and to review, analyze, and advise the department's forest growth and yield monitoring. In the absence of any litigation, JLARC is instructed to oversee and conduct an independent review of the methodologies and data being utilized to develop the sustainable harvest calculation.

NONPRIORITY LEGISLATION

Beyond WSAC priorities, there are any number of bills each year that WSAC must respond to – either to support, oppose, or amend to make the bills better for counties. The following list includes just some of the bills WSAC staff worked on this year.

Elections – Mike Hoover

SB 5013 is a technical fix that would align state and local redistricting deadlines. Redistricting typically happens once every ten years, following the federal census. Federal census data is critical to the process, ensuring accurate counts and proportional representation within districts. Unfortunately, the 2020 census coincided with the pandemic. As a result, census data is late in being compiled and provided to local government. Local auditors recognized that they would not be able to comply with the bill's deadlines for the first redistricting periods (those occurring in 2021) because of the lateness of the federal data, and WSAC worked with them and the sponsor to stagger the implementation of the bill and provide an extension to accommodate the lateness of the census data. This compromise was passed by the full Legislature and is expected to be signed into law by the Governor shortly.

Labor – Mellani McAleenan

For the purposes of employment matters, the legislature and state agencies treat local governments as they would any other employer.

HB 1016 designates June 19, recognized as Juneteenth, as a state legal holiday. Local governments may, but are not required, to follow suit.

E2SHB 1073 provides grants to certain employees who are ineligible for paid family and medical leave benefits due to insufficient hours worked and provides grants to smaller employers with employees taking leave in receipt of a grant.

ESHB 1097 establishes statutory procedures for an employer to contest an order of immediate restraint (OIR) and appeal alleged violations of the OIR and authorizes the imposition of daily civil penalties. It amends the Washington Industrial Safety and Health Act's antiretaliation provision by explicitly prohibiting acts that would deter a reasonable employee from exercising their rights and by expanding the time for filing a complaint, authorizing civil penalties, and making other changes. Creates a grant program to assist small businesses in purchases or capital costs during a state of emergency proclamation.

SB 5021 provides that, during the 2019-2021 and 2021-2023 fiscal biennia, the average final salary and earned service credit for members of PERS, PSERS, SERS, TRS, LEOFF, and WSPRS must include any compensation that was forgone as a result of reduced work hours or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employers' expenditure reduction efforts, as certified by the employer.

ESSB 5097 expands the paid family and medical leave program to include in the definition of family member any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care. "Family member" does not include an individual who simply resides in the same house with no expectation that the employee care for the individual.

ESSB 5115 creates an occupational disease presumption, for the purposes of workers' compensation, for frontline employees during a public health emergency; requires certain employers to notify the Department of Labor and Industries when 10 or more employees have tested positive for the infectious disease during a public health emergency; requires employers to provide written notice to employees of potential exposure to the infectious disease during a public health emergency; and prohibits discrimination against high-risk employees who seek accommodations or use leave options.

ESSB 5355 creates a lien for wage claims. A wage claim is a claim for any unpaid wages owed to the claimant as an employee of an employer, as well as any other compensation, interest, statutory damages, liquidated damages, attorneys' fees and costs, or statutory penalties that may be owed for violation of a local, state, or federal wage law, but does not include vacation or severance pay, contributions to an employee benefit plan, or paid leave except paid leave that is statutorily mandated. Any wage lien or right to a wage lien and the right of action to recover the lien is assignable.

Public Safety – Juliana Roe

The 2021 legislative session began with an ambitious agenda dedicated to criminal justice reform in an effort to respond to bias and systemic racism in the criminal justice system. Policies ranging from criminal sentences, police accountability, and legal financial obligations to bail were considered. While some of these bills passed, a number of them were stopped in their tracks due to the costs associated with the State v. Blake Supreme Court decision (discussed in more detail later).

One of the bills that survived is **ESB 5164**. This is one of the many resentencing bills that were introduced this session. This particular bill requires courts to resentence those individuals serving life sentences without the possibility of release under the "three strikes law" where one of the three strikes was a conviction of Robbery in the second degree. As of October 2021, there were 114 individuals who would be eligible for resentencing. Resentencing individuals costs counties money for a variety of services, including jail stays, prosecution and defense time, judge and court time, victim advocates, translators, and any other court related services. The state, however, would see a cost savings because individuals would have their sentences and stays shortened at the Department of Corrections as a result of the sentences being amended downward. The county costs associated with this new policy were not funded by the Legislature.

ESSB 5226 eliminates drivers' license suspension for the failure to pay a traffic infraction for a moving violation. However, it authorizes driver's license suspension when a person fails to comply with a payment plan and also fails to appear when requested by the court to show evidence of his or her ability to pay the infraction. The bill also authorizes the Department of Licensing (DOL) to reinstate all driver's licenses suspended for reasons that are no longer grounds for suspension and requires DOL to publicize information regarding the availability of this relief. DOL is also required to create an online application process for individuals to apply for license reinstatement. There are concerns related to the costs of setting up and maintaining payment plan programs with the county clerks.

A significant county cost comes with the passage of **SHB 1223**, which requires law enforcement officers to electronically record custodial interrogations in a variety of situations. They must electronically record custodial interrogations if the interrogation is: (1) of a juvenile or related to a felony; (2) in a jail, a police or sheriff's station, holding cell, or correctional or detention facility (audio and video); and (3) considered qualifying at any other place of detention. Law enforcement agencies must establish and enforce rules and procedures relating to electronic recordings of custodial interrogations. This will be costly for counties because it essentially requires all law enforcement officers to have body cameras. Therefore, there will be a fiscal impact to not only for the purchase the equipment, but for the storage of the recordings and associated public records costs.

A last minute addition to our list of county concerns includes **ESHB 1054**. This is a bill that establishes certain requirements for police use of tactics and equipment. At the last minute, an amendment was added to the bill that law enforcement must obtain authorization to use tear gas for riots occurring outside of a correctional, jail, or detention facility, from the highest elected official in the jurisdiction. This is concerning because it would mean that elected county commissioners, for example, would be telling elected sheriffs what they can or cannot do.

As previously mentioned, the State v. Blake decision complicated the Legislative session. Under the Uniform Controlled Substances Act, possession of a controlled substances is a strict liability offense, meaning that no *mens rea* (guilty state of mind) element need be proven in order to convict a person of the offense. The Supreme Court, in State v. Blake, held that the strict liability nature of the possession statute violates the due process clauses of the state and federal constitutions and exceeds the state's police power. The Court concluded that the portion of the statute creating the possession crime is void, ultimately eliminating criminal sanctions for possession. This decision impacted cases going back to the inception of the possession statute in 1971. The result is that those who have been convicted of possession will be eligible for a resentencing if they are currently serving time on a possession charge, and/or a vacation hearing to eliminate the possession crime from their record, in addition to the repayment of any associated legal and financial obligations (LFOs) they paid for these convictions.

The total financial impact on counties and the state due to this decision are difficult to calculate. However, we anticipate that it will cost counties alone a minimum of \$100 million, and we can foresee that number easily reaching \$200 million when all is said and done. However, the Legislature, in its operating budget, provided only \$79 million for counties to pay for all of the costs associated with the courts in resentencing, vacations, and LFO repayments. While this may get counties through the current fiscal year, it will not likely suffice in addressing the total fiscal impact.

The Legislature also passed **ESB 5476** that adds back penalties for possession and includes a great deal of services and supports for those with substance use disorders. In brief, the bill makes knowing possession a misdemeanor, but encourages prosecutors to divert such cases for assessment, treatment or other services, rather than jail. However, on July 1, 2023, the misdemeanor penalty sunsets and possession is decriminalized. The bill also creates a State v. Blake reimbursement account from which expenditures may be used for state and local government costs resulting from the State v. Blake decision. For this bill, the Legislature includes over \$78 million to pay for the services and supports it creates such as a statewide recovery navigator program, Clubhouse services, homeless outreach stabilization team program, expanded opioid use disorder medication in jails, expanded treatment, and a Recovery Oversight Committee, to name a few. The Legislature also appropriates an additional \$4.5 million for therapeutic courts operated by district and municipal courts.

Other Police Reform Bills – Juliana Roe, Mike Hoover, Mellani McAleenan

SHB 1088 requires law enforcement agencies to report officer misconduct affecting credibility or any act of an officer that may be potentially exculpatory to a defendant. Before hiring an officer with previous law enforcement experience, the agency must inquire into whether the officer has ever been subject to potential impeachment disclosure. County prosecutors are required to develop and adopt written protocol addressing potential impeachment disclosures. Limited immunity from civil liability for a public agency, official, or employee, who shares impeachment information about an officer is established.

E2SHB 1089 requires the state auditor to review any completed deadly force investigation to determine whether the involved actors complied with all applicable rules and procedures. It also authorizes the State Auditor to review a law enforcement agency to ensure compliance with all applicable rules and procedures governing the training and certification of the agency's peace officers.

HB 1202 would have made local governments liable in tort for police misconduct. This is a serious and topical issue, and WSAC is committed to preventing police misconduct, but opposed this bill as misguided and costly. The law in this area is complex, but the bill would essentially allow employers of law enforcement officers (chiefly, cities and counties) to be sued for individual police misconduct, regardless of circumstances. Whatever the merits of the goals of the bill, it would have had a severe impact on county risk pools, perhaps increasing costs by 475%. This is chiefly because of the payment of attorneys' fees by the local government to prevailing plaintiffs (with no mechanism for counties to recover fees when they win a case). The bill is remedial, not preventative, and counties want to focus on solutions to stop misconduct from occurring in the first place, not lawsuits when it is alleged to have happened. The fees provision, in particular, was expected to cost counties substantially more, with cases taking longer to mediate, dismiss, or litigate, because would-be plaintiffs and their attorneys would have less incentive to settle since the possibility of a large fee payment was always present (there are real-life cases in other areas of law where attorneys' fees payments far exceeded the actual damages recovered). WSAC partnered with other local government groups to stop this bill and instead focus on other solutions, and the bill did not pass beyond the committee level this year.

ESHB 1267 establishes the new Office of Independent Investigations within the Governor's office to conduct independent investigations of deadly uses of force, custodial deaths, and other officer-involved incidents.

E2SHB 1310 changes the existing use of force statute, which currently allows police to make an arrest by any means necessary. Officers will now be required to consider circumstances such as a disability, if someone is experiencing a mental health crisis, or if someone is pregnant when determining if force is necessary in making the arrest.

E2SB 5051 modifies the priorities and composition of the Criminal Justice Training Commission, expands the background investigation requirements for those applying for peace officer, reserve officer, and corrections officer positions, and makes changes to the certification and decertification processes for peace and corrections officers, among other things.

SSB 5055 is designed to reduce the potential for abuse in the police arbitration process and increase transparency to the public.

Another bill, **SSB 5066** requires a peace officer to intervene if they observe another peace officer using excessive force. The bill makes it a police officer's duty to intervene, physically or otherwise, when peers use excessive force or other wrongdoing "contrary to law" or department policy. The bill would give police agencies until 2022 to hammer out written policies detailing such duties and provide related training. Those policies will be subject to review by the state Criminal Justice Training Commission.

E2SSB 5259 requires the Attorney General's Office to establish an advisory group to make recommendations for implementation of a program for statewide data collection, reporting, and publication of use of force data by April 1, 2022. All law enforcement agencies will be required to report all instances of use of force.

ESSB 5263 limits the felony bar affirmative defense in civil actions arising out of law enforcement activities resulting in personal injury or death, such that the defendant must prove each element of the defense beyond a reasonable doubt.

ESSB 5353 directs the Department of Commerce is directed to create and maintain a Community Engagement Grant Program to foster community engagement through neighborhood organizing, law enforcement and community partnerships, youth mobilization, and business engagement.

Risk Management & Liability – Mike Hoover and Mellani McAleenan

As a fiscal matter, local governments must also be wary of legislation that increases liability or litigation costs.

Bills similar to **2SHB 1076** are regularly introduced. This version would have allowed aggrieved persons, whistleblowers, or their designated representative entity, known as a relator, to bring a qui tam action as a relator for any relief the specified state agency may seek, including penalties and damages. Any penalty amounts recovered would have been distributed as follows: if the agency does not intervene, 40 percent to the relator and 60 percent to the agency; and if the agency intervenes, 20 percent to the relator and 80 percent to the agency.

Had it passed, **SB 5155** would have started the interest running on a judgment entered following trial of the matter and arbitration awards for tortious conduct from the date on which the cause of action accrues rather than the date of the judgment.

Fiscal Impacts – Mellani McAleenan

ESHB 1332 is an interesting bill that requires county treasurers to grant a deferral of 2021 property tax payments for certain businesses via establishment of a payment plan. To qualify, a business must demonstrate a loss of at least 25 percent of revenue for calendar year 2020 compared to calendar year 2019. A deferral must be requested from the county treasurer on forms developed by the Department of Revenue. Penalties and interest are not to be applied to taxes due under the deferral payment plan so long as the terms of the payment plan are fully met. An owner of real property receiving a deferral must pass on the entire benefit to a tenant or sublessee if the tenant or sublessee is required by the lease or other contract to pay the property tax expense of the owner. A request for a deferral must be made by April 30, 2021, and applicants must certify, under penalty of perjury, that the information in a request is true and correct. Taxing districts must report their fund balance to the county treasurer by April 30, 2021. The county treasurer must process all requests for deferral by June 30, 2021.

2SSB 5362 increases the transfer each fiscal year from the state general fund to the fair fund: \$2 million in fiscal year 2021; \$2,750,000 in each fiscal year 2022 and 2023; \$3,500,000 in each fiscal year 2024 and 2025; and \$4,000,000 in fiscal year 2026 and each fiscal year thereafter.

Misc./Other – Mellani McAleenan

E2SHB 1335 requires the University of Washington and Eastern Washington University to review existing deeds and covenants for unlawful racial or other discriminatory restrictions and provide notice of such restrictions to property owners and county auditors. It adds to the seller disclosure statement a notice to the buyer of real property that covenant or deed restrictions based on race or other protected classes are unlawful and provides the methods by which such restrictions can be struck. It also provides a process for striking and removing unlawful provisions from the record and chain of title after a property owner files an action in superior court.

SB 5027 requires closed captioning to be activated on televisions in places of public accommodation with limited exceptions. There is an initial civil fine of up to \$75 for each violation and \$150 for subsequent violations.

ESSB 5038 prohibits the open carry of a firearm or other weapons at or near public demonstrations, the west state capitol grounds, capitol grounds buildings, and other legislative locations.

ESSB 5432 creates the Office of Cybersecurity (OCS) within the OCIO. The primary duties of the OCS include establishing security standards and policies and developing a centralized cybersecurity protocol for protecting and managing state IT assets. OCS is also to serve as a resource for local and municipal governments in the area of cybersecurity and develop a catalog of services to be offered.