

**February 2, 2022**



**BOARD OF DIRECTORS MEETING**

**Hybrid Meeting  
Washington Counties Building  
Thurston County  
Olympia, Washington**

Count	ByLaws Ref	Population	Executive Board Seat	Title	First Name	Last Name	County
<b>14</b>	<b>&lt; Quorum</b>						
1	3.4a		President	Councilmember	Jamie	Stephens	San Juan
2	3.4a		1st Vice-President	Commissioner	Mary	Kuney	Spokane
3	3.4a		2nd Vice-President	Commissioner	Lisa	Janicki	Skagit
4	3.4b, 3.17.2		IP-President	Commissioner	Micheal	Largent	Whitman
			<b>Board Seat</b>	<b>Title</b>	<b>First Name</b>	<b>Last Name</b>	<b>County</b>
5	3.4b		P-President	Commissioner	Robert	Gelder	Kitsap
6	3.4b		P-President	Commissioner	Scott	Hutsell	Lincoln
7	3.4b		P-President	Councilmember	Stephanie	Wright	Snohomish
8	3.4b		P-President	Commissioner	Dave	Sauter	Klickitat
9	3.4f	2,226,300	King County Executive	Executive	Dow	Constantine	King
10	3.4e 1	2,226,300	King County Council	Councilmember	Joe	McDermott	King
11	3.4e 2	888,300	Pierce County	Councilmember	Ryan	Mello	Pierce
12	3.4e 3	818,700	Snohomish County	Councilmember	Megan	Dunn	Snohomish
13	3.4e 4	515,250	Spokane County	Commissioner	Josh	Kerns	Spokane
14	3.4e 5	488,500	Clark County	Councilor	Eileen	Quiring O'Brien	Clark
15	3.4e 6	285,800	Thurston County	Commissioner	Tye	Menser	Thurston
16	3.4e 7	270,100	Kitsap County	Commissioner	Charlotte	Garrido	Kitsap
17	3.4e 8	255,950	Yakima County	Commissioner	Amanda	McKinney	Yakima
18	3.4e 9	225,300	Whatcom	Executive	Satpal	Sidhu	Whatcom
19	3.4e 10	201,800	Benton	Commissioner	Will	McKay	Benton
20	3.4d 1		Eastern Region	Commissioner	Wes	McCart	Stevens
21	3.4d 2		Eastern Region	Commissioner	Chris	Branch	Okanogan
22	3.4d 3		Eastern Region	Commissioner	LaDon	Linde	Yakima
23	3.4d 4		Eastern Region	Commissioner	Art	Swannack	Whitman
24	3.4c 1		Western Region	Commissioner	Vickie	Raines	Grays Harbor
25	3.4c 2		Western Region	Councilmember	Nate	Nehring	Snohomish
26	3.4c 3		Western Region	Commissioner	Mark	Ozias	Clallam
27	3.4c 4		Western Region	Commissioner	Dennis	Weber	Cowlitz
			<b>Board Alternate Seat</b>	<b>Title</b>	<b>First Name</b>	<b>Last Name</b>	<b>County</b>
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		King
3	3.4e 2	888,300	Pierce County	Councilmember	Derek	Young	Pierce
4	3.4e 3	818,700	Snohomish County	Councilmember	Jared	Mead	Snohomish
5	3.4e 4	515,250	Spokane County	Commissioner	Al	French	Spokane
6	3.4e 5	488,500	Clark County	Councilor	Vacant		Clark
7	3.4e 6	285,800	Thurston County	Commissioner	Gary	Edwards	Thurston
8	3.4e 7	270,100	Kitsap County	Commissioner	Vacant		Kitsap
9	3.4e 8	255,950	Yakima County	Commissioner	Ron	Anderson	Yakima
10	3.4e 9	225,300	Whatcom	Councilmember	Kaylee	Galloway	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	Brad	Peck	Franklin
14	3.4c 1		Western Region	Councilmember	Christine	Minney	San Juan
15	3.4c 2		Western Region	Councilor	Temple	Lentz	Clark
<b>Affiliate Presidents</b>			<b>Board Affiliates (Non-voting Mbrs)</b>		<b>First Name</b>	<b>Last Name</b>	<b>County / City</b>
			ACCIS		Mary	Thomas	City of Mulkiteo
			ACHS		Mike	Ezell	Island
			WACCCs		Julie	Kjorsvik	Kittitas County
			WCAA		Mike	Thomas	San Juan
			WSACE		Josh	Thomson	Okanogan
			WSACRPD		Mark	Personius	Whatcom
			WSALPHO		Keith	Grellner	Kitsap
			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

Wednesday, February 2, 2022  
Meeting: 1:00 p.m. - 5:15 p.m.

Hybrid Meeting  
Washington Counties Building  
Thurston County  
Olympia, Washington

Zoom Option: <https://wsac-org.zoom.us/j/98228238689>

TIME*	Encl.	PRESENTER(s)	AGENDA	TYPE
1:00 p.m.		President Stephens	<b>CALL TO ORDER and Introductions; Establish Quorum</b>	
	√	President Stephens	1. APPROVE Agenda	Action
	√	President Stephens	2. APPROVE MINUTES: November 16, 2021	Action
		President Stephens	3. President's Report	Report
<b>LEGAL AFFAIRS</b>				
1:10 p.m.	√	Eric Johnson Mellani McAleenan Paul Lawrence David Hackett	4. Potential or Pending Litigation Update a. Possible Executive Session	Report
	√	Mellani McAleenan	5. Amicus Update	Report
<b>WSAC BUSINESS</b>				
2:00 p.m.	√	Bridget Lockling	6. WSAC Conflict of Interest Policy Review <i>Actions: Certify WSAC Board of Directors were informed in writing and briefed on WSAC Conflict of Interest Policy</i> <b>Resolution 2022-01</b>	Action
2:10 p.m.	√	Eric Johnson	7. Audit, Investment and Finance Committee Appointments <i>Actions: Consider Approving Appointments to Audit, Investment and Finance Committee</i> <b>Resolution 2022-02</b>	Action
2:20 p.m.	√	Jessica Strozewski	8. Statewide Boards and Commissions <i>Actions: Consider Adopting Nominations and Appointments</i> <b>Resolutions 2022-03 ~ 2022-05</b>	Action
2:50 p.m.	√	Eric Johnson	9. Strategic Plan Implementation	Information and Discussion
<b>WRITTEN STAFF REPORTS</b>				
	√	Eric Johnson	10. Executive Director	Report
	√	Bridget Lockling	11. Business, Finance and Operations	Report
	√	Mellani McAleenan	12. Policy and Legislative	Report
<b>BREAK</b>				
<b>PROGRAM PRESENTATIONS AND REPORTS</b>				
3:00 p.m.	√	Carlos Greene, NACo FSC Kris Morton, Nationwide David Belnick, Nationwide Councilmember Nehring	13. WSAC Business Partner Updates - Nationwide	Report

TIME*	Encl.	PRESENTER(s)	AGENDA	TYPE
3:30 p.m.	√	Court Stanley Paul Jewell Eric Johnson	14. Timber and Public Lands Program <b>FOCUS:</b> Timber, Fish and Wildlife; Sustainable Harvest	Report
3:50 p.m.	√	Axel Swanson	15. County Transportation Study Program <b>FOCUS:</b> Culvert Inventory; CRAB System Improvements	Report
4:10 p.m.	√	Brynn Brady Eric Johnson	16. Coastal Counties/Puget Sound Partnership	Report
4:25 p.m.	√	Paul Jewell	17. Columbia River Program	Report
4:40 p.m.	√	Paul Jewell	18. Soil Bank Feasibility and Model Code Creation	Report
<b>OTHER BUSINESS</b>				
		Commissioner Gelder President Stephens Councilmember Wright Commissioner Weber Other Members	19. NACo Reports	Report
		President Stephens	20. 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 Stephens	21. Other Business	Report
5:15 p.m.		President Stephens	<b>MEETING ADJOURNED</b>	

\*Times are approximate only

### Next Regular Scheduled WSAC Board of Directors Meeting:

**TENTATIVE TIME:** Wednesday, May 11<sup>th</sup> – 5:00 p.m. – 8:00 p.m.  
Thursday, May 12<sup>th</sup> - Friday, May 13<sup>th</sup> - Legislative Steering Committee Planning Meeting

**TENTATIVE LOCATION:** TBD

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

**November 16, 2021**

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**Opening**

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The Board of Directors of the Washington State Association of Counties (WSAC) meeting was held on Tuesday, November 16, 2021, starting at approximately 12:00 p.m. at The Davenport Grand Hotel, Spokane County, Spokane, Washington. All directors and alternates were appropriately notified of the meeting, according to the Association Bylaws.

**Board members present:** President Michael Largent, 1<sup>st</sup> Vice President Jamie Stephens, 2<sup>nd</sup> Vice President Mary Kuney, Immediate Past President Robert Gelder, Past President Scott Hutsell, Past President David Sauter, Chris Branch, Megan Dunn, Al French, Charlotte Garrido, Josh Kerns, Kathy Lambert, LaDon Linde, Wes McCart, Will McKay, Ryan Mello, Tye Menser, Nate Nehring, Mark Ozias, Vicki Raines, Janet St. Clair, Chris Seubert, and Satpal Sidhu. A quorum was present.

**Staff and others present:** Eric Johnson, Bridget Lockling, Mellani McAleenan, Jaime Bodden, Lynn Fiorillo-Lowe, David Hackett, Paul Jewell, Paul Lawrence, and Juliana Roe

**Other Attendees:** Dan Blankenship, Marty Hall, Jill Johnson, Todd Kimball, Christine Minney, Debora Munguia, Mac Nicholson, Lisa Olsen, Bill Peach, Ryan Rundell, Sindi Saunders, Brian Shinn, Dan Sutton, Mike Thomas, Greg Tompkins, Ron Wesen, and Cindy Wolf

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

**Approval of Minutes of the previous meetings:** It was moved by Charlotte Garrido and seconded by Wes McCart to approve the September 16, 2021 minutes as drafted. The motion passed. A motion was made by Vicki Raines and seconded by Chris Branch to approve the October 8, 2021, WSAC Board of Directors Regular meeting as outlined. The motion passed.

**President's Report:** President Largent reported on his meetings while serving as WSAC's President. He also spoke on the courthouse visits he attended with Eric Johnson.

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**WSAC Business Actions**

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The Board announced an **EXECUTIVE SESSION**, in compliance with RCW 42.30. 110(1)(i), to discuss current and potential litigation at 12:28 p.m. for forty-five minutes. WSAC's legal counsel, Paul Lawrence, was present and provided updates. No decisions were made. The **EXECUTIVE SESSION** concluded early at 12:54 p.m.

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

**2022 Proposed Board of Directors Meeting Schedule**

Eric presented the proposed 2022 meeting schedule for the Board of Directors.

**Resolution #2021-29:** A motion was made by Chris Branch and seconded by David Sauter to approve **Resolution #2021-29**, which establishes the 2022 Regular Meeting Schedule and allows WSAC staff to publish and advise WSAC members and affiliates of the 2022 Regular Meeting schedule. Motion carried.

**Reviewing 2022-2023 WSAC Goals, Objectives, and Strategies**

Eric reviewed the WSAC document and noted it would be a work in progress for the year(s) ahead.

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## Reports

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

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## Closing

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**Next Meeting:** The next meeting of the Board of Directors will be on Wednesday, February 2, 2022.

**Adjourn:** There being no further business, President Michael Largent adjourned the meeting at 1:44 p.m.

**Respectfully submitted:**

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Jamie Stephens, WSAC President

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Lisa Janicki, WSAC Second Vice President

**February 2, 2022**



## **BUSINESS ACTION AND REPORTS**

#### ACTIVE LITIGATION

##### **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, and 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 – WSAC and State confirm 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 14, Motion for Partial Summary Judgment, declarations, and other materials.
- Pacifica is 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 Judgment 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 are having 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's 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 sought a brief delay in the court schedule, with Supreme Court oral arguments now set for November 16, 2021
- On January 27, 2022, the Washington Supreme Court found in favor of the State:
  - RCW 29A.04.430 was the controlling statute for election cost reimbursement and not the unfunded mandate statute 43.135.060.
  - Counties are entitled to reimbursement only for the State's proportional share of costs.
  - The 2020 legislative amendments to RCW 29A.04.430 do not violate Article II, Section 37.
  - Counties do not have a vested right to full reimbursement (even though costs were incurred)
  - The case is remanded to King County Superior Court for further proceedings.

## **AUTHORIZED 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 that 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:
    - 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.
  - On November 12, 2019, oral arguments 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

Litigation Update, February 2022

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 contact points for each County regarding this potential litigation as necessary.
- WSAC staff established a 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 explores/identifies 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 complaints – 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 both 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 fund constitutionally required trial court indigent defense services fully; 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.
- On May 5, 2021, the WSAC Board of Directors authorized a legal challenge to require the State to fully fund constitutionally required trial court indigent defense services.
- WSAC and Pacifica Law Group are identifying and meeting with potential Co-Plaintiffs (Individual Counties, Groups, Organizations, Associations, Individuals)
- We are updating data and information.
- WSAC is working with an expert on public defense to provide context to the lawsuit from a state and national perspective.
- Identifying potential "budget" coordinators to aid in the litigation.
- Kitsap, Lincoln, and Yakima counties have joined as co-plaintiffs.

### **Blake Decision**

On October 3, 2021, WSAC formally joined 21 Counties as a co-plaintiff against the State to establish that the State is solely responsible for all costs associated with the Blake Decision, including the cost of vacation resentencing and for all Legal Financial Obligation LFO refunds. The desired outcome is a declaration from the Court that the State is required to indemnify counties for all Blake expenses, including all LFO refunds and the administrative costs to implement this Washington State Supreme Court decision (judicial, clerk, prosecutor, public defense, administration, and operations) that counties will incur in implementing the Blake Decision. Negotiations are occurring with the AG, and legislation has been introduced to establish a program for reimbursement to counties and individuals who paid LFOs.

## **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 different government systems 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 a complaint submitted March 11.
- 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 were heard by Spokane County Superior Court Judge Maryann Moreno on Friday, May 31, 2019.
- On August 16, 2019, Judge Moreno's ruled 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 a 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 a 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 25:
  - <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 the 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's 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 directly distributing revenues collected under RCW 82.14.370 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 are unable to receive the funds directly; however, the County is able to 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.



## AMICUS UPDATE – Cases pending or decided in 2020-2022

### February 2, 2022

#### **CASES PENDING**

##### **1) Conservation Northwest v. Commissioner Franz**

- Supreme Court, No. 99183-9

##### **Issue**

Conservation Northwest is seeking a decision from the Washington Supreme Court that would require Washington's federally granted lands to be managed for the public as a whole, rather than for the designated beneficiaries, including common schools, universities, and other state institutions identified in Washington's Enabling Act. The lawsuit also threatens RCW 79.22.010 and .040, which create the "county trust lands" and revenue derived therefrom, which is then distributed to junior taxing districts under RCW 79.64.110.

##### **Background**

A coalition of conservation organizations and individuals, led by Conservation Northwest, filed litigation challenging the Board of Natural Resources' Resolutions 1559 and 1560, the December 2019 decisions adopting the long-term conservation strategy for the marbled murrelet (amending the State Upland's 1997 Habitat Conservation Plan and Endangered Species Act Incidental Take Permit), and setting the 2015-2024 sustainable harvest calculation. The primary focus of this litigation is a challenge to the State's "trust mandate" for the management of its federally granted lands.

##### **Status**

Conservation Northwest filed its litigation in January 2020, and its claims were dismissed by Thurston County Superior Court in October 2020. A coalition of trust beneficiaries and advocacy groups intervened and are parties to the litigation. The intervenors include five counties, seven taxing districts, the American Forest Resource Council, and the City of Forks. The Washington Supreme Court granted direct review of the trial court's decision to dismiss the challenge, and oral arguments were on October 21, 2021.

##### **Counsel**

Zach Pekelis Jones and Paul Lawrence, Pacifica Law Group

##### **2) Rasmussen v. Dashiell**

- Div. III, Court of Appeals, No. 37812-8-III

##### **Issue**

Stevens County requested amicus support on the following questions: (1) whether a cause of action exists to hold a county commissioner individually liable on his/her bond for funding decisions made by the larger Board of Commissioners, and (2) whether the doctrine of immunity protects a commissioner from such claims.

##### **Background**

On March 21, 2019, Stevens County Prosecutor Rasmussen filed suit against the Stevens County Commissioners, alleging they had made unconstitutional gifts of public funds for expenditures of homelessness funds. The trial court ruled orally on summary judgment in favor of the prosecutor that there was strict accountability for the county commissioners and that they were liable on their bond.

##### **Status**

The commissioners appealed on October 21, 2020. The court set an oral argument for December 6, 2021, but the respondent requested an extension of time. Counsel missed the deadline to file, and no amicus brief was submitted. Oral arguments were on January 24, 2022. <https://twv.org/video/division-3-court-of-appeals->

Counsel

Paul Lawrence, Pacifica Law Group

**CASES DECIDED**

**3) 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 the exclusion of 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. The court heard an oral argument on May 11, 2021.

- On November 9, 2021, the Court of Appeals ruled in favor of the City of Puyallup, reversed the trial court, and remanded the case back for a new trial in line with the ruling. Specifically, the court ruled that Puyallup should have been allowed to present the affirmative defense of evidence of Fite’s intoxication, and the trial court erred by submitting the jury instruction that overemphasized Fite’s theory of the case by omitting language regarding compliance with statutes and regulations being evidence of the city meeting its duty of care.

Counsel

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

**4) 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 specifically 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 which 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.

The Supreme Court's decision, in this case, 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.

- On July 15, 2021, The Supreme Court "reaffirm[ed]" the executive's "authority" to "issue executive orders establishing policies and procedures for coroner's inquests as necessary to fill 'gaps in the [Coroner's Act],' so long as those orders 'do not create any direct conflict' with the Coroner's Act." In holding that the executive had the authority to act, the Court necessarily rejected the trial court's conclusion that the executive did not have that authority. Nevertheless, the Court stated in a footnote that the Court "need not—and therefore do not—address these broad constitutional questions in resolving the issues before us today." The Court did what WSAC needed it to do: vacated the trial court's erroneous decision. It did not make any constitutional pronouncements about a county's citizenry's ability to vest all executive power in an executive.

### Counsel

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

### **5) 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 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 would be far-reaching for county police agencies. Then, any time police agencies are involved in investigating a crime, a plaintiff may bring a claim that the case was not properly investigated.

### 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

## **6) 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, which 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 Appeal's 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

## **7) Davison v. State of Washington and Washington State Office of Public Defense**

- Supreme Court, No. 96766-1

### 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 supporting the review. The Court denied the motion for reconsideration.

### Counsel

Pacifica Law Group

#### **8) 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 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, considering 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 of 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

#### **9) 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 oral argument on October 24, 2019.

- On April 21, 2020, the Court of Appeals held that a weed assessment is a special assessment, and 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

## **10) 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?

### 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. Instead, “conditionally” granted 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

**11) Tulalip Tribes v. Smith**

- US Court of Appeals, 9<sup>th</sup> 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—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 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 9<sup>th</sup> 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, vacating the briefing schedule.

- 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

**12) 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

### **13) 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 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 that low juror pay rests with the legislature, not the courts.

### Counsel

Pam Loginsky, Washington Association of Prosecuting Attorneys

February 2, 2022

**TO:** WSAC Board of Directors

**FROM:** Eric Johnson

**PREPARED BY:** Bridget Lockling, Finance Director

**SUBJECT:** Conflict of Interest Policy

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WSAC's Comprehensive Policy Manual includes a Conflict of Interest policy specifically for the Board of Directors. WSAC has a duty (per federal 990 reporting requirements) to inform the board that this policy exists.

Highlights of the policy to note:

***This policy applies to all Directors entitled to vote in accordance with the Association Bylaws and to Alternate Directors acting on behalf of a Director.***

*The Directors and Officers of the Washington State Association of Counties ("WSAC") owe a duty of loyalty to the Association, which requires that in serving WSAC, they act, not in their personal interests or in the interests of others, but rather solely in the interests of WSAC...*

*A conflict of interest may arise when a person has an existing or potential financial interest or other material interest that impairs or might appear to impair his/her independence or objectivity in the discharge of responsibilities and duties to WSAC...*

*Every Director and Officer must discharge his/her duties in good faith, with the degree of care that an ordinarily prudent person in a like position would exercise under similar circumstances...*

*Each Director and Officer must protect the confidential information of WSAC and must not use confidential information of WSAC for his/her personal benefit or use such confidential information or his/her position as a Director or Officer to the detriment of WSAC...*

*Each Director and each Officer of WSAC shall 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 prior to the start of any negotiations with respect to such matter...*

A full copy of the policy follows this memo. The attached **Resolution 2022-01** is included as certification that the policy has been provided to and reviewed by the WSAC Board of Directors.

## COMPREHENSIVE POLICY MANUAL

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### II MEMBERS

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ORIGINAL ADOPTION: May 18, 2005

BOARD APPROVED REVISION: September 16, 2011

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#### Part 2 – Conflict of Interest

***This policy applies to all Directors entitled to vote in accordance with the Association Bylaws and to Alternate Directors acting on behalf of a Director.***

The Directors and Officers of the Washington State Association of Counties (“WSAC”) owe a duty of loyalty to the Association, which requires that in serving WSAC, they act, not in their personal interests or in the interests of others, but rather solely in the interests of WSAC. Directors and Officers must have an undivided allegiance to WSAC’s mission and may not use their position as Directors or Officers, information they have about the WSAC, or WSAC’s property, in a manner that allows them to secure a pecuniary or other material benefit for themselves or their relatives [for purposes of this Policy, “relative” means a spouse or significant other living in the same household (“life partner”), brothers or sisters (by whole or half-blood), life partners of brothers or sisters (by whole or half-blood), ancestors, children, grandchildren, great-grandchildren, and life partners of children, grandchildren, and great-grandchildren]. Accordingly, a Director or Officer may not use his/her position at WSAC for personal gain or to benefit another at the expense of WSAC, its mission, or its reputation.

A conflict of interest may arise when a person has an existing or potential financial interest or other material interest that impairs or might appear to impair his/her independence or objectivity in the discharge of responsibilities and duties to WSAC. This policy is intended to protect WSAC’s interests when it is contemplating entering into a contract, transaction, or arrangement that might benefit the private interests of a member of WSAC’s Board of Directors or an Officer of WSAC. This policy is also meant to aid Directors and Officers of WSAC in performing the duties imposed upon them by the laws of the State Washington and the United States of America with respect to their management responsibilities and fiduciary obligations to WSAC. WSAC is committed to transparency and openness in its operations.

Every Director and Officer must discharge his/her duties in good faith, with the degree of care that an ordinarily prudent person in a like position would exercise under similar circumstances. This requires using common sense, being diligent and attentive to WSAC’s needs, and making thoughtful decisions in the best interest of WSAC. A Director or Officer may not take personal advantage of a business opportunity that is offered to WSAC unless the Board of Directors of WSAC first determines not to pursue the opportunity.

Each Director and Officer must protect the confidential information of WSAC and must not use confidential information of WSAC for his/her personal benefit or use such confidential information or his/her position as a Director or Officer to the detriment of WSAC. Confidential information is information obtained through the Director’s or Officer’s position that has not become public information.



## COMPREHENSIVE POLICY MANUAL

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### **Direct or Indirect Financial or Other Material Interest**

Contracts, transactions, or arrangements of WSAC in which a Director or Officer has a direct or indirect financial or other material interest are not prohibited but are subject to scrutiny. Any such proposed contract, transaction, or arrangement (collectively, “Arrangement”) is to be reviewed to determine that it is in the best interests of WSAC.

For purposes of this Policy, a Director or Officer has a direct or indirect financial or other material interest in a proposed or existing Arrangement if he or she, or one of his/her relatives (a) has a substantial financial interest directly in the proposed or existing Arrangement; or (b) has a substantial financial interest in any other organization that (i) is a party to the proposed or existing Arrangement; or (ii) is in any way involved in the proposed or existing Arrangement, including through the provision of services in connection therewith (an “involved organization”); or (c) holds a position as trustee, director, officer, member partner, or employee in any such party or involved organization.

### **Substantial Financial Interest**

A Director’s or Officer’s financial interest will be considered substantial if it involves (a) an ownership or investment interest representing more than 1% of the outstanding shares of a publicly-traded company or 5% of the outstanding shares or comparable interest of a privately owned company with which WSAC has or is negotiating an Arrangement or which is an involved organization with respect to the Arrangement; or (b) an ownership or investment interest, which produces a significant amount of income for or constitutes a significant part of the net worth of the Director or Officer, or a relative of the Director or Officer, in any entity with which WSAC has or is negotiating an Arrangement or which is an involved organization with respect to the Arrangement; or (c) a compensation arrangement of any kind with any entity or individual with which WSAC has or is negotiating an Arrangement or with any involved organization with respect to the Arrangement.

### **Disclosure of Interest and Participation in Meeting**

Each Director and each Officer of WSAC shall 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 prior to the start of any negotiations with respect to such matter. A direct or indirect financial interest required to be disclosed under this Policy shall be disclosed in writing to the WSAC President (the “President”). Such disclosure shall include all material facts and supply any reasons why the Arrangement might be or not be in the best interest of WSAC. The President shall refer the issue to the Audit Finance & Investment Committee (the “Committee”).

The Director or Officer who discloses a direct or indirect financial or other material interest in a proposed or existing Arrangement may make a presentation and respond to questions by the Committee, but after such presentation, he or she shall leave the meeting during the discussion of, and vote on, the Arrangement that results in the conflict of interest. As part of any such presentation, the Director or Officer shall provide to the Committee any reasons why the Arrangement might be or not be in the best interests of WSAC. The Committee shall determine whether WSAC can obtain a more advantageous Arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest. The Committee may, if appropriate, appoint a disinterested person or committee

## COMPREHENSIVE POLICY MANUAL

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to investigate alternatives to the proposed Arrangement. If a more advantageous contract, transaction, or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Committee shall determine by majority vote of the disinterested members of the Committee whether the Arrangement is in WSAC's best interests and whether it is fair and reasonable to WSAC and shall make its decision as to whether to enter into the Arrangement in conformity with such determination.

### **Minutes of Meeting**

The names of the Directors and Officers who disclosed or otherwise were found to have a direct or indirect financial or other material interest in a proposed or existing Arrangement with WSAC, the nature of the interest, and the extent of the Director's or Officer's participation in the relevant Committee meeting on matters related to the financial or other material interest shall be recorded in the minutes for that meeting. The minutes also shall include a record of any determination as to whether the Arrangement was in the best interest of and fair and reasonable to WSAC, notwithstanding the interest, and the specific reasons supporting the determination, including any alternatives to the proposed or existing Arrangement, the names of the persons who were present for discussions and votes relating to the proposed or existing Arrangement, and a record of any votes taken in connection therewith.

### **Co-Investment Interest**

Each Director and each Officer of WSAC also shall disclose whether he or she, or one of his/her relatives, has personal funds invested with an investment manager providing, or expected to provide, investment management services to WSAC or in a professionally managed investment fund in which WSAC is invested or is considering investing (a "co-investment interest"). For the purposes of this Conflicts of Interest Policy, a "professionally managed investment fund" shall not include mutual funds or other similar investment vehicles generally available to the investing public on essentially the same terms. Such co-investment interest shall be disclosed in writing to President. Such disclosure shall include all material facts, including, but not limited to, fee arrangements and any preferential treatment received by the Director or Officer, or one of his/her relatives, and not available to other investors necessary to determine whether such co-investment interest may provide a benefit to the Director or Officer, or one of his/her relatives. If the President determines that the co-investment interest may provide some advantage to the Director or Officer, or one of his/her relatives, the President shall refer the issue to the Committee. The Director or Officer who discloses a co-investment interest may make a presentation and respond to questions from the Committee but shall not be present during the discussion of, and vote on, how to address the co-investment interest. The Committee shall determine what, if any, corrective action is required with respect to the co-investment interest, including, but not limited to, terminating the investment relationship or seeking an adjustment in fee structure.

### **Failure to Disclose**

If the Committee has reasonable cause to believe that a Director or Officer has failed to disclose a direct or indirect financial or other material interest or co-investment interest subject to this Policy, it shall inform the Director or Officer of the basis for such belief and afford the Director or Officer an opportunity to explain the alleged failure to disclose. If, after hearing the response of such individual

## COMPREHENSIVE POLICY MANUAL

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and making such further investigation as may be warranted in the circumstances, the Committee determines that the Director or Officer has in fact failed to disclose a direct or indirect financial or other material interest or co-investment interest subject to this Policy, it shall take appropriate disciplinary and corrective action.

### **Employees Covered by Policy**

This Policy shall apply to the Executive Director.

### **Policy Supplements Applicable Laws**

This Policy is intended to supplement but not replace any applicable state or federal laws or regulations governing conflicts of interest applicable to nonprofit corporations.



### Resolution # 2022-01

**WHEREAS**, the Washington State Association of Counties' Board of Directors is charged under its Bylaws and Policies with governance for WSAC's operations and financial interests; and

**WHEREAS**, WSAC operations follow the WSAC Conflict of Interest Policy adopted by the WSAC Board of Directors in June 2008 and updated in September 2011; and

**WHEREAS**, All WSAC 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

**WHEREAS**, WSAC has a duty to inform Directors and Alternates that the Conflict of Interest Policy exists.

**NOW THEREFORE, BE IT RESOLVED** that the Washington State Association of Counties' Board of Directors and Alternates acknowledge that the WSAC Conflict of Interest Policy was transmitted to the WSAC Board of Directors on February 2, 2022; and

**BE IT FURTHER RESOLVED** that the Washington State Association of Counties' Board of Directors and Alternates received explanation and briefing on the WSAC Conflict of Interest Policy.

Approved by the Board of Directors of the Washington State Association of Counties on February 2, 2022.

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Jamie Stephens, WSAC President

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Lisa Janicki, WSAC Second Vice President

February 2, 2022

**TO:** WSAC Board of Directors

**FROM:** Eric Johnson, Executive Director

**SUBJECT:** Appointment of Audit, Investment and Finance Committee

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### Background

The Washington State Association of Counties is committed to strong financial management principles and accountability to its members regarding our fiduciary responsibilities. As such, WSAC Bylaws call for the following action:

#### **3.17.4 Audit, Investment & Finance Committee**

*The Board of Directors shall appoint an Audit, Investment and Finance Committee from those names presented by the President. The primary function of the Audit, Investment and Finance Committee is to assist the Board of Directors in fulfilling its fiduciary, financial, investment and compliance oversight responsibilities as defined in the Audit, Investment and Finance Committee Charter. The 2nd Vice President shall Chair the Audit, Investment and Finance Committee.*

WSAC Policy Manual further states:

*The Board of Directors shall appoint the Audit, Investment and Finance Committee from those names presented by the President. The committee shall consist of at least five active members of the Association. Additionally, the WSAC 1<sup>st</sup> Vice-President and the 2<sup>nd</sup> Vice-President are mandatory members with two-year terms. The remaining members serve a three-year term.*

For more information, you can find both the Audit, Investment, and Finance Committee Charter in Part 5 of our WSAC Comprehensive Policy Manual and Section III covers Cash Management and Investment Objectives: <https://wsac.org/wp-content/uploads/2020/05/Approved-WSAC-Policy-Manual-5-6-20.pdf>

### Discussion

Consistent with WSAC Bylaws and Policy, the following members will serve on the 2022 Audit, Investment, and Finance Committee either because of their elected leadership position or an earlier appointment by the WSAC Board of Directors:

Spokane County Commissioner Mary Kuney, WSAC 1<sup>st</sup> Vice-President (Per WSAC Policy)  
Skagit County Commissioner Lisa Janicki, WSAC 2<sup>nd</sup> Vice-President (Per WSAC Policy)  
Walla Walla County Commissioner Todd Kimball, Term Expires December 31, 2023  
Kittitas County Commissioner Brett Wachsmith, Term Expires December 31, 2023

WSAC President Jamie Stephens, and the Executive Committee, recommend the following two WSAC members to serve a three-year term, ending December 31, 2024, on the WSAC Audit, Investment, and Finance Committee:

Nominated: Yakima County Commissioner Amanda McKinney, Term Expires  
December 31, 2024

Nominated: Clallam County Commissioner Randy Johnson, Term Expires  
December 31, 2024

**Staff Recommendation**

Staff recommends the adoption of **Resolution 2022-02** to appoint the Audit, Investment, and Finance Committee members as listed.



### Resolution # 2022-02

**WHEREAS**, the Washington State Association of Counties Board of Directors is charged under its Bylaws and Policies with appointing the members of an Audit, Investment, and Finance Committee; and

**WHEREAS**, the Audit, Investment, and Finance Committee performs the important work of assisting the Board of Directors in fulfilling its fiduciary, financial, investment, and compliance oversight responsibilities; and

**WHEREAS**, WSAC President Jamie Stephens recommends the appointment of the following members to the Audit, Investment and Finance Committee:

Amanda McKinney, Yakima County Commissioner, Term Expires December 31, 2024  
Randy Johnson, Clallam County Commissioner, Term Expires December 31, 2024

**NOW, THEREFORE, BE IT RESOLVED** that the Washington State Association of Counties Board of Directors approves President Stephen's nominees to the Audit, Investment, and Finance Committee as follows:

Amanda McKinney, Yakima County Commissioner, Term Expires December 31, 2024  
Randy Johnson, Clallam County Commissioner, Term Expires December 31, 2024

Approved by the Board of Directors of the Washington State Association of Counties on February 2, 2022.

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Jamie Stephens, WSAC President

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Lisa Janicki, WSAC Second Vice-President

**February 2, 2022**

**TO:** WSAC Board of Directors

**FROM:** Eric Johnson, Executive Director

**PREPARED BY:** Jessica Strozewski, Operations Coordinator

**SUBJECT:** Appointments and Nominations to Statewide Boards & Commissions

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

### **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.

### **Appointments by the WSAC Board of Directors**

#### **Capital Projects Advisory Review Board**

Eligibility: County Representative with Public Works Experience/Knowledge  
Number of Positions: One | Applications Received: 2

Erik Martin, Lewis County Manager  
Matt Zarecor, Spokane County Engineer



## **Nominations to the Commissioner of Public Lands and State Forester**

### **Washington Community Forestry Council**

Eligibility: Elected Commissioner/Councilmember

Number of Positions: One | Applications Received: 1

Janet St. Clair, Island County Commissioner

## **Nominations to the Puget Sound Partnership Leadership Council**

### **Ecosystem Coordination Board**

Eligibility: County Representative

Number of Positions: One | Applications Received: 3

*(WSAC may appoint one alternate)*

Ryan Mello, Pierce County Councilmember

Kevin Shutty, Mason County Commissioner

Cindy Wolf, San Juan County Councilmember

## **Openings Receiving No Nominations**

### **County Design Standards Committee**

Eligibility: County Engineer

*WSAC Appoints*

*Positions Available – 2*

### **Forensic Investigations Council**

Eligibility: Elected Commissioner/Councilmember

*WSAC Nominates, Appointed by Governor*

*Positions Available – 1*

### **Public Defense Advisory Committee**

Eligibility: Elected Commissioner/Councilmember

*WSAC Appoints*

*Positions Available – 1*

### **Public Records Exemptions Accountability Committee**

Eligibility: Local Government Representative

*WSAC Nominates, Appointed by Governor*

*Positions Available – 1*

### **Ecosystem Coordination Board - Alternate**

Eligibility: County Representative

*WSAC Appoints*

*Positions Available – 1*

### **State Interoperability Executive Committee**

Eligibility: Elected Commissioner/Councilmember

*WSAC Nominates, Appointed by State Chief Information Officer*

*Positions Available – 1*

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

# Member Nomination Form

**Position of Interest:**

Capital Projects Advisory Review Board

**Name**

Erik Martin

**Title**

County Manager

**County:**

Lewis County

**If elected official, your current term ends?**

**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 currently the County Manager for Lewis County and the Lewis County Public Works Department is under my authority. I am a licensed professional engineer in the State of Washington and have worked on Public Works projects for 20 years in both the public and private sector. I spent 3 years as a member of the Washington State Public Works board and I'm looking to serve again at the state level.

# Member Nomination Form

**Position of Interest:**

Capital Projects Advisory Review Board

**Name**

Matt Zarecor

**Title**

County Engineer

**County:**

Spokane County

**If elected official, your current term ends?**

**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 delivery of capital projects for Spokane County for over 20 years. During that time the evolution of alternate delivery and job order contracting have been of particular interest to me. I have worked with our purchasing department in the past to develop job order contracting as it applies to Public Works. I have also spent time researching alternate delivery methods and attended seminars regarding both alternate delivery methods and job order contracting. I would appreciate the opportunity to learn more about the different methods while representing the interests of the Washington Counties in the conversation.

# Member Nomination Form

**Position of Interest:**

Community Forestry Council

**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:**

Finding common sense solutions to protecting our forests is critical for the future of our communities. Whether working to mitigate storm water runoff and address flood mitigation, understanding and protecting the intersection between upland forests and shoreline protections, protecting the rural nature and economic value of managed forests and assuring public safety against wildfires, landslides and storms damage, the forests in Washington State need careful leadership with a lens to what is important now and in the future. I have been working for the last two with DNR, surrounding counties, our LIO, local advocates and state legislators to examine our forest practices and begin a discussion on how we can improve those practices for the future of Washington State.

# Member Nomination Form

**Position of Interest:**

Puget Sound Partnership - Ecosystem Coordination Board

**Name**

Ryan Mello

**Title**

Councilmember

**County:**

Pierce 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:**

The Puget Sound Partnership serves an essential role in coordinating and facilitating the recovery of Puget Sound. My professional career has focused on local actions to conserve our natural resources and improve conditions for fish, wildlife, working landowners and all who live and do business here in Puget Sound. Most recently, as Executive Director of the Pierce Conservation District, I led a team of conservation professionals for 10 years, implementing the very conservation practices that science tells us is necessary to improve water quality, habitat function, soil quality, air quality and more. I am very interested in bringing both my on-the-ground experience of implementing conservation practices and years of policy making at the local level to the Ecosystem Coordination Board to bring the local, county experience to the work the Partnership is doing as recovering Puget Sound is vital to our economy, quality of life and endangered species recovery.

# Member Nomination Form

**Position of Interest:**

Puget Sound Partnership - Ecosystem Coordination Board

**Name**

Kevin Shutty

**Title**

Commissioner

**County:**

Mason 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 represented Mason County on both the Hood Canal Coordinating Council and Alliance for a Health South Sound, chairing both organizations and building working relationships with regional partners to direct investments in critical ecosystem restoration projects. Mason County is home to both the Skokomish Indian Tribe and Squaxin Island Tribe as well as a thriving aquaculture and recreation industry. Prioritizing the health of the Sound and all the waterways of our region is a shared cultural and economic priority. I look forward to bringing my experience to the Puget Sound Partnership.

# Member Nomination Form

**Position of Interest:**

Puget Sound Partnership - Ecosystem Coordination Board

**Name**

Cindy Wolf

**Title**

County Copuncil 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?**

No

**Statement of Interest:**

I am currently the Council Liaison to the the newly formed Climate and Sustainability citizens advisory committee and will be closely involved in guiding the County Climate and Sustainability plan. I also sit on the Clean Water Advisory Committee for the County. Collaboration and coordination with other people and governments around the Salish Sea is vital to the health of the ecosystem. I would like to be as effective as possible in continuing the good work of the Board and Partnership.



### **Resolution 2022-03**

**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 Capital Projects Advisory Review Board, and

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

**Erik Martin, Lewis County Manager**  
**Matt Zarecor, Spokane County Engineer**

**NOW THEREFORE, BE IT RESOLVED**, that the Washington State Association of Counties' Board of Directors appoints the following County Representative to the Capital Projects Advisory Review Board:

**BE IT FURTHER RESOLVED**, that WSAC staff be directed to immediately transmit the appointee's name to the Capital Projects Advisory Review 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 WSAC Board of Directors of the Washington State Association of Counties on February 2, 2022.

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Jamie Stephens, WSAC President

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Lisa Janicki, WSAC Second Vice President





#### **Resolution 2022-04**

**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 Washington Community Forestry Council, and

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

**Janet St. Clair, Island County Commissioner**

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

**BE IT FURTHER RESOLVED**, that WSAC staff be directed to immediately transmit the nominee's name(s) to the Commissioner of Public Lands and State Forester; and

**BE IT FURTHER RESOLVED**, that WSAC staff is directed to contact the nominee(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 WSAC Board of Directors of the Washington State Association of Counties on February 2, 2022.

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Jamie Stephens, WSAC President

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Lisa Janicki, WSAC Second Vice President



## **Resolution 2022-05**

**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 Ecosystem Coordination Board, and

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

**Ryan Mello, Pierce County Councilmember**  
**Kevin Shutty, Mason County Commissioner**  
**Cindy Wolf, San Juan County Councilmember**

**NOW THEREFORE, BE IT RESOLVED**, that the Washington State Association of Counties' Board of Directors nominates the following WSAC member(s) to the Ecosystem Coordination Board

**BE IT FURTHER RESOLVED**, that WSAC staff be directed to immediately transmit the nominee's name(s) to the Puget Sound Partnership Leadership Council; and

**BE IT FURTHER RESOLVED**, that WSAC staff is directed to contact the nominee(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 WSAC Board of Directors of the Washington State Association of Counties on February 2, 2022.

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Jamie Stephens, WSAC President

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Lisa Janicki, WSAC Second Vice President



# 2022-2023 STRATEGIC PLAN

NOVEMBER 2020

## OUR VISION

Healthy, safe, vibrant counties across Washington State.

## OUR MISSION

To be a voice for Washington State's 39 counties through advocacy, education, programs, services, and collaboration.

## OUR VALUES

### Leadership

We are the go-to organization for counties in Washington State. We seek to boldly represent counties as they build strong communities. We endeavor, whenever possible, to collaborate to advance our mission.

### Integrity

We build and establish strong foundations of trust and credibility in order to work together effectively and be a valued partner for counties.

### Ethics

As of January 1, 2022

Page 1 of 13

We seek to make decisions that show respect for each other and our communities.

## **Trust**

We trust each other's good intentions and seek to understand diverse positions in order to support each other.

## **Collaboration**

We strive to strengthen our collective voice by being inclusive of and acknowledging diverse ideas, solutions, viewpoints, interests, and perspectives. When working together to advance our mission, we focus on solutions that strengthen the "whole." We focus on areas where collaboration and concurrence are most possible.

## **Financial Stability**

We manage the organization responsibly and efficiently. We focus on building the resources needed to fulfill the mission and ensure the value of the organization is sustainable.

## **Vision**

We keep our vision at the forefront of everything we do to remain proactive in our work. It is paramount that we remember who we serve.

## **RESPECT**

We work to earn each other's respect and value each other's efforts. We seek to listen, understand, and assume positive intentions.

## STRATEGIC FOCUS #1: INCREASE AND STRENGTHEN MEMBER ENGAGEMENT IN WSAC

### GOALS & OBJECTIVES

- A. County officials acknowledge the value of membership in WSAC.
  - 1. Increase the number of counties who have all Commissioners/Councilmembers participating in at least one or more WSAC activities.
  - 2. Increase repeat attendance in activities and events.
- B. New WSAC members are intentionally integrated into WSAC programs, services, committees and activities.
  - 1. 100% Participation in Newly Elected Officials Training.
  - 2. Increase participation in County Development Institute.
  - 3. Increase percentage of new members who continue regular participation with WSAC.
  - 4. Increase new member satisfaction of orientation and inclusion.
- C. WSAC offers substantial opportunities for member networking, relationship building, collaborations, and ongoing learning.
  - 1. Increase numbers/variety of networking and training opportunities.
  - 2. Increase attendance and participation in networking and training opportunities.

### STRATEGIC ACTIONS - 2022

	<i>Lead</i>	<i>Participants</i>	<i>Timeframe</i>	<i>Details</i>
1. Create additional, ongoing, and intentional virtual and in-person activities and opportunities: <ul style="list-style-type: none"> <li>- Formal/structured and informal/social net-working.</li> </ul> 2. Assure learning opportunities into WSAC's events, programs, and services.	Mellani  Eric  Bridget	WSAC Staff	Outline by March 2022	<p>Networking ideas: mix-up mealtime groups, have a variety of activities, include ice breakers that help people get to know each other, speed-dating, structure down time at conferences/meetings, assign a small cohort of people to get to know each other, give people a sign to put at their table asking others to join them, include low pressure networking opportunities.</p> <p>Learning ideas: Teach networking skills/tips/hints for people who may be less experienced, training on building local partnerships, industry specific training, renewed focus on specific areas (ie water, GMA, etc) especially for new members and as continuous education, broaden existing trainings to all members (ie. CRAB, state audit, etc.), offer CLE's or certified county official program.</p>

	<i>Lead</i>	<i>Participants</i>	<i>Timeframe</i>	<i>Details</i>
3. Establish a mentoring and advising program to create bilateral connections between members.	Eric	Executive Committee	March 2022	
4. Evaluate the effectiveness and content of courthouse briefings and determine future implementation methods.	Eric	WSAC Executive Committee	By April 2022	Can virtual be an option at times? Every other year in person? Is content appropriate?
5. Establish performance metrics for member engagement.	Bridget	WSAC Executive Committee	Initial Review - August 2022 Consideration and Review	Define what should be measured Define adaptive management strategies policy/procedure
6. Review WSAC Boards and Commissions Appointment Process to reflect need to incorporate newly elected officials and address participation of more members, diversity of member nominees and appointments, length of representation, etc.	Eric	Executive Committee  Selected Members for a Review Committee  Jessica	Draft for May 2022 Board Meeting Review	
7. Operationalize Justice, Equity, Diversity and Inclusion Policy	Mellani		Draft policy for Executive Committee Review in August 2022	

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### STRATEGIC ACTIONS - 2023

8. Implement a communication strategy about the value of WSAC's programs and services	Mitch		Launch in January 2023	Create short, easy to understand messages and videos that communicate the value of participation in WSAC.
9. Consider conducting an annual county lobby day that includes all county officials.	Mellani	LSC Co-Chairs	2023 Legislative Session	
10. Create tool to systematically measure: - member and county participation and engagement. Member satisfaction in programs and services.	Bridget	Tyler, Mitch, Jessica	August 2023	Dashboard to show member activity and participation by county, affiliate group, elected officials, etc
11. Conduct data collection to evaluate barriers and impediments associated with minimal or non-participation or counties and members.	Bridget		Initiate September 2023	

## STRATEGIC FOCUS #2: INCREASE AND STRENGTHEN WSAC ENGAGEMENT WITH AFFILIATE ORGANIZATIONS AND EXTERNAL PARTNERS

### GOALS & OBJECTIVES

- A. There are clear paths of communication and engagement with state agencies.
  - 1. Develop collaboration and cooperation agreements, memorandum of understandings, that reflect the important partnership between county government, the State of Washington, other organizations and associations.
  - 2. Complete and implement the Ruckelshaus Center's County/Health Care Authority Communication Framework
- B. There are strong, supportive connections between and among WSAC members and affiliate organizations.
  - 1. Increase in awareness about the roles of affiliate organizations among WSAC and affiliate members.
  - 2. 100% of affiliate organizations are integrated into WSAC's organizational structure by 2023.
- C. WSAC regularly engages with external partners, groups, and committees to engage in creating a unified voice and developing solutions for shared interests.
  - 1. Identify external partners to develop shared policy agendas with.

### STRATEGIC ACTIONS - 2022

	<i>Lead</i>	<i>Participants</i>	<i>Timeframe</i>	<i>Details</i>
1. Implement quarterly listening sessions with affiliates.	Eric	Policy Staff	July 2022	Need to better understand how to facilitate this - and what is needed. Listening with staff? Elected Official interaction with affiliates. Affiliate Presidents and WSAC Executive Committee Interaction?
2. Create a Board and Commission dashboard for those - WSAC nominates or appoints - with front facing data to show upcoming openings, current incumbents, and other information	Bridget	Jessica Tyler	Operational by December 31, 2022	
3. Support and communicate partner positions with WSAC membership regularly.	Mellani	LSC Co-Chairs Policy Staff	Initiate Discussion with LSC May 2022	
4. Conduct outreach campaign with affiliates and external partners to invite them to engage with WSAC in creating "one agenda, one	Mellani	LSC Co-Chairs Policy Staff	Initiate Discussion with LSC May 2022	

As of January 1, 2022

Page 6 of 13



	<i>Lead</i>	<i>Participants</i>	<i>Timeframe</i>	<i>Details</i>
voice” together on agreed upon issues.				

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#### STRATEGIC ACTIONS - 2022

5. Establish plan for services to affiliate organizations.	Eric	Bridget, Policy Directors	For WSAC Executive Committee to Review August 2023	
6. Identify potential ala carte/caucus, committee, affiliate initiatives and services.				Example: Marbled Murrelet Study

As of January 1, 2022

Page 7 of 13

### STRATEGIC FOCUS #3: STRENGTHEN THE FINANCIAL STABILITY AND SUSTAINABILITY OF WSAC

#### GOALS & OBJECTIVES

- A. WSAC's financial resources support and align with the advancement of the mission.
  - 1. 100% of Washington's counties are "Active Members" as provided for in WSAC Bylaws
    - Pay all Dues
    - Pay all Assessments
- B. WSAC's administration, programs, and services are supported by a variety of funding sources that reduce dependence on a single source.
  - 1. Increase the portion of the annual budget made up of non-dues revenue.
  - 2. Increase the percentage of programs that have more than one fund source.

#### STRATEGIC ACTIONS - 2022

	<i>Lead</i>	<i>Participants</i>	<i>Timeframe</i>	<i>Details</i>
1. Establish a policy on the management of financial reserves and incorporate and update <i>Section III Cash and Investment Policy</i> in WSAC Comprehensive Policy Manual  Update Audit Investment and Finance Committee Charter	Bridget	Audit, Finance and Investment Committee	For Executive Committee Review, August 2022	
2. Identify and increase resources, grants, studies, partnerships, and non-governmental funding sources (i.e. grants, etc.)	Mellani	Policy Directors, Advisors, Analysts	Ongoing - Reporting Progress to WSAC Executive Committee August 2022	<ul style="list-style-type: none"> <li>- Identify alternative resources to support program initiatives.</li> <li>- Check with other assoc.</li> <li>- Research potential opportunities and sources</li> </ul>

#### STRATEGIC ACTIONS - 2022

As of January 1, 2022

Page 8 of 13

3. Sell marketable services (ie data, research services, regional program coordination)	Mellani	Policy Directors, Advisors, Analysts	August 2023 Review options with WSAC Executive Committee	Define product Understanding market
4. Review and revise if necessary WSAC's current dues structure through a transparent process that fosters and highlights the value provided by WSAC to members.	Bridget	Eric  Executive Committee	August 2023	Research re: other models Run scenarios recommendation
5. Conduct succession planning	Executive Committee  Eric	Board of Directors	Initiate Plan discussion with WSAC Board in August 2023	Defining succession planning for organizational leadership and staff Establish path to leadership positions, leadership succession plan, maintain institutional memory.

## STRATEGIC FOCUS #4: BUILD CAPACITY FOR DATA COLLECTION, TRACKING, POLICY AND DATA ANALYSIS, AND SHARING

### GOALS & OBJECTIVES

- A. WSAC maintains a foundation of consistent, useful data and measures that help tell the story of Washington's counties and WSAC's efforts in an effective and informative way.
1. Build capacity to develop data and information to support counties, policy development and analysis, legislative agenda and legal activities.
  2. Measurable progress on advocacy goals can be easily shared and viewed.
  3. Publish research, data and information.

### STRATEGIC ACTIONS - 2022

	<i>Lead</i>	<i>Participants</i>	<i>Timeframe</i>	<i>Details</i>
1. Invest in data capacity building (staff, technology, etc.)	Eric	Mellani Jamie Paul	Complete by March 1, 2022 for -FPHS Advisors -Policy Analyst: Natural Resources -Policy Analyst: General	-Staff Recruitment and Onboarding -Staff Work Plans -Data/research plans -Initiate review of software, platforms, tools
2. Identify and prioritize what data to collect based on issues, needs, and narrative we want to tell.	Mellani	Policy Directors, Policy Advisors, Policy Analysts	Initiate discussion/frame issue for LSC, May 2022  County Administrators, April 2022	Framework for decision making & prioritization Develop Work plan for 2022 -23 Tools to transform data into support for the story
3. Increase knowledge, information, and outreach about current data related to policy decisions.	Mellani	WSAC Staff, Partners WSAC Leadership, Board, LSC	Ongoing  Reporting quarterly	Data - Baseline and regular updates  Date - current issues, horizon issues

As of January 1, 2022

Page 10 of 13

	<i>Lead</i>	<i>Participants</i>	<i>Timeframe</i>	<i>Details</i>
			Initiate discussion/frame issue for LSC, May 2022	
4. Implement dashboard for legislative bill progress/success scoring.	Mellani		Review with LSC, May 2022	
5.				

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### STRATEGIC ACTIONS - 2023

6. Present and communicate data using methods that are user friendly and easily accessible.	Mellani Mitch	Other WSAC staff, LSC, Board, Affiliates	Ongoing	Create the basic framework & branding Understanding timelines Develop workplans Additional training? Tools needed? Consultants? Communications subcommittee?
7. Develop a data profile that highlights the partnership counties have with state and federal agencies.	Mellani	Other WSAC Staff, LSC, counties, state agencies, external partners	Ongoing	Better understand purpose of Strategic Action Where will data reside? How will it be displayed/communicated/etc. Who has permission to use it? Policies development Efficiency
8. Implement regular updates and progress reporting with built in feedback loops.	Communications Staff	Other WSAC staff, members	Ongoing	

## STRATEGIC FOCUS #5: ENSURE THE EFFECTIVE RETENTION OF CURRENT STAFF EXPERTISE

### GOALS & OBJECTIVES

- A. WSAC is considered an employer of choice in Washington State who recruits and retains high quality employees committed to the mission and vision.
1. Staff turnover is less than 10% annually.
  2. Employee satisfaction

### STRATEGIES

	<i>Lead</i>	<i>Participants</i>	<i>Timeframe</i>	<i>Details</i>
1. Review, revise, and implement policies to create and maintain a quality, supportive work environment.	Eric	Mellani, Bridget, WSAC staff	By WSAC Executive Committee August Planning Meeting	<p>Present a suite of staff recruitment and retention policies and activities for consideration by the WSAC Executive Committee and Board of Directors:</p> <ul style="list-style-type: none"> <li>- Review existing Retention Policy to assure tools are available to create and maintain quality work environment - Association Employer of Choice</li> </ul> <p><b>COMPENSATION</b></p> <ul style="list-style-type: none"> <li>- Budget for and Prepare Biennial Compensation Study</li> <li>*Consider Step Increase Plan</li> <li>*Consider Longevity Compensation</li> <li>*Consider mid year 2021 dues increase to provide COLA for staff</li> </ul> <p><b>BENEFITS</b></p> <ul style="list-style-type: none"> <li>- Increased alternatives, provide flexibility in what options can be chosen</li> <li>- Consider compensation alternatives</li> <li>- Potential alternatives:</li> <li>*Sabbatical Policy</li> <li>*Leave policy options - PTO</li> <li>*Education/School Assistance (time or \$)</li> <li>*School Loan Payments</li> <li>*Flexible/remote work</li> <li>*Hiring Bonus</li> </ul>

As of January 1, 2022

Page 12 of 13

	<i>Lead</i>	<i>Participants</i>	<i>Timeframe</i>	<i>Details</i>
2. Salary Adjustments: Budget a one-time lump sum to align employee compensation with market levels.				
3. Conduct biennial salary/compensation study to stay competitive with the market.				
4. Establish internship program that works with WSAC programs and affiliates.				
5. Restore previous staffing levels.	Eric	Bridget	To WSAC Executive Committee at August Planning Meeting	Staff shall prepare information, alternatives, and recommendation on appropriate staffing resource needs to include restoring the Research Director position
6. Create a directory of staff and program responsibilities	Bridget	Mitch, Tyler	Spring 2022	Create print and online staff directory that provides information to assure member understanding of the program responsibilities of each staff member

**February 2, 2022**



## **STAFF REPORTS**





February 2, 2022

**TO:** WSAC Board of Directors

**FROM:** Eric Johnson, Executive Director

**SUBJECT:** Executive Director Report

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**National Association of Counties (NACo)**

National Council of County Association Executives - WSAC President Jamie Stephens, Immediate Past President Michael Largent, and I attended the State Association of Counties' Presidents and Executives annual meeting in Washington, D.C., January 12-14. This meeting focused on orientation and updates on NACo activities, programs, and services; legislative and agency updates; leadership training at the George Washington Leadership Institute at Mt. Vernon; and networking with peers and staff. We heard from administration officials on various issues, including infrastructure program Implementation and American Rescue Plan Act.

President Stephens and I were also able to meet with almost the entire Washington Congressional Delegation either in person or virtually while we were in D.C. and shared a briefing document on federal issues (<http://www.wsac.org/wp-content/uploads/2022/01/2022-Federal-Issues.pdf>). The major focus of our delegation meetings included:

- Thanking them for Infrastructure Funding;
- Thanking them for supporting Secure Rural School and Payment in Lieu of Taxes Funding – and reminding them of the need for long-term/predictable funding from these programs, especially an FY2022 Appropriation for both!!!
- Asking for their support to eliminate the federal government's Medicaid Inmate Exclusion policy that callously strips individuals who are *still presumed innocent* of their federal benefits at the point of arrest and confinement in county jail.
- Continued federal resources to assist in pandemic response.

Legislative Conference – the NACo Legislative Conference is set for February 11 – 16 in Washington, DC. To date, 20 WSAC members have signed up to participate. If you need more information, please see <https://www.naco.org/events/2022-naco-legislative-conference>. WSAC Officers and members will meet with congressional delegation members and staff while in D.C., depending on congressional recess, the status of COVID-19, and meeting logistics.

Western Interstate Region (WIR) – This year's NACo WIR Conference is in Anchorage, Alaska, May 18-20. Registration will soon be open.

NACo Annual Meeting – This year's NACo Annual Conference and Exposition is set for July 21-24 in Adams County, Colorado (Denver). <https://www.naco.org/events/2022-naco-annual-conference>

NACo Steering Committees – Currently, nearly 30 Washington State elected and appointed county officials are serving on NACo Steering Committees and Caucus'. Please contact me if you would like to join a NACo Steering Committee or Caucus. A current list of Steering Committee Members is attached.

NACo County Elected Executives Forum: – was held this year in Washington, DC, December 8 – 10. I was able to join King County Executive Constantine, Pierce County Executive Dammeier, and Whatcom County Executive Satpal Sidhu, who were in attendance.

<https://www.naco.org/resources/education-training/county-leadership-institute>

### **Termination of Contractual Services**

2021 brought an end to WSACs' contractual responsibilities to deliver conference planning services to two groups.

- Association of City/County Information Services Directors; and
- Washington State Association of County Auditors

WSAC has completed the transition of transferring all information, work product, finance records, banking, and other requested materials to the Association's respective representatives.

### **Foundational Public Health Services**

I continue to participate (along with Jamie Bodden and local health jurisdiction representatives) on the Foundational Public Health Services (FPHS) Steering Committee, providing input and guidance on funding allocation and implementation. It continues to be a priority for WSAC that a basic set of capabilities and programs be present in every community to efficiently and effectively protect public health in Washington.

### **Forest and Fish Leadership Meetings**

Washington State Counties have been an active participant in forest and fish policy for nearly three decades. There is an effort to re-engage the collaborative nature of these discussions, spearheaded by members of the environmental community, timber companies, tribal nations, the Department of Natural Resources, and others. Paul Jewell, Court Stanley, and I have re-established robust and ongoing collaborative discussions and solutions. I will continue to play an active leadership role on behalf of Counties and Commissioner Raines (new Forest Practices Board appointee), Commissioner Peach, Commissioner Lannen, Court Stanley, Paul Jewell, and other members of the Timber Counties Group.

### **Washington Department of Fish and Wildlife – Budget and Policy Advisory Group**

I was reappointed to continue serving on the WDFW Budget and Policy Advisory Group to advise the WDFW Director on broad budget and policy issues, including "a plan for balancing projected revenue and expenditures and improving efficiency and effectiveness agency operations."

### **Governor's Office – Local Government Meetings**

In partnership with the Association of Washington Cities and Washington Public Ports Association, WSAC has regular meetings with Governor's top staff to discuss the need for greater coordination on major public policy initiatives and operations.

### **Executive Committee Calls**

As most of you know, the Executive Committee/Executive Director has conference calls every 2<sup>nd</sup> and 4<sup>th</sup> Tuesday at 8:00 a.m. This meeting keeps the Executive Committee apprised on current operational, administrative, and policy issues. They are very engaged in knowing where we are as an organization and providing guidance. They have granted authority to take action, but most of these meetings are informational. If you have items for the Executive Committee, please do not hesitate to contact one of the Officers or myself.

### **Legislative Steering Committee Co-Chairs**

Per WSAC Bylaws, WSAC President Jamie Stephens, with concurrence Executive Committee members, appointed two new WSAC Legislative Steering Committee Co-Chairs:

- Jefferson County Commissioner Kate Dean
- Franklin County Commissioner Brad Peck

I want to thank outgoing LSC Co-Chairs for their diligent work over the past several years:

- Pierce County Councilmember Derek Young
- Douglas County Commissioner Dan Sutton

## **Public Records Requests**

None Pending

## **WSAC Membership**

Please join me in welcoming new WSAC members (and one back):

- Kaylee Galloway, Whatcom County Councilmember
- Sarah Perry, King County Councilmember
- John Jabusch, Cowlitz County Commissioner
- Lee Grose, Lewis County Commissioner

## **WSAC Board of Directors**

- Commissioner Brad Peck was selected, per WSAC Bylaws, for the vacant Eastern Region Alternate Position

## **WSAC Staff**

Conference Planner Melissa Archuleta had to be released with the termination of contract agreements to deliver conferences for the Washington State Association of County Auditors and the Washington State Association of City/County Information Services.

Jessica Strozewski joined WSAC on December 1, 2022, as Operation Coordinator. Jessica brings a solid academic and professional background in education, event coordination, and communications. Jessica will be focusing on several administrative and management activities, including coordinating statewide boards and commissions, member and affiliate rosters, event planning, and communication support.

Two new Policy Advisors joined WSAC to support the work of the Washington State Association of Local Public Health Officials to implement Foundational Public Health Services (FPHS). Funded through foundational public health services funding, they will assist in developing local FPHS delivery models, implementing FPHS services, evaluating outcomes and FPHS metrics, and creating policy recommendations.

- Chris Goodwin comes from local public health in Clark County, where he worked in preparedness and mitigation efforts, including COVID-19 response. He has additional work in community engagement, prevention coalition and community engagement, and healthcare delivery.
- Brianna Steere comes from local public health in Skagit County, where she worked as the developmental disabilities program coordinator. She also has experience working in healthcare in rural Washington, addressing access and quality improvement challenges.



**February 2, 2022**

**TO:** WSAC Board of Directors  
**FROM:** Eric Johnson, Executive Director  
**PREPARED BY:** Bridget Lockling, Finance, and Administration Director  
**SUBJECT:** Business, Finance, and Operations Report

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### **FINANCE AND ADMINISTRATION**

#### **2021 Year-End Financial Report**

WSAC ended 2021 with a total cash position of \$878,586 \$661,591. This is \$216,995 more than the ending cash position of 2020. Of this amount, \$100,000 is invested in eConnectDirect CDs. Investment earnings in 2021 were not as strong as in 2020 due to lower interest rates. These investments yielded \$4,570 in 2021, \$10,273 in 2020, \$18,026 in 2019, \$6,116 in 2018 and \$3,350 in 2017. The full 2021 financial report will be available for review at the May Board of Directors' meeting in addition to the 1st quarter 2022 financial report.

#### **2022 Dues**

The 2022 dues billings were sent out the 2<sup>nd</sup> week of January. Payments have not started coming in yet.

#### **F1 Public Disclosure Reports & Travel Reimbursement Notification**

Staff will be preparing WSAC member public disclosure reports during the month of February. Look for F1 statements to be distributed via email sometime in March. Also being sent out is the annual travel reimbursement statement to the county auditor. This new report was proposed and approved last May as an internal control measure to help identify duplication of charges between WSAC and the counties.

#### **New Mileage Rates**

OFM has revised the POV Mileage Rate as of January 1, 2022. The new rate is \$0.585 per mile. Please request a **new** travel reimbursement form from WSAC staff or refer to our Board of Directors webpage. Here is a link to the worksheet: [WSAC Member Travel Reimbursement](#).

#### **2022 Audit, Investment & Finance Committee**

According to the WSAC Bylaws, the Audit, Investment, and Finance Committee is set up to assist the Board of Directors in fulfilling its fiduciary, financial, investment, and compliance oversight responsibilities as defined in the Audit, Investment, and Finance Committee Charter. The Board of Directors are appointing two new members at the February 2022 meeting.

Activity for the Audit, Investment and Finance Committee in 2022 includes the selection of a new audit firm and reviewing the 2020-2021 Audit.

#### **Investment Funds**

With the higher cash balance at year-end, we elected to move \$200,000 to a 3-year CD account at 1% earnings. Current money market interest is around .25%, so this move will result in higher yields after three years. Our other CD matures in March. It is currently in a 2-year CD earning 1.35%. Renewal rates will likely be around 1% for a 2-year term.

## **COMMUNICATIONS AND MEMBER SERVICES**

### **Legislative Bulletin**

This year, the Legislative Bulletin was redesigned to be shorter and more concise for readability and navigation. This includes having the bulk of each article hosted on the WSAC website. This allows us to track which articles and issue areas our audience is engaging with and keep content on the website fresh and up to date with new articles. Our Legislative Bulletin currently has a 30.8% open rate, about 5-10% higher than average, with a 10% click-through rate (also higher than average).

### **Meetings & Events**

#### **Virtual, Hybrid, and In-Person Events**

WSAC continues to provide conference planning support to several affiliate organizations. We did not seek to bid on continuing conference services to WSACA and lost our bid to ACCIS in 2022, so our conference load is lighter than in years past. Covid-19 considerations remain a factor in the delivery of conferences, which present several challenges for our groups.

Below you will find the current list of events WSAC staff will support in 2022:

WSALPHO Public Health Retreat | April 11-13 | Skamania County | In-Person  
WCAA Annual Conference | April 13-15 | Chelan County | In-Person  
WSACE Annual Conference | June 6-9, 2022 | Chelan County | *In-Person*  
WACSWM Annual Conference | June 13-15, 2022 | TBD | *Hybrid*  
WSALPHO Summer Meeting | June 6-8, 2022 | Chelan County | In-Person  
WSALPHO Environmental Public Health Meeting | Oct 11-13, 2022 | Chelan County | *Hybrid*  
County Leaders Conference | November 15-17, 2022 | King County | In-Person

### **Marketing and Social Media**

The WSAC social media channels continue to share pertinent information for the public and counties around subjects of the Pandemic, county-related news, state news, and session updates. WSAC has distributed over 18 newsletters/publications in less than 30 days with at least 5% higher open-rate averages than newsletters in 2021. These publications include the Legislative Bulletin, Friday 5, Virtual Assembly Programming, Boards and Commissions recruitments, and other registration and conference pieces.

### **Business Partners | Connect & Learn**

Staff is redesigning the business partners program to identify new levels and benefits offered to businesses that want to engage with members. The estimated rollout of the new program is by the end of February.

### **County Development Institute of Washington**

The CMS team has begun developing multiple courses for the County Development Institute. The first half of the Risk Management series has launched in mid-January, and the second half is scheduled in the next few weeks. Other courses currently being planned and produced include Media Relations and Communication, Ethics and Appearance of Fairness, Leadership, and Constituent Relations). These are scheduled for recording and release during the first and second quarters of 2022.

### **Job Board**

Our Web Design Manager is finalizing a Job Board that can house county-related job openings throughout the state. This site will be another recruiting tool that county HR staff can utilize to extend the reach of available positions. Rollout and training of this site will start towards the end of February.

## **Appointments to Statewide Boards & Commissions**

### **Cougar Working Group**

Derek Gianukakis, Ferry County Commissioner

### **Wildland Fire Advisory Committee-West**

Melanie Bacon, Island County Commissioner

### **County Road Administration Board – 150k+**

Carolina Mejia, Thurston County Commissioner

### **County Road Administration Board – 30k – 150k**

Lindsey Pollock, Lewis County Commissioner



**February 2, 2022**

**TO:** WSAC Board of Directors

**FROM:** Eric Johnson, WSAC Executive Director

**PREPARED BY:** Mellani McAleenan, Government Relations Director

**SUBJECT:** Policy & Legislative Report

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The 2022 60-day legislative session convened on Monday, January 10. This year is the second year of the biennium, intended to be supplemental to last year's 105-day session. All of the bills introduced in the previous year that didn't pass are automatically reintroduced this year, so WSAC's policy team will be tracking all of last year's bills as well as the new bills introduced this year.

The session looks like last year, with legislative offices closed to the public and hearings held via Zoom and aired on TVW. A limited number of legislators are allowed on the House and Senate floors, and many legislators are working from home. Legislative leadership will reassess COVID conditions every two weeks and make changes to access accordingly.

With a 60-day session, the first policy committee cut-off (the date by which bills must be moved out of the house of origin policy committees) arrives on February 3 – twenty-five days into session. Each committee will have 6 to 8 hearings before then, so committee chairs are not wasting any time in their efforts to hear as much as possible. Legislators are already close to filing more bills this session than they did for the entirety of last year.

### **General Government, Tax & Fiscal – Mellani McAleenan**

There are innumerable bills that would impact county finances, most for the worse but a few for the better. One such example is [HB 1333](#), a priority bill that will extend the .09 credit against sales tax for public facilities in rural counties. The bill passed the House unanimously last year but stalled in the Senate. This year, the bill has already passed the House by a 93-3 vote, and key senators have spoken positively about its chance for success this year.

[HB 1921](#) would allow counties the option of negotiating a payment in lieu of taxes for new solar and wind facilities rather than taxing them as the new construction of personal property. WSAC supports this option, but many details still need to be worked out, with the assessors currently opposed to the bill but actively engaged in seeking resolution.

Both [HB 1965](#) and [HB 1672](#) address levies related to the 1% property tax limit. HB 1965 allows for the option of both (or either) the veterans' assistance levy and the developmental disabilities levy to be taken without regard to the limit. HB 1672 addresses conservation futures. Both bills are being heard in the House Finance Committee.

[HB 1819](#) and its related [HJR 4208](#) (constitutional amendment) would increase the personal property tax exemption from \$15,000 to \$100,000. The bill was heard in House Finance, but the fiscal note came in mere hours before the hearing. While the sponsor and advocates are interested in working toward mitigation of the related losses, those discussions are in their infancy.



## **Public Safety/ Human Services - Juliana Roe**

The legislature's 2022 agenda focuses on affordable housing, homelessness, and behavioral health. Washington continues to face a massive affordable housing shortage and growing numbers of individuals entering homelessness. Our communities continue to face eviction or foreclosure and a dwindling supply of affordable housing, making it imperative for the legislature to invest in stabilizing housing situations for tenants and homeowners. Recognizing this, the legislature has introduced bills that deal with increased housing stock, addressing growth in urban and rural areas, and rental and foreclosure assistance, to name a few. In his supplemental budget, the Governor allocates significant funding toward housing for the state's most vulnerable populations, including low-income and those who need permanent supportive services, in programs that address sheltering, rapid housing acquisition, and encampments. We will have to wait and see whether the legislature will do the same.

Counties are committed to the overall quality of employment outcomes for those with intellectual/ developmental disabilities (IDD). As you know, counties are the contractual provider and the entities that monitor the funding for employment and community inclusion services that comes from the Developmental Disabilities Administration (DDA). Rates for employment and community inclusion services were set 10 years ago. While similar rates for foundational community supports that provide CPI and other measures have increased a comparable service, the rates for employment and community inclusion services have remained the same. Service rates paid to employment providers directly impact the quality and quantity of support provided to those with IDD. Without support, quality of life may be compromised and destabilized for those with IDD. Thus, job supports are critical. We have been working with DDA, and now the legislature to adjust the rates upward and incrementally for employment and community inclusion services using CPI on a yearly basis. Sen. Braun has championed a bill ([SB 5790](#)) that directly addresses this issue. We fully support this effort.

Ensuring the behavioral health system can continue to function at the current service levels is of great importance to counties as it is inextricably interwoven with the local criminal justice system. Because all Medicaid and a portion of the non-Medicaid dollars have been shifted to the Managed Care Organizations (MCOs), it is imperative that the state make significant investments in non-Medicaid funding to support the crisis system at current service levels. The need to fund Involuntary Treatment Act (ITA) courts remains. Because of the shift of funds to the MCOs, counties have fewer non-Medicaid dollars to pay for ITA court costs and the other crisis services they are responsible for. Therefore, we continue to discuss with the legislature the need to fund the ITA policy changes they are requesting because they coincide with county court costs.

The Supreme Court's decision in State v. Blake is an ever-evolving issue that impacts the already backlogged court system. To streamline procedures and create efficiencies to address Blake, Sen. Dhingra has introduced [SB 5663](#). While we support the bill, it does not provide much-needed funding. While the state allocated approximately \$74 million in funds in the 2021 legislative session to reimburse legal and financial obligations (LFOs) and the costs of resentencings and vacations, it is undeniable that the state will need to provide additional funds dollars to address the impact of this case. Based on data from 1999, reimbursements for LFOs are expected to reach at least \$200 million, and costs for resentencing and vacations could reach at least \$100 million for superior court cases alone. Keep in mind that Blake cases go back to 1971, the data for which will take significantly more time and people power to go through if the court files still exist. In order to tackle these cases quickly and efficiently, counties will need additional funding. The Governor's supplemental budget failed to provide any additional funds for the costs of Blake, but we are hopeful that the legislature will rectify this oversight in its supplemental budget.

There are a variety of bills that continue to focus on policing and how to improve the criminal justice system. Most of these bills are so-called fixes to bills passed last year, ranging from police use of force and tactics to oversight and accountability issues to training and de-escalation. WSAC continues to educate legislators on the need to fund the policies they pass and expect counties to carry out.

## **OPMA, Elections, & General Liability – Mike Hoover, Policy Consultant**

WSAC continues to push bills to help counties recover from the pandemic and prepare for future emergencies. [HB 1056](#) would allow counties to conduct remote meetings whenever there is an emergency of any nature (state



or local) for the duration of the emergency. This bill passed the House unanimously last year, but it died in the Senate due to lack of time. WSAC is pushing to get this bill through early this year to avoid last year's result. Another bill on public meetings, [HB 1329](#), would expand both the public's ability to testify and the ability of counties to hold remote testimony. This bill has elements counties would welcome but also some that cause concern. Operationally, WSAC supports expanded testimony and meeting capabilities but does not want to take on additional obligations or legal duties under an already complex area of law relating to open meetings. WSAC has successfully hung a compromise amendment that makes the bill largely discretionary and includes other changes that make the provisions work for counties and the public.

Several elections bills are moving through this year. The biggest is [SB 5597](#), a Voting Rights Act, which would make significant changes to ensure that certain underrepresented groups are accounted for in voting. It provides new causes of action and remedies for groups to bring claims against counties that may be out of compliance. There is a pre-clearance section that would, under certain circumstances, require certain counties to get permission in advance from a court or the Attorney General before taking steps that could impact an underrepresented group. A database is created relating to voting demographics at the University of Washington. Counties will be required to provide data to this program regularly, and the database can be used to ensure compliance with voting rights. The bill is very complex, with very broad language and provisions that do not seem to operate as intended. WSAC has been working with the sponsor and stakeholders to address these problems. There are also bills to move primary elections to May ([SB 5540](#)), implement discretionary ranked-choice voting ([SB 5584](#)), and eliminate odd-year elections ([HB 1727](#)). WSAC is working on all of these to express concerns and ensure that, if enacted, they work with other laws, programs, processes, and each other.

In the area of tort liability, [HB 1202](#), expanding liability for police misconduct, is part of a more comprehensive system of police reforms being run in this biennium. WSAC opposes this bill because it exposes the counties to huge liabilities and costs. The bill's intention is commendable: preventing civil rights violations and holding bad actors accountable for their misconduct. In practice, however, this bill as written will open the door to broad and expensive lawsuits, with damages and attorneys' fees in addition to remedial or injunctive relief (e.g., ordering counties to take specific actions), where the county can be sued for the misconduct of an officer. While there is a logic to holding counties responsible for the actions of their employees, sheriffs are often independently elected, and police are continually trained, overseen, disciplined, and even hired and terminated by a complicated system over which county legislative authorities, risk managers, and others have little direct oversight. The situation is made even more complex by the application of collective bargaining agreements, which set forth specific standards that cannot unilaterally be changed by county authorities to comply with the bill. Simply put, it is unfair to hold counties responsible for systems they do not oversee or control. If this law goes forward, we will hope that the legislature will reopen other areas of law to provide counties with additional oversight to accompany the additional liability.

Finally, another tort liability bill, [SB 5155](#), would allow interest on judgments for tortious conduct to begin to accrue from the date on which a person suffers an injury or loss. This means interest would start to accrue *before* a claim was filed and, in some cases, even before a county was made aware of the injury or loss. Current law provides that interest begins to accrue on the date a court enters a judgment. The date when the interest starts is significant in an era where litigation and even settlement negotiations can drag on for years. Much delay can result from plaintiff choices or court delays, which is in county control. So far, WSAC was able to get an amendment that exempts the local government from the bill (meaning the law is unchanged for counties), but the ultimate form of the bill is still very much in doubt. WSAC will continue to pay close attention to this bill as it moves forward.

## **Land Use, Environment, Timber, & Solid Waste – Paul Jewell**

WSAC secured a contract to manage a project for the Department of Ecology to do a feasibility study on soil banks as a strategy to implement the model remedy developed last year by the legacy pesticide working group (LPWG). The LPWG created the model remedy to address lead-arsenate pesticide contamination in soils on old orchard grounds in central Washington. The legislature provided funding at WSAC's request during the 2021 session. The project also includes creating model codes for local governments to use if they incorporate the model remedy into their permit processes.

WSAC published an RFP to hire a third-party consultant to meet the contract's requirements with Ecology to complete the soil bank feasibility study and create the model codes. Maul Foster & Alongi, along with Foneza & Associates, was hired to do the work. We are currently negotiating a final contract with the consultants and expect to meet with the LA Steering Committee about the project in late March or early April.

The GMA Roadmap Phase III project funded during the 2021 legislative session got underway during the last part of 2021. The steering committee is much smaller than previous efforts, and WSAC is a member. There have been three meetings so far, and the effort has paused for the session. The consultant is working with the group to develop recommendations for reforms and updates to the GMA.

In December, we ended our participation on two solid waste-related advisory committees dealing with organics management strategies and extended producer responsibility for packaging and paper products. Both advisory group processes resulted in proposed legislation being introduced in January. [HB 1799/SB 5731](#) (organics) and [HB 2003/SB 5697](#) (EPR for packaging and paper) have been heard in committee and are making their way through the legislative process. WSAC is currently opposed to HB 1799/SB 5731 and favors HB 2003/SB 5697.

The solid waste affiliate (WACSWM) members met in November during the County Leaders Conference in Spokane. The group worked with a facilitator to update their short-term strategic plan. The update focuses on ways to develop strategies for rethinking how we fund solid waste programs for counties considering the significant policy changes that the state is considering and how they affect our revenues. The group also adopted an update to their policy guidance document. The update was specific to policy for product stewardship and extended producer responsibility programs. It was unanimously approved following drafting by a special committee.

The Timber Counties Caucus met twice in November. Once in a special meeting to hear other presentations on timber harvest rotation issues. The second was during the County Leaders Conference in Spokane. At the conference, Caucus members met with a Northeast Washington Forest Collaborative panel about increasing harvest on USFS lands and with Public Lands Commissioner Hilary Franz.

WSAC attended the principal's meeting organized by the Department of Natural Resources to reinvigorate the adaptive management program. The meeting was held at the Salish Lodge in Snoqualmie and was well attended. Tribal member presence was particularly conspicuous, and all participants were provided the opportunity to present their views on how the program was working or should be working. DNR promised future discussions.

Finally, we were able to secure a one-hour work session on Friday, January 14, with the House Committee on Rural Development, Agriculture, & Natural Resources and the Senate Committee on Agriculture, Water, Natural Resources, & Parks to present the findings of the marbled murrelet economic impact study we released in August. Our consultants Mason Bruce & Girard and Highland Economics explained the report's findings and answered questions from legislators. We also organized a panel of representatives from counties, schools, DNR, timber interests, and environmental interests to present their views.

The Columbia River Caucus also met during the County Leaders Conference to receive updates from Ecology about the work of the Office of Columbia River, the water banking pilot grant program, and the ongoing drought conditions. They also updated the Columbia River Treaty negotiations with Jill Smail, U.S. State Department.

### **Transportation, Public Works, County Engineers - Axel Swanson**

This winter, the Washington State Association of County Engineers (WSACE) has been busy tracking state legislation and following the implementation/allocation of the new federal Bipartisan Infrastructure Law. We continue to meet with agencies and partners regarding regulatory changes and finalize our plans for the 2022 WSACE Annual Conference.

The COVID-19 pandemic continues to impact schedules and events, including the various 2022 activities and programs of WSACE. Each February, WSACE holds a professional development conference for its members and staff. That conference had to be canceled for the second year in a row because of the pandemic and will again be folded into WSACE's Annual June Conference.

The 2022 WSACE Annual Conference is set to take place June 6-10 at the Sun Mountain Lodge in Okanogan County. We are working with Communications & Member Services (CMS) staff to monitor COVID-19-restrictions and numbers and will make a final decision on the conference's feasibility sometime in spring.

Specifically, WSACE has been focused on the following projects and activities in each priority area:

- **WSACE Board/Managing Director Update**

- The WSACE Board has continued to meet each month, working on priorities, and held a successful business meeting and schedule of programs at the County Leaders Conference in November. Notable accomplishments were the updates and re-adoption of WSACE's strategic plan and legislative priorities for 2021-2023. Moving forward, these documents will guide the Board and Managing Director regarding legislative initiatives and Association priorities for the members.
- WSACE staff continues to host COVID-19 and Legislative Roundtable meetings so staff and members can share information and provide feedback to one another regarding the pandemic and legislative session.
- The Managing Director, Board members, and WSAC CMS staff are working together on conference planning for the WSACE Annual Conference this Summer.
- As an example of our continued partnership with the County Road Administration Board (CRAB), the WSACE Board met to provide feedback and input into their Strategic Planning process. The Managing Director attended the CRAB board meeting in January to provide them with an update. CRAB will be presenting at the February WSAC Board meeting regarding their software update project status.
- WSACE staff continues to field questions and requests for information from member counties weekly. They remain increasingly impressed by the number of responses received and the overall effort members put forward to help one another out.

- **Agency Outreach & Presentations**

- So far this winter, the Managing Director has given presentations to the Washington State Transportation Commission, CRAB, and the Joint Transportation Committee (JTC). The topics have ranged from a general WSACE update to presentations regarding our specific transportation and legislative infrastructure priorities.
- The Managing Director and/or WSACE members continue to participate on many boards, committees, and workgroups related to county transportation and infrastructure. Examples with current projects underway include the Capital Projects Advisory Review Board, Fish Barrier Removal Board, UTC's Rail State Action Plan, Washington State Highway Systems Plan Update, Pedestrian and Bicycle Program (PBP) and Safe Routes to School Program (SRTS) Update, and the State Transportation Innovation Council (STIC).

- **Regulatory Issues**

- WSACE continues to track and provide feedback regarding several regulatory issues and processes. We are currently focused on the Department of Ecology's Bridge and Ferry Terminal Washing Permit and are scheduled to attend a stakeholder meeting in February.

- **Legislative Affairs**

- The Managing Director is currently tracking bills and working daily with membership to develop positions and inform legislation to help counties. WSACE continues to pursue the advancement of its' adopted legislative priorities. Those priorities include:
  - Prioritizing Preservation and Maintenance;
  - Increasing State Shared Revenue;
  - Targeting Increases to the Rural Arterial Program and County Arterial Preservation Program;
  - Coordinating and Funding Fish Barrier Removal Projects;
  - Reducing Road Fund Levy Shifts and Diversions; and
  - Creating a Federal Fund Exchange Program
- We have stayed engaged with and are participating in recent discussions regarding a potential Supplemental State Transportation Package.
- A list of current WSACE priority legislation includes:
  - [HB 1870](#): Concerning certain wheeled all-terrain vehicles.

- [SB 5742](#): Concerning stormwater control facilities and county jurisdiction.
- [HB 1948](#): Concerning failing water systems receivership and rehabilitation.
- [HB 2026](#): Implementing a per miles charge on vehicles.
- [HB 1722](#): Concerning the acceleration of broadband deployment (microtrenching).
- [HB 1605](#): Creating a program to provide for improved safety on roadways to prevent vehicle lane departures.
- [SB 5687](#): Addressing certain traffic safety improvements.
- [HB 1595/SB 5673](#): Installing signs on or near bridges to provide information to deter jumping.

## **WSALPHO, Public Health – Jaime Bodden**

### **Budget and 2022 Goals:**

- The WSALPHO Board approved the 2022 budget in November. Like in 2021, and to support stabilizing funding in local health jurisdictions, there was no increase in dues for 2022. Proposed expenses included continuing with contract lobbyist support, additional support to WSPHA's conference and roundtable activities, and additional conference expenses. As it has been two years since WSALPHO has convened for an in-person meeting, WSALPHO staff encouraged an additional meeting that will focus on workforce and professional development.
- Significant 2022 goals include regrouping WSALPHO committees to shift into work plans and statewide issues apart from the pandemic and COVID. Part of this will be revisiting and adjusting 2019 and 2020 work plans to pick up on relevant work and pivot other focus with a post-pandemic mindset. The overarching organizational focus will be on workforce development, including the recruitment and orientation of new public health professionals and leadership development support for current staff. Additional goals include deepening FPHS work to include other public health focus areas such as maternal-child health and chronic disease prevention, expanding local public health data warehouse needs for administrative and policy development, and developing larger county-focused frameworks on climate change, equity, and homelessness.

## **COVID**

- WSAC and WSALPHO continue to convene and connect local public health to the Department of Health's COVID efforts, Governor's Office, healthcare, and federal partners. WSAC's weekly webinars have continued to feature DOH staff that provide COVID-19 updates and NACo staff with federal ARPA updates.
- Local public health response work continues through the Omicron variant, focusing on outbreaks associated with schools, long-term care facilities, and other high-risk settings. As the local resource for guidance interpretation, local public health is also implementing control measures for businesses, daycares, long-term care facilities, and other high-risk settings.
- Local health jurisdictions and WSALPHO are also working with DOH and healthcare partners to address crisis care measures (access to treatment, isolation, quarantine, and care coordination), as statewide cases and rates have increased dramatically with Omicron.

## **Foundational Public Health Services (FPHS)**

- Local health jurisdictions received the first six months of fiscal year 22 FPHS funding in late 2021 as part of the Department of Health's Consolidated Contract. FPHS funds can be used for several expenses from July 1, 2021, through June 30, 2022, outlined in the FPHS statement of work. These include program investments into administrative and infrastructure and reinforcing communicable disease and environmental public health programs. The fiscal year 2022 funds are also approved to help cover COVID and pandemic costs not covered through other funds.
- The concurrence process, which includes the formal funding and distribution agreement between local health jurisdictions, the department of health, and the state health board, will begin in April for additional FPHS funding for the fiscal year starting July 1, 2022.



## Legislative and Policy

### State Board of Health (SBOH) Rulemaking:

- Chapter 246-90 WAC: Local Board of Health Composition
  - The State Board has revised their proposed rule for local board of health expansion and presented an update on public comments received during the informal comment period at their January 2022 meeting.
  - At the February 14 WSAC Assembly meeting, SBOH staff will present the proposed rule and gather feedback from WSAC members to keep counties updated and engaged in the process.
  - The final proposed rule will be presented and heard at the April State Board of Health meeting. A formal public comment period will be held in March.
  - Meanwhile, WSAC and WSALPHO staff are working with policymakers and AIHC to get additional clarity on specific implementation questions and will continue to provide updates to WSAC members.
- Technical Advisory Group to consider COVID-19 for inclusion in WAC 246-105-030
  - The SBOH is given authority to adopt rules which establish the procedural and substantive requirements for full immunization. In 2004, the SBOH convened an Immunizations Advisory Committee to develop criteria to guide their decision-making, including a systematic approach to determine which immunizations are included in their rule.
  - A technical advisory group (TAG) convened in late 2021 to begin working through the criteria developed by the 2004 (and updated in 2017) Immunizations Advisory Council. The TAG will meet again frequently in early 2022 to go through the criteria and bring forth a recommendation for the SBOH to consider at a future meeting. The SBOH remains the authority to adopt all, some, or none of the TAG recommendations.
  - This process will include an opportunity for public comment. Additionally, WSALPHO has two representatives on the TAG by request of the SBOH; a local health officer and a local public health nurse.

### 2022 Session

The session has so far been a less dramatic affair than last year. A few carryover bills are moving quickly through the chambers, including [HB 1074](#), which would assist local government in establishing overdose and suicide fatality review coalitions. However, the more polarizing bills filed last year seem to be off the table as the Legislature focuses on other priorities. A couple of key bills and budget items of note:

- Contain the Spread Request: this is a Department of Health request to fill activities related to the pandemic response, including testing, contact tracing, care coordination, and vaccine administration. This would be funded through ARPA and include local health jurisdiction work support. This request also includes a backfill of local health funding that was taken back in late 2021 due to a lack of state authorization. WSAC and WSALPHO work with budget staff to ensure this backfill is earmarked.
- Micro-enterprise home kitchens: a carryover from the 2021 session, this bill would require local health jurisdictions to regulate home kitchens for commercial use. This bill has several concerns, including regulating private homes, local capacity, and food safety. While not scheduled for action yet, this issue remains of great concern for local health as it sets a dangerous precedent for rolling back key food safety measures.
- Prevention-focused legislation: several bills are geared towards implementing upstream strategies to reduce the impact of chronic disease and illnesses. Often, these bills are “passed” through budget provisos which local health and community partners then implement. Home visiting, a critical program that supports strengthening families, is a great example of this, as is funding our state Safe Routes to School program, which aims to reduce vehicle accidents involving children. [HB 1676](#) aims at reducing youth access to vapor products by increasing consumer costs. [HB 1684](#) outlines requirements for water systems to implement water fluoridation, though it exempts private wells, Group B water systems, and Group A water systems with less than 5,000 connections.
- Access to care: another area of interest to local health is access to care. While not under local public health authority, healthcare access is essential in reducing expensive medical care and treatment and reducing injury and death. Mental and behavioral health access is a legislative priority in this session. There are dozens of bills to increase access, reduce barriers to care and improve the quality and type of care provided. We expect demand for healthcare and public health to respond to behavioral health will increase in the next few years. [HB 1865](#) seeks to address the looming workforce shortage for behavioral health practitioners, taking lessons hard-learned from public health and healthcare shortages in COVID

response. In a similar vein, [SB 5892](#) would establish a pilot geared toward addressing healthcare shortages in rural areas. Another bill of interest to critical access areas and other frontier areas in our state is [HB 1893](#). This bill would allow for EMTs to provide specific medical care under the request of a local or state public health agency. During the pandemic, EMTs have provided COVID vaccines and conducted tests in areas where primary and urgent care is limited.



## **Payroll processing just got easier for NACo Plan Sponsors**

As a Plan Sponsor, you've partnered with Nationwide to support your employees as they work towards their retirement goals.

We believe submitting the information necessary to get your employees on track for retirement shouldn't be difficult, slow, or inconvenient.

Because you're at the center of everything we do, we've built a solution with you in mind: FastPay®, designed around your needs to make submitting payroll, loan repayment, and census information easy, fast, and convenient.

FastPay's intuitive, guided online experience makes creating customized configurations for payroll, loan, and census information easy and reusing them even easier.

No need for a special file format--you can upload any CSV file to FastPay. Simply import your file, configure it to your needs, edit as necessary, and submit. We'll walk you through any issues we see along the way.

Your customized configuration will be ready and waiting for you to reuse the next time you need to send data our way.

Prefer not to import a file? No problem. FastPay makes it easy to copy from a previous detail, or even create a new one.

If you'd like to make a debit ACH payment as part of the payroll submission process, we've got you covered. Add a payment to your submission in a few easy steps. FastPay will store your payment details for you to reuse when making future payments, saving you even more time.

Ready to fast track it to FastPay? For more information on the FastPay features available to you now, or to get started with setup, contact [NRSCTR@nationwide.com](mailto:NRSCTR@nationwide.com) or 1-877-496-1630, option 3.

In the coming months, we will continue to enhance our payroll submission options with even more helpful features. Keep an eye out for future announcements and more details.

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# Program Demographics

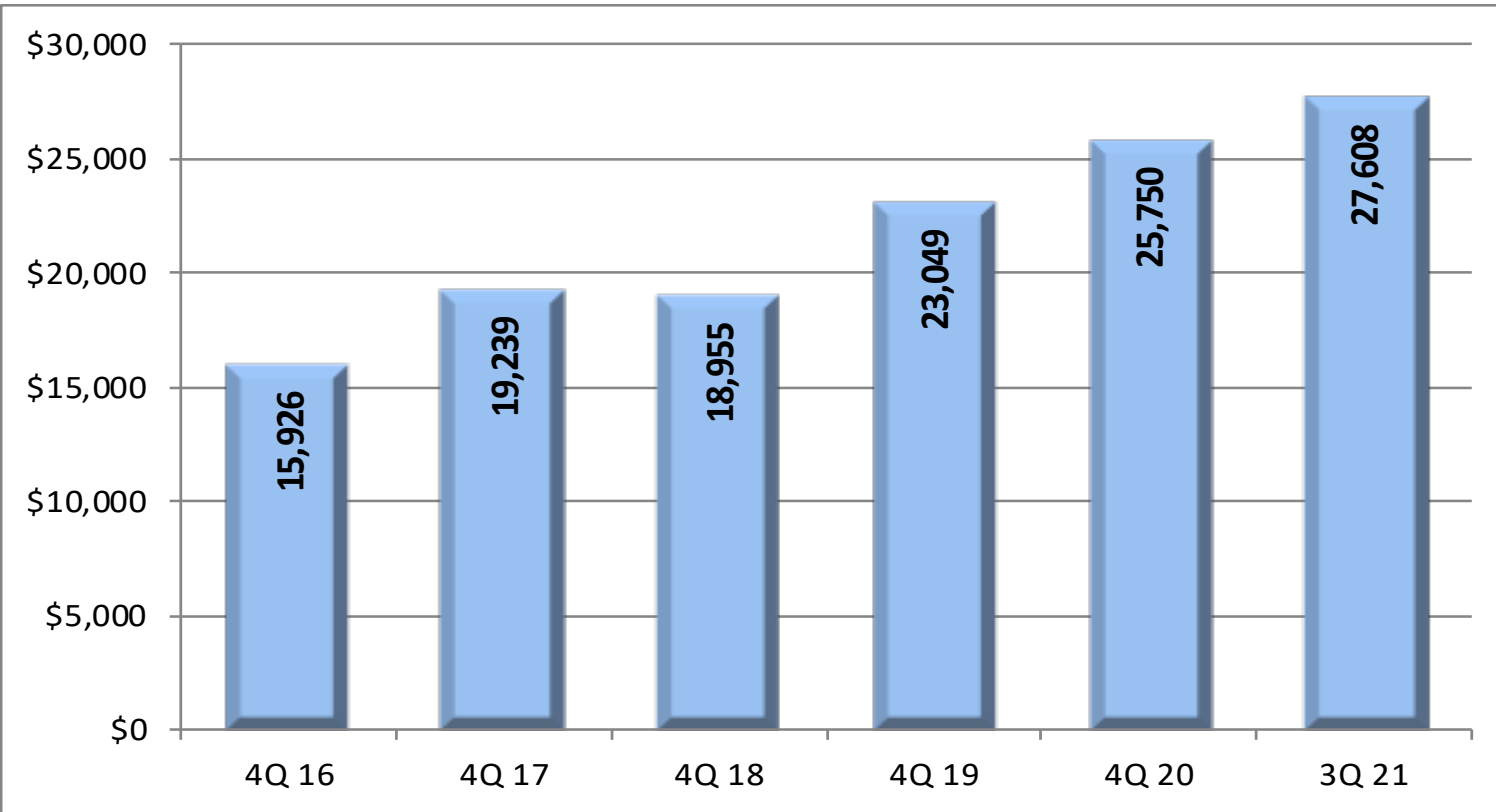
Confidential – For NACo Defined Contribution and Retirement Advisory Committee only

3rd Quarter 2021





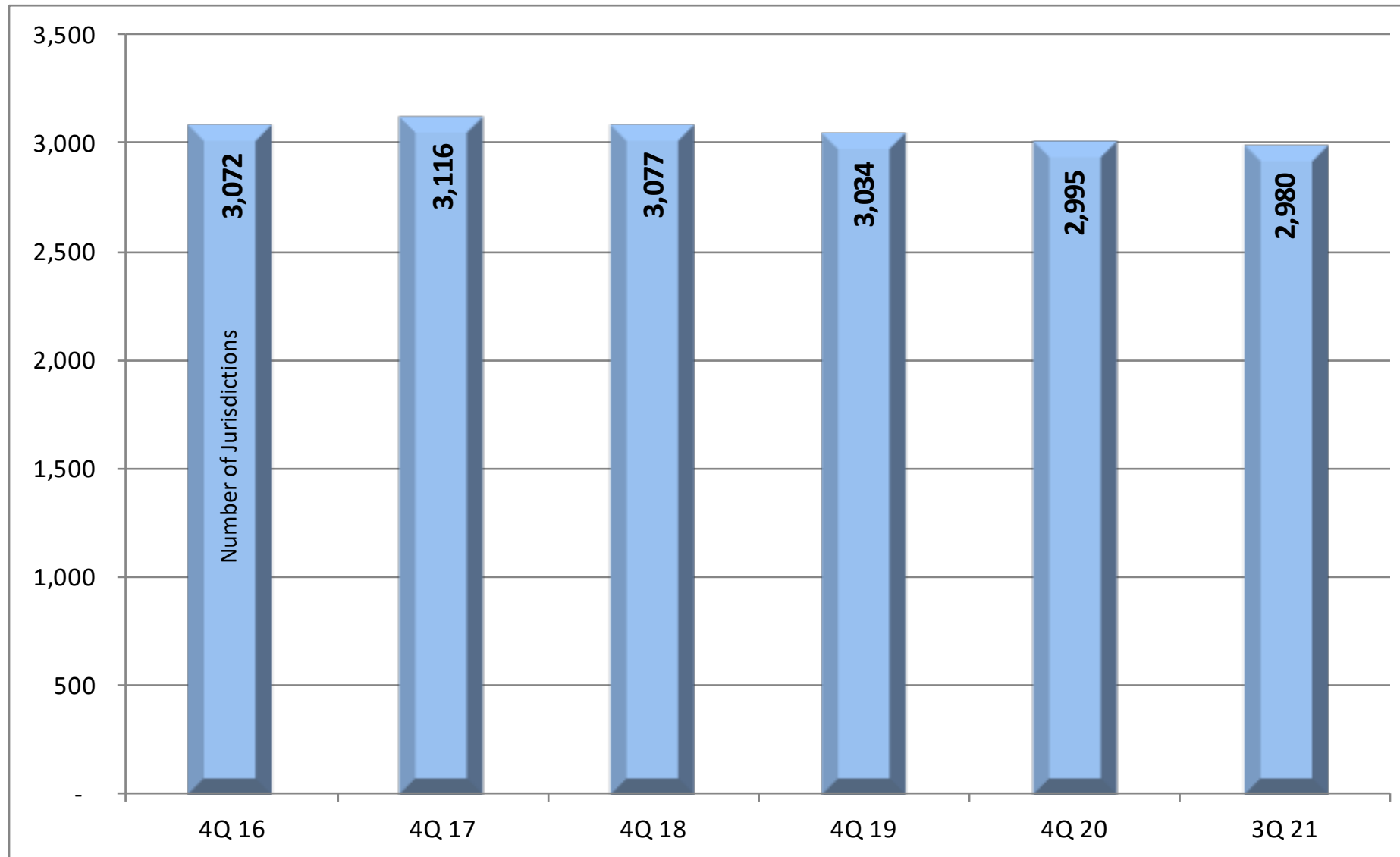
# Assets



Beginning Balance		27,606,209,381
Deferrals	358,034,824	
Transfer In	83,853,321	
Acquisitions	77,267,233	
Total Dollars In		519,155,378
Transfer Out	(3,742,828)	
Terminations	(14,919,987)	
Payouts	(45,499,352)	
Lump Sum Withdrawals	(153,140,827)	
EGTRRA Rollovers	(184,218,492)	
Other Withdrawals	(84,448,455)	
Total Withdrawals		(485,969,940)
Investment Gain/Loss		(31,215,803)
Ending Balance		27,608,179,015

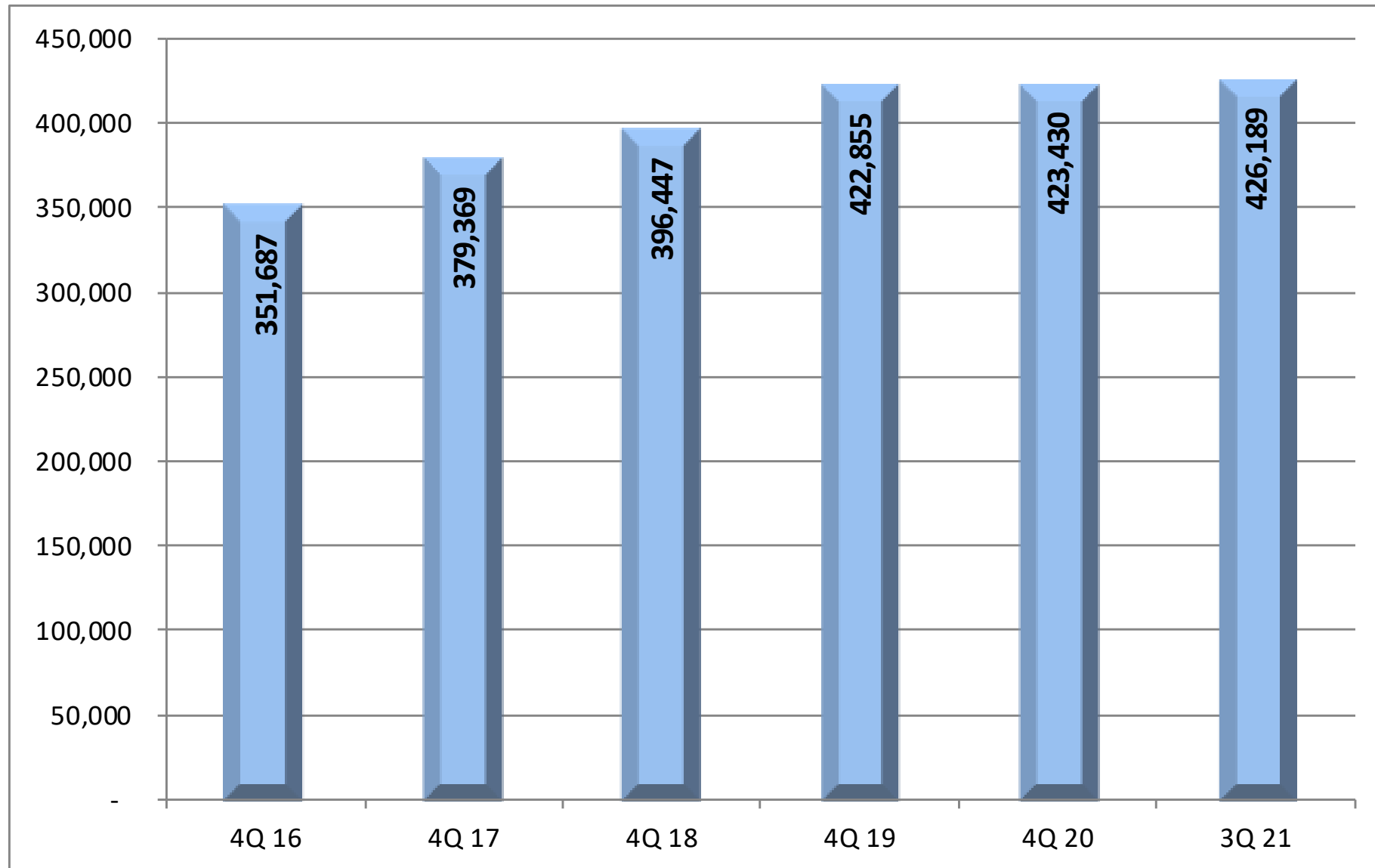
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## Participating Jurisdictions - Total



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## Participants



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# In-plan Guarantees & SECURE Act Guidance

August 2021



# Today, we'll cover:

- Addressing the fears of retirees
- Key SECURE Act provisions & fiduciary responsibilities
- Considerations & next steps



# Addressing the fears of retirees

# Savers today face the perfect storm

A new generation of savers face a unique set of challenges



Market volatility



Eroding confidence in social security



Rising healthcare costs



Longer lifespans

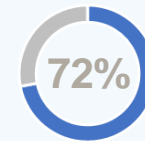
# Addressing the fear of outliving retirement savings

## Setting Every Community Up for Retirement Enhancement Act (SECURE Act)

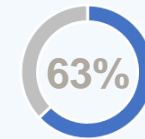
### Primarily designed to:

- Encourage more employers to offer a qualified retirement plan for their employees
- Mitigate challenges in offering guaranteed lifetime income solutions within their investment line-up
- Help address the retirement income challenge

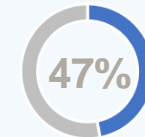
## Investors are worried about their retirement savings



say the COVID-19 pandemic has had a negative impact on how long they are able to live on current retirement savings



expect to require 20 to 30 years of income in retirement



believe they can live off their savings for that long

SOURCE: Nationwide Advisor Authority Survey, June 2020



# Key SECURE Act provisions & fiduciary responsibilities

# SECURE Act opens the door for new opportunities



## Key provisions



New fiduciary safe harbor when selecting guaranteed lifetime income solutions and portability provisions



Annual requirement of lifetime income disclosure for participants

# Fiduciaries want to do right by plan participants



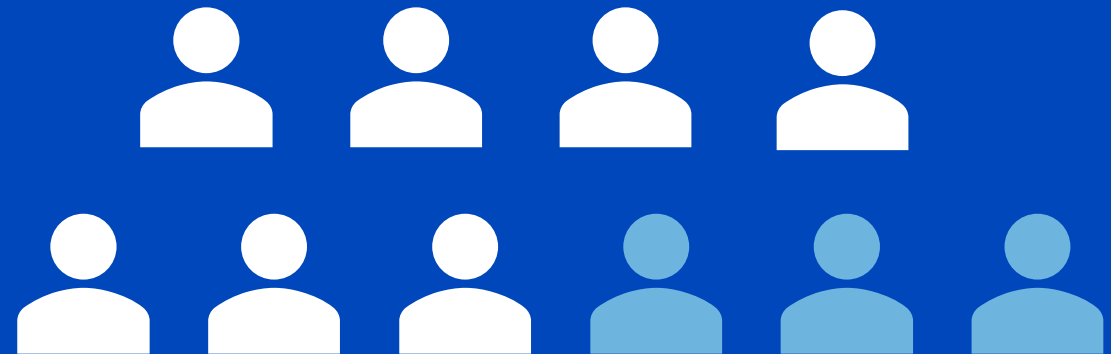
## Historical concerns

Understanding fiduciary responsibility

- ERISA Plans
- Non-ERISA plans (governmental)



## Department of Labor 2008 Safe Harbor



**7 in 10**

employees believe they need  
their employer's help to be  
healthy and financially secure

SOURCE: "2020 Workplace Wellness Study," EBRI, [ebri.org/docs/default-source/ebri-press-release/pr-1270-wws2020-30sept20.pdf](https://ebri.org/docs/default-source/ebri-press-release/pr-1270-wws2020-30sept20.pdf) (Sept. 30, 2020)

# Solutions that can help

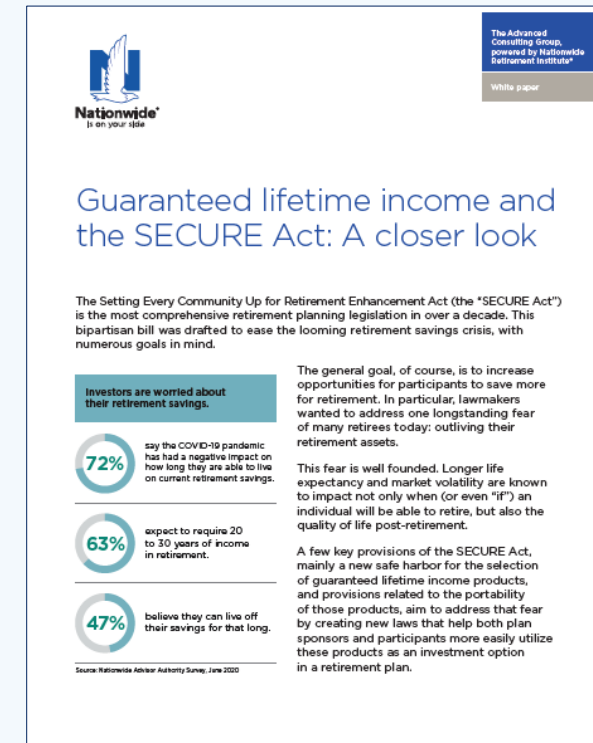
- Guaranteed lifetime income solutions can be added to a retirement plan's investment lineup to help support retirement income security
- Solutions that create a stream of income help address concerns of market and longevity risk



# Breaking down the safe harbor

## Use of the SECURE Act safe harbor provision

- Engage in an objective, thorough, and analytical search for both products and insurers
  - Financial capability of the insurer(s) to satisfy their obligations – at the time of the selection
  - Cost considerations of the product relative to the benefits and features – must be reasonable
- Written affirmations by the insurer that they have the financial capability to meet their obligations
- Insurer affirms that they will notify the plan fiduciary if there is a change in their financial circumstances



Our whitepaper can help you  
break down the key provisions



# Easing administrative challenges for plan fiduciaries

**The new portability provision allows plan participants the ability to maintain their guarantee if:**

- there is a change in recordkeeper
  - or —
- the solution is removed from investment menu



# Shifting the focus from accumulation to decumulation



## **Lifetime income disclosure**

- Must be provided to participants at least one time during a 12-month period
- Requirements:
  1. Account balance
  2. Single life annuity  
(equivalent to the account balance)
  3. Qualified joint and 100% survivor annuity  
(equivalent to the account balance)

# Shifting the focus from accumulation to decumulation

## Case Study: Lifetime income disclosure

Participant X is age 40 and single. Her account balance on December 31, 2022 is \$125,000. The 10-year constant maturity Treasury rate is 1.83% per annum on the first business day of December. The benefit statement of this participant would show:

<b>Current balance:</b>	\$125,000
<b>Single life annuity</b>	\$645 per month for life (assuming Participant X is age 67 on December 31, 2022)
<b>Qualified Joint and 100% Annuity</b>	\$533 per month for participant's life, and \$533 for the life of spouse following participant's death (assuming Participant X and her hypothetical spouse are age 67 on December 1, 2022)



U.S. Department of Labor Employee Benefits Security Administration August 18, 2020 Fact Sheet



# Considerations & next steps

# Taking advantage of the opportunity

## Considerations for Plan Fiduciaries



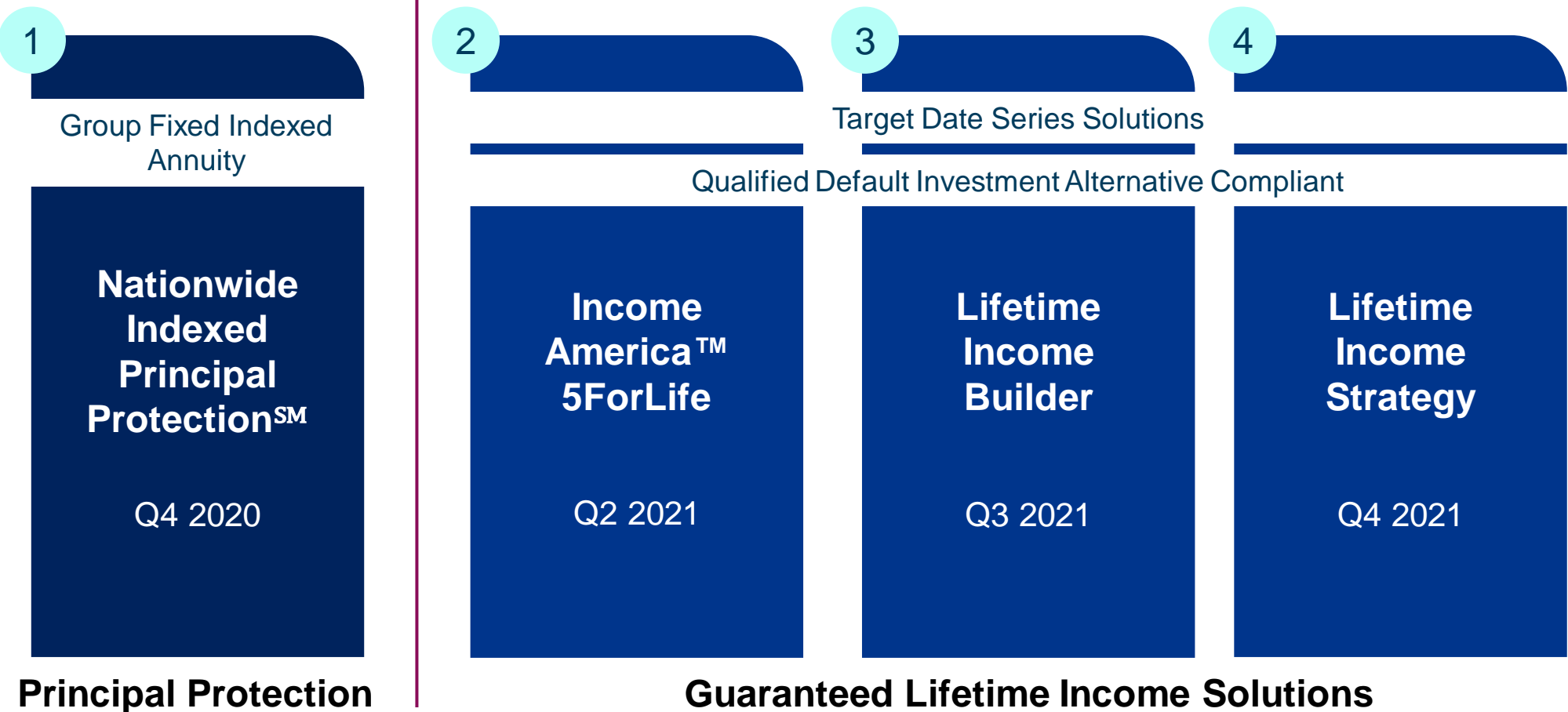
- Participant retirement goals and objectives
- Financial credibility and reputation of the insurer
- Solution features and benefits
- Clear understanding of the guarantee
- Underlying expenses for features, benefits, and surrenders

## Considerations for Plan Participants



- Goals and objectives
- Time horizon
- Overall financial portfolio
- Risk tolerance
- Features and benefits of the solution

# Nationwide delivers the right thing at the right time



# Three key takeaways



**1**

Continue to familiarize yourself with the new safe harbor and portability provisions



**2**

Consider offering plan participants a guaranteed lifetime income solution



**3**

Learn more about in-plan guarantees by calling your Nationwide Representative

# Thank you!

This material is not a recommendation to buy or sell a financial product or to adopt an investment strategy. Investors should discuss their specific situation with their financial professional.

Nationwide Indexed Principal Protection is a group fixed indexed annuity issued by Nationwide Life Insurance Company and held in the general account. Collective Investment Trust Funds may be suitable investments for participants seeking to construct a well-diversified retirement savings program. Investors should consider the investment objectives, risks, charges and expenses of any pooled investment company carefully before investing.

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PNM-16038AO (8/21)



**February 2, 2021**

**TO:** WSAC Board of Directors

**FROM:** Eric Johnson, Executive Director

**PREPARED BY:** Paul Jewell, Policy Director – Water, Land Use, Natural Resources & Environment

**SUBJECT:** Timber Counties Caucus

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### **BACKGROUND**

The Timber Counties Caucus was created as a forum for elected county legislative authority members, Executives, and staff within the 29 timber counties to interact, discuss, engage, and recommend WSAC positions on issues relating to:

- Federal land management;
- Department of Natural Resources Management of state forest lands, including county trust lands;
- Forest Practices Board regulations;
- Wildland fire management and control;
- County relationships with state and federal agencies and other related stakeholders regarding forest land management issues; and
- We provide input to the NACO Public Lands Steering Committee on all issues relevant to Washington's counties.

The 29 Timber Counties include Asotin, Chelan, Clallam, Clark, Columbia, Cowlitz, Ferry, Garfield, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Klickitat, Lewis, Mason, Okanogan, Pacific, Pend Oreille, Pierce, Skagit, Snohomish, Stevens, Thurston, Wahkiakum, Whatcom, & Yakima.

### **CURRENT ACTIVITIES**

- The Timber Counties Caucus met twice in November 2021. At the first meeting on November 9, members received a presentation from AFRC representatives following up on issues related to a previous meeting where the members discussed timber harvest rotations on state trust lands. The second meeting was during the County Leaders Conference in Spokane. Members received updates about TFW Policy, the Forest Practices Board, the Board of Natural Resources, a presentation from the Northeast Washington Forest Collaborative, and spoke with Commissioner of Public Lands Hilary Franz.
- WSAC provided formal comments on the scoping process for DNR's sustainable harvest calculation.
- Eric Johnson, WSAC Executive Director, represented members at a meeting of the TFW Principals, organized by Commissioner of Public Lands Hilary Franz, on December 15, 2021. Participation by various parties was robust. Each principal representative presented their thoughts and suggestions on how the adaptive management process is not meeting its original intent and how to move forward.
- WSAC presented the findings of the Marbled Murrelet Economic Impact Study released in August to a joint legislative work session of the Senate Committee on Agriculture, Water, Natural Resources, & Parks and the House Committee on Rural Development, Agriculture, & Natural Resources on January 14, 2022. Consultants from Mason Bruce & Girard and Highland Economics presented the report's findings and answered questions. A panel including Clallam County Commissioner Randy Johnson and several others also presented their views of the report's findings and responded to questions from legislators.
- Mark Rasmussen, a contractor, represents WSAC on the Sustainable Harvest Calculation Technical Advisory Committee.
- Mark Meleason, a contractor, continues to represent WSAC on the Cooperative Monitoring, Evaluation, and Review (CMER) Committee.

- Court Stanley, a contractor, continues to represent WSAC on the TFW Policy Committee while monitoring the activities of the adaptive management program. Additional information on the TFW Policy Committee:
  - Forest Practices Board (FPB)
    - End of Fish Habitat: The FPB formed a committee and is working on the 20-year unresolved issue of finding the end of fish habitat on the ground. There is a belief by some that current methods to determine the fate of fish habitat are underestimating the actual break. This is important as rules are different for fish habitat vs. non-fish habitat.
    - Np Rulemaking: At the November 2021 board meeting, a motion was passed to initiate rule-making to change the buffer strategy on type Np, or non-fish bearing, streams.
  - TFW Policy Committee
    - Recent reports from the Cooperative Monitoring, Evaluation, and Review (CMER) Committee presented findings that current Np rules caused an increase in stream temperature of approximately 1 degree Celsius.
    - A subcommittee continues working through the recommendations from the State Auditor on the effectiveness of the adaptive management process.
    - The adaptive management process budget development has begun. Counties are working to ensure continued funding for representation.
    - The Washington Forest Protection Association has called for dispute resolution regarding the type Np desktop study.
    - The dispute resolution process involving small forest landowners and the definition of “relatively low impact” remains unresolved.
    - The conservation caucus has called a dispute resolution process regarding type Np buffers and proposed rule changes.
    - The marbled murrelet workgroup continues to review the science on nesting habitat to determine if the current definition of marbled murrelet habitat is adequate.

## **PROGRAM CHALLENGES**

- Environmental organizations have developed a solid effort to stop logging “legacy forests” on state forest lands. Legacy forests are defined as naturally regenerating forests over 60-70 years old. WSAC has been actively recruiting testifiers and providing testimony at the Board of Natural Resources meetings advocating for sustainably harvesting these forests to support rural counties.
- Recent elections in Timber Counties Caucus member counties have resulted in many new caucus members. WSAC staff is developing a comprehensive training program on forest land management and policy issues.

## **2022 ACTIVITIES**

- Continued involvement and representation on CMER, TFW Policy, the Forest Practices Board, and the Board of Natural Resources.
- Continued involvement in any TFW Principals meetings.
- Forest land management and policy issues training program planned for Spring 2022.
- We are following up with legislators on the Marbled Murrelet Economic Impact Study findings.
- Continued work to follow up with DNR on the trust lands performance assessment.
- Monitoring and providing feedback as DNR begins its ten-year sustainable harvest calculation process.

Paul Jewell, Policy Director – Water, Land Use, Natural Resources, & Environment  
 Court Stanley, Contractor – WSAC TFW Policy Committee Representative  
 Mark Meleason, Contractor – WSAC CMER Committee Representative

**February 2, 2021**

**TO:** WSAC Board of Directors

**FROM:** Eric Johnson, Executive Director

**PREPARED BY:** Axel Swanson, Managing Director, Washington State Association of County Engineers

**SUBJECT:** County Transportation Projects and Studies

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### **Program Background**

Each biennium, WSAC has access to a set amount of funding in the state Motor Vehicle Account distributed by the Washington State Department of Transportation. This funding is specifically appropriated in the state Transportation Budget for planned projects and studies designed to benefit county transportation and infrastructure improvements. Whatever funding from the account that is not spent by the end of each biennium is then redistributed back to counties as part of their fuel tax distribution according to RCW 13 46.68.120(3).

The total amount authorized in the 2021 Transportation Budget was \$1,023,000 for three projects:

- **WDFW Culvert Inventory and Assessment Project:** In coordination with stakeholders, identify county-owned fish passage barriers and assess which barriers share the same stream system as state-owned fish passage barriers;
- **CRAB Data Story and Software Update Project:** Streamline and update the county road administration board's data dashboard, county reporting systems, and program management software to provide a more detailed, more transparent, and user-friendly platform for data management, reporting, and research by the public and other interested parties; and
- **County Right-of-way Revenue:** Conduct a study of the use of county road right-of-way as a potential source of revenue for county road operating and maintenance needs with recommendations on their feasibility statewide.

The status of each project is summarized below.

### **WDFW Culvert Inventory and Assessment Project**

#### Project Background

Since 2019 WSAC has been contracting with the Washington State Department of Fish and Wildlife (WDFW) to assist counties in conducting or completing inventories of county-owned culverts blocking (either partially or fully) fish passage. This project aims to help all 39 counties, with priority initially given to the "14 county case area" in preparing for and conducting the inventories. The "case area counties" are included in the "Culverts Case," affirmed by the U.S. Supreme Court in 2018. The state's decision obligates to correct culverts by 2030 under state-owned roads that block fish passage. Although local jurisdictions were not included in the lawsuit, repairing culverts blocking fish passage remains a high priority and obvious challenge for counties.

Last biennium WSAC began the project in April 2019 by sending a questionnaire to all 39 counties. The questionnaire was intended to get a snapshot of the status of culvert inventories. Discussions were then held with case area counties on whether they wanted assistance with inventories and how that assistance could be provided. In the meantime, WSAC entered into a contract with WDFW to provide field crews to conduct inventories upon request. WSAC offered to counties either direct financial assistance of \$50,000 each or the opportunity to have WDFW crews conduct the inventories. Ultimately, only two counties asked for direct financial assistance (Pierce and Mason Counties).



WSAC directed WDFW to begin work and focus on the case area counties. Work started in January 2020 with the signing of the contract between WSAC and WDFW. The contract provided that WDFW would have two field crews engaged in this work. From January 1, 2020, through June 30, 2021, the total contract cost was \$667,000.

As WDFW planned and hired its crews, the Covid-19 shutdowns hit Washington. This resulted in noticeable delays until measures to protect the health of field staff could be developed and implemented. As a result, crews did not get into the field until June 2020.

Contracts were also signed between Mason County and Pierce County to provide them direct payments of \$50,000 each rather than utilizing the WDFW crews in those counties.

Both Mason and Pierce Counties were finally able to get crews in the field and complete the work in their contracts.

#### Current Biennium Progress and Status

The 2021 Transportation Budget brought another opportunity to continue the project and our partnership with WDFW. Another contract was signed on July 1, 2021, and runs through September 30, 2022. The agreement's focus remains the same and is not to exceed \$350,000.

In December, WDFW provided us with an update and summary of their continued work. It includes a status report table summarizing the completed inventory work as part of the county inventory between July 1, 2021 (the beginning of the biennium) and the present. This report includes ownership information and the results of the barrier assessments.

Between July 1 and the present, a crew inventoried Snohomish County until August. Unfortunately, crews had to pause county inventory work this Fall to complete other urgent priorities and only restarted field assessments in December. In that time, they have performed quality checks on completed work, which necessitated some field visits to Kitsap and Thurston counties.

In summary, 216 more county-owned sites have been assessed so far during the current biennium. Of those, 91 were determined to be barriers to fish passage, and approximately 39 of the sites in Kitsap and Thurston Counties still require some additional assessment work. Moving forward, into 2022, completing the work in Kitsap and Thurston Counties will be the priority for crews. In addition, Mason, King, and Pierce Counties have submitted fish passage data to WDFW, and staff has been entering that data into the fish passage database.

Inventories in the case area counties that are participating should be completed in 2022, with work expanding to the rest of the state. If funding is available, we plan to provide the same support to the remaining counties. We will offer either direct funding or WDFW field crews as with the current work.

### **County Road Administration Board (CRAB) Data Story and Software Update Project**

#### Project Background and Status

WSAC is currently assisting the County Road Administration Board (CRAB) with two projects. The first is related to replacing the current grant management software (RAP Online) and county reporting software (CRAB Annual Reporting System (CARS)). The second is a data storytelling project, which will attempt to blend the data CRAB hosts on behalf of counties with better online visualization techniques resulting in a more engaging, accessible, and web-based narrative for the end-user.

#### **Narrative for the first project:**

The RAP Online and CARS replacement project will update CRAB's current grant management software. These two programs were developed in-house at CRAB, and because the programming language used will no longer be supported, these critical programs will soon be obsolete. CRAB is currently developing an RFP to evaluate various commercial off-the-shelf software packages to replace the current system. Essential in the evaluation and selection process will be the ability of the new software to facilitate data transfer to the Data Story Project and help county staff, county legislative authorities, the Legislature, and the public see how counties are utilizing public funds for the operation, maintenance, and improvement of the county road system.

CRAB expects that the RAP Online and CARS Replacement Project RFP will be advertised this month and that the evaluation and selection process will take place in March and April of 2022. The project is set for completion in the first quarter of 2023.

**Narrative for the second project:**

Data storytelling is the practice of blending complex data with human communication to craft an engaging narrative anchored by facts. It uses data visualization techniques (e.g., charts and images) to help convey the meaning of the data in a compelling and relevant way to the audience. Data-driven stories are created by analyzing and filtering large datasets to uncover insights and reveal new or different ways to understand the information. They're tailored to a specific audience and the context they're consumed. This can help communicate information or a point-of-view most effectively while generating the least cognitive load, which affects the mental energy the audience needs to grasp your message and, therefore, impact how well it's received. Using data stories, an interactive web-based interface will be created to convey information that is engaging, informative, and insightful.

CRAB is already working to overlay the Department of Health's health disparity map over CRAB's Rural Arterial Program (RAP), which funds preservation and reconstruction projects on county arterial and collector roads.

CRAB finalized the Data Story Project RFP in January, and it is currently out for review and awaiting responses. It's anticipated that proposals will be reviewed in February and March of 2022, and the project will be completed in the fourth quarter of 2022.

**County Right-of-Way Revenue Project:**

**Project Background**

This project's focus is to conduct a study of the use of county road right-of-way as a potential source of revenue for county road operating and maintenance needs. A vital component will be to evaluate the statewide feasibility of any new method for generating revenue from uses within the county right-of-way. Staff is currently outlining the study, finding partners to help develop the scope, and drafting a Request for Proposals.

**February 2, 2022**

**TO:** WSAC Board of Directors  
**FROM:** Eric Johnson, WSAC Executive Director  
**PREPARED BY:** Brynn Brady, Policy Consultant  
**SUBJECT:** Coastal Counties Caucus

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### **Coastal Counties Caucus**

The Washington State Association of Counties created the Coastal Counties Caucus, comprised of 14 counties bordering Puget Sound, the Strait of Juan de Fuca, and the Pacific Ocean shortly before the creation of the Puget Sound Partnership in 2007. The Caucus created a forum for Counties to interact, engage and recommend WSAC positions on issues relating to the waters of Puget Sound, Hood Canal, and the Pacific Ocean.

Upon the creation of the Puget Sound Partnership (PSP), WSAC immediately agreed with PSP to assure counties were actively engaged, coordinated with, and seen as partners in the protection and restoration of Puget Sound. Through the state operating budget, PSP provided the financial resources to WSAC to manage the coordination, communication, and outreach to County and City elected and appointed officials and coordinating comments on Partnership plans and activities. Through 2016, WSAC and PSP were contractually bound to assure that County and City perspectives and priorities were presented and accurately represented to PSP. Starting in late 2016, PSP no longer had the funds to support this agreement, and the 14 Coastal Counties decided to self-assess a voluntary contribution of \$2500 per county.

### **Program Status**

WSAC has invoiced the 14 coastal counties for the 2022 assessment. The assessment allows the Coastal Caucus program to have greater flexibility to collectively deliver specific county perspectives and priorities directly to the legislature, a level of advocacy that was not permitted under the PSP contract. It also affords the ability to sustain and increase internal communications to members on regular and frequent updates on issues that are unique to the waters of Puget Sound, Hood Canal, and the Pacific Ocean. The assessment would continue the specific work on behalf of the coastal counties and assure that Counties independently deliver a cohesive and consistent message to state agencies and tribal nations beyond just PSP activities.

Appointed in January 2021, Skagit County Commissioner Ron Wesen is the Chair of the Coastal Caucus. The following WSAC members serve on the following Boards or Councils:

- Kate Dean, Jefferson (Leadership Council)
- Ron Wesen, Skagit (Ecosystem Coordinating Board)
- Jamie Stephens, San Juan (Ecosystem Coordinating Board; Salmon Recovery Council)
- Derek Young, Pierce (Ecosystem Coordinating Board)
- Charlotte Garrido, Kitsap (Ecosystem Coordinating Board)
- Dow Constantine, King (Ecosystem Coordinating Board)
- Dave Somers, Snohomish (Ecosystem Coordinating Board)

- Vacant (**WSAC representative Ecosystem Coordinating Board**)
- Janet St. Clair, Island (Salmon Recovery Council, Ecosystem Coordinating Board)
- Tye Menser, Thurston (Salmon Recovery Council)
- Megan Dunn, Snohomish (WSAC representative Salmon Recovery Council)
- \* Several other WSAC members serve as alternates on these Boards/Councils

In 2021, the following items were accomplished to ensure coastal county interests and priorities were brought forward to the coastal counties, Legislative Steering Committee, state and federal agencies, Tribal Nations, and other key stakeholders:

- Supported WSAC members serving on Puget Sound Partnership (PSP) Boards and Councils
- Represented and/or coordinated representation in PSP meetings and other state efforts that impact communities along the Puget Sound and Pacific coast
- Monitored and reported on PSP efforts that involved county policy interests to WSAC policy staff and the CC members, including discussions of the Ecosystem Coordination Board land-use subcommittee and development of the Governor and state agency legislative priorities.
- Monitored and reported on Puget Sound Partnership efforts that involved county policy interests to WSAC policy staff and the Counties Coastal Caucus including the 2022-2026 Action Agenda Update and continuation of the Southern Resident Killer Whale Task Force recommendations (“net ecological gain”).
- Planned and coordinated the annual meeting for the WSAC Leaders Conference to include peer-to-peer information sharing and engagement with state legislators.
- Prioritized Puget Sound Recovery and Protection in WSAC Federal Issues Agenda

Continuing efforts that began in 2019, some Southern Resident Killer Whale Task Force recommendations continue to advance, precisely the net ecological gain policy. A proposal carried over from the 2021 legislative session would apply net ecological principles into the growth management planning framework. It is anticipated that a variety of matters will need County attention during the legislative session and beyond, including standardizing riparian buffer widths, voluntary stewardship programs, increasing environmental standards, integrating salmon recovery in the GMA, and prioritizing fish barrier removal projects.

Additionally, the ECB will continue to work through a Land Use subcommittee to better understand land use decisions that impact or enhance salmon recovery efforts. Specifically, they have identified the following for taking a leadership role:

- Improving the development and implementation of land use policy primarily through increasing support for, and tools available to, local governments
- Work to identify businesses within ECB member networks that could take on a pilot project from the Water 100 prioritized list - and look for opportunities for ECB caucuses to support those pilots

The Coastal Caucus will also be interested in the work plan priorities being planned for the Salmon Recovery Council, including:

- Determining whether existing Chinook recovery priorities are the most effective and efficient means of advancing salmon recovery efforts and revising them if necessary.
- Advancing policy recommendations articulated in the Chinook Implementation Strategy (Bold Actions) as a means of accelerating Puget Sound salmon recovery efforts
- Processing and understanding the results of State/Tribal Riparian Work Group and assist implementation where appropriate
- Leveraging existing funding sources by pursuing enhancements and better integration of salmon recovery priorities

**February 2, 2021**

**TO:** WSAC Board of Directors

**FROM:** Eric Johnson, Executive Director

**PREPARED BY:** Paul Jewell, Policy Director – Water, Land Use, Natural Resources & Environment

**SUBJECT:** Columbia River Program

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## **BACKGROUND**

The Columbia River Basin Water Supply Development Program was initiated by the state Legislature in 2006. The program aims to seek out and develop a new water supply in eastern Washington. New water supplies are intended for both in-stream and out-of-stream use; water from projects funded by the program is allocated 1/3 for in-stream use and 2/3 for out-of-stream use.

WSAC receives funding from the Department of Ecology to provide staff support to eastern Washington county commissioners (above the Bonneville Dam per statute). This allows commissioners to participate as full partners in the program. Part of the funding is used for staff support for county participation. General program activities include:

- Organizing quarterly meetings of county commissioners (called the Columbia River Caucus);
- Assisting the four commissioners who are county members of the overall Columbia River Policy Advisory Group (CR-PAG); and
- Serving as a point of contact for county commissioners and staff about Columbia River issues.

The Columbia River program was authorized for a ten-year life, beginning in 2006. The legislature authorized \$200 million in state bonding capacity for implementation. This original funding was fully allocated by the end of the 15-17 biennium (June 30, 2017). Since then, the Office of Columbia River (OCR) has requested and (and primarily received) appropriations for each biennium for specific projects.

## **CURRENT ACTIVITIES**

- We continue to follow how negotiations between the U.S. and Canada (the Columbia River Treaty); may affect the provision of additional water supply.
- We continue to ensure that counties have a voice in Ecology's management of the CR Program.
- Caucus members met during the County Leaders Conference in November. They heard from Jill Smail, Lead Negotiator for the Columbia River Treaty, U.S. Department of State, about Canada's ongoing negotiations. Members also received a program update from Tom Tebb, Director of the Office of Columbia River, Washington State Department of Ecology, and updates on the water banking pilot grant program and the ongoing drought situation.
- Quarterly meetings of the Commissioners' PAG continue to be held and are vital in ensuring a flow of information both to county commissioners and from them to the CR-PAG and the Department of Ecology.
- Regular discussions and meetings with the Director of the Office of Columbia River occur several times a year.

## **PROGRAM CHALLENGES**

- As noted earlier, the original allocation of \$200 million for the CR Program was fully allocated by June 2017. OCR requested a new authorization of \$300 million for the subsequent biennium, which was not granted. Instead, further funding is asked for each biennium for a smaller specific slate of projects. To date, this has been a successful approach for continued funding (which most stakeholders agree is needed). WSAC will need to track this.
- The U.S. Department of State has been engaging with Canada about revising the Columbia River Treaty during 2019, and these meetings are continuing in 2022. Counties continue to hope that the possibility of increasing water supply will be included as a topic of negotiation.
- Significant turnover in County Commissioner members across Caucus Member counties has resulted in a larger than the usual number of new members. Training on the background and history of the program and Washington water law, water rights, water management, and ongoing and emerging issues will be necessary to get new members up to speed.

## **2022 ACTIVITIES**

- Continued involvement to implement the current CR Program and support requests for funding continued project work.
- Monitoring and engaging in deliberations around the Columbia River Treaty.
- We are developing and implementing a comprehensive training program for new Caucus members.

**February 2, 2021**

**TO:** WSAC Board of Directors

**FROM:** Eric Johnson, Executive Director

**PREPARED BY:** Paul Jewell, Policy Director – Water, Land Use, Natural Resources & Environment

**SUBJECT:** Soil Bank Feasibility Study and Model Code Development Project

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### **BACKGROUND**

The Legacy Pesticides Working Group (LPWG), convened by the Department of Ecology, met from February 2020 to December 2020 to address the problem of soil on former orchard lands contaminated by lead and arsenic in certain central Washington counties. Lead arsenate pesticides were widely used on certain tree fruit orchards in Yakima, Chelan, Douglas, Okanogan, and parts of Benton counties between 1900 and 1950. Unfortunately, the resulting lead and arsenic levels in soils on some lands exceed the limits of state toxic materials. When these lands are converted to new uses, state law requires the contamination levels exceeding state standards to be remediated to protect human health and the environment.

The LPWG developed a model remedy to create a process for all potential properties to be evaluated, notify buyers and/or current homeowners about the specifics of contamination on their property, and identify actions that meet Ecology's cleanup regulations to create public education and outreach strategy.

During the 2021 legislative session, the state appropriated funding to Ecology to hire a third-party consultant to conduct a feasibility study on the creation and operation of soil banks to provide clean, replacement soils as one of the alternatives to comply with the model remedy. The soil bank feasibility study will consider where they should be located, what type of business models are feasible for operations, the location and volume of clean soils, the potential for cleaning contaminated soils, and alternatives for contaminated soil disposal.

There are numerous ways to implement the model remedy. However, to implement it effectively in the most efficient manner, it may need to be incorporated into local government permit review processes and development codes. Funding was also provided to develop model codes and processes for local governments to utilize if they choose.

Ecology contracted with WSAC to manage and complete the project. The project should be completed by June 30, 2023.

### **CURRENT ACTIVITIES**

- Ecology and WSAC agreed to contract terms for the project in November 2021.
- WSAC selected Maul Foster & Alogni, Inc. and Oneza & Associates to assist with the project.
- WSAC and the contractors are currently finalizing the contract for services.
- Regular discussions and meetings with the Director of the Office of Columbia River occur several times

### **2022 ACTIVITIES**

- The contractor will begin the research necessary to meet the deliverables in February 2022.
- WSAC, Ecology, and the contractor will meet with the Lead and Arsenic Working Group in March or April 2022 to move the project forward. Lead and Arsenic Working Group will include local county officials and planners.