



Washington State  
Association of Counties

## 2011 Legislative Session Report

This Legislative Session Report provides an overview and summary of the 2011 Regular and Special sessions, including budgets and key legislation impacting counties. This is designed to compliment the weekly Legislative Bulletins sent throughout the regular and special sessions (please note, past Bulletin issues are available on WSAC's website). If you have any questions about the information herein, please contact us and we will be glad to assist you.



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## A Message from President Koster



The 2011 Regular and Special Legislative Sessions have just recently concluded and yet preparations are already well underway to build on the successes of these past sessions and revisit the areas in which there is more work to be done. Heading into this session, counties were acutely aware of the serious challenges, both fiscally and legislatively, facing local governments as well as the State. With that in mind the WSAC membership approved a legislative strategy that was practical, pragmatic and centered around good government policies. The result was very successful sessions both in terms of the legislation and policies we promoted and the defeat of efforts that would have been harmful to counties.

The amazing participation by the membership, the guidance and direction provided by the Legislative Steering Committee (LSC), and the assiduous efforts by your Association staff, worked in tandem to generate the successes highlighted throughout this report. I offer my sincerest thanks to our Association members and staff as well as the single-county lobbyist family for all you did and continue to do on behalf of Washington's counties. Additionally, I greatly appreciate the cooperation and coordination with the Cities, our successes were improved by that partnership. Thanks also to our partners at the State and our affiliates.

Great challenges and great opportunities lay ahead and I am confident we are well positioned to continue to achieve our policy goals while providing the highest level of service possible to our members and the citizens we serve.

Sincerely yours,

A handwritten signature in black ink that reads "John Koster". The signature is written in a cursive, flowing style.

Councilmember John Koster  
WSAC President

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## Session Tenor

On January 10th, the 2011 Legislative Session began. The primary order of business was tackling the increasingly difficult fiscal situation and making the substantial policy changes necessary to implement the biennial budgets. A number of factors made this Legislative Session unique, including a significant number of freshman legislators, a renewed bi-partisan spirit in the Senate and the "roadkill caucus."

The November 2010 election resulted in a new power dynamic, particularly in the Senate. While the Democrats retained the majority in the House, Senate, and the Governor's Office, the Republicans gained a number of seats in the two legislative chambers. In the House, the Democrats have 56 seats, while the Republicans have 42 seats. In the Senate, the Democrats have 27 seats and Republicans have 22 seats. The close margins between Democrats and Republicans led to increased bi-partisan collaboration. For the first time in decades, the Senate approved a budget proposal with full bi-partisan support. This bi-partisanship was also reflected in a number of policy bills that passed the Legislature.

Both the House and the Senate had new committee members that dealt with general local government issues. For the first time, in a long time, committees seemed genuinely interested in helping solve local government problems. It helped that most of the committee members had local government experience. A word of thanks to Senator Pridemore and Senator Swecker for their leadership with the Senate Government Operations and Tribal Relations Committee as well as to Representative Takko and Representative Angel for the leadership with the House Local Government Committee.

Thanks as well to our Legislation Champions: Larry Springer, Katrina Asay, Mary Margaret Haugen, Judy Clibborn, Jim Hargrove, Ed Murray, Kevin Ranker, Ross Hunter and Mike Armstrong. Their help on local government issues was indispensable.

With the Legislature unable to complete their work in the allotted 105 days, the Governor called a Special Session which lasted an additional 30 days, ending on May 25th. Governor Gregoire signed the final pieces of legislation on June 15.



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# WSAC 2011 Legislative Agenda

1. Maximize Limited Resources
2. Support Economic Recovery
3. Control the Costs of Providing Services
4. Maintain Essential State Financial Assistance
5. Provide New Local Revenue Authority
6. Help Keep Communities Safe

## Major Policy Achievements

- Secured the ability to use the REET for operation and maintenance expenses for six years.
- Secured additional time for shoreline management act and growth management act updates.
- Secured the ability for judicial discretion to reduce public records penalties to zero.
- Reduced personnel costs by repealing automatic COLAs for PERS 1 retirees.
- Secured flexibility for the Prosecutor to divert DWLS 3 cases prior to filing.
- Minimal reductions to the state shared revenues.
- Retained funding for infrastructure programs.
- Secured funding for a new 144 car ferry boat.
- Secured a sales tax emption on fuel purchased for county operated ferries.
- Resolved a long standing problem with forest conversions.
- Minimized budget reductions to key programs that affect counties.

## Disappointments

- The inability to secure additional flexibility with the existing property tax levies.
- No new local revenue authorities.
- The ability to use modern and less expensive technology for legal notices.
- The lack of a statewide safe disposal program for unwanted medicines.
- The inability to get any reforms for SEPA and HPAs.
- The inability to reform binding interest arbitration.



## Bills, Bills and More Bills

Your WSAC staff reviewed and tracked hundreds of bills that impacted counties in some form or another.

Some stats from for 2011:

- 1347 bills introduced in the House in 2011
- 1265 bills introduced in the Senate in 2011
- 449 passed the Legislature in 2011
- The Governor vetoed 1 bill and partially vetoed 34

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## Budgets

Please note, a comparative budget highlights document is available on WSAC's website.

### Operating Budget

Heading into 2011, we all knew this session was going to be even more difficult than last year's session because of the projected revenue shortfall for the operating budget. After reducing the 2010 budget by \$2.8 billion, the 2011-13 budget needed an additional \$4.9 billion reduction. Over the last three years, the operating budget has been reduced by \$10 billion. This dramatic declines required the legislature and the Governor to make some very difficult decisions.

We were able to work early and often with the Governor's office on her proposed budget. She listened to our concerns and ideas and her proposed budget treated local governments very well compared to others. We thank her for listening to us.

Both the House and Senate budget writers provided the same open door to us. The final adopted budget made some minor reductions compared to the dramatic reductions in other areas. Our thanks to the "gang of eight" budget team for listening to our ideas and concerns.

### Capital Budget

The state's Capital Budget typically funds construction projects throughout the state using bonds and cash accounts. The amount that the state is allowed to take out in bonds is directly linked to available revenue. On years when revenue in the Operating Budget is low (such as this year), the state's bonding capacity is also reduced. This means that the 2011-13 Capital Budget is less than previous years.

Typically, the Capital Budget is introduced as one bill, it then has a bond bill as a separate piece of legislation that finances the Capital Budget. However, this year, the House Capital Budget has been divided into two bills. One bill includes projects that are only funded with bond proceeds, while a second bill allocates the cash accounts.

### Transportation Budget

The Transportation Budget is the only budget that the Legislature approved during the regular Legislative Session. This budget is largely funded through gas tax revenues and fees. However, revenue from the last gas tax increase was allocated for projects already under construction. In order to fund new transportation projects, the state will need to generate additional revenue. At the beginning of the Legislative Session, a great deal of discussion occurred about whether a new transportation revenue proposal could be approved by the Legislature and sent to the voters this coming November. The Governor and the four corners will kick off this discussion over the summer and they are asking local governments to participate.



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# General Government

The Legislature spent a considerable amount of time negotiating on several bills to reform state government, eliminate boards and commissions, consolidate agencies and privatizing the state run liquor system.

They were able to reach an agreement on a bill that consolidates several agencies into a new Department of Enterprise Services. The agencies consolidated include: Personnel, State Printer, Information Services and General Administration.

There were a few bills dealing with the liquor system, WSAC worked diligently with the Legislature to ensure local governments share of the income from taxes and profits stayed intact.

## **ESHB 1478: Delaying or Modifying Certain Regulatory and Statutory Requirements Affecting Cities and Counties**

This bill was a joint request from counties and cities. The bill started out with many components to provide some sort of fiscal relief. It took a lot of work and negotiations to get it passed. The final compromise required a conference committee to sort out the final bill.

- Extends the timeframe for future GMA and SMA updates from 7 years to 8
- Extends the buildable land updates to every eight years and adjust the due date to be 1 year before the comprehensive plan update
- Allows impact fees to be held for 10 years instead of 6
- Delays the requirement to convert fleets to biofuels or electric until 2018
- Delays the requirement for counties to conduct a performance assessment for certain housing programs;
- Delays the new storm water permit for 1 year for Phase 2 jurisdictions
- Sets a benchmark for Ecology to review and approve SMPs within 180 days; and
- Delays the requirement for Ecology and DOH to adopt reclaimed water rules for 1 year

## **ESSB 5834: Permitting Counties to Direct an Existing Portion of Local Lodging Taxes to Programs for Arts, Culture, Heritage, Tourism, and Housing**

This was the last bill passed by the Legislature and was a top priority of King County.

- The 40 percent distribution of King County's hotel-motel tax to arts and heritage programs is no longer distributed to the endowment fund, and the endowment fund principle may be used
- At the time the bonds used to pay for the repairs to the Kingdome are retired, the county hotel-motel tax will be distributed into the account dedicated to the arts, culture, and heritage programs until December 31, 2015
- Beginning January 1, 2021, at least 37.5 percent of the county hotel-motel tax revenues will be distributed to the account dedicated to art museums, cultural museums, heritage museums, the arts, and performing arts
- Beginning January 1, 2021, at least 37.5 percent of the county hotel-motel tax revenues will be distributed for affordable workforce housing and services for homeless youth
- Yakima County can continue to receive hotel/motel tax distributions from within the city of Yakima until 2035. The requirement that Yakima County must do a financial audit of organizations that receive funding from the lodging tax is removed

## **ESSB 5942: Concerning the Warehousing and Distribution of Liquor, Including the Lease and Modernization of the State's Liquor Warehousing and Distribution Facilities.**

- The Office of Financial Management (OFM) will conduct a procurement process for the state's liquor warehousing and distribution system to private sector entities
- OFM will select an entity that provides a proposal that will be in the best interest of the state and local government, which is defined in the bill, after receiving input from the Liquor Advisory Committee (made up of the State Treasurer and the four major caucuses of the Legislature), the Liquor Control Board, the fiscal committees of the Legislature, local government and the public. & Means May 27
- If no proposal is deemed to meet the best interest of the state, a proposal does not have to be chosen



## Labor, Pensions & Worker Compensation

One of the major policy disagreements this session was how to, if at all, reform the workers compensation system. The Senate sent a bill, with a bipartisan vote, over to the House in March and the House policy committee did not even hold a hearing on the bill. During special session, the Governor helped broker an agreement between the House and the Senate in order to break the budget logjam.

- **HB 2123: Addressing the Workers Compensation System.** The compromise bill has a projected cost savings of almost a billion dollars over four years and includes:
  - Washington stay-at-work wage assistance program;
  - A study of occupational disease claims, which could lead to future reforms;
  - One-year cost-of-living adjustment (COLA) freeze;
  - Offsets for prior disability awards; and
  - Optional claim-resolution structured settlements available for workers age 55 and older beginning in 2012; age 53 and older in 2015; and age 50 and older in 2016.
- **HB 1091: Modifying the Unemployment System.** The Governor introduced this bill to reduce or cap the shared cost portion of unemployment insurance taxes by drawing down the healthy fund. The enacted bill caps the formula that determines the social costs factors and this will help employers save money. It also provides for an additional training benefit and a limited benefit increase for employees. Several pension bills were introduced and two that passed are of interest to local governments.
- **HB 2070: Determining the Annual Salary for Pension Purposes for State and Local Government Employers as Certified by the Employer.** Allows pensions to be based on salaries earned during the 2011-13 biennium will not be reduced by compensation forgone by a member due to reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the measures are an integral part of a state or local government employer's expenditure reduction efforts. Both AWC and WSAC supported the bill because it can help in future collective bargaining negotiations.
- **SHB 2021: Limiting the Annual COLA Increase in PERS 1 and TRS 1.** Eliminates future retirement allowance increases for the Public Employees' and Teachers' Retirement Systems Plan 1 (PERS 1 and TRS 1) through the Uniform Cost-of-Living Adjustment 2010 Benefit, except for retirees who qualify for the basic minimum benefit. Increases the alternative at least 25 years and have at least 20 years of services or have been retired for at least 20 years and have at minimum benefit in PERS 1 and TRS 1 for members who either have been retired for least 25 years of service by about \$300 per month to \$1,500 per month, increasing by 3 percent per year thereafter. The bill will save local governments about \$200 million next biennium and will grow over time.
- **SSB 5354: Expanding Presumptive Disease.** The bill would have included heart problems and strokes as presumptions of occupational disease for law enforcement officers and firefighters. WSAC worked with the cities and the self-insurers against the bill.

## Public Records

WSAC Staff, in partnership with the Association of Washington Cities, the Washington State Public Ports Association, and many other local government associations worked diligently this session to promote commonsense public records legislation that help taxpayers and local governments. The newspapers fought us every step of the way, but we nevertheless were successful in getting three proactive pieces of legislation signed into law:

### **HB 1899: Good Faith Provisions for Public Records Violations.**

Allows the court the discretion to award no daily penalties for a public records violation, without increasing the maximum penalty.

### **SB 5025: Prohibiting Inmates from Getting PRA Penalties.**

Prohibits a court from awarding penalties for an agency's failure to provide records to a person serving a criminal sentence, unless the records were denied in bad faith.

### **SB 5098: Protecting Youth Information**

Exempts personal information about participants in community programs from public disclosure.



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## Land Use

Land use was one area where the state's budget problem was not necessarily the primary focus for the 2011 legislature, and a surprising number of policy bills were considered as a result. WSAC reminded the legislature at every opportunity that counties are also struggling to respond to the impacts of the recession, including diminished resources for local land use planning responsibilities.

Even with the focus on non-budget related items, two land use related programs were impacted by the budget. The first was the continued reduction of funding for local government growth management grants. The Department of Commerce's budget was reduced in this area by an additional \$786,000. When combined with reductions from past biennia, this reduction nearly eliminates these grants. In the second area, the budget continues to provide increased resources for the Department of Ecology to speed up the review and approval of Shoreline Master Programs (SMP's). For the second biennium in a row, Ecology received \$3.6 million above the prior baseline for this activity. It is clear that the state is currently placing a high value on completion of SMP updates, and is not expecting much effort to be spent at the local level for the review and update of comprehensive plans under the Growth Management Act (GMA).

The 2011 session did see a considerable amount of activity on bills in the land use area.

WSAC staff spent a considerable amount of time this session working for the passage of legislation (**HB 1952**) that would streamline review under the State Environmental Policy Act (SEPA) by raising categorical exemptions. The ideas in the bill were the result of conversations between city and county planners and the Governor's Office of Regulatory Assistance, and was included in the WSAC legislative agenda. The planners argued that SEPA streamlining was warranted given the fact that around 90% of SEPA reviews result in marginal environmental benefit. Given the fact that the statute is 40 years old, it seemed appropriate to discuss ways to focus limited resources onto projects that were most likely to need environmental review. Despite an extremely effective champion in Representative Dave Upthegrove, the bill received criticism from the environmental community, and was undercut by state agency staff. Legislative leaders have indicated a desire to work on this issue next session.

The segments of the county and city fiscal relief bill (**HB 1478**) dealing with land use issues met a happier fate. The bill was under negotiation for the entire session, and in the end included provisions that extend the update timelines for Shoreline Master Programs (SMP) to 10 years, requires the Department of Ecology to strive to approve or deny an SMP within 180 days of submittal, and extend the review and update cycle under the GMA to 8 years. The bill also changed the frequency of the buildable lands report, which will now be required one year prior to a county's statutorily mandated review of its comprehensive plan.

**HB 1886: Implementing the Recommendations of the Ruckelshaus Center Process**, which relates to critical area ordinances associated with agricultural activities, was enacted. This legislation allows counties to opt-in to a voluntary stewardship program to protect critical areas associated with agricultural activities as an alternative to establishing GMA critical area regulations to protect and regulate agriculture activities. Along with the farming and environmental communities, WSAC had spent over three years negotiating these issues and supported passage of the bill.

Three other notable bills were approved:

- **SB 5192: Concerning Provisions for Notifications and Appeals Timelines Under the Shoreline Management Act.** The Department of Ecology, with WSAC's support, was successful in advocating for legislation that provided clarity for the appeals process under the Shoreline Management Act.
- **SB 5253: Concerning Tax Increment Financing for Landscape Conservation and Local Infrastructure.** This bill, supported by the Cascade Land Conservancy, provided tax increment financing authority for landscape conservation and transfer of development programs. The new authority is most likely to be used in King County, but may set a precedent for other areas.
- **SB 5451: Concerning Shoreline Structures in a Master Program Adopted Under the Shoreline Management Act.** Allows amended shoreline master programs (SMP) to consider shoreline structures that were completed or vested before approval of the new SMP a conforming use. WSAC supported this legislation.

As is typical in the land use arena, there were many bills introduced that required significant effort from WSAC staff, but that did not pass. These included:

- **HB 1013: Requiring Notice to Property Owners When a County, City, or Town Modifies its Zoning Requirements.** This would have required counties and cities to ensure that they provide written notice to property owners before rezoning any property. The measure, sponsored by Representative Jan Angel, was opposed by WSAC. The bill would have unnecessarily tied elected county officials hands by imposing the manner in which they provide notice to landowners, costing tens of thousands of dollars in many instances. WSAC opposed the bill because it would have added significant costs to counties.



## Land Use Continued...

- **HB 1088: Limiting the Moratoria Authority of Counties and Cities in the Ordinary Course of Comprehensive Plan and Shoreline Master Program Amendment Processes.** This legislation would have prohibited a local government, in exercising moratoria authority, from adopting one or more consecutive moratoria during a comprehensive plan or shoreline master program amendment process. Representative Angel's intention behind the bill was to prevent "rolling moratoria" under the Growth Management Act (GMA) and Shoreline Management Act (SMA), though the bill arguably would have prohibited all moratoria. WSAC opposed this measure because it would reduce local options in the land use planning process.
- **HB 1094: Providing a Process for County Legislative Authorities to Withdraw from Voluntary Planning Under the GMA.** This bill was supported by WSAC and would have allowed Ferry, Pend Oreille, Columbia, and Garfield counties to opt-out of the requirement to fully plan under the GMA. WSAC has a policy of supporting legislation that provides counties with local options, and this bill was consistent with that policy. Despite significant environmental opposition, the bill was passed by the House, but could not make it out of the Senate.
- **HB 1265: Addressing Land Use Planning in Qualifying Unincorporated Portions of Urban Growth Areas.** This bill was aimed at the conflict between Snohomish County and the City of Shoreline over the Point Wells development proposal. It would have required a county and a city in specific circumstances to assume the role of co-lead agencies under the State Environmental Policy Act, and would give the city responsibility for the transportation element of the SEPA analysis.
- **HB 1335: Establishing a Process to Support Local Jurisdictions that have Made Outstanding Progress in Implementing the GMA.** This measure directed the Department of Commerce to establish a process and criteria by which entities that consistently achieve outstanding progress in implementing the Growth Management act could qualify for additional points in competitive scoring of grant and loan programs that are used to help local communities carry out their obligations under the act. In opposing the bill, WSAC staff illustrated that the effect would be to make it more difficult for the counties that need grant funding the most.
- **HB 1662: Specifying Circumstances Under which Work Outside a Shoreland Area may Commence in Advance of the Issuance of a Shoreline Permit.** This bill modified the SMA to allow for construction work outside the shoreland area to commence in advance of the issuance of a shoreline permit.
- **HB 1702: Establishing a Process for the Payment of Impact Fees Through Provisions Stipulated in Recorded Covenants.** This bill would have obligated jurisdictions that impose impact fees to provide a process by which applicants for building permits could either record a covenant against title to the property in lieu of paying impact fees at the time of application or apply for a deferral of the impact fee payment until final inspection or the issuance of a certificate of occupancy or equivalent certification.
- **SB 5012: Revising the Standard of Review Utilized by the Growth Management Hearings Board when Hearing Appeals under the GMA.** This measure would have made it easier to overturn local land use decisions under the Growth Management Act by changing the standard of review from "clearly erroneous" to "erroneously construed" and requiring that a reviewing court give appropriate deference to the expertise of the Growth Management Hearings Board. This would have made it easier for the GMHB to overturn a local government land use decision. The bill was supported by Futurewise and some city planners, but opposed by WSAC.
- **SB 5013: Addressing the use of Hearing Examiners or Local Planning Officials in a Quasi-Judicial Land Use Permit Process.** This bill mandated counties to utilize hearing examiners and was opposed by WSAC. This bill was supported by the American Planning Association who argued that a hearing examiner appeals system reduces liability for local governments.
- **SB 5207: Adopting the International Wildland Urban Interface Code.** For the second year in a row, legislation was introduced that would have added the international wildland urban interface code to the state building code. Counties would have been required to adopt the code locally, designate an interface area, and enforce the new code, all of which would need to occur with existing resources. Counties currently have the option of adopting the code, and the bill would make the code mandatory. WSAC opposed this legislation in both sessions.
- **SB 5292: Exempting Certain Structures that are Constructed and Maintained by Irrigation Districts from the Definition of Critical Areas.** Would have exempted certain irrigation district facilities from critical area ordinances. WSAC had worked with the proponents of this bill on amendatory language that made the bill palatable to county interests.
- **SHB 1081: Small Scale Renewable Energy System Permits.** The bill would have preempted local permitting processed for small alternative energy resource facilities are sited in a timely manner in local jurisdictions where there are no existing ordinances to permit these facilities. WSAC and the cities opposed the bill because it would restrict local control.



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## Natural Resources & Environment

Despite the fact that less than 1% of the state general fund is spent on natural resource and environmental programs, budget discussions colored much of the legislature's efforts in this area. This was largely a result of Governor Gregoire's natural resources reform initiative that called for combining natural resources agencies, and her 2011-2013 budget proposal that proposed new or increased fees to support the Department of Fish and Wildlife's hydraulics program, the Department of Ecology's water resources program, and the Department of Natural Resources forest practices program. While an agency consolidation bill was introduced (HB 1850/SB 5669) it was not enacted and natural resource agency consolidation was shelved. All three fee proposals also failed, but the process of their demise lasted the entire session.

The Department of Ecology originally proposed legislation (**HB 1610/SB 5536**) that would have recovered the entire cost of the water resources program (\$5.5 million) through a new water management fee. This legislation also proposed significant water policy changes. As session progressed, it became clear that neither the fee nor policy proposals in the bill had enough support from either environmental or business stakeholders to garner the votes needed to pass the legislature. Negotiations over a package of fees and accompanying policy changes continued until the last days of the special session.

In the end, the water resources bill not was passed and the legislative budget reflected the lack of consensus. The water resources program was cut by \$2.4 million, and watershed planning (both grants to local planning groups and agency staff) was cut by \$5.9 million. Over \$1 million of the agency's remaining water resources funding was restricted to eliminating the agency's water rights application backlog, and a proviso was included that would cut an additional \$500,000 in 2012-2013 if the agency did not process at least 500 water right applications in 2011-2012.

A strangely similar outcome resulted from discussions over the Department of Fish and Wildlife's hydraulics program and Department of Natural Resources' forest practices program. The Governor's proposed budget had reduced the hydraulics program by nearly \$1.5 million and assumed nearly \$4 million in new fee revenue, while the forest practices program was cut by over \$2 million. Collaborating with the Governor's office, Senator Hargrove introduced legislation (**SB 5862**) that would have affected both programs. The forest practices provisions in the bill would have largely removed the Department of Fish and Wildlife from the issuance of hydraulics permits for forest practices projects that are regulated under the Forest Practices Act. In exchange for this streamlining, forest practices permit fees would have been increased in order to protect the program from budget reductions. The forestry provisions in this bill were largely agreed-upon by the relevant parties, but the Governor's office and environmental community insisted that the bill not move forward without also addressing the hydraulics program also.

The portions of the bill dealing with the Department of Fish and Wildlife's hydraulics program never reached agreement. The agency had been seeking significant new fees for a program that is totally supported by the general fund, as well as enhanced civil enforcement authority. WSAC worked very closely with a coalition of local government and business interests to try and find agreement with the agency and Governor's office on a package that would include both new fees as well as enhanced civil enforcement authority. Negotiations continued until the last days of the special session, but an agreement could not be reached. The legislative budget cut the Department of Fish and Wildlife's hydraulics budget by \$1 million and the Department of Natural Resources forest practices program by \$2 million, both reductions being less than what the Governor originally proposed.

WSAC did come away with a significant win in the capital budget, which provided \$2 million from the State Building Construction Account for the transfer of state forest board lands in Pacific, Skamania, and Wahkiakum Counties that are encumbered by the federal Endangered Species Act (ESA). Similar to the Trust Land Transfer process, these lands will be transferred into a long-term protected status and managed for wildlife habitat. A portion of the funding will be used to support the counties in which they are located just as if timber harvest had occurred, while another portion is used to purchase replacement lands that can be managed for long-term revenue generation. The transfer mechanism was created by the legislature in 2009 with the passage of HB 1484, but this year's capital funding is the first for the program. The Department of Natural Resources has been a strong ally in the creation of this new program, and was instrumental in securing the funding.

Another significant accomplishment for WSAC was the passage of **HB 1582**. This was a permit streamlining measure that will make it easier for small forest landowners to keep their lands in forestry while saving counties money. The bill changes the trigger in the Forest Practices Act for when forest practices applications are considered conversions out of forestry and into development. Only landowners that are truly converting their land out of forestry will need to comply with regulations that are intended to deal with land development. WSAC had been actively working on this bill since at least 2009. We had great legislative champions for this bill – Representative Lytton and Senator Haugen were sponsors of the House and Senate versions and both worked very hard to make sure this bill kept moving. The responsible committee chairs in the House (Representative Blake) and Senate (Senator Ranker) were very supportive as well. In addition to legislative champions, WSAC got support from the Departments of Natural Resources and Ecology, small and large forest landowners, and environmental groups. This was a win for everyone.



## ***Natural Resources & Environment Continued...***

In addition to the aforementioned actions, a fair number of other interesting bills were approved by the legislature this session, including:

- **HB 1169: Regarding Noxious Weed Lists.** This bill dealt with the Noxious Weed Control Board and was introduced in response to the Board's consideration of including English Holly on the noxious weed list. The bill directs the Board to adopt rules regarding how the Board will select species for listing on the noxious weed list. The listing must include a requirement that additional scientific data be presented to the Board regarding the invasive or noxious qualities of the plant in question, along with information about the plant's economic benefits.
- **HB 1186: Concerning Requirements Under the State's Oil Spill Program.** This bill established a "vessel of opportunity" system to respond to oil spills in Washington waters, which would be funded by tank vessel operators. The legislation also increases penalties for vessel operators that discharge oil into state waters. The WSAC coastal caucus had urged adoption of the bill.
- **HB 1421: Providing Authority to Create a Community Forest Trust.** This bill authorized the Department of Natural Resources, if deemed practicable by the Commissioner of Public Lands, to purchase and manage forest lands to be held as a community forest trust. Acquisition will be targeted at lands that would otherwise be converted out of active forest management. The lands must be managed to generate revenue sufficient for their own management. The community must support acquisition of the land, and a local government will need to contribute 50 percent of the cost of acquisition.
- **HB 1489: Protecting Water Quality through Restrictions on Fertilizer Containing Phosphorus.** This measure limited the use and sale of lawn fertilizer containing phosphorus for the purpose of protecting water quality. This was one of the four priorities of the environmental community.
- **HB 1803: Modifying the Columbia River Basin Management Program.** This bill was requested by the Department of Ecology's Columbia River program, and made a variety of changes that were supported by the stakeholders to that program.
- **SB 5555: Concerning Inter-Basin Transfers of Water Rights.** Requires the Department of Ecology to provide notice to the county commissioners prior to approving an inter-basin transfer of water, for counties located east of the crest of the Cascade Mountains.
- **SB 5622: Concerning Recreation Access on State Lands.** This bill created the \$30 Discover Pass which will generate revenue for management of state parks, and recreation access at lands managed by the Departments of Fish and Wildlife, and Natural Resources.

In addition to these successful measures, several notable bills did not pass, including:

- **HB 1296: Creating a Water Commission.** Would have created a water commission and transferred the Department of Ecology's water resources responsibilities to the commission.
- **HB 1427: Adjusting Timber Tax Account Distribution Calculations.** This bill would have changed the way that timber tax revenues are distributed. As introduced, the bill was not a concern for WSAC and was supported by county auditors. However, the bill was amended and now would divert revenue away from counties and junior taxing districts and towards school districts.
- **SB 5356: Allowing the Use of Dogs to Hunt Cougars.** This bill would have extended the current cougar pilot project for hunting cougars with the aid of dogs for five years.



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## Human Services

Budget was the main concern once again this year. Reductions to the state's safety net programs across the state were implemented even before the session began. County human service programs sustained major reductions in the 6.3 percent across the board cuts that were implemented by the Governor in October and the Governor's proposed 2011-2013 biennial budget took additional substantial reductions in Human Services programs.

Our session message to legislators was that when human services programs are cut or eliminated, our citizens stay in our communities and access more expensive crisis systems, including the local criminal justice system. WSAC was invited to present on budgets in the House Appropriations Subcommittee on Health and Human Services and the Senate Ways and Means Committee. In testimony before the committees, we were able to show legislators the devastating impacts to individuals in our communities from the mental health cuts already implemented over the last few years and provide information and research findings that chemical dependency treatment programs keep individuals out of more expensive services. We also worked with the legislature on policy issues related to services for our most vulnerable citizens - working with partners in our communities who provide employment services for individuals with developmental disabilities and looking at potential reforms of the behavioral health system.

For human service programs delivered through the counties, our message was heard and in the House and Senate proposals, and the final budget, the reductions were equal to or less than those proposed in the Governor's 2011-2013 budget. Although the reductions will be difficult to implement, we are satisfied with these results given that the most recent revenue forecast was approximately \$700 million lower than when the Governor proposed her budget in December.

### Bills of Interest

WSAC prioritized removing or suspending burdensome and costly requirements from human services programs and supports flexibility in funding sources. A number of bills we worked on and monitored supported these priorities:

- **HB 1170: Related to Triage Facilities.** Brought forward by Snohomish County and supported by WSAC, this bill allows development of a facility for a law enforcement officer to take an individual for assessment and stabilization. The Triage facility option gives counties a lower cost alternative to Evaluation and Treatment Centers and Crisis Stabilization Units for individuals in crisis.
- **SB 5722: Concerning the use of Moneys Collected from the Local Option Sales Tax to Support Chemical Dependency or Mental Health Treatment Programs and Therapeutic Courts.** Allows additional flexibility beyond the current supplant authority for counties that have passed the local 1/10th of 1% sales tax for chemical dependency and mental health programs. The bill allows counties with a population greater than 25,000, to use up to 50 percent of monies collected to supplant funding for existing services with a ten percent scale back in supplant authority over the next five years. A county with a population less than 25,000, may use up to 80 percent of monies collected to supplant funding for existing services with a twenty percent scale back on the supplant authority over the next five years. Funding used to support the cost of a judicial officer and support staff of a therapeutic court is exempt from supplant restrictions.
- **SB 5531: Reimbursing Counties for Providing Judicial Services Involving Mental Health Commitments.** This bill sets up a process for counties with Evaluation and Treatment beds. A county may apply to its Regional Support Network (RSN) for reimbursement of its cost in providing judicial services. The RSN in which the patient resides must reimburse the RSN which serves the county of commitment. The rate of reimbursement for each county must be based on an average of actual expenditures within the county over the past three years. The Joint Legislative Audit & Review Committee must conduct an independent assessment of the county judicial costs in all counties which had at least 20 involuntary commitment cases in the previous year. No filing fee may be assessed for any commitment case subject to reimbursement under this act.

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## Health Reform

In January, WSAC was invited to participate in a work session in the Senate Human Services and Corrections committee to provide information on "The Local Mental Health Delivery System: Beyond Healthcare." County and Regional Support Network (RSN) representatives discussed wraparound services, housing programs, local services funded with local 1/10th sales tax funds and programs administered in the RSNs and counties that provide services to keep people out of the criminal justice system and out of more expensive services. We were followed by the Secretary of the Department of Social and Health Services (DSHS) and Director of the Health Care Authority (HCA) and a committee conversation about the importance of including local governments as the state moves to implement health reform.



## Health Reform Continued...

In addition, a number of policy bills that passed the legislature will ensure that the work on health reform will continue through the interim and into next session. In addition to monitoring and participating in the work of the Joint Legislative Task Force on Health Reform, WSAC will also be participating on a legislative workgroup that requires county input on the movement of Medicaid purchasing from DSHS to the HCA.

### HB 1738: Changing the Designation of the Medicaid Single State Agency

This bill requires DSHS and HCA to work with local governments and stakeholders and report to the Governor and the Legislature with recommendations regarding the role of HCA in purchasing mental health treatment, chemical dependency treatment, and long-term care services, including services to individuals with developmental disabilities.

We will also be continuing to educate members of the House and Senate policy committees about the importance of the county system in providing behavioral health, public health and housing services that are so vital and must be addressed in any health care planning.

## Housing

A number of bills related to funding for important housing and homeless programs were introduced this year.:

- **HB 1478: Delaying or Modifying Certain Regulatory and Statutory Requirements Affecting Cities and Counties** also includes provisions related to housing programs. The bill delays the current statutory requirement so that counties and cities that receive more than \$500,000 from the Transitional Housing Operating and Rent Program and other specified sources are now exempt until 2018 from requirements otherwise obligating them to apply to the Washington State Quality Award Program once every three years.
- **HB 2082: Concerning the Long-Term Disability Assistance Program.** Currently, the Disability Lifeline program helps individuals who are unable to work due to disabilities. The DL program has previously included a cash grant for those eligible for the program to be used for housing and other necessities. The new legislation removes the cash grant and implements the housing and needs bank program in its place to provide housing support payments and access to basic personal hygiene items to persons who are incapacitated from work but who don't qualify for federal disability payments. Counties have the ability to apply to be a managing entity of the program through the Department of Commerce.

In addition to these successful measures, several notable bills did not pass, including:

- **HB 1768: Concerning a Surcharge for Very Low-Income and Homeless Housing Assistance** and **HB 2048: Concerning Low-Income and Homeless Housing Assistance Surcharges** are all bills related to increasing the amount and/or extending the timeframe of the document recording fees that fund housing and homeless programs. None of these bills made it through the process this session, but we expect that there will be additional work done on the proposal this interim and next session.
- **SB 5283: Providing Cost-Saving Measures and Allocation of Vouchers for Low-Income Housing.** WSAC worked against this bill and was able to stop it. The original bill would have require a life cycle analysis of housing programs and included new priorities on housing funds with 26 percent to be used for rental vouchers in privately owned units along with additional administrative and reporting requirements. WSAC worked in partnership with housing advocates to express our concerns to the bill's sponsor that individuals currently being served in county administered programs will lose services under provisions in this bill. County programs often serve individuals who are difficult to place into private housing units and we need to ensure that we can continue to provide these services.

## Public Health

### SSB 5350: Concerning the Unlawful Dumping of Solid Waste

The enforcing authority must take reasonable action to determine and identify the person responsible for illegal dumping before requiring the property owner to clean up the site.

Local health jurisdictions receiving clean up restitution payment from a person found to have littered must reserve half of the payment to assist property owners with cleanup when the person responsible for illegal dumping cannot be determined.

A landowner who gave written permission authorizing littering is not entitled to any clean up restitution payment, in which case the entire restitution payment must be provided to the local health jurisdiction investigating the incident.



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## SHB 1061: Concerning On-Site Wastewater Treatment Systems Designer Licensing

Licensure applicants may satisfy experience requirements by completing approved internship or mentoring programs. Applicants holding licenses from other jurisdictions in several related disciplines, not just on-site wastewater systems design, may be granted a license without examination, depending upon the other jurisdiction's standards.

## ESB 5005: Concerning Exemption from Immunization

Parents or guardians who seek an exemption from mandatory vaccines for their school age children must show proof they have discussed the risks and benefits of vaccines with a qualified health care provider. Parents or guardians who seek an exemption from vaccines and belong to a religious entity that does not recognize medical care are not required to consult with health care providers before receiving the exemption.

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# Public Safety

## SB 5073: Amending Washington State's Medical Cannabis Laws

The 2011 Legislature passed one of the most comprehensive pieces of medical cannabis legislation in the nation; one which would have required active and ongoing government involvement in the production and distribution of medical cannabis. However, most of the Legislation never became law; because the Governor vetoed most of the bill.

In 1998 voters approved I-692 which permitted the use of marijuana for medical purposes for patients with terminal or debilitating medical conditions. The act did not provide a legal framework for supply or distribution of medical cannabis beyond allowing patients to grow medical cannabis for themselves or designate a provider to grow on their behalf.

This year's legislation was a response to the desire by several communities to provide additional legal access to medical cannabis for qualified patients. **SB 5073**, as passed by the Legislature, put in place a state and local government regulated access system that allowed for the commercial production and distribution of cannabis.

Beginning late in the regular session the Governor started to telegraph her position. The Governor was concerned that the sections of the bill directing employees of the state departments of Health and Agriculture to authorize and license commercial businesses that produce or dispense cannabis would open public employees to federal prosecution. This concern was based on the letter she received from the United States Attorney that indicated they would investigate and prosecute those involved in the production and trade of any illegal drug and that government employees involved in the regulation of medical cannabis would not be immune from liability.

Despite the Governor's communicated concerns, the Legislature still delivered a bill to her desk with significant government regulatory involvement. The Governor vetoed licensing provisions for producers, processors, and dispensaries. Provisions that would establish a patient registry within the Department of Health (DOH) and provide arrest protection for those patients who register, were also vetoed, as well as the section providing current producers and dispensaries with an affirmative defense if they register with the Secretary of State and file a letter of intent with DOH or the Department of Agriculture (DOA).

The bill does still include some substantive policy changes, including provisions that:

- Provide that cities and counties may adopt zoning, licensing, and taxing requirements pertaining to the production, processing, and dispensing of medical cannabis.
- Establish arrest protection for patients and licensees on the registry.
- Set the number of patients who may participate in a collective garden at 10 and the number of plants allowed at 45.
- Require health care professionals to have a relationship with the patient
- Restrict a designated provider from serving more than one patient. 15 days must elapse between patients.
- Allow the University of Washington to study the safety of administering cannabis as part of medical treatment.

During the special session an additional bill pertaining to medical cannabis was introduced (SB 5855). The purpose of the bill was to clarify local government's role in zoning and regulating dispensaries, allow for nonprofit patient cooperatives dispensaries, and establish a voluntary registry for patients and providers and a mandatory registry for collective gardens and dispensaries.

The bill was heard in the Senate Ways and Means committee but failed to get enough signature to be advanced to the Senate Floor.

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## ***Public Safety Continued...***

### **SB 5195: DWLS3 Relief Bill**

SB 5195 allows county prosecutors and city attorneys to divert certain cases prior to filing a criminal charge, saving counties money by decreasing the need for expensive court hearings and public defender costs. The volume of Driving with a License Suspended in the Third Degree (DWLS3) cases results in a huge drain on county resources; they represent 30 percent of the caseload in district courts. Although many counties currently utilize relicensing programs to help drivers regain their license and get insurance, these programs often require an individual to first be charged with a DWLS3, taking up valuable and costly court time. The City of Seattle has enacted a similar approach and they have reduced the number of cases filed in court by 67 percent.

### **Holding the Line on Public Safety Budget Cuts**

Both the House and the Senate Budget proposals included several reductions that would have had significant impacts on our communities. WSAC staff, along with the aid of other local government associations, were able to fend off most of these harmful reductions.

- **Early Release of Prison Offenders.** Both the House and the Senate assumes a significant number of high risk felony offenders will be released early in order to save the state money. The budget that passed the legislature does not release any high risk prison offenders early.
- **Competency Evaluations.** The Senate budget closed a forensic ward at Western State Hospital, and would have required all competency evaluations to take place in jails, shifting significant cost to the counties. The final budget keeps the ward open, and continues to allow judges to send individuals in jails with mental health issues to the state hospitals if the judge deems appropriate.
- **Jail Bed Rates.** The House budget directed the Office of Financial Management to negotiate in-state bed rental rates for community custody violators at a cap of \$80 per day for the 2011-13 biennium. The Senate set an even lower cap of \$77. Although not successful in eliminating the cap entirely, WSAC staff were able to increase the cap in the final budget to \$85 a day.
- **Becca/Truancy.** The House budget reduced funding for truancy reduction by \$14 million. The Legislative budget includes not cut to the Becca/Truancy program.

### **SB 5941: New Revenue for Local Courts**

The Legislative budget extended the court filing fees that were set to expire in 2011 (**SB 5941**). Currently these filing fees are placed in the state Judicial Stabilization Trust Account (JSTA), which is used to partially fund the state's Office of Public Defense, Office of Civil Legal Aid, and Administrative Office of the Courts. **SB 5941** extends the fee for two years and establishes a split between the JSTA and the counties who collect the fees. Local courts can expect to see a revenue increase resulting from this bill of nearly \$3 million over the next two years.

- **HB 1153: Concerning Costs for the Collection of DNA Samples.** expands the fee for collection of a biological sample for DNA identification to misdemeanors, gross misdemeanors, and juvenile offenses that require collection of a DNA sample. The fee is expected to generate nearly \$200,000 in revenue to offset costs currently incurred at district and municipal courts.

### **Sentencing Guidelines Commission no Longer an Agency**

- **SB 5891: Addressing Criminal Justice Cost Savings.** Made significant changes to the Sentencing Guidelines Commission (SGC). It will no longer be a stand-alone state agency. The SGC will be located within the Office of Financial Management and advise the Governor and the Legislature as necessary on issues relating to adult and juvenile sentencing. The Caseload Forecast Council, instead of the SGC, will serve as a clearinghouse and information center on adult and juvenile sentencing. The Department of Corrections, instead of the SGC, will serve as the State Council for the Interstate Compact.

### **New and Noteworthy:**

- **HB 1789: Increasing Penalties for DUI.** Requires a person convicted of reckless driving, under certain circumstances, or negligent driving in the first degree to install an ignition interlock device. It also changes the definition of "prior offenses," expands the felony DUI law, and makes other changes to the statutes regarding alcohol-related traffic offenses.
- **HB 1719: Decrease Government Liability.** Overrules the recent Supreme Court *Rahman v. State* decision that a government or private employer may be held liable for injuries to unauthorized occupants of vehicles used for the employer's purpose.



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# Transportation

Even with the shortage of revenue, there was no shortage of policy ideas for transportation. Both the House and the Senate introduced bills attempting to respond to the *King 5 Waste on the Water Report*. Bills were also introduced to provide new funding from a vehicle license fee for electric vehicles to raising various transporting related fees.

The Governor introduced the idea of creating a nine-county ferry district in December. Representatives of the nine-counties met with her in early January. Both committee chairs expressed their concerns about the idea and the bill was never introduced. The nine counties continued conference calls on a semi-regular basis through the rest of the session.

## **ESSB 5457: Providing a Congestion Reduction Charge to Fund the Operational and Capital Needs of Transit Agencies**

Authorizes King County to impose, with a two-thirds majority approval of the governing body or by a simple majority vote of the people, a temporary congestion reduction charge on certain vehicles of up to \$20 to help fund METRO.

## **2ESSB 5742: Concerning the Washington State Ferry System**

This bill merged several other bills into one and has the following components:

- Creates the Capital Vessel Replacement Account to be used only for ferry vessel procurements.
- Directs the Transportation Commission to impose a 25 cent surcharge on all Washington State Ferry (WSF) fares, the proceeds of which are to be deposited into the new account and used first for a new 144+ capacity ferry vessel.
- Exempts state and county ferry fuel purchases from sales and use taxes, starting July 1, 2013.
- Defines management rights as they relate to collective bargaining, severs WSF captains from their current union starting July 1, 2013, allows WSF captains to be in their own union, and defines captains' duties.
- Defines WSF performance measures, establishes a governor's ad hoc committee to determine performance measure targets, and outlines consequences of not meeting the targets. Governor vetoed these sections
- Transfers all responsibilities of the Marine Employees Commission (MEC) to the Public Employment Relations Committee (PERC), with the exception that until June 30, 2013, all PERC processes will be followed.

## **SSB 5800: Authorizing the Use of Modified Off-Road Motorcycles on Public Roads**

- Establishes a definition for an off-road motorcycle.
- Permits the conversion of off-road motorcycles for use on a public road, street, or highway.
- Establishes operator rules and responsibilities for the operation of off-road motorcycles for use on a public road, street, or highway.
- Establishes equipment requirements for off-road motorcycles to be used on a public road, street, or highway.
- Requires the Department of Licensing to establish a declaration pertaining to inspection of the motorcycle and liability release to be submitted by an off-road motorcycle owner when applying for on-road registration.

## **SSB 5836: Allowing Certain Private Transportation Providers to Use Certain Public Transportation Facilities**

- Authorizes the Washington State Department of Transportation (WSDOT) and local jurisdictions to allow certain private transportation provider vehicles to use high occupancy vehicle lanes and lanes reserved for public transportation on highways, except for transit-only lanes that allow other vehicles to access abutting businesses.
- Requires transit agencies that receive state funding for park and ride lots to make reasonable accommodations for certain private transportation providers unless the facility is at or exceeds 90 percent capacity during two consecutive months.
- Encourages local authorities to establish a process for private transportation providers to apply for the use of park and ride lots, and requires WSDOT to convene a stakeholder process to develop standard forms, permit rates, and indemnification provisions for use by local authorities.
- Requires WSDOT and local authorities, when designing portions of roadways intended for the exclusive or preferential use of public transportation, to consider whether the design will safely accommodate certain private transportation provider vehicles.



## ***Transportation Continued...***

### **SHB 1046: Concerning Vehicle and Vessel Quick Title**

- Defines a quick title as a certificate of ownership of a vehicle or vessel printed at the time of application, which fee is set at \$50.
- Allows quick titles to be processed by the Department of Licensing (DOL), county auditors, and, under certain circumstances, subagents.
- Provides that if a quick title is processed by DOL, the entire amount is deposited into the Motor Vehicle Account (MVA) (for vehicle titles) or the General Fund (GF) (for vessel titles).
- Provides that if a quick title is processed by a county auditor or subagent, half the fee is retained by the county auditor and the other half is deposited into the MVA or GF.

### **SHB 1897: Establishing a Rural Mobility Grant Program**

- Creates the Rural Mobility Grant Program Account.
- Establishes quarterly transfers of \$2.5 million from the Multimodal Transportation Account to the Rural Mobility Grant Program Account.
- Requires funds in the Rural Mobility Grant Program Account to be evenly divided between competitive and noncompetitive grants for rural transit mobility.
- Creates a pilot project during the 2011-13 biennium, from the Rural Mobility Grant Program Account, for enhanced transit opportunities for agricultural workers.



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## 2011 Legislative Steering Committee

### Co-Chairs:

Todd Mielke - Spokane County

Steve Stuart - Clark County

### Members:

Rudy Plager - Adams County

Leo Bowman - Benton County

Ron Walter - Chelan County

Mike Doherty - Clallam County

George Raiter - Cowlitz County

Dale Snyder - Douglas County

Brad Miller - Ferry County

Bob Koch - Franklin County

Richard Stevens - Grant County

Herb Welch - Grays Harbor County

Angie Homola - Island County

Phil Johnson - Jefferson County

Kathy Lambert - King County

Dow Constantine - King County

Josh Brown - Kitsap County

Paul Jewell - Kittitas County

David Sauter - Klickitat County

Lee Grose - Lewis County

Dennis Bly - Lincoln County

Lynda Ring Erickson - Mason County

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Blair Brady - Wahkiakum County

Greg Tompkins - Walla Walla County

Kathy Kershner - Whatcom County

Pete Kremen - Whatcom County

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# Notes



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