



CITY OF KIRKLAND
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MEMORANDUM

To: Kurt Triplett, City Manager
From: Lorrie McKay, Intergovernmental Relations Manager
Date: March 28, 2016
Subject: 2016 STATE LEGISLATIVE UPDATE #6

RECOMMENDATION:

Council should receive its sixth update on the 2016 state legislative session

BACKGROUND DISCUSSION:

This memo reflects an update on the City's legislative interests as of March 28. At the writing of this memo, the legislature was on its 18th day of a 30-day special session that was immediately convened by the Governor, who encouraged lawmakers to complete this year's supplemental budget. The Governor also promptly vetoed 27 bills and signed 10 into law. Both Senate and House leadership are discussing an override strategy, requires 2/3 majorities in both chambers. Since all 27 bills that the Governor vetoed had received solid majority passing votes, then this requirement shouldn't be an issue, if they take this path.

Council's Legislative Workgroup

The Council's Legislative Workgroup (Mayor Walen, Councilmember Asher and Councilmember Marchione) did not meet on Friday March 25, as there had been no significant movement in budget negotiations. While the legislature did pass the supplemental transportation budget, there has been no agreement on either the operating budget or the capital budget. The status of the City's 2016 Priorities is attached (Attachment A), as well as the status of remaining bills, on which the City has taken a position (Attachment B).

Status Summary of the City's 2016 legislative priorities

- New policies and funding tools to address homelessness and create more affordable housing:

([Senate Bill 6239](#)) Property tax exemption program for the preservation of housing

The City of Seattle is the lead on this bill. 6239 was, by resolution, reintroduced and retained in Senate Rules Committee for third reading.

The bill would authorize city governing authorities to adopt a property tax exemption program, and county governing authorities to adopt a property tax exemption program for unincorporated jurisdictions, to preserve affordable housing that meets health and quality standards for very low-income households at risk of displacement or that cannot afford market-rate housing.

([Senate Bill 6337](#)) Disposing tax foreclosed property to cities for affordable housing purposes

This bill was championed by the City of Tacoma and it was passed and has been delivered to the governor's desk.

The final version of the bill calls for, prior to disposing of tax-foreclosed property, the county legislative authority gives notice to any city in which any tax foreclosed property is located within 60 days of acquiring the property. The notice must offer the city the opportunity to purchase the property for the original minimum bid under RCW 84.64.080 plus any direct costs incurred by the county in the sale, under the following conditions:

- the city must accept the offer within 30 days of receiving the notice, unless the county agrees to extend the offer;
 - the city must provide that the property is suitable and will be used for affordable housing development; and
 - the city must agree to transfer the property to a local housing authority or nonprofit entity eligible under chapter 43.185A RCW. The city must be reimbursed by the entity for the original minimum bid under RCW 84.64.080 plus any direct costs incurred by the city in the sale of the property to a local housing authority or eligible nonprofit.
- Capital budget funding for a multimodal safety improvement project connecting the Cross Kirkland Corridor with the Redmond Central Connector:
Funding for this priority was not included in either proposed supplemental capital budget.
 - Allow both the state and local governments the option of replacing the property tax cap:
There was no movement on this priority this session.
 - Facilitate greater access to rooftop residential and community solar installations by extending the timeframe for state solar incentives in the Renewable Energy System Cost Recovery program:

([House Bill 2346](#)) Promoting a sustainable, local renewable energy industry through modifying renewable energy system tax incentives and providing guidance for renewable energy system component recycling.

Passed by the House in February, 2346 was amended in the Senate Energy committee to only allow the incentive program, if no clean air rule is adopted by the Governor. This amendment, along with concerns that the state can't afford the incentives, had stalled the bill in Ways & Means. On March 10, the bill was, by resolution, reintroduced and retained in House Rules Committee for third reading.

At the writing of this update, it appears that HB 2346 is still in play, continuing with the challenge of making it little or no cost in this biennium and next. House and Senate leadership are working to resolve this bill.

2346 would increase the per-utility cap on solar installations, as many current utilities are approaching their legislative cap on systems. The result is that existing customers are receiving a lower incentive payment than they were promised up front. It also risks hampering solar installation. The bill would also adjust the incentive rates to a more sustainable level that continues to incentivize growth, while allowing a greater number of groups to participate. This includes larger community solar for those without roof space or cash to install an expensive system on their house, including low-income customers. It also allows small businesses to take advantage of the incentive.

- Clarify records retention, disclosure, and use limitations of video and/or sound recordings made by law enforcement or corrections officers:

([House Bill 2362](#)) Concerning video and/or sound recordings made by law enforcement or corrections officers.

2362 was passed and has been delivered to the governor's desk. The bill takes effect 90 days after adjournment of the session (June 9, 2016).

Generally speaking, in the final version of the bill, public records relief to agencies that deploy body cameras only applies to agencies that have deployed body cams before the effective date of the bill (June 9, 2016). Agencies that deploy body cameras on or after June 9, 2016 will not benefit from the bill's provisions.

On March 15, the American Civil Liberties Union of Washington, along with 11 other community organizations sent a veto request letter to the Governor (Attachment C). While the signers of the letter agree that body cameras have the potential to be a valuable tool in police accountability, these groups believe that the bill has been moved forward without adequate input from impacted communities. The letter requests that the Governor veto the bill and suggests that legislators take the time to engage with stakeholders and create a framework that contains safeguards for racial equity, accountability, privacy, and that care for survivors of crime.

The groups that signed the veto letter are: ACLU of Washington, API Chaya, Black Lives Matter Seattle, BlackOut WA, Washington Community Action Network, Children's Alliance, I Did the Time, NAACP Spokane, OneAmerica, People for Peace, Justice and Healing Pierce County, Seattle Black Book Club, and Sex Workers Outreach Project Seattle.

Supplemental Budget

The legislature did not complete its budget work by the end of the regular session on March 10, which has resulted in the current 30-day special session, ending April 10. As reported in previous updates, the February revenue forecast showed that the current two-year \$38 billion budget that ends in the middle of 2017, falls about \$78 million short of what was originally estimated. The forecast for the next two-year budget falls short by \$436 million. In February, the projected overall state budget for 2017-19 is expected to be about \$41 billion.

At the writing to this update, lawmakers were convening in Olympia, which suggests that they may be on the brink of reaching a deal on the supplemental operating budget. Assuming they complete the supplemental operating budget (and capital budget) this week, they will wrap-up. Wrap-up may include the override strategy discussed earlier this month with regard to the 27 bills that the Governor vetoed March 10.

Supplemental Operating (SB 6246)

- Council's Legislative Workgroup has continued to advocate for funding for the Basic Law Enforcement Academy (BLEA), maintaining the Fire Insurance Premium Tax and shared distributions with cities, and maintaining funding for the Municipal Research & Service Center (MRSC) and for maintaining funding for the Public Works Trust Fund.
- Council's Legislative Workgroup has also advocated support for the budget proviso, adopted by the House of Representatives, to appropriate \$250,000 in funding to the William D. Ruckelshaus Center to conduct a study concerning public records requests of local agencies.

Supplemental Capital (SB 6201)

- Council's Legislative Workgroup has continued to advocate that the supplemental capital budget included \$350,000 toward the design and construction of the Women and Families Shelter in Kirkland. It also included \$1.4 million toward a Men's Shelter in Bellevue.

Supplemental Transportation (ESHB 2524)

The legislature did pass a supplemental transportation budget which was signed by the Governor on Friday, March 25. The transportation budget:

- Maintains the 2015 funding appropriation of \$75 million and the originally proposed phasing of funding for the ramps at NE 132nd and I-405: \$8M (2017-19), \$54M (2019-21) and \$13M (2021-23).
- Of the \$5.5 million in funding for Bike-Share expansion in Kirkland, Bellevue, Redmond and Issaquah \$5 million was moved out to "future biennia."

Attachments: A. Status update of the City's 2016 legislative priorities (3/25/16)
B. Bill Tracker – Recommended Positions (3/25/16)
C. Veto request letter on HB2362

2016 Legislative Priorities and Status – City of Kirkland
Updated: March 25, 2016

Attachment A

Legislative Priority	Bill #	Prime Sponsor	Status
<p>New policies and funding tools to address homelessness and create more affordable housing.</p> <ul style="list-style-type: none"> Prop tax exemption for preservation of affordable housing Disposing tax foreclosed property to cities for affordable hsg. Capital Budget Request for Women’s Shelter 	<p>SB 6239</p> <p>SB 6337</p> <p>SB 6201</p>	<p>Sen Fain</p> <p>Sen. Darnielle</p> <p>Sen. Honeyford</p>	<p>2/16 – PASSED Senate 36 yeas, 13 nays 3/10 – Returned to Senate Rules for 3rd Reading</p> <p>2/16 – PASSED Senate 36 yeas, 14 nays 3/1 – PASSED House 61 yeas, 36 nays, 1 excused 3/10 – Delivered to the Governor’s desk</p> <p>2/26 – PASSED Senate 39 yeas, 10 nays (No \$ for Wmns Shelter) 3/10 – Returned to Senate Rules for 3rd Reading</p>
<p>Capital budget funding for a multimodal safety improvement project connecting the Cross Kirkland Corridor with the Redmond Central Connector.</p>	<p>HB 2380</p> <p>SB 6201</p>	<p>Rep. Tharinger</p> <p>Sen. Honeyford</p>	<p>2/24 – Not included in House Supplemental Capital Budget</p> <p>2/24 – Not included in Senate Supplemental Capital Budget</p>
<p>Allow both the state and local governments the option of replacing the property tax cap, currently fixed at 1 percent, with a cap that is indexed to both population growth and inflation.</p>			
<p>Facilitate greater access to rooftop residential and community solar installations by extending the timeframe for state solar incentives in the Renewable Energy System Cost Recovery program.</p>	<p>HB 2346</p>	<p>Rep. Morris</p>	<p>2/16 – PASSED House 77 yeas, 20 nays, 1 excused 2/26 – Referred to Ways & Means 3/10 – Returned to House Rules for 3rd Reading</p>
<p>Clarify records retention, disclosure, and use limitations of video and/or sound recordings made by law enforcement or corrections officers.</p>	<p>HB 2362</p>	<p>Rep. Hansen</p>	<p>2/22– PASSED House 61 yeas, 36 nays, 1 excused 3/4– PASSED Senate 37 yeas, 9 nays, 3 excused 3/10 – Delivered to the Governor’s desk</p>

* No HIGHLIGHTS = No change in status from last update.

Bill	Title	Position	Sponsor	Status
Support				
HB 2346	Promoting a sustainable, local renewable energy industry through modifying renewable energy system tax incentives and providing guidance for renewable energy system component recycling.	Support	Morris	2/16 - House PASSED: 77 yeas, 20 nays, 1 excsd 2/26 - Referred to Ways & Means 3/10 - Returned to House Rules for third reading
HB 2362	Concerning video and/or sound recordings made by law enforcement or corrections officers.	Support	Hansen	2/22 - House PASSED: 61 yeas, 36 nays, 1 excsd 3/4 - Senate PASSED: 37 yeas, 9 nays, 3 excsd 3/10 - Delivered to the Governor's desk
HB 2519	Allowing nuisance abatement cost recovery for cities.	Support	McCaslin	2/16 - House PASSED: 76 yeas, 21 nays 3/3 - Senate PASSED: 48 yeas, 1 excsd 3/8 - Delivered to the Governor's desk
HB 2583	Authorizing specified local governments to designate a portion of their territory as a creative district subject to certification by the Washington arts commission	Support	McBride	2/17 - House PASSED: 90 yeas, 8 nays 2/25 - Referred to Ways & Means 3/10 - Returned to House Rules for third reading
HB 2708	Providing for fire protection district formation by the legislative authority of a city or town subject to voter approval	Support	Appleton	2/17 - House PASSED: 68 yeas, 30 nays 2/26 - Passed to Senate Rules for second reading 3/10 - Returned to House Rules for third reading
HB 2741	Addressing state and local government fiscal agents.	Support	Kuderer	2/17 - House PASSED: 95 yeas, 3 nays 3/3 - Senate PASSED 49 yeas 3/8 - Delivered to the Governor's desk
Monitor				
HB 2971	Addressing real estate as it concerns the local gov authority in the use of real estate excise tax revenues and regulating real estate transactions.	Neutral	McBride	2/17 - House PASSED: 92 yeas, 2 nays 3/2 - Senate PASSED: 48 yeas, 1 excsd 3/10 - Delivered to the Governor's desk
Oppose				
HB 2929	Concerning temporary homeless housing by religious organizations	Oppose	Parker	2/11 - House PASSED 96 yeas, 1 excsd 3/4 - Senate PASSED 48 yeas, 1 excsd 3/10 - House refuses to concur in Senate amendments. Asks Senate to recede from amendments. - Returned to House Rules 3

Bill	Title	Position	Sponsor	Status
Support				
SB 6171	Concerning civil penalties for knowing attendance by a member of a governing body at a meeting held in violation of the open public	Support	Roach	2/16 - Senate PASSED: 49 yeas 3/4 - House PASSED: 72 yeas, 25 nays, 1 excsd 3/9 - Delivered to Governor's desk
SB 6211	Concerning the exemption of property taxes for nonprofit homeownership development.	Support (weak)	Bailey	2/10 - Senate PASSED: 46 yeas, 3 nays 3/3 - House PASSED: 83 yeas, 14 nays, 1 excsd 3/10 - Delivered to Governor's desk
SB 6239	Authorizing local governments to adopt a property tax exemption program for the preservation of certain affordable housing	Support	Fain	2/16 - Senate PASSED: 36 yeas, 13 nays 2/29 - Placed on second reading by Rules 3/10 - Returned to Senate Rules for third reading
SB 6248	Concerning risk mitigation plans to promote the transition of eligible coal units.	Support	Ericksen	2/16 - Senate PASSED: 42 yeas, 7 nays 3/4 - House PASSED: 92 yeas, 5 nays, 1 excsd 3/9 - Delivered to Governor's desk
SB 6337	Disposing tax foreclosed property to cities for affordable housing purposes.	Support	Darneille	2/16 - Senate PASSED: 34 yeas, 14 nays 3/1 - House PASSED: 61 yeas, 36 nays, 1 excsd 3/10 - Delivered to Governor's desk
Oppose				

March 15, 2016

Governor Jay Inslee
Office of Governor
PO Box 40002
Olympia, WA 98504-0002

RE: Diverse Stakeholders Request Veto of EHB 2362 (Video and/or Sound Recordings Made by Law Enforcement or Corrections Officers)

Dear Governor Inslee,

The undersigned organizations, representing diverse communities of color and many other stakeholders, write to urge you to veto EHB 2362. Body cameras have the potential to be a valuable tool in our state's quest for police accountability. But we believe it is extremely important to take the time to engage with stakeholders and create a framework that contains important safeguards for racial equity, accountability, privacy, and care for survivors of crime. EHB 2362 has been moved forward without adequate input from impacted communities and does not meet this standard. Please veto it.

While state-level legislation is necessary and important, EHB 2362's poorly-conceived scheme will move our state conversation on body cameras backwards. Any state-level legislation must create minimum requirements for police departments that further their oversight aims. Legislation should also address critical privacy problems associated with public records requests and use of footage for surveillance fishing expeditions. Finally, the framework must also mandate opportunity for public input and transparent oversight. EHB 2362 fails on all these counts.

EHB 2362 is the wrong approach from an accountability perspective—this bill will make it difficult to ever put effective accountability rules in place. EHB 2362 sets no substantive guidelines on department use of cameras, so individual departments will get to make their own rules, and will resist the imposition of any statewide rules in the future. Studies have shown that departments routinely fail at setting their own body camera rules.¹ Those being held accountable should not write the accountability rules—we need a statewide floor of minimum usage rules to hold law enforcement accountable, ensure that encounters are not selectively recorded, and ascertain that videos are not used for purposes counter to community interests.

EHB 2362 also fails to create privacy and protection from unwarranted public records disclosures—this bill would allow virtually all body camera video to be disclosed to the public (where they may simply end up on YouTube). The privacy rules in EHB 2362 are so weak as to shield almost nothing from disclosure. Anything with a “legitimate public interest” will still be disclosed—and given that courts have held the public has an interest in police activities, this means virtually all videos will be disclosed.²

¹ See e.g., <https://www.bwscscorecard.org/>; <https://www.brennancenter.org/body-cam-city-map>

² The “right of privacy” relied upon by EHB 2362 is narrowly defined in RCW 42.56.050, so that it is only violated if disclosure is *both* “highly offensive to a reasonable person” *and* “not of legitimate concern to the public.” The test does *not* balance offensiveness against public concern, it is a two part test and both prongs must be met. See *Brouillet v. Cowles*

Finally, while we appreciate the good work of EHB 2362's proponents, it is important that a broad set of impacted community stakeholders be engaged *before* Washington creates legislation around police body cameras. Although EHB 2362 creates a task force to come up with comprehensive rules around body cameras, that task force will make recommendations only in 2019, after three years under the inadequate scheme of EHB 2362. Instead, impacted communities, including communities of color and survivors of crime, should play an active role in developing policies that will protect their communities. If community input is truly valuable, it should come before a bill is passed.

We urge you to veto this bill and instead create a task force that allows impacted communities to create a scheme that builds community trust in law enforcement, while ensuring that police misconduct can be held accountable without unnecessary invasions of privacy. The task force should base its approach on actual data and real world evidence, rather than on perceptions or hunches of how body cameras will impact behavior of officers and the public alike. It should also reflect a broad range of impacted stakeholders, particularly those in communities of color.

Governor Inslee, in the past, you have cited lack of an adequate framework and stakeholder engagement as a reason to veto bills in the past, and we urge you to do so here. EHB 2362 threatens to saddle Washington with a scheme for body cameras that causes more harm than good, allowing police departments to dictate their own rules for how accountability and public oversight should function.

We urge you to veto the bill in its entirety, and request a meeting with you to discuss these issues further. Thank you for considering our concerns.

Sincerely,

ACLU of Washington
API Chaya
Black Lives Matter Seattle
BlackOut WA
Children's Alliance
I Did the Time
NAACP Spokane
OneAmerica
People for Peace, Justice and Healing Pierce County
Seattle Black Book Club
Sex Workers Outreach Project Seattle

Publishing Co., 114 Wn.2d 788, 798 (1990); *Dawson v. Daly*, 120 Wn.2d 782, 795 (1993). The bill adds presumptions for the first prong that disclosure is highly offensive when the recording depicts minors, nudity, sexual activity, medical facilities etc. However, these presumptions are ineffective to protect privacy because they address only the offensiveness prong of the privacy test specified in RCW 42.56.050. Courts have interpreted the second prong broadly, finding the public concern test to be met when there is only a modicum of public interest. Furthermore, courts have expressly held that people have an interest "in knowing what their public officers are doing in the discharge of public duties." *Dawson v. Daly*, 120 Wn.2d 782, 798 (1993). Taken together, since there is a public interest in how police officers act, disclosure of recordings reflecting those actions are required *regardless of how offensive that disclosure is*.