



CITY OF KIRKLAND

City Manager's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager
From: Erin Leonhart, Intergovernmental Relations Manager
Date: March 23, 2010
Subject: 2010 LEGISLATIVE UPDATE 7

As of the April 6th Council meeting, the 2010 State Special Legislative session is scheduled to be over. Governor Gregoire's Proclamation called for a seven-day special session to begin at noon March 15th to finalize the State's 2010 budget/revenue as well as a job creation and economic development package. As of this memorandum, the Legislature is still in session and the House and Senate have yet to agree on a budget/revenue package.

This is an update on the City's interests as of March 23rd. The final status report from Gordon Thomas Honeywell related to the regular session is attached to this memo (Attachment A). The final report about the budget and a final scorecard comparison against the adopted legislative agenda will be emailed to Council in advance of the meeting on April 6th.

2010 Supplemental State Budget Proposals – The Senate and House of Representatives released 2010 Supplemental Budget proposals. Documents for these two proposals as well as Governor Gregoire's are available on the web: <http://fiscal.wa.gov/budgets.aspx>. These budgets are still in process as of this memorandum. One change since the last Legislative Update is the Senate Capital Budget was released ([ESSB6364](#)) and the version that passed the Senate included \$100 million for the Housing Trust Fund, consistent with the House Capital Budget ([ESHB2836](#)).

Fiscal Flexibility ([ESHB3179](#) and [ESSB6424](#)) – The House version passed both houses and was signed by Governor Gregoire on March 19th. The final bill included:

- Allow cities to impose, with voter approval, the public safety sales and use tax at a rate of 0.1% if county voters do not impose by January 1, 2011. This is within the existing 0.3%, not an addition;
- Eliminate the non-supplant language in the public safety sales and use tax;
- Allow the largest cities in Pierce County to impose the mental health/chemical dependency sales and use tax if Pierce County has not imposed it by January 1, 2011;
- Eliminate the non-supplant language in the criminal justice sales and use tax;
- Maintain the existing equal tax treatment of natural gas purchases regardless if the purchase is made from your local utility or via a brokered arrangement; and
- Expand the use of gambling revenues for general public safety programs.

Storm Water/Clean Water Act Funding (HB3181 and SB6851) – An amended version of the House bill continues to be debated as part of budget discussions in the special session. The most recent iteration proposed by Representative Springer includes:

- Model Toxics Control Account tax increase of 0.85%;
- Deposits the entire tax increase into a clean water legacy fund, \$75,000 to each NPDES city & county each year; and
- Credit for petroleum products exported from the state of Washington.

Wrongful Death Statute Revisions (2ESSB6508) – This bill would have substantially expanded the scope of liability in wrongful injury or death causes of action by expanding the number of people who may file a cause of action in a wrongful death case and the damages for which they could seek redress. This bill did not meet the last cutoff before the end of the regular session.



END OF SESSION LEGISLATIVE REPORT

To: City of Kirkland
From: Briahna Taylor
Date: March 17, 2010

Dear City of Kirkland,

It has been a sincere joy working with the City throughout the 2010 Legislative Session. We look forward to discussing future opportunities with the City.

Included in this end-of-session report is a summary of legislation impacting local governments. Because the Legislature will be meeting for a Special Session starting Monday, March 15th at noon, this report does not include final information on the Capital and Operating Budgets. Furthermore, most bills that passed the Legislature are still waiting to be signed for the Governor before being enrolled into law.

As we look forward to the 2011 Legislative Session and continuing to work with the City of Kirkland.

Sincerely,

The GTH-GA Team

Contents:

1. Bills that Passed
2. Bills that Died
3. Bills that are Necessary to Implement the Budget (NTIB)

1. BILLS THAT PASSED

Fiscal Flexibility – At the beginning of the legislative session, the Governor’s Office indicated to local governments that the Governor is committed to providing local governments with greater fiscal flexibility. There were multiple pieces of legislation introduced at the beginning of the legislative session that provided multiple components, including county utility tax authority in unincorporated areas, harmonization of first and second quarter real estate excise tax revenues, water and sewer district tax, and other components. [House Bill 3179](#) became the vehicle for the flexibility package and was amended multiple times throughout the legislative process. GTH-

1201 Pacific Ave, Suite 2100
Tacoma, WA 98401
Phone: (253) 620-6500
Fax: (253) 620-6565

www.gth-gov.com

203 Maryland Ave., NE
Washington, DC 20002
Phone: (202) 544-2681
Fax: (202) 544-5763

GA worked with the Association of Washington Cities and the Washington State Association of Counties to advocate for the passage of House Bill 3179. The final version of the legislation includes the following components:

- If a county does not impose, allows cities to impose the public safety sales and use tax at a rate not to exceed 0.1 % effective January 1, 2011, with voter approval. Eliminates the non-supplant language.
- Allows a city with a population over 200,000 and located in a county with a population over 800,000 to impose the mental health/chemical dependency sales and use tax (0.1%) if the county has not imposed it by January 1, 2011.
- Allows a city with a population over 200,000 and located in a county with a population over 800,000 to impose the mental health/chemical dependency sales and use tax (0.1%) if the county has not imposed it by January 1, 2011.
- Eliminates the non-supplant language in the criminal justice sales and use tax.
- Addresses the recent court of appeals decision that impacts approximately 50 cities that impose the tax, which represents approximately \$14 million in revenue in 2008. Clarifies the definition and use by imposing the brokered natural gas use tax at the location where the gas is consumed or stored by the customer.
- Allows local gambling revenue to be used for general public safety programs.

GMA Comprehensive Plan Deadline Extensions

Pursuant to the passage of [Senate Bill 6611](#), the deadline for cities and counties to complete GMA Comprehensive Plan Updates has been extended until 2014. The update cycle is still every seven years, rather than moving the update cycle to every 10 years – this concession had to be made in order to keep the bill alive. The passage of the bill was a group effort, with the help of many cities and counties. The bill has now been delivered to the Governor and is waiting signature.

Restructuring Three Growth Management Hearings Boards into one Board

[Senate Bill 6214](#) consolidates the three growth management hearings boards into one board and reduces the number on the board from nine to seven. The bill has passed the Legislature and has been delivered to the Governor. This was Governor-request legislation, brought forward as part of the Governor's government reform package.

High-density Urban Development

[House Bill 2538](#) is a watered down version of HB 1490, which was introduced and failed to pass the Legislature last year. The bill makes the components of last year's legislation optional for local governments – the legislation encourages and incentivizes local governments to engage in high-density urban develop. Because it is optional, the associations of cities and counties did not opposed to the bill. The bill passed the Legislature and is waiting to be signed by the Governor.

Transportation Benefit Districts

[House Bill 1591](#) makes corrections to the Transportation Benefit District statute, including the following changes:

- Provides that a transportation improvement project may be contained in the transportation plan of a city, county, or other eligible jurisdiction.

- Allows impact fees to be imposed for transportation improvements constructed by any entity, and removes the requirement that improvements be constructed by the transportation benefit district itself.
- Authorizes the imposition of voter-approved sales and use taxes beyond the 10-year limitation if the sales tax is initially imposed after July 1, 2010, and the revenues are dedicated to the repayment of general obligation bonds.

The bill passed the Legislature and is waiting to be signed by the Governor.

Public Records Request Legislation (Include all Public Records Legislation)

[Senate Bill 6367](#) allows cities and counties to fulfill a public records request by providing the requestor to a link to the website. This is one step closer to making public records requests easier to respond to. The bill has passed the Legislature and has been delivered to the Governor. There were multiple pieces of legislation introduced this past session regarding public records. The House Majority Leader has indicated a commitment to working to address public records issues.

Washington Main Street Program

As part of re-defining the Department of Commerce (formerly the Department of Community Trade and Economic Development) [House Bill 2704](#), moved the administration of the Washington Main Street Program from the Department of Commerce to the Department of Archeology and Historic Preservation. This was the equivalent of one FTE. The bill passed the legislature and was signed by the Governor last week.

City Council Campaign Contribution Limits

Under [Senate Bill 6344](#), the list of public offices requiring campaign contribution limits is expanded to include the office of city council. Contributions from an individual, a union, or business may not in the aggregate exceed \$800 per election to a candidate for city council. Local districts with contribution limits currently established for city council campaigns may continue to apply such standards so long as the contribution limit does not exceed \$800. The Public Disclosure Commission adjusts this limit for inflation every even-numbered calendar year. The bill passed the Legislature and has been delivered to the Governor.

Planning Legislation

[House Bill 1653](#) clarifies the relationship between the Shoreline Management Act (SMA) and the Growth Management Act (GMA) for critical areas. It clarifies what uses are considered conforming or vested uses; clarifies what actions can be taken under the GMA or the SMA without having to update entire plans or programs; clarifies what activities can occur within the critical areas and it has a retroactive clause in order to cure several previous legal challenges. (Representative Angel introduced a similar bill, [House Bill 2924](#), but clarified the relationship in a different manner.

[House Bill 2740](#) cures a previous adverse Court of Appeals decision that affects the Land Use Petition Act. It clarifies that a land use decision occurs on the date a decision is entered on the motion for reconsideration and not the date of the original decision. This bill was prime sponsored by Representative Seaquist, and was co-sponsored by Representative Angel.

Addressing Bail for Felony Offenses

[House Bill 2625](#) is a response to the Clemmons case. It requires an individualized judicial determination of bail for the release of a person arrested and detained for a felony until August 2011, essentially eliminating the use of a felony bail schedule for a year. This will require a significant change of policy and possible drive additional jail or court cost in the seven counties who currently allow felony offenders to be released prior to a hearing through the use of a bail schedule. The seven counties are: Chelan, Clark, Douglas, Garfield, Pierce, Snohomish, and Thurston.

Additionally, the Governor, as well as the leadership from the House and the Senate were not going to leave Olympia without a proposed amendment to the state Constitution to limit bail for certain types of offenders. [House Joint Resolution 4220](#) gives judges discretion to deny bail to a person charged with an offense punishable by life in prison if the judge finds by clear and convincing evidence that the person has a propensity for violence that creates a substantial likelihood of danger to the community or other persons.

HJR 4220 also states that the discretion to deny bail is subject to such limitations as shall be determined by the legislature, which means they needed a trailer bill to apply those conditions. HB 2625 became the vehicle for the Senate to clarify the conditions needed.

2. BILLS THAT DIED

IMPACT FEE LEGISLATION

Impact Fee Schedules – The Master Builders Association of Snohomish and King County brought forth [House Bill 3067](#). House Bill 3067 would require local governments to provide an option to developers that instead of paying impact fees upon plat approval, the developer can put a covenant on the title and the impact fees can be paid upon transfer of the title. This would significantly limit the ability of local governments to collect impact fees in a timely manner and provide infrastructure improvements to suppose new developments. The bill was amended multiple times throughout the legislative process before it finally died in the Senate Rules Committee. These amendments included limiting the legislation to Snohomish and Pierce counties, requiring that impact fees be paid within 180 days, limiting the option to only residential dwellings, and other small changes. GTH-GA successfully worked with other local governments to oppose the legislation.

Impact Fee Credits for Public Facilities

Senator Mary Margaret Haugen introduced [Senate Bill 5548](#) during the 2009 legislative session. Over the interim the Master Builders Association approached multiple local governments to find agreement on language. Under the agreed-upon language, public facilities eligible to receive impact fee credits are expanded to include transit, bicycle, and pedestrian facilities. Accordingly, if the transit, bicycle, and pedestrian facilities are included in a local jurisdiction's capital facilities plan, a credit must be provided against impact fees for improvements made towards those facilities when provided by the developer. This legislation did not pass this legislative session. Local governments have agreed to work with the Master Builders Association this next interim to address multiple issues related to impact fees.

Hearing Examiner Legislation

[Senate Bill 5621](#) limits hearing examiner fees to \$200, negatively impacting the City's general fund. This legislation passed the Senate, but did not pass out of the House Local Government Committee. However, even with the amendment, multiple jurisdictions had lingering concerns. As such, the bill did not pass out of the Local Government committee.

Notice to Property Owners

Representative Angel introduced [House Bill 2408](#), which in its original form required local governments to notify property owners if zoning changes are made to their property. The bill was amended in the House Local Government Committee to give cities and counties a great deal of discretion in providing notice for zoning changes. This addressed many of the concerns, but when the bill moved to the Senate there were still some concerns by other jurisdictions and planning organizations and the bill did not pass out of the Senate Government Operations Committee.

Street Utility Fee Legislation

[House Bill 2618](#) establishes a local option street utility fee did not pass out of the House Transportation Committee. Members expressed concerns that they do not want to take additional revenue-generating votes this year. The proposal may be viewed more favorably in future legislative sessions when fewer tax and fee increases will take place.

Wrongful Death

[Senate Bill 6508](#) expanded local government liability for wrongful death. The proposal was brought forward by the trial lawyers and received a great deal of support from the Legislature. The bill expands the class of persons who can bring suits for wrongful death, increasing the cities' liability and potentially costing the city a significant amount of money. The bill did not pass the Legislature, but will likely be brought forth during future legislative sessions.

TIB/ CRAB/ WSDOT Consolidation

As part of the effort to reform government agencies, the Governor's office proposed consolidating TIB and CRAB into the Washington State Department of Transportation. However, after receiving significant opposition from the House and Senate Transportation Committee Chairs, the Governor's Office agreed to not move forward with the TIB/CRAB/WSDOT consolidation and to instead work over the interim to see whether/how the transportation organizations can be streamlined. GTH-GA expects that this consolidation will be closely examined during the interim.

3. BILLS THAT ARE NECESSARY TO IMPLEMENT THE BUDGET

Stormwater (Clean Water Act) – Local governments and the environmental community collaborated to bring forth multiple proposals to generate funding to meet NPDES requirements. At the beginning of the legislative session, there was a proposal to generate revenue for local governments and retrofit projects by place a per barrel tax on oil. After that proposal received significant opposition, another proposal was brought forth in [House Bill 3181](#). After multiple amendments and discussion, House Bill 3181 in its current form provides for the following: the Hazardous Substance Tax is increased an additional .1% annually for four years until the rate has increased a total of .4%. None of the increased revenue will go to the general fund, but would be

distributed to local governments. This bill is necessary to implement the budget and not subject to cutoff dates, it has not been voted on in the House. The Senate companion bill [Senate Bill 6851](#), was never moved out of committee. This bill will be addressed in the special session.

911 Funding

Two companion bills were brought forth that to provide funding for [House Bill 2351](#) and [Senate Bill 6846](#). The major provisions of the legislation include:

- Counties may impose an E-911 excise tax for each switched access lines, radio access lines, and interconnected voice over internet protocol service line, in the amount not exceeding 70 cents per month.
- Counties imposing a county E-911 excise tax must provide an annual update to the E-911 coordinator detailing the proportion of their county E-911 excise tax that is being spent on: efforts to modernize their existing 911 system; and basic and E-911 operational costs.
- Counties imposing an E-911 excise tax must contract with the Department of Revenue (Department) for the administration and collection of the tax.

Language was included in the Senate Budget and the bill was determined to be necessary to implement the budget. This issue will be discussed during the special session as the Legislature completes the budget.