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MEMORANDUM

To: Kurt Triplett, City Manager
From: Lorrie McKay, Intergovernmental Relations Manager
Date: April 5, 2012
Subject: 2012 LEGISLATIVE UPDATE No. 6

RECOMMENDATION:

Council receives its sixth update on the 2012 legislative session – Special Session.

BACKGROUND DISCUSSION:

The first special session of 2012 State Legislature commenced on Monday, March 12 and concludes on Tuesday, April 10, 2012.

As of the writing of this memo, the House and Senate remain at an impasse on completing the 2012 Supplemental Operating Budget.

2012 LEGISLATIVE PRIORITIES:

Of the City of Kirkland's priority bills that passed during the regular session of the legislature, both EHB 1398 - creating an exemption from impact fees for low-income housing, and ESSB 6470 - authorizing benefit charges for the enhancement of fire protection services, were signed into law by Governor Gregoire.

Interestingly, ESSB 6470 appears to have been the only local options bill passed by the legislature this session. This is both a source of pride for the City and a sad commentary for all of the intense work by many this session to establish more flexibility and local options for cities in the face of serious cuts in State shared revenue.

SPECIAL SESSION UPDATE:

Operating Budget

As of the writing of this memo, no budget resolution has been announced between the House, Senate and the Governor on the Operating Budget. The issues in play continue to be revenues, government reforms which will dictate the ultimate size of the operating budget and any related bills they would need to pass in conjunction with a budget agreement.

On Tuesday, April 3, the House introduced 9 bills associated with the budget. Both Senate and House members were called back to Olympia on Wednesday, April 4 to get briefings from their respective leaders on the status of budget negotiations and policy bills. On Thursday afternoon, in an effort to break the impasse, the House passed an amended supplemental budget (2ESHB 2127) with all but two Democrats voting yes and all Republicans voting no. The mostly party line vote was 54-43 with two Democrats – Reps. Deb Eddy of Kirkland and Mark Miloscia of Federal Way – voting against it.

On Saturday (April 7) several bills passed Senate but not the full list of "reforms" that the Republican members want. The bill was tabled and members adjourned until Monday.

Senate Ways & Means did move versions of the capital and operating budgets out declaring that they would not be "perfecting" the bills, meaning they just moved the vehicles but acknowledged that final agreement versions of these bills were not being done now.

Among the 9 bills introduced by the House on Tuesday, one of them was HB 2823 which would determine how liquor proceeds are distributed. According to the AWC, this bill:

- (Beginning 7/1/12) Diverts the Liquor excise tax to the state's general fund for the remainder of 2011-13 biennium. And beginning 7/1/13, it diverts \$10 M/year to the state's general fund permanently.
- It diverts the Liquor revolving fund that which is not guaranteed under I-1183, to the state's general fund permanently (beginning 7/1/12).

Kirkland staff estimated the City's 2012 liquor excise tax revenue to be about \$400k. Assuming the diversion of the liquor excise tax would start in July 2012 for state fiscal year 2013, it would mean a loss of about \$200k in 2012. Staff will continue to analyze the potential impacts of this proposal to the City. Calls or e-mails urging legislators to avoid permanent cuts or fund shifts impacting cities remains invaluable.

Capital Budget

The Capital is tied to agreement on the Operating Budget. Operating Budget decisions will have a major impact on the size of the Capital Budget, which typically is resolved after agreement has been reached on the operating budget.

A version of the capital budget was moved on Saturday which has \$2 million in it for the Cross Kirkland Corridor but we also understand that legislators negotiated another version that was to move on to the floor. As of the writing of this memo that version has not yet been made public.

Transportation Revenue

SB 6582, the local transportation revenue options bill, is still stuck in debate. This bill is in good standing in the House but it remains precarious in the Senate.

Challenging issues include some legislators wanting to see language allowing more discretion for local governments in how they might use any money generated by the 1 percent MVET (or any other source of revenue), while others want to see strong transit language.

While the AWC and others are working hard with legislators to find a path forward, the primary focus is on completing the budget.

ACKNOWLEDGEMENTS AND APPRECIATION:

This Council's unified concern and steadfast focus on preserving the State Annexation Sales Tax Credit since just before last November's special session was critical to the overall success in achieving its preservation this year. And while the coalition of cities along with their staff and lobbyists worked extremely hard on this since November as well, Mayor McBride in particular was unrelenting in carrying the message to legislators, to other cities and to anyone who came within ear-shot.

The Council's Legislative Committee (Mayor McBride, Deputy Mayor Marchione and Council Member Asher) and the City Manager testified in Olympia at 10 committee hearings this session, made phone calls and sent letters and emails to legislators, continuously advancing the City's legislative priorities.

The City's department directors and their key staff reviewed and commented on over 175 bills this session, 75 more bills than what they reviewed last session, which was a long session. Staff is enormously grateful for the help and expertise provided by the departments in this regard.

Waypoint Consulting (Majken Ryherd and Jim Richards) served as the City's eyes, ears and advocates in Olympia's trenches, day-in and day-out ensuring the City's interests were being understood and protected.

Finally, the City acknowledges and honors the 25 legislators who signed onto a letter in December calling for the preservation of the State Annexation Sales Tax Credit. The City is thankful for the support of our elected delegation in Olympia, particularly Senator Rosemary McAuliffe and Representatives Roger Goodman and Larry Springer who led the effort in Olympia to secure support for ESSB 6470 - authorizing benefit charges for the enhancement of fire protection services. And to Senators Maralyn Chase, Steve Litzow and Andy Hill, who were critical to the success of EHB 1398 - creating an exemption from impact fees for low-income housing.

LITIGATION UPDATE - INITIATIVE 1183 CONCERNING LIQUOR:

At the April 3 Council meeting, Council inquired about the status of the ruling on Initiative 1183, concerning liquor: beer, wine, and spirits. In response, staff offers the following update, excerpted primarily from the Stoel Rives Alcohol Beverage Blog and the Seattle Times.

The Washington State Supreme Court accepted review of the challenge to I-1183. The briefing schedule has been posted, and the arguments are set for May 17th. An opinion is expected to be issued before the June 1st implementation date for retail spirits sales.

On March 19, the Cowlitz County Superior Court granted the Costco-led intervenors' and the State's motion for reconsideration and, in turn, granted summary judgment upholding I-1183 in its entirety.

After the trial court entered final judgment, the plaintiffs filed a notice of appeal. On March 28, they filed with the Washington Supreme Court a "statement of grounds for direct review", which is a motion for the State Supreme Court to address the validity of I-1183 directly, bypassing the usual process of appealing first to the State Court of Appeals. At the same time, the plaintiffs filed a motion for injunctive relief seeking to halt the implementation of I-1183 until final resolution on appeal, as well as a request for an expedited briefing schedule. On April 7, the Supreme Court, through its Commissioner (which is a court officer empowered to rule on procedural matters) denied the motion to delay implementation of Initiative 1183, which will privatize the liquor business in the state beginning June 1.

The Supreme Court's Commissioner argued in his denial of the motion that the court could well issue a decision before June 1. To stop implementation of I-1183 now, he said, likely would cost the state money and hurt retailers, distributors and others who are making changes in anticipation of the new law. The Commissioner's ruling can be appealed, with all filings in such an appeal due next week.

There is also a parallel challenge to I-1183 pending in King County Superior Court. The plaintiffs in this action are unionized employees of the Liquor Control Board who stand to lose their jobs upon the full implementation of I-1183. The court entered an order staying proceedings in this case pending resolution of *WASAVP v. State*, and the Court of Appeals rejected the plaintiffs' motion for discretionary review of that ruling.

The plaintiffs now have moved to lift the stay on the ground that the Cowlitz County Superior Court has entered final judgment. Costco and the State have urged the court to maintain the stay in favor of waiting for a decision by the State Supreme Court.