

## WACO 2021 LEGISLATIVE SESSION OUTCOMES REPORT

Headed into the 2021 session, legislative leadership communicated clearly that given the unique, unprecedented challenges posed by a virtual session, the number of bills introduced would be greatly reduced and those advanced would need to clearly relate to legislative priorities. Given these challenges, WACO is pleased and proud that 6 of our original 8 priority bills were successfully passed this session. Among them, the first cross-affiliate bill in recent history, which gained us repeated praise for its no-cost continuity of operations focus and the collaboration among affiliates it represented. WACO members worked diligently with legislators and stakeholders on positive solutions to bills that posed significant implementation challenges, and as a result greatly reduced the number of bills on which sustained opposition was required.

### WACO PRIORITY BILLS

#### **[EHB 1271](#) - Ensuring continuity of operations in the offices of county elected officials during the current COVID-19 pandemic and future public health crises.**

- Align County Assessor property inspection language to allow for use of new technologies while upholding national (IAAO) standards.
- Permit the State Auditor to allow local governments a 30-day extension for filing annual fiscal reports if Governor has declared an emergency.
- Provide that a County Auditor has fulfilled her/his obligation of making public records available if records can be accessed on the County Auditor's website.
- Clarify the definition of "attend" with regard to County Clerk courtroom attendance to include virtual attendance.
- Expand the membership of state Emergency Management Council to include County Coroners and Medical Examiners; and add Coroners and Medical Examiners to the definition of "first responders".
- Grant Coroners and Medical Examiners access to driver's license and State issued identification cards for the purposes of identification of the deceased.
- Allow County Sheriffs to conduct their public auctions online, similar to public auctions conducted by County Treasurers.
- Align timelines for personal and real property tax collections resulting in both efficiencies for County Treasurer offices and relief for small business owners.

**SHB 1309 - Concerning the Dates of Certifying Levies (Assessors)**

Changes the due date for a county legislative authority to certify the levy amount to the county assessor to December 15; and the due date for taxing districts to certify the levy amount to the county assessor to the first Monday in December.

**SB 5019 - Standardize Recording Practices (Auditors)**

Renames the E-Recording Standards Commission to the Recording Standards Commission and expands the Commission's responsibilities to include making recommendations for rules to the Secretary of State on recording standards generally. Allows the Secretary of State to make rules for the uniform recording of documents in cooperation with the Recordings Standards Commission.

**SB 5131 – Better Alignment of Duties in the Recall Process (Clerks)**

Transfers the responsibility for notifying the petitioner moving to recall an elected official and the elected official of the hearing date from the county clerk to the superior court. Transfers the responsibility for certifying and transmitting the recall ballot synopsis from the superior court to the county clerk.

**ESHB 1326 - Mandate National Certification for Elected or Appointed Coroner/Medical Examiners and Fix the Autopsy Reimbursement Rate Gap (Coroners)**

- Requires coroners, medical examiners, and full-time medicolegal investigative personnel, other than prosecuting attorneys acting as exofficio coroners and those who have already received comparable training, to complete medicolegal forensic investigation training within 12 months of assuming office.
- Requires coroner's and medical examiner's offices, other than those run by a prosecuting attorney acting as ex-officio coroner, to be accredited by the National Association of Medical Examiners or the International Association of Coroners and Medical Examiners by July 1, 2025.
- Conditions 25 percent of reimbursement for autopsy costs from the Death Investigations Account on coroner's and medical examiner's satisfying training and accreditation requirements.
- Allows a county to enter into an interlocal agreement with an adjoining county for the provision of coroner or medical examiner services.
- Allows the county legislative authority in noncharter counties with a population of less than 40,000 to determine whether a coroner will be elected or appointed.
- Provides minimum salaries for elected coroners in counties under 40,000 people, and allows a county legislative authority to alternatively set the salary on a per case basis in such counties, as of January 1, 2025.

**ESSB 5118 - Supporting successful reentry (Prosecutors)**

County Prosecutors requested amendment to RCW 9.98.010. Known as the “Peeler Fix” was incorporated into a larger bill. The component requested by the Prosecutors avoids the dismissal of cases when a defendant is charged in multiple counties with multiple crimes and claims the

right to a speedy trial in multiple counties at the same time by excluding the time a defendant spends in jail awaiting trial from the speedy trial time of another county, solving the problem created by the courts in the State V. Peeler case.

## **STATE BUDGET (SB 5092)**

Linked [here](#) is a side-by-side comparison of proposed and final budget a relevant to counties. Specific to WACO affiliates:

### **State V. Blake**

The budget includes \$95.8 million dollars in funding for the state's response to State V. Blake by allocating money to the State Department of Corrections (DOC), Administrative Office of the Courts (AOC), Office of Public Defense, and Office of Civil and Legal Aid:

- DOC gets \$3,300,000 for temporary court facilities, staffing, and to provide release assistance and other costs associated with resentenced individuals as a result of State V. Blake. (Section 223). P. 266 Line 31.
- DOC gets \$1,300,000 for internet connections to execute the online facilitation of vacation hearings in DOC (Section 1221) p. 869 line 29)
- AOC gets apportioned (Section 115) \$44,500,000 to assist counties with the costs of resentencing and vacating the sentences of those affected by State V. Blake. AOC must provide grants to counties that demonstrate extraordinary judicial, prosecution, or defense expenses for those purposes. The office must create a process for County Clerks to apply for distribution.
- AOC gets \$23,500,000 to establish a LFO obligation aid pool to assist counties that are obligated to refund LFOs due to State V. Blake. Clerks may apply to AOC for the cost.
- OPD gets \$5,500,000 per year for 2022/2023 for public defense costs related to State V. Blake. (Section 116)
- OPD gets \$400,000 per year for 2022/2023 for attorney training for State V. Blake (Section 116)
- OPD gets \$5,100,000 per year for 2022/2023 for grants for public defense.
- Office of Civil and Legal Aid gets \$600,000 per year for 22/23 for creating, online, plain language forms, outreach, education and technical assistance for those affected by State V. Blake. (Section 117)

### **AUDITORS:**

- \$269,900 from the government archives account for SB 5019 for Secretary of State's Office to implement expanded duties of recording standards commission (Section 121)
- \$125,000 each for FY 2022 and 2023 for University of Washington and Eastern Washington University o conduct review of recorded documents with unlawful racial restrictions per E2SHB 1335.

**CLERKS:**

- LFO Grants (Section 711) – Total apportionment \$982,000
- OFM will do a feasibility study for the purposes of establishing a system for streamlining the vacation of criminal conviction records. (Section 953) Clerks are consultants (Section 953 (e))
- AOC gets \$1,782,000 for implementation of HB 1320 (Civil Protection Orders). (Section 115) of the state budget. Additional \$749,000 for 2023.
- TESC gets \$200,000 for WSIPP study on LFOS (Section 610)

**CORONERS:**

- \$534,000 of the Death Investigations Account is dedicated to the CJTC to update and expand the Coroner/ME training from eighty to two hundred and forty hours to meet recommendations of the National Commission on Forensic Science certification and accreditation recommendations (Section 1217)
- \$1,216,000 of the Death Investigations Account is dedicated to providing 240 hours of Coroner training to meet national certification requirements (Section 1217)
- \$210,000 for local jurisdictions financial assistance in identifying human remains (Section 148)

**PROSECUTORS:**

- \$200,000 to the UW (Section 606) to research the use and effectiveness of restorative justice. Prosecutors as consultants.
- Washington State Missing and Murdered Indigenous Women and People task force established (Section 955) WAPA representative

**SHERIFFS:**

- 11 additional Basic Law Enforcement Academy classes (Section 1217)
- \$92,000 to WASPC for body camera programs (Section 1217)
- \$275,000 for Island County video storage as a WASPC passthrough (Section 1217)
- \$165,000 to Skamania County for the failed control module system as a WAPSC passthrough (Section 1217)
- Washington State Missing and Murdered Indigenous Women and People task force established (Section 955) WASPC representative

**TREASURERS:**

- \$250,000 SGF for FY 2022 and 2023 for the State Treasurer's office for implementation of tax increment financing for local governments program per ESHB 1189
- \$176,000 from forest development acct; \$164,000 from aquatic lands enhancement account; \$377,000 resource management cost account and \$22,000 agricultural college trust management account for the Department of Natural Resources to implement SHB 1355 with various provisions related to management of noxious weeds on state lands.

## **CRIMINAL JUSTICE REFORM**

This year was comprehensive for bills related to criminal justice reform. There are numerous bills that touch some aspects of this area. However, the list of bills that cleared the legislature is much smaller than originally anticipated. Here are five that stand out for their impacts on Sheriff offices and their staff.

- [HB 1001](#) – Professional Development – creates a two-year grant program to encourage a broader diversity of candidates to seek careers in law enforcement.
- [HB 1054](#) – Police Officers Tactics and Equipment
  - Prohibits the use of chokeholds and neck restraints (Section 2)
  - Requires CJTC to create a training protocol for canine teams. (Section 3)
  - Places restrictions on the use of tear gas (Section 4)
  
  - Prohibits the acquisition or use of certain types of military equipment (Section 5)
  - Requires agencies to adopt policies and agencies to ensure that uniformed peace officers are reasonably identifiable. (Section 6)
- [HB 1088](#) – Impeachment Disclosure
  - Requires County Prosecutors to develop and adopt written protocols addressing potential impeachment disclosures.
  - Requires the CJTC to provide or contract for the provision of online training for potential impeachment disclosures.
  - Requires both Sheriffs to report to County Prosecutors an officer’s misconduct affecting credibility or any act of an officer that may be potentially exculpatory to a defendant.
- [HB 1089](#) – Law Enforcement Audits
  - Requires the State Auditor to review any completed deadly force investigation to determine compliance with applicable rules and procedures.
  - Authorizes the State Auditor, upon the request of the CJTC, to review a law enforcement agency to ensure compliance with all applicable rules and procedures governing training and certification of peace officers.
- [HB 1267](#) – Police Use of Force – Establishes the Governor’s Office of Independent Investigations for the purpose of investigating deadly force incidents involving peace officers.

## **PROPERTY TAX REFORM**

Early in the 2021 session was a flurry of bills proposing changes in property taxation as a means of providing relief related to COVID and affordable housing, among other legislative priorities. While WACO’s collaboration with other stakeholders and communications with legislators helped minimize unintended consequences, much more work lay ahead in raising awareness on this issue. Bills that passed this session:

- [ESHB 1332](#) - Property tax deferral/COVID
  - County treasurers must grant a deferral of unpaid, nondelinquent taxes due in 2021 via establishment of a payment plan
  - Qualified applicants are businesses demonstrating a loss of 25 percent of revenue for calendar year 2020

- Deferrals are requested from county treasurer via forms provided by DOR.
- [ESHB 1410](#) - Home foreclosure / taxes
  - Eliminates penalties on delinquent property taxes for residential parcels with four or fewer units.
  - Reduces interest on delinquent property taxes to 9 percent for residential parcels with four or fewer units.
- [SHB 1438](#) - Property tax / health expenses
  - Expands medical expenses and equipment that can be deducted when calculating "combined disposable income" for the purposes of property tax relief programs.
- [ESB 5454](#) - Property tax / natural disasters
  - Provides a three-year property tax exemption on the value of home improvements made to a single-family dwelling damaged by natural disasters that occurred on or after August 31, 2020 and located in a disaster area declared by the Governor or county legislative authority.
- [EHB 1386](#) - Industrial / manufacturing facilities
  - Expands eligibility for the targeted urban area (TUA) property tax exemption to allow any city located in a county with a population of at least 450,000 to use the program. • Expands eligible facilities for the TUA exemption to include those facilities categorized with a transportation use.
  - Increases the average wage required for a family living wage job to \$23 and requires that health care benefits be provided for the TUA exemption.
  - Extends TUA application deadline until December 30, 2030

## **ELECTIONS**

The legislature continued its recent trend of bills making statements about our system of elections at the state and local level. Like property tax, WACO and WSACA worked, and will continue to work, to provide legislators the true picture of our systems. Auditors were disappointed that their voter pamphlet bill was not successful this year. Election-related bills our members watched closely that did pass included:

- [HB 1078](#) – Restoring voter eligibility for all persons convicted of a felony offense who are not in total confinement under the jurisdiction of the department of corrections.
  - Removes provisions authorizing the revocation of provisional restoration of voting rights upon failure to pay legal financial obligations.
- [HB 1068](#) – Exempting election security information from public records disclosure.
  - Exempts continuity of operations plans for election operations, security risk assessments, and other election security records, and portions of records that contain information related to election security, operations, and infrastructure from public disclosure requirements.
  - Clarifies that information or records pertaining to security breaches, with exceptions, are not election security records exempt from disclosure requirements.
- [SB 5015](#) – Concerning fraudulent portrayal of ballot drop boxes.
  - Establishes a gross misdemeanor for misrepresenting an unofficial ballot collection site or device as an official ballot drop box that has been established by the county auditor.

- [SB 5013](#) – Concerning local redistricting deadlines.
  - Requires counties, cities, and special purpose districts that elect their governing bodies with district-based systems to prepare redistricting plans by the earlier of eight months after the receipt of census data, or November 15th of the year ending in one

## **OTHER ENACTED BILLS FROM AFFILIATE WATCH LISTS**

### **LOCAL GOV FISCAL FLEXIBILITY ([HB 1269](#))**

- Allows counties to utilize monies in the Criminal Assistance fund for non-criminal justice spending through December 31, 2023. (Section 2)
- Allows 35% of REET funding to be used for capital projects (Section 10)
- Removes levy non-supplant language through 2022. (Section 14)

### **TAX INCREMENT FINANCING ([ESHB 1189](#))**

- Authorizes local governments to designate tax increment financing areas and to use increased local property tax collections to fund public improvements.

### **CIVIL PROTECTION ORDERS ([HB 1320](#))**

- Requires AOC to consider and develop recommendations regarding the jurisdictional division of authority among superior courts and courts of limited jurisdiction for protection order proceedings. Clerks, Prosecutors are consultants. (Section 12)
- Beginning January 1, 2023 for superior courts (January 1, 2026 for courts of limited jurisdiction) requires County Clerks to permit petitions for protection orders and other findings; making all electronically filed documents accessible electronically for judicial officers statewide. Additionally, requires any electronic submissions to be trackable online. (Section 14)
- Requires AOC to develop instructions and brochures for filing. Work informed by Clerks' Community Resource lists (Section 16)
- Requires AOC to create a single petition for use for filing an order (Section 16)
- Outlines Clerks duties for petitions (Section 17)
- Allows Sheriff or Prosecutor staff to serve as protection order advocate (Section 34)

### **STATE V. BLAKE ([SB 5476](#))**

- Reduces criminal penalty for simple possession to a misdemeanor.
- Requires prosecutors to divert a person's first two offenses.
- Establishes a substance use and recovery services advisory committee with HCA
- Allows Superior Court Judges to appoint court commissioners to conduct resentencing hearings pursuant to State V. Blake.
- State V. Blake reimbursement account created in the State Treasury. Monies in the account spent only after appropriation and may only be used for state and local costs resulting from State V. Blake, and to reimburse individuals affected LFOs. (Section 21)

### **JEVENILLE REHABILITATION ([HB 1186](#))**

- Creates a community transition program under Department of Children, Youth and Families (DCYF) for individuals who served 60 percent of their term of confinement.

### **RACIAL RESTRICTIONS / REVIEW ([E2SHB 1335](#))**

- Requires the University of Washington and Eastern Washington University to review existing deeds and covenants for unlawful racial or other discriminatory restrictions and provide notice of such restrictions to property owners and county auditors.
- Adds to the seller disclosure statement a notice to the buyer of real property that covenant or deed restrictions based on race or other protected classes are unlawful and provides the methods by which such restrictions can be struck.
- Provides a process for striking and removing unlawful provisions from the record and chain of title after a property owner files an action in superior court.

### **NOXIOUS WEEDS ([SHB 1355](#))**

- Requires the State Noxious Weed Control Board to convene a stakeholder process to develop a system by which parcels owned or held by the Department of Transportation may be identified and billed for special benefits received from county noxious weed control boards.
- Requires forestland owners to control and prevent the spread of Class C noxious weeds within specified distances of adjacent lands, roads, navigable rivers, and certain other areas.
- Adds weed boards and weed districts to the class of assessing districts that may levy assessments and charges on state lands.

### **MUNICIPAL FINANCIAL SERVICES ([SB 5106](#))**

- Repeals the limitation that a credit union may only accept deposits greater than the maximum insured amount from a public funds depositor that either is a county with a population of 300,000 persons or less or is a public funds depositor located within a county with a population of 300,000 persons or less.

### **ADDITIONAL REVENUE SOURCE FOR EVICTION PREVENTION AND HOUSING STABILITY SERVICES ([HB 1277](#))**

- Establishes a \$100 surcharge on certain recorded documents to fund various housing services.
- Creates the Eviction Prevention Rental Assistance Program in the Department of Commerce (COM).
- Requires the COM to develop performance metrics for each county receiving funding from the surcharge and dedicate a portion of funding to performance-based allocations.