Legislative Year in Review

2015
A 105-day regular legislative session reached a record setting 176 days as the Washington state legislature went into three special sessions, narrowly avoiding a state government shutdown. Many different factors contributed to the longest session in state history – a mandate from the state Supreme Court; lawsuit relating to mental health, a Republican controlled Senate, a Democrat controlled House; and above all - politics, politics, politics...

Supreme Court Mandate/Final Operating Budget

Looming large over the 2015 session was the Supreme Court’s mandate to legislators to fund education, or risk financial penalties on legislators themselves. Leading up to January, Democrats insisted taxes would be necessary to comply. But forecast after forecast showed Washington’s economy is indeed improving, driving record sums of money into the state coffers. While Democrats held their ground, they were ultimately unable to muster the necessary votes, even among their own members.

The Washington Legislature has now submitted a report to the Supreme Court regarding the progress made on education. The question is whether these accomplishments will be enough. After 176 days, they agreed to spend an additional $2.9 billion to fund teacher pay raises, implement all-day kindergarten statewide, reduce some class sizes in K-3, and fund materials, supplies and operating costs. They have not, however, initiated a discussion on how to fund Initiative 1351, the 2014 voter-approved measure to reduce class size at all grade levels. The initiative did not specify a funding mechanism and this mandate carries an estimated $2 billion price tag. The legislature ultimately agreed to kick this can down the road for four more years. Also still on the horizon is the issue of school district reliance on local levies to supplement state funding. It is entirely possible the Supreme Court will call the Legislature back to Olympia for a record fourth special session this year, and it is absolutely certain the Legislature will continue to struggle to pay for education in future legislative sessions.

Education advocates were not the only interests excited by returning revenues. After receiving ten years of bad economic news, lobbyists lined up to plead for a huge backlog of requests. And so, in coordination with customary budget gimmicks, the freshly earned revenue was doled out. Among the winners are higher education advocates who secured a 15-20% tuition cut at state universities, state and home care workers who will receive raises that fully fund collective bargaining agreements, state parks, recipients of low income healthcare, TANF (formerly welfare) and mental health programs.

A government shut-down was averted when the Legislature delivered a bipartisan $38.2 billion operating budget for Governor Jay Inslee’s signature at 11:41pm on June 30, nineteen minutes before the end of the fiscal year. Merry negotiators and members of both parties proudly celebrated together, but the congenial feelings came to a screeching halt when the Senate returned to work in the early morning hours. Senate Democrats deceived their own budget negotiator and broke their word on an agreement that was necessary to implement the budget signed into law just hours before. A week later, after entering into a third special session, an agreement was reached and the session finally ended. Sadly, the image of bipartisan collaboration producing a compromise budget has been replaced by scars of deception that will compound partisanship in the next session.
Capital Gains Tax – Defeated...this year...

The primary focus of debate between the Democrat-controlled House and the Republican-controlled Senate was whether or not to increase taxes. While House Democrats made a capital gains tax the cornerstone of their revenue package, Senate Republicans did not propose new taxes in their budget. Instead, Republicans assumed new revenue growth from cannabis, budget savings, financing by bonding, diverting cash from other funds, and pension payment modifications.

Beginning in 2016, the House Democrat plan would have imposed a 5% tax on all individuals for the privilege of selling or exchanging long-term capital assets, or of receiving Washington capital gains. Deductions allowed in determining the tax would have been $25,000; or $50,000 for individuals filing joint returns. The capital gains tax would not have applied to the gain on the sale of a long-term principle residence if used by a person as the person’s principle residence.

Many individuals who own and provide rental housing in this state do so as an investment in their future. Many of these people do not have retirement accounts and depend on the sale of their rental property as a means for their retirement.

Senate Republicans repeatedly voiced opposition to any capital gains tax, and were ultimately successful in preventing this proposal from becoming law. In exchange, Senate Republicans agreed to close a few tax exemptions. Needless to say, WMFHA actively supported the Senate Republican budget position opposing the 5% Capital Gains Tax and will in the future continue to lobby against any capital gains tax proposal.

Transportation + Capital Budgets

Unlike the state operating budget, the Legislature is not required to pass a biennial transportation budget or a capital budget (there was no capital budget passed last year).

Between business, Labor and local government, seemingly every lobbyist in Olympia had a client wanting the 16-year, $16 billion transportation package. The plan, which includes an 11.9-cent increase in the gas tax over the next two years, brings the total state per gallon gas tax to 45.5 cents per gallon. In addition there is $1.95 billion in new passenger car weight fees, $1.1 billion in trucking fees and $4.8 billion in bond sales.

On the spending side, the transportation bill appropriates over $16 billion including an $8.8 billion statewide highway package. Within the highway package are the state’s mega projects including $1.9 billion for State Routes (SR) 167 and 509 or more commonly known as the Puget Sound Gateway project to support freight traffic mobility at the Ports in Seattle and Tacoma, $1.6 billion for SR-520 Seattle Corridor Improvement, $1.2 billion for Interstate 405 from Renton to Lynnwood and $879 million for US Highway 395, the North Spokane Corridor. The transportation budget also appropriates $635 million in distributions for local governments, $600 million for the Washington State Ferry System, $164 million for freight rail projects, $111 million for transit projects, and $89...
The $3.9 billion capital budget, funded by $2.2 billion in general obligation bonds, spends $800 million on new K-12 school construction, $55.3 million for the Washington Wildlife and Recreation Program, and starts the new WSU branch campus in Everett by appropriating $54.5 million for a new WSU University Center facility.

Multi-Family Housing Legislation

Deceased Tenant Bill

After years of advocating for legislation that would provide clarity to landlords concerning procedures and requirements relating to the death of a tenant, WMFHA is pleased to have played a significant part in the passage of Substitute Senate Bill 5538, which Governor Inslee signed into law on May 14.

The bill, prime sponsored by Senator Jan Angel (R-Port Orchard), allows a tenant to designate a person to act on his or her behalf in the event of the death of the tenant and establishes procedures for the disposition of the personal property of a tenant upon the death of the tenant. WMFHA will be distributing an informational guide on this new law that took effect July 24, 2015.

WMFHA worked diligently alongside the Washington Rental Owners Association (WROA) and the Rental Housing Association (RHA) in negotiating with lawyers representing tenants to carefully craft language acceptable to all parties.

In addition to the passage of SSB 5538, WMFHA successfully worked to defeat many proposals during the regular session that would have had a negative effect on the industry, most of which will certainly be back again next year, including:

Portable Tenant Screening (HB 1257) - Defeated

This bill would have defined a “comprehensive screening report” and stated that if a rental owner was presented with the opportunity to access such a report online, the rental owner must either accept the report or pay for any additional report the rental owner wants to use.

Why WMFHA opposed:

- Many rental communities have screening criteria which can differ from property to property, and prefer to remove the decision making from the onsite personnel to avoid subjectivity and possible fair housing claims.
- Many rental communities contract with screening companies for reports which provide onsite management staff with a recommendation that only indicates if the applicant is approved, denied, or approved with condition.
- Most onsite employees do NOT have the appropriate training or experience to decipher the many nuances and flat out differences one sees in credit and criminal reports.
- Tenant advocates and low-income housing groups should work with rental owners to promote current portable products. This has been very successful in Eastern Washington, and will educate and change the
marketplace – a better alternative than having the legislature do it by mandate.

**Disclosure of Eviction Lawsuits (HB 1460 / SB 5376) - Defeated**
Under this bill, screening companies would have been prevented from disclosing the existence of a filed eviction lawsuit that has been sealed by a court order. No direction was provided in the bill to govern rules or procedures for sealing such court files, a primary concern that led WMFHA to oppose the bill.

*Why WMFHA opposed:*
- A judge should be allowed to make the decision as to whether the case should be sealed or not, but this bill did not provide any procedures or guidelines to be used for sealing.
- Many unlawful detainer actions do not go to judgment because the tenant leaves prior to final adjudication.

**Notice for Rent Increases (HB 2051 / SB 5377) - Defeated**
This legislation would have authorized a city to require 90-day notice for rent increases of 10% or more, and would have also increased the number of people eligible for relocation assistance if a property is demolished or substantially remodeled.

*Why WMFHA opposed:*
- Seattle law already requires 60-day notice for a rent increase of 10% or more in any 12-month period
- If a tenant wishes to have the security to know that rents will not increase without notice, they can enter into a 12-month lease and they will be assured that their rent will not increase during that time.

**Source of Income (HB 1565 / SB 5378) - Defeated**
Would have made Section 8 voucher recipients a protected class across the state.

*Why WMFHA opposed:*
- Under the Section 8 program, property owners are subject to a fluctuating regulatory environment, extensive paperwork and yearly inspections that can result in expensive renovations.
- This policy exposed landlords to greater risk in the event of a lease default, as those using housing vouchers have fewer assets that could be recovered.
- It is unlikely this policy would result in more affordable housing options. Rather, it would have lead to rising housing costs due to litigation.
- A better solution is to incentivize property owners with voluntary tax incentives programs.

**Energy Benchmarking and Disclosure (HB 1278) - Defeated**
Mandated an energy benchmarking requirement similar to the one in existence in Seattle. Property owners would have been required to supply energy data using the EPA website.

*Why WMFHA opposed:*
- This bill would not actually create the building energy efficiency increases that it promised. The legal authority of the state to require energy use information is questionable.
- Nonprofit organizations designated to help with the benchmarking program would not be subject to public disclosure, which is problematic.
- The 10,000 square foot threshold for building participating in the benchmarking program requires too many small buildings to participate. Utilities would be the more appropriate source of energy use information, rather than placing requirements on building owners.
Voter Registration Information to Tenants (HB 1866 / SB 5259) - Defeated
Required landlords to provide voter registration information to new tenants at time of move-in.

Why WMFHA opposed:
- The intent to get people registered to vote is a good one. This is not the best way to accomplish that and it probably would not result in very many registrations.
- A landlord already must give a tenant a copy of the rental agreement, the move-in inspection report, a receipt for rent, a DOH mold notice, and in Seattle, an 11-page summary of the RLTA and local laws. Tenants do not need an additional piece of paper generated by landlords.

What’s Next?

Legislature vs. Washington Supreme Court
The Legislature must submit a report to the Washington Supreme Court before the fall of 2015 in accordance with the court’s contempt order. The court will be looking for progress in 3 key areas:
1) Full funding for maintenance, supplies and operational costs (MSOCs);
2) Funding for all day kindergarten and class size reduction in all primary grades, and
3) Reduced reliance upon local school levies to fully fund basic education.

State Revenue Forecast, September 16
The Washington State Economic and Revenue Forecast Council meets quarterly and renders an updated state revenue forecast. The next forecast is due in September 2015 and although it is not used to base any budget, it will inform state budget writers if their economic and revenue growth assumptions in the enacted biennial budget are sustainable.

Two Off-year Elections in House: 9th and 30th Legislative Districts
There are two off-year elections in the State House of Representatives in 2015. Rep. Mary Dye (R-Pomeroy) was recently appointed to a seat in the 9th legislative district vacated by Rep. Susan Fagan who resigned due to ethics violations. The heavily Republican district covers 5 counties in southeast Washington, including Pullman. Dye has a challenger from both the Republican and Democrat parties; it is expected the voters will maintain a Republican in the seat.

Rep. Carol Gregory (D-Federal Way) was appointed at the start of the year for a seat in the 30th legislative district vacated by Rep. Roger Freeman (D-Federal Way). Freeman died of cancer before the election, but won. This race will be highly contested as the 30th district, anchored in Federal Way and taking in parts of northeast Tacoma and Milton, is a noted swing district. This seat is important to the balance of power in the state House where House Democrats hold a thin 51-47 majority.

Initiative: Super-majority for tax increases, amend Constitution
Initiative 1366 (I-1366) has qualified for the November ballot. I-1366 would lower the state sales tax from 6.5 to 5.5 percent unless the Legislature places a constitutional amendment on the ballot by next April 15 requiring two-thirds legislative approval, or majority voter approval, for any tax increases. Voters have endorsed supermajority requirements several times in previous ballot measures but the two-thirds rule was struck down as unconstitutional by the state Supreme Court in 2013. The high court noted you cannot amend the constitution by initiative alone and the constitution plainly states that a simple majority of the legislature is needed to pass legislation with a tax increase.
4th Special Session: Supreme Court, downturn in economy, statewide teacher’s strike
Several scenarios could bring the legislature back into another special session during 2015. Among them is the Washington State Supreme Court could rule the budget just passed by the legislature is unconstitutional by not meeting the court order to address the McCleary decision. A severe downturn in the state economy would create a significant drop in state revenue and place the state in a budget shortfall prior to the end of the year. The state’s teachers’ union, the Washington Education Association (WEA) is threatening to conduct a strike, either statewide or in selected districts, over state funding for salaries and class sizes.

2016 Legislative Session
Rent Control
There is little doubt that liberal Democrats in both the House and Senate will advocate for the state to lift its ban on preempting local governments from enacting rent control. Given the ongoing issue of affordable housing in Seattle specifically, and an active and well organized grassroots effort, the issue of rent control/rent stabilization is fast becoming the next ‘minimum wage’ fight in Washington State.

WMFHA is deeply involved in the rent control debate at the state and local levels and we will continue to represent our members with the highest degree of integrity.

‘Levy Swap’
As a direct result of the McCleary decision, the state legislature has to find a method to reduce the reliance upon local school levies to fund basic education. This is the one part of McCleary the legislature did not make clear progress on in 2015. There were several bills introduced in 2015 to reduce local levies and supplant or “swap” the funds with state funding; none of which were enacted. This issue will be taken up again in the 2016 legislature.

Our Team
WMFHA takes pride representing our members before the state legislature. Our presence is sought and respected by members of both political parties because of the professionalism, knowledge and constructive dialogue we bring to the table. Many members of our Government Affairs Committee travel to Olympia to testify before lawmakers and meet one-on-one. We thank all of you for your commitment to the industry, your professionalism and being a part of our team.

WMFHA Government Affairs Committee
Bill Austin Epic Asset Management
Greg Cerbana Weidner Apartment Homes
Frank Dean The Billing Associates
Marla Gese Pioneer Human Services
Cassandra Haavisto NWSRES
Jaimie Karnik Equity
Melissa Koenig Allied Group
Alison Lambert Greystar
Janee Lovett Chateau Woods – Pinnacle
Erik Magnuson Greystar
Eric Moselle Weidner Apartment Homes
Jahna Overcash Pinnacle
Barry Savage RMI inc.
Betsy Schanno Pinnacle
Angela Ware Greystar
Chad Wheelock Simpson Property Group

Joseph Puckett, Government Relations Director
Kathryn Hedrick, State Lobbyist
Tim Hatley, Seattle Lobbyist

---