### Executive Committee

<table>
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<th>ByLaws Ref</th>
<th>Population</th>
<th>Executive Board Seat</th>
<th>Title</th>
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<th>Last Name</th>
<th>County</th>
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<tr>
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<td>3.4a</td>
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<td>Gelder</td>
<td>Kitsap</td>
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<tr>
<td>2</td>
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<td>1st Vice-President</td>
<td>Michael</td>
<td>Largent</td>
<td>Whitman</td>
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<td>3</td>
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<td>Stephens</td>
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<td>4</td>
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### Board of Directors

<table>
<thead>
<tr>
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<th>Title</th>
<th>First Name</th>
<th>Last Name</th>
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<tbody>
<tr>
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<td>P-President</td>
<td>Stephanie</td>
<td>Wright</td>
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</tr>
<tr>
<td>6</td>
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<td>Dave</td>
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<tr>
<td>7</td>
<td>P-President</td>
<td>Helen</td>
<td>Price Johnson</td>
<td>Island</td>
</tr>
<tr>
<td>8</td>
<td>2,226,300</td>
<td>Dow</td>
<td>Constantine</td>
<td>King</td>
</tr>
<tr>
<td>9</td>
<td>2,226,300</td>
<td>Joe</td>
<td>McDermott</td>
<td>King</td>
</tr>
<tr>
<td>10</td>
<td>888,300</td>
<td>Doug</td>
<td>Richardson</td>
<td>Pierce</td>
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<tr>
<td>11</td>
<td>818,700</td>
<td>Nate</td>
<td>Nehring</td>
<td>Snohomish</td>
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<tr>
<td>12</td>
<td>515,250</td>
<td>Mary</td>
<td>Kuney</td>
<td>Spokane</td>
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<tr>
<td>13</td>
<td>488,500</td>
<td>Eileen</td>
<td>Quiring</td>
<td>Clark</td>
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<tr>
<td>14</td>
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<td>John</td>
<td>Hutchings</td>
<td>Thurston</td>
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<td>16</td>
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<tr>
<td>17</td>
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<td>McDermott</td>
<td>King</td>
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<tr>
<td>18</td>
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<td>Beaver</td>
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<tr>
<td>26</td>
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### Board Alternate Seat

<table>
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<tr>
<th>Alternate Seat</th>
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<td>McCune</td>
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<tr>
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<td>French</td>
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<tr>
<td>5</td>
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<tr>
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<td>St Clair</td>
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### Affiliate Presidents Board

<table>
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<tr>
<td>ACCIS</td>
<td>Daniel</td>
<td>Key</td>
<td>City of Tacoma</td>
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<tr>
<td>ACHS</td>
<td>Tamara</td>
<td>Burn</td>
<td>Chelan-Douglas</td>
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<td>WACCCs</td>
<td>Julie</td>
<td>Kjorsvik</td>
<td>Kittitas County</td>
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<tr>
<td>WCAA</td>
<td>Mike</td>
<td>Thomas</td>
<td>San Juan</td>
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<tr>
<td>WSACE</td>
<td>Scott</td>
<td>Lindblom</td>
<td>Thurston</td>
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<td>WSACRDP</td>
<td>Erik</td>
<td>Johansen</td>
<td>Stevens</td>
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<td>WSALPHO</td>
<td>Astrid</td>
<td>Newell</td>
<td>Whatcom</td>
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<td>WSEMA</td>
<td>Kyle</td>
<td>Bustad</td>
<td>Pierce</td>
</tr>
<tr>
<td>WSUEXT</td>
<td>Linda</td>
<td>McLean</td>
<td>Colville Reservation</td>
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<tr>
<td>WACSWM</td>
<td>Brenda</td>
<td>Blanchfield</td>
<td>Chelan</td>
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<tr>
<td>Co-Chair</td>
<td>Matthew</td>
<td>Zybas</td>
<td>Snohomish</td>
</tr>
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</table>
# WSAC BOARD OF DIRECTORS MEETING

**Monday, November 16, 2020**

**Noon - 3:00 p.m.**

**Virtual Meeting**

**Join Zoom Meeting**

https://wsac-org.zoom.us/j/91602292609?pwd=TWE3ZjRqTkN0VzRNMHpCSzZ1NVFSZz09

Meeting ID: 916 0229 2609  
Passcode: 102360  
One tap mobile  
+12532158782,,91602292609#,,,,,,0#,,102360# US (Tacoma)  
8335480276,,91602292609#,,,,,,0#,,102360# US Toll-free

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<th>TYPE</th>
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</thead>
<tbody>
<tr>
<td>Noon</td>
<td></td>
<td>President Gelder</td>
<td>CALL TO ORDER and Introductions; Establish Quorum</td>
<td></td>
</tr>
<tr>
<td>√</td>
<td></td>
<td>President Gelder</td>
<td>1.  APPROVE Agenda</td>
<td>Action</td>
</tr>
<tr>
<td>√</td>
<td></td>
<td>President Gelder</td>
<td>2.  APPROVE MINUTES: September 17, 2020</td>
<td>Action</td>
</tr>
<tr>
<td></td>
<td></td>
<td>President Gelder</td>
<td>3.  President’s Report</td>
<td>Report</td>
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### WSAC BUSINESS

<table>
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<th>TYPE</th>
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</table>
| 12:15 p.m. | √ | Eric Johnson  
Mellani McAleenan  
Paul Lawrence and/or  
Kymberly Evanson | 4.  Litigation Program Update Regarding Current and Pending Litigation – Possible Executive Session  
- Spokane County  
- Unfunded Mandate  
- Indigent Defense  
- Amicus Brief Update | Update, Possible Action |
| 1:15 p.m. | √ | Rob Gelder  
Eric Johnson | 5.  Recognitions and Thanks  
*Actions: Consider Recognition of those assisting WSAC in preparation and submittal of Amicus Briefs*  
*Resolution 2020-24* | Action |
| 2:00 p.m. | √ | Eric Johnson | 6.  Proposed 2021 WSAC Board of Directors Meeting Schedule  
*Actions: Consider Adopting 2021 WSAC Board of Directors Meeting Schedule*  
*Resolution 2020-25* | Action |
| 2:10 p.m. | √ | Derek Anderson | 7.  Boards and Commissions (Nominations and Appointments)  
*Actions: Consider Adopting Nominations and Appointments*  
*Resolutions 2020-26 through 2020-28* | Action |
| 2:25 p.m. | √ | Eric Johnson | 8.  Strategic Planning, Goals, Objectives, Key Results, Key Performance Indicators | Discussion |

### STAFF REPORTS – SUBMITTED IN WRITING

<table>
<thead>
<tr>
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<tr>
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<td>√</td>
<td>Eric Johnson</td>
<td>9.  Executive Director</td>
<td>Report</td>
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<tr>
<td>√</td>
<td></td>
<td>Derek Anderson</td>
<td>11. Communications and Member Services</td>
<td>Report</td>
</tr>
<tr>
<td>√</td>
<td></td>
<td>Mellani McAleenan</td>
<td>12. Policy and Legislative Relations</td>
<td>Report</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>*ALL times are approximate only</td>
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**MEMBER REPORTS**

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<th>AGENDA</th>
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<tr>
<td>2:45 p.m.</td>
<td>Commissioner Dahlstedt Councilmember Wright Others</td>
<td>13. NACo Reports</td>
<td>Report</td>
</tr>
<tr>
<td></td>
<td>President Gelder Board Members</td>
<td>14. WSAC Board of Director Reports from activities on Statewide Boards and Commissions Presentation by WSAC Board Members on Current Issues relating to Statewide Boards and Commissions they serve/represent WSAC on</td>
<td>Report</td>
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**OTHER BUSINESS**

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<tbody>
<tr>
<td>3:00 p.m.</td>
<td>President Gelder</td>
<td>Adjourn</td>
<td></td>
</tr>
</tbody>
</table>

**NEXT MEETING of the WSAC Board of Directors - TENTATIVE DATE and TIME:**

*Wednesday, February 3, 2021, 1:00 p.m. – 5:00 p.m.*

**Virtual Meeting**
Washington State Association of Counties

MINUTES OF MEETING OF THE BOARD OF DIRECTORS

September 17, 2020

Opening

A regularly scheduled meeting (conducted via Zoom) of the Board of Directors of the Washington State Association of Counties (WSAC) was held on Thursday, September 17, 2020, starting at approximately 8:30 a.m. All directors and alternates were appropriately notified of the meeting, according to the Association Bylaws.

Board members present: President Robert Gelder, 1st Vice President Michael Largent, 2nd Vice President Jamie Stephens, Immediate Past President Scott Hutsell, Past President Stephanie Wright, Past President David Sauter, Past President Helen Price-Johnson, Vicki Baker, Chris Branch, Ken Dahlstedt, Jerome Delvin, Doug England, Edna Fund, Al French, John Hutchings, Mary Kuney, Kathy Lambert, Nate Nehring, Mark Ozias, Brad Peck, Eileen Quiring, Doug Richardson, Janet St. Clair, Karen Skoog, Dennis Weber, and Cory Wright

Staff and others present: Eric Johnson, Mellani McAleenan, Bridget Lockling, Derek Anderson, Jason Bergquist, Jaime Bodden, Maxx Couch, Lane Covington, Lynn Fiorillo-Lowe, Mike Hoover, Paul Jewell, Paul Lawrence, Tom McBride, Mitch Netzer, Mac Nicholson, Juliana Roe, Virginia Shaddy, Linda Shupack, Court Stanley, Jane Wall, and Josh Weiss

Call to Order and Approval of Agenda: The meeting was called to order at 8:30 a.m. It was moved by Edna Fund, seconded by Stephanie Wright, to approve the agenda as proposed. The motion passed.

Approval of Minutes of the previous meeting: A motion was made by Helen Price Johnson and seconded by David Sauter to approve the minutes as drafted. The motion carried to approve the minutes of the May 6, 2020, WSAC Board of Directors Regular Meeting. The motion passed.

President’s Report: President Gelder thanked the members for their hard work and dedication during the COVID-19 challenge.

Legal Affairs

The Board announced an EXECUTIVE SESSION, in compliance with RCW 42.30.110(1)(i), to discuss current and potential litigation at 8:45 a.m. for forty-five minutes. WSAC’s legal counsel, Paul Lawrence, was present and provided updates. No decisions were made. The EXECUTIVE SESSION concluded at 9:30 a.m.

Mellani McAleenan updated the members on the current Amicus Brief requests (report included in board packet) that WSAC is involved. A handout is included in the board packet.

WSAC Business Actions

2018-2019 Audit and Financials

Resolution #2020-12: A motion was made by Chris Branch and seconded by Dave Sauter to approve Resolution #2020-12 to accept the recommendation of the WSAC Audit and Finance Committee to approve the 2018 and 2019 Financial Reports as prepared by The Doty Group P.S. The motion unanimously passed.

2021 Proposed WSAC Budgets: President Gelder, Vice President Largent, Second Vice President Jamie Stephens, Eric Johnson and Bridget Lockling presented the Proposed WSAC 2021 WSAC Budgets, which includes the Proposed 2021 Special Fund Budget, Proposed 2021 Operating Budget, Proposed 2021 WSAC Strategic Litigation and Communication Program Budget; Proposed 2021 General, Transportation, Public Lands, Human Services, and Strategic Litigation and Communication Dues Assessment Schedules.
Resolution #2020-13: A motion was made by Helen Price Johnson, seconded by Dennis Weber, to approve Resolution #2020-13 which adopts the proposed 2021 Special Fund Budget and recommends that the proposed 2021 Operating Budget, proposed 2021 WSAC Strategic Litigation and Communication Program Budget to include 2021 general, transportation, public lands, human services, and strategic litigation and communications program dues assessment schedules are recommended to the WSAC Membership for their consideration and approval at the November 19, 2020, annual meeting. The motion carried.

Proposed 2020-2021 Legislative Steering Committee Roster: President Gelder and Eric Johnson presented the Board with an amended roster for the 2020-2021 Legislative Steering Committee.

Resolution #2020-14: A motion was made by Doug Richardson and seconded by John Hutchings to approve Resolution #2020-14 to confirm the 2020-2021 Legislative Steering Committee Roster, as proposed by the President, as presented to include the names of 29 representatives and alternates and also authorizes President Gelder or the incoming WSAC President, with confirmation from the Executive Committee, to fill remaining Roster vacancies. The motion passed.

Federal Issues and Relations Committee Roster: President Gelder and Eric Johnson presented the membership composition criteria and the nominees for consideration by the Board.

Resolution #2020-15: Jamie Stephens made a motion and seconded by Michael Largent to approve Resolution #2020-15 which approves the amended slate of nominees as recommended in the resolution and authorizes President Gelder or the incoming WSAC President, with confirmation from the Executive Committee, to fill roster vacancies. The motion passed.

Statewide Boards and Commissions: Derek Anderson presented the State Boards and Commissions positions up for approval.

Resolution #2020-16: Dennis Weber made a motion, seconded by Kathy Lambert, to approve Resolution #2020-16 to approve the nominations of Mark Janowski, Asotin 911 Coordinator/Emergency Manager, and Jerome Delvin, Benton County Commissioner, to the E-911 Advisory Committee. The motion passed.

Resolution #2020-17: A motion was made by Jamie Stephens and seconded by Dennis Weber to approve Resolution #2020-17 to nominate to the Governor's Office Bob Hamlin, Skamania County Commissioner, to the Building Code Council. The motion carried.

Resolution #2020-18: Eileen Quiring made a motion, seconded by Karen Skoog, to approve Resolution #2020-18 the nominate Art Swannack to the State Council on Aging. Motion passed.

Resolution #2020-19: A motion was made by Kathy Lambert and seconded by Janet St. Clair to approve Resolution #2020-19 to approve the nominations of Temple Lentz, Clark County Council, and Sam Low, Snohomish County Councilmember, to the Traffic Safety Commission. The motion carried.

Resolution #2020-20: Michael Largent made a motion, seconded by Jamie Stephens, to approve Resolution #2020-20 to nominate to the Transportation Improvement Board (TIB) Scott Hutsell, Lincoln County Commissioner. The motion unanimously passed.

(Resolution #2020-21) - Puget Sound Leadership Council nominations will be held over to the November Board of Directors meeting.

Resolution #2020-22: Scott Hutsell made a motion and was seconded to approve Resolution #2020-22 to nominate Al French, Spokane County Commissioner to the Transportation Improvement Board (TIB) – Seat 2. Motion passed.
Resolution #2020-23: Eileen Quiring made a motion, seconded by Chris Branch, to approve Resolution #2020-23 to appoint Brad Peck, Franklin County Commissioner, to the County Road Administration Board (CRAB). Motion carried.

Business Partners Program Update: Since the May Board of Director’s meeting, WSAC staff has examined several potential business partnerships designed to provide added benefits to member counties while possibly generating additional non-dues revenue for WSAC. On or before January 1, 2021, the following programs will be available to WSAC’s member counties:

- Live Healthy U.S. Counties
- Vector Payment Consultants
- Cashvest by three+1
- Cybersecurity Collaborative

Reports

Member Reports & Staff Reports: Member and staff reports were made available in the board packet.

Closing

Next Meeting: The next virtual Zoom meeting of the Board of Directors will be on Monday, November 16, 2020.

Adjourn: There being no further business, President Robert Gelder adjourned the meeting at 12:15 p.m.

Respectfully submitted:

__________________________  __________________________
Robert Gelder, WSAC President  Jamie Stephens, WSAC Second Vice President
Litigation Update, November 2020

**Spokane County - Spokane County, et al. v. State of Washington  19-2-00934-32**

This case challenged the constitutionality of Senate House Bill 2887 (2018) requiring Spokane County to elect a five-member, by district, Board of County Commissioners. WSAC alleged that this legislation violated the uniformity clause of Article XI of the Washington State Constitution and created a precedent for the legislature to impose different requirements on different counties.

- Legal action authorized by WSAC Board of Directors, November 13, 2018.
- Attorney General Ferguson declined our request to “Investigate and Institute Legal Proceedings on the Unconstitutionality of Senate House Bill 2887”.
- WSAC filed complaint for Summary Judgment in Spokane County Superior Court on February 26, 2019, that the imposition of differing systems of government violates the Constitution’s uniformity requirements. Const. Art. XI, §§ 4, 5; art. II, § 28.
- Plaintiffs were Washington State Association of Counties, Spokane County, Al French, and John Roskelley (former Spokane County Commissioner).
- Communication activities:
  - Spokane County contract lobbyist Mike Burgess and Eric Johnson met with most Spokane area Legislators;
  - Eric Johnson, President Hutsell, and Spokane County Commissioner Kuney met with local media;
  - Communicated to WSAC Members.
- State’s response to a complaint submitted March 11th.
- Hearing and oral arguments heard by Spokane County Superior Court Judge Maryann Moreno on Friday, May 31, 2019.
- Judge Moreno’s ruled on August 16, 2019, in favor of the State, stating that she is “not convinced that SHB 2887 violates the Washington State Constitution. I am not satisfied that the County has met the burden of proof beyond a reasonable doubt.”
- WSAC Board of Directors authorized a direct appeal to the Washington Supreme Court, September 20, 2019.
- Spokane County, WSAC, and Co-Plaintiffs filed Notice of Appeal to the Washington Supreme Court on September 26, 2019.
- State concurred with direct appeal to the Supreme Court.
- Counsel submitted Spokane/WSAC’s brief to the Supreme Court.
- Washington State Supreme Court accepted case on direct appeal.
- Oral Arguments occurred on June 25th:
  - https://www.tvw.org/watch/?clientID=9375922947&eventID=2020061173&startStreamAt=38
- On August 20, 2020, the Washington Supreme Court ruled that:
  - “We hold that SHB 2887 is constitutional under article XI, sections 4 and 5. Under article XI, section 4, SHB 2887 properly sets forth a “uniform system” such that any non-charter county that exceeds 400,000 people in population will be subjected to SHB 2887’s requirements. Further, under article XI, section 5, the legislature may classify counties by population for any purpose that does not violate other constitutional provisions, and SHB 2887 is a general law that properly implements district-only elections for non-charter counties of a certain size.”
Unfunded Mandate – WSAC, Snohomish County, Kittitas County, Whitman County v. State of Washington

This case challenges Senate Bill 5472 (Ballot Drop Box Bill) as a violation of RCW 43.135.060, Prohibition of new or expanded programs without full reimbursement.

- Legal action authorized by WSAC Board of Directors, November 13, 2018.
- Regular and ongoing briefings with the Washington State Association of County Auditors (WSACA), Washington Association of County Officials, and Washington Association of Prosecuting Attorneys (WAPA) on potential and pending litigation.
- Gary Rowe (WSAC Contractor) worked with County Auditors/Election Managers from all 39 counties regarding Ballot DropBox installation costs, operation costs, claims filed. Cross checked with data from the Secretary of State’s Office.
- February 2019. Facilitated meetings with WSAC and WSACA leadership to discuss pending litigation. Briefed WSACA members during the 2019 session.
- WSAC Board/LSC briefed on May 8, 2019, regarding litigation options.
- Complaint reviewed by selected County Auditors and Prosecuting Attorneys for feedback and comment.
- Snohomish County, Whitman County, Kittitas County joined WSAC as co-plaintiffs.
- Highlighted claims made by other counties for unfunded mandate/ballot drop box expenses and denied by the state. Association will attempt to secure payment on behalf of those counties through standing in the case.
- Complaint filed in King County Superior Court on December 11, 2019.
- State response received.
- Counsel and state communicate on a response, briefing schedule, discovery requirements, association standing, etc.
- Updated WACO Board of Trustees, March 5, 2020.
- Working on Schedule for Discovery/Trial – Both WSAC and State confirming financial/budget/expenditure information.
- Data gathering/fact-checking on County costs and claims information and data.
- Determining the effect of HB 2421 - Concerning state reimbursement of election costs, on case. This will likely be the subject of the first court hearing.
- WSAC (Pacifica) submitted on August 14th, Motion for Partial Summary Judgment, declarations, and other materials.
- Pacifica is working to update claims and expenditures on Ballot Drop Box Installation and Operating Costs required by HB2421.
- King County Superior Court Judge Nelson K. H. Lee heard oral arguments on October 2, 2020.
- On October 14, 2020, Judge Lee ruled in a Partial Summary Judgement that SB 5472, which mandated County Auditors to significantly increase the number of ballot drop boxes statewide at an estimated capital cost of over one million dollars plus yearly operating and maintenance costs, “is an unfunded mandate pursuant to RCW 43.135.060.”
- Case schedule amended for remaining issues to be settled on April 19, 2021.

Indigent Defense
Potential legal action regarding the State’s constitutional duty to provide trial court indigent defense funding.

- Pacifica Law Group has initiated research and analysis regarding potential and likely claims – statutory and constitutional.
- WSAC filed Amicus Brief on a case that asks if the State of Washington or the Washington State Office of Public Defense has an actionable duty to cure claimed systemic and significant deficiencies in a county’s provision of indigent defense services juveniles charged with criminal

Litigation Update, November 2020

- In 2017, the plaintiff, supported by the ACLU, sued the state alleging that Grays Harbor County systemically failed to provide a constitutionally adequate indigent juvenile defense. Grays Harbor County was not named as a party to the suit. Davison asked the Thurston County Superior Court to declare that the State and OPD have a duty to act when they become aware of a systemic failure by a county to provide constitutionally adequate indigent juvenile defense.
- The trial court ruled that the State has a duty to act if it knows of a county’s systemic failure to provide constitutionally adequate indigent juvenile defense, without regard to whether the County could more appropriately remedy the problem itself.
- The State filed a motion for direct review to the Supreme Court on January 28, 2019, and the Court accepted review.
- Formal request by the Grays Harbor Board of County Commissioners for WSAC to submit an Amicus Curiae Brief.
- The WSAC Executive Committee approved amicus involvement on April 7, 2019.
- The Pacific Law Group, on behalf of WSAC, submitted Amicus Curiae Brief on September 27, 2019:
  - State of Washington has an Affirmative Constitutional Duty to assure adequacy of Indigent Defense.
  - Who (State or County) has the responsibility to fund indigent defense is not properly before the Court and should not be ruled upon.
- Oral arguments occurred on November 12, 2019, before the Washington State Supreme Court.
- Washington Supreme Court confirmed that ultimately the State bears the duty to provide indigent defense services as required under the U.S. and Washington Constitutions. While the State has the discretion to delegate to local governments responsible for providing these services, in so doing, the State must provide local governments with the authority and means necessary to furnish constitutionally adequate indigent defense. The Court remanded for consideration of whether the systemic and structural deficiencies in the current state system, as alleged by the plaintiffs and described in WSAC’s amicus brief, violate the State’s constitutional duties.
- Plaintiff sought Supreme Court Re-Consideration.
- WSAC prepared Amicus Brief to support Re-Consideration.
- Supreme Court asked the State to respond to the request for reconsideration (9/1/2020).
- Supreme Court denied reconsideration on 10/20/2020.

- We are reviewing potential concurrent or subsequent legal actions.
- WSAC initiated work on data gathering associated with indigent defense and county expenditures, systems of delivery, county revenues and expenditures, etc.
- WSAC staff will reach out to secure points of contact for each County regarding this potential litigation as necessary.
- WSAC staff established data/information steering committee with county budget and policy staff.
- WSAC contractor established indigent defense data set and dashboard for Counsel to refer to.
- WSAC exploring/identify potential co-plaintiffs as part of potential litigation.
- WSAC Counsel working on indigent defense complaint.
- WSAC doing political and environmental scan on filing complaint.
- WSAC will need to consider intervening in Davison v. State of Washington and Washington State Office of Public Defense Supreme Court, No. 96766-1 on remand in Thurston County Superior Court should it proceed.

Attorney General Opinion – Appointment to Vacant State Legislative Position

- Pacifica Law Group developed analysis of AGO Opinion 1985-01 (as well as other AGOs spanning a period of 1965-1987), which opines that a sitting county commissioner (council member) cannot be appointed to a vacancy in the legislature.

Litigation Update, November 2020
• Pacifica Law Group analysis found that “under the Washington State Constitution and state law, a sitting county commissioner or councilmember should be eligible to be appointed to a vacant state legislative position.”
• February 22, 2019 – WSAC Legal Committee reviewed the Pacifica Law Group legal analysis and agreed to reach out to Skagit County Prosecuting Attorney Rich Wyrich, asking him to seek a new AGO on the issue.
• Both San Juan County Prosecuting Attorney Randy Gaylord and Whatcom County Prosecuting Attorney Eric Richey sought an AGO in April 2019.
• AGO accepted Prosecutor Richey’s request - https://www.atg.wa.gov/pending-attorney-generals-opinions#richey.
• Pacifica updated the original analysis and provided to the Office of the Attorney General on behalf of WSAC.
• AGO issued an opinion consistent with WSAC position - https://wsac.org/ago-rules-on-county-appointment-procedures/

Washington State Auditor's Office - .09 Rural Economic Development Uses

RCW 82.14.370 authorizes “rural” counties to impose a sales and use tax up to 0.09 percent for specific purposes, provided certain statutory criteria. WSAC (Pacifica) prepared an opinion on behalf of Benton County, Washington State Association of Counties, and Washington Public Ports Association (WPPA), to address concerns raised by the State Auditor’s Office (SAO) regarding county distribution of revenues received under RCW 82.14.370 directly to port districts to (1) finance certain port facilities and/or (2) finance certain port district personnel.

The SAO believes counties may be barred from distributing revenues collected under RCW 82.14.370 directly to port districts for qualifying projects. Specifically, the SAO contends:

Under RCW 82.14.370, **Counties** can use these monies to finance public facilities serving economic development purposes; however, we don’t see where transferring the money directly to the ports is an allowable use. Ports do not have the authority to collect these types of tax revenues and therefore are unable to receive the funds directly; however, the County is able to finance the projects as described in the RCW.

WSAC put forth a legal analysis based on the plain language of the statute, its legislative history, Attorney General Opinions, prior SAO treatment of direct funding schemes under the statute, and actual county practice -- direct county distribution to port districts for port facilities and personnel that otherwise meet the statutory criteria for funding is permissible under RCW 82.14.370.
AMICUS UPDATE – Cases pending or decided in 2019 and 2020
November 12, 2020

CASES PENDING

1) Butts v. Constantine – WSAC APPROVAL PENDING
   • Supreme Court, No. 98985-1

Issue
Did the trial court err in finding a provision of the King County charter that allocates residual and implied powers in the executive unconstitutional because they were not specifically granted by the council to the executive? Did the trial court err in ruling that county inquests cannot exceed the scope of the 1854 Coroner’s Statue, RCW 36.24, despite a charter county’s ability to utilize inquest procedures that exceed the state process?

Background
Petitions for extraordinary writs (mandamus/prohibition/review) and petitions for declaratory and injunctive relief were filed by several parties in Superior Court contesting the King County Executive’s executive orders on inquests which were substantially re-vamped beginning in late 2018. The change in the policy was a response to growing community concern that the inquest process was a rubber stamp for police use of force. Families of 3 decedents killed by law enforcement officers argued that the policy changes didn’t go far enough and cities and individual police officers (police parties) argued that the policy changes went too far.

The Supreme Court’s decision in this case will determine the ability of counties to adopt home rule charter provisions that establish a strong executive form of government. If such charter provisions are precluded under the Washington Constitution, a common government structure that is open to charter cities (i.e. a strong mayor-type government) would no longer be possible for home rule county governments. Whereas charter counties may currently rely on implied executive authority to execute the laws, the Superior Court’s notion that laws must be “specific, not general” in specifying executive authority would require extremely long ordinances to detail each power an executive could exercise in carrying out each particular law. For charter counties with a strong executive form of government, this case will resolve what amounts to a constitutional crisis over the proper scope of county executive authority.

Status
The Supreme Court accepted King County’s request for direct review. Opening briefs have been filed. Amicus briefs will be due the first week of December and oral arguments are scheduled for the week of January 18, 2021. Pro bono counsel is secured.

Counsel
Tim Leyh, Tyler Farmer, Randall Thomsen, Kristin Ballinger, and Caitlin Pratt of Harrigan, Leyh, Farmer, and Thomsen.

2) Fite v. City of Puyallup and Mudd
   • Div. II, Court of Appeals, No. 54325-7-II

Issue
Did the trial court err in giving a jury instruction stating, “Whether a roadway or crosswalk is reasonably safe for ordinary travel must be determined based on the totality of the circumstances. A roadway or crosswalk can be unsafe for ordinary travel even when there is no violation of statutes, regulations or guidelines concerning roadways and crosswalks.” because the two sentences appear be contradictory and misstates the law in favor of one party?
**Background**

An allegedly intoxicated skateboarder and a pickup truck collided in a marked crosswalk in the City of Puyallup. The crosswalk complied with national, state, and city road-design standards. The jury awarded the skateboarder $6.5 million and the City appealed citing the jury instruction and the exclusion of evidence of the skateboarder’s intoxication and eyewitness evidence under a ruling that the skateboarder did not need to look both ways before entering the intersection.

There is an unacceptable trend that municipalities are in effect becoming insurers of persons using crosswalks. Jury awards and settlements are becoming a huge tax on crosswalks paid with public funds despite driver and pedestrian fault. The Court of Appeals should reinstate the standard that municipalities and users of crosswalks have a duty to exercise ordinary care.

**Status**

WSAC’s amicus brief was due on October 26, 2020. A hearing date has not yet been set.

**Counsel**

Jacquelyn M. Aufderheide, Kitsap County Chief Civil Deputy Prosecuting Attorney
Elizabeth Doran, Kitsap County Senior Deputy Prosecuting Attorney

3) **Mancini v. City of Tacoma, et al.**

   • Supreme Court, No. 97583-3

**Issue**

Did the Court of Appeals err by deciding the plaintiff’s negligence claim, as presented at trial, was a negligent investigation claim and thus, not cognizable (within the jurisdiction of a court), where the alleged negligent acts were the police’s failure to make a controlled buy and conduct surveillance before obtaining a controlled substance warrant for the plaintiff’s home?

**Background**

This case involves the execution of a search warrant on a suspected meth dealer in Federal Way. Unfortunately, the confidential informant misidentified the building, and the warrant was issued for and executed on Kathleen Mancini’s apartment. Police believed that Mancini was the suspect’s mother and that she was renting the apartment in her name to keep him off the grid. Mancini sued, alleging negligence, invasion of privacy, assault and battery, and false arrest, among other claims.

The case was initially dismissed on summary judgment, and Division I reversed on these four claims. The matter went to trial, and the jury found for the city on the intentional torts (invasion of privacy, assault/battery, and false arrest), but found for the plaintiff on the negligence claim. The theory of negligence the plaintiff presented to the jury was the city was negligent in how the warrant was obtained, by failing to do a controlled buy, and by not conducting more surveillance before seeking and executing the warrant.

On appeal, in Mancini II, Division I agreed the plaintiff’s theory of liability at trial was negligent investigation, and the claim was not cognizable. Division I reversed and directed a verdict be entered for the city. The plaintiff brought a motion for reconsideration, which was denied. The plaintiff then filed a petition for discretionary review in the Supreme Court, with amicus support from the Washington State Association for Justice, and the Court accepted review.

Traditionally, courts have not recognized a claim of “negligent investigation.” If the Supreme Court were to reverse Division I’s decision, the potential liability is far-reaching for county police agencies. Then, any time police agencies are involved in investigating a crime, a plaintiff may bring a claim that the case was not properly investigated.
Status
The petitioner sought a 30-day extension for the supplemental briefs, which the Court granted, so the parties’ supplemental briefs were due February 3, 2020. WSAC filed a joint brief with the Washington Association of Sheriffs and Police Chiefs, filed the brief on March 27, 2020. The Supreme Court heard oral arguments on May 5, 2020.

Counsel
DPA Doug Mitchell of Kittitas County
DPA Dan Hamilton of Pierce County

CASES DECIDED

4) Teamsters Local 839 v. Benton County
   • Div. III, Court of Appeals, No. 36974-9-III

Issue
Does RCW 41.56 (public employees’ collective bargaining) trump RCW 49.48.200 and .210 (collection of overpayment of wages) such that public employers must collectively bargain the collection of overpayments?

Background
In November 2016, the Benton County Auditor’s Office discovered the accidental overpayment of wages to corrections officers and patrol deputies in the Sheriff’s Office. The Auditor’s Office notified the Sheriff’s Office, who communicated with the affected employees. The Teamsters filed a preemptive grievance, which was withdrawn, and not until members timely challenged the occurrence or amounts of the overpayments.

Instead of litigation to recover the undisputed debt owed the county, and according to express statutory authority in RCW 49.48.200 and .210, the Auditor’s Office had the employees served with notice and deducted the overpayments in subsequent pay periods per the statutory requirements. The Teamsters filed two Unfair Labor Practice complaints against the county alleging they should not have dealt directly with represented employees and should have provided the Teamsters with the opportunity to bargain a repayment plan.

The Teamsters and the County filed simultaneous, pre-hearing cross-motions for summary judgment. Without a full evidentiary hearing, the examiner ruled the county committed the unfair labor practices. The county was ordered to return the overpaid funds, including interest if requested, to the employees and bargain and negotiate a payment plan with the Teamsters. PERC affirmed the examiner’s decision. The county filed a petition for a review of PERC’s administrative decision in superior court, which affirmed the decision.

Status
Appellant, Benton County, filed their initial brief on December 13, 2019. WSAC joined with the Washington State Association of Municipal Attorneys in filing an amicus brief. The Court of Appeals arguments were set for September 18, 2020 but were rescheduled.

➢ On November 12, 2020, Division III of the Court of Appeals ruled, with all three judges concurring, against Benton County and in favor of the Teamsters. The court held that recovery of overpaid wages from a union member’s future paychecks or accrued leave is a mandatory subject of bargaining.

Counsel
DPA Christopher Horner of Kittitas County for WSAC
Charlotte Archer of Inslee Best for WSAMA

   • Supreme Court, No. 96766-1
**Issue**
Does the State of Washington or the Washington State Office of Public Defense have an actionable duty to cure claimed systemic and significant deficiencies in a county’s provision of indigent defense services to juveniles charged with criminal offenses?

**Background**
In 2017, the plaintiff, supported by the ACLU, sued the state alleging Grays Harbor County systemically failed to provide constitutionally adequate indigent juvenile defense. Grays Harbor County was not named as a party to the suit. Davison asked the Thurston County Superior Court to declare the state and OPD have a duty to act when they become aware of a systemic failure by a county to provide constitutionally adequate indigent juvenile defense.

The trial court ruled that the state has a duty to act if it knows of a county’s systemic failure to provide constitutionally adequate indigent juvenile defense, without regard to whether the county could more appropriately remedy the problem itself.

The state filed a motion for direct review to the Supreme Court on January 28, 2019, and the Court accepted review.

**Status**
The WSAC Executive Committee approved amicus involvement in March. Pacifica Law Group submitted a brief for WSAC at the end of September. The Court heard oral arguments on November 12, 2019.

- As WSAC argued in its amicus brief, the Washington Supreme Court confirmed that ultimately the State bears the duty to provide indigent defense services as required under the U.S. and Washington Constitutions. While the State has the discretion to delegate to local governments responsibility for providing these services, in so doing, the State must provide local governments with the authority and means necessary to furnish constitutionally adequate indigent defense. The Court remanded for consideration of whether the systemic and structural deficiencies in the current state system, as alleged by the plaintiffs and described in WSAC’s amicus brief, violate the State’s constitutional duties.
- The plaintiffs filed a motion for reconsideration to the Supreme Court in July, and WSAC filed an amicus brief in support of the review. The Court denied the motion for reconsideration.

**Counsel**
Pacifica Law Group

6) **Colvin v. Inslee**
   - Supreme Court, No. 98317-8

**Issue**
May the Supreme Court compel the state executive branch – specifically the governor and secretary of the Department of Corrections (DOC) – to release prison inmates immediately to reduce the spread of COVID-19?

**Background**
Columbia Legal Services and the American Civil Liberties Union filed a Petition for a Writ of Mandamus with the state Supreme Court, later seeking an amendment to include Habeas Corpus and/or Personal Restraint Petition, on behalf of five named inmates and all similarly situated inmates - approximately 11,700 persons - seeking their release from state custody due to the global pandemic, without regard to the risk of dangerousness, victims’ rights, or supervision requirements.

The petitioners initially filed in late March, seeking an emergency motion to accelerate review, the appointment of a special master, and immediate relief on April 9. After the reply brief was submitted on April 10, the Court directed the governor and Secretary Sinclair to immediately take all necessary steps to protect...
the health and safety of the named petitioners and all DOC inmates and report to the Court on April 13 with an update required on April 17. On April 10, Governor Inslee and Secretary Sinclair submitted to the Court a plan to release up to 950 inmates, taking into consideration the crimes for which they were convicted, scheduled release dates, and approved release plans.

The April 10 order did not appoint a special master; however, three of the justices dissented, stating they would have ruled to release the named petitioners immediately.

**Status**
Deputy prosecuting attorneys for Skagit and Kitsap Counties volunteered to draft an amicus brief on behalf of WSAC opposing the release due to fiscal and health-related concerns. WASPC is also submitting an amicus brief, as is WAPA – with each brief focused on specific matters. The briefs are due April 16, 2020.

- The Court heard oral argument via videoconference on the morning of April 23, 2020. Respondent’s counsel referenced WSAC’s amicus brief in his argument. On the afternoon on April 23, the Court ruled, in a 5-4 oral decision, against the petitioners on both counts. The Court released the written decision in July.

**Counsel**
Haley W. Sebens, Skagit County Senior Deputy Prosecuting Attorney
Nathaniel Block, Skagit County Deputy Prosecuting Attorney
Jacquelyn M. Aufderheide, Kitsap County Chief Civil Deputy Prosecuting Attorney

7) **Kittitas County v. WA State Department of Transportation**

- Div. II, Court of Appeals, No. 52329-9-II

**Issue**
Must the state Department of Transportation pay its share of a county’s noxious weed program’s costs?

**Background**
As required by state law, Kittitas County provides noxious weed services to all landowners in the county, including DOT. Kittitas County is appealing a superior court summary judgment order exempting DOT from paying for noxious weed services to DOT owned land.

Kittitas County appealed the case to the Court of Appeals and requested an amicus brief from WSAC.

**Status**
WSAC’s amicus brief, drafted by Pacifica Law Group, was filed with the Court of Appeals on March 1, 2019, upon leave from the court to file late. The court heard oral argument on October 24, 2019.

- On April 21, 2020, the Court of Appeals held that a weed assessment is a special assessment, and the County lacks the explicit authority to impose the weed assessments against the Department and affirmed the ruling of the trial court.

**Counsel**
Pacifica Law Group
8) Sandra Ehrhart et al v. King County et al
   • Supreme Court No. 96464-5

Issue
Does WAC 246-101-505, which directs a county to “[r]eview and determine appropriate action” when it
receives notice of a “notifiable condition,” such as a Hantavirus infection, create a duty upon which tort liability
can be imposed, or does the public duty doctrine bar tort liability as a matter of law?

Background
In December 2016, a commercial diagnostic lab notified King County that a resident of rural Redmond had
tested positive for Hantavirus. Consistent with the Department of Health (DOH) guidelines, King County sent
a Public Health Nurse Investigator to review the case.

Health Departments send information to the public on a variety of health topics, including certain “notifiable
conditions,” i.e., diseases or conditions of public health importance. To that end, the Health Department’s
communications office, in consultation with its Local Health Officer and condition-specific guidance from the
Washington State Department of Health (“DOH”), determines when health notifications should be issued.

Due to the noncontagious nature of Hantavirus and the isolated nature of the resident, King County’s Local
Health Officer determined it was not necessary to issue a public notice.

In February 2017, King County was notified of Brian Erhart’s unexplained death. He had been treated for flu-
like symptoms at Swedish Hospital and discharged. The next day, his condition worsened, and he went to
Overlake Hospital, where he later died. King County launched an investigation to determine the cause of
death, which revealed he died of acute Hantavirus infection.

Mr. Erhart’s estate sued his treating physician, Swedish Health Services, and King County for negligence and
wrongful death. The estate claims the Health Department should have sent a health advisory to area
healthcare providers after being notified of the December 2016 case of Hantavirus.

The trial court refused to grant King County’s motion for summary judgment and instead “conditionally”
granting the estate’s motion for summary judgment on the public duty doctrine dependent on the jury’s
factual findings at trial. The Supreme Court accepted the case on a motion for direct discretionary review.

Status
This case was set for oral argument on November 12, 2019. Having not found a volunteer DPA to draft this
brief, WSAC general counsel submitted a brief for WSAC on September 27, 2019. Oral argument was heard
on November 12, 2019.

➢ On April 2, 2020, the Court ruled King County owed no individual tort duty to Ehrhart and remanded
the case back to the trial court to enter summary judgment in favor of King County on its affirmative
defense asserting the public duty doctrine.

Counsel
Mellani McAleenan

9) Tulalip Tribes v. Smith
   • US Court of Appeals, 9th Circuit, Nos. 18-36062, 18-36075

Issue
Does federal law preempt the State and County’s imposition of taxes on non-Indian businesses in
transactions with non-Indian customers?
Do the taxes interfere with Tulalip’s sovereign right to make and be governed by its laws by depriving the Tribes of funds for education and social welfare of tribal members and those living on the reservation?

Does the Indian Commerce Clause carve out a zone of economic interests—including taxation—in which only the federal government, not state and local governments, may regulate?

**Background**
The Tribes, joined by the United States as a plaintiff-intervenor, sought a declaration and injunction prohibiting the State of Washington and Snohomish County from collecting retail sales and use taxes, business and occupation taxes, and personal property taxes within a part of the Tulalip Reservation known as Quil Ceda Village. The plaintiffs argued these taxes should not be imposed because they are preempted by federal law, violate the Indian Commerce Clause, and infringe on Tulalip’s tribal sovereignty.

The US District Court first granted summary judgment on one count, holding the plaintiffs did not state a viable claim of relief under the Indian Commerce Clause. The district court then concluded the State and County’s taxes were not preempted under that test because there is no pervasive or comprehensive federal regulatory scheme governing retail sales activity in the Village, and Tulalip could not demonstrate more than a basic financial interest implicated by the State and County taxation. The court also held the taxes do not infringe on Tulalip’s tribal sovereignty.

Both the Tribes and the United States appealed to the 9th Circuit Court of Appeals. Briefs were drafted, and settlement negotiations ensued.

**Status**
The WSAC Executive Committee approved amicus involvement. WSAC was exploring the option of filing a joint brief with WSAMA. However, the parties reopened settlement negotiations in late April, and the briefing schedule was vacated.

- Settlement negotiations proved to be successful, and the parties entered into a Memorandum of Understanding, which was finalized by SHB 2803, which allows the Governor to enter into the compact.

**Counsel**
WSAMA, but no brief was filed due to settlement

10) The Judges of the Benton and Franklin Counties Superior Court et al. v. Michael Killian, Franklin County Clerk, Superior Court of WA for Franklin County

- Supreme Court, No. 96821-7

**Issue**
May a court compel a board of county commissioners to fund expenditures absent clear, cogent, and convincing evidence those expenditures are necessary to hold court, conduct the administration of justice efficiently, or fulfill the court’s constitutional duties?

**Background**
Benton and Franklin County Superior Courts adopted a court rule to order the Franklin County Board of Commissioners to appropriate additional funds for the Franklin County Clerk to maintain paper records after the electronic Odyssey record system was operational.

Kittitas County Superior Court Judge Scott Sparks heard the case. The court scheduled the plaintiff’s motion for summary judgment seeking a writ of mandamus for hearing on December 7, 2018. The Kitsap County Board of Commissioners requested, and the Kitsap County Prosecuting Attorney agreed to appear for WSAC as amicus in the case. The Kitsap County Prosecuting Attorney, by and through Chief Deputy Jacquelyn Auferheide and Senior DPA Lisa Nickel, prepared and submitted the necessary
briefing.

On December 10, 2018, Judge Scott Sparks ruled in favor of the judges, holding that it is the judges and not the clerk who decides when the timing of going paperless should occur. The Franklin County Superior Court Clerk is not authorized to disregard the authority of the court.

The Franklin County Clerk filed a petition for review to the Supreme Court and asked WSAC to continue its amicus support. Former WA Supreme Court Justice Phil Talmadge filed a brief on behalf of the Washington State Association of County Clerks.

Status
On July 26, 2019, Chief Civil Deputy Aufderheide submitted a new amicus brief similar to the one filed with the trial court, except it responded to argument/contentions made in the Franklin County Superior Court’s answer to WSAC’s amicus brief and expanded WSAC’s brief to describe the numerous functions county governments perform, which may be affected when judges demand extra-budget expenditures for judicial projects. The Supreme Court heard oral arguments on November 12, 2019.

- On March 19, 2020, the Supreme Court held the Franklin County Superior Court abused its authority in using rule-making to resolve a dispute in the court’s favor with another elected official. Instead, the superior court should have sought a declaratory judgment ruling so a neutral arbitrator could decide the dispute.

Counsel
Jacquelyn M. Aufderheide, Kitsap County Chief Civil Deputy Prosecuting Attorney

11) Bednarczyk, et al. v. King County
   • Supreme Court, No. 96990-6

Issue
Whether jurors are entitled to minimum wage as employees under the Washington Minimum Wage Act.

Background
Washington’s counties, including King County, pay jurors within a $10 to $25 range according to state law. The plaintiffs are hourly wage earners whose employers do not pay for jury service. They filed a claim in Pierce County Superior Court claiming jurors should be paid minimum wage under the Washington Minimum Wage Act. They also sought a declaratory judgment on the grounds that insufficient juror pay necessitating economic hardship excusals effectively excludes jurors from services based on economic status. They included a racial disparity class and claim, but voluntarily dismissed it. While they aimed for a class action, no class was ever certified.

King County moved for and prevailed on summary judgment. The plaintiffs sought direct review and were denied. The Court of Appeals affirmed the grant of summary judgment in favor of King County by a vote of 2-1, holding (1) economic status is not a protected class under the Washington Law Against Discrimination, (2) an implied cause of action and remedy of increased juror pay is inconsistent with the legislative intent of the underlying statute, and (3) rejecting the argument that jurors are employees for purposes of the Minimum Wage Act.

Status
The plaintiffs sought review in the Washington Supreme Court, which the Court granted on July 29, 2019. The Court heard oral argument on October 29, 2019. Pam Loginsky, of the Washington Association of Prosecuting Attorneys, drafted a joint brief for WSAC and the County Clerks and filed it at the end of September.

- The Supreme Court ruled on April 9, 2020, that jurors are not employees entitled to the minimum
wage under the Minimum Wage Act because no employer-employee relationships exist statutorily under RCW 49.46.010(3)(d) or otherwise. The Court stated the solution for low juror pay rests with the legislature, not the courts.

Counsel
Pam Loginsky, Washington Association of Prosecuting Attorneys

12) Edward Kilduff v. San Juan County
   • Supreme Court, No. 95937-4

Issue
Must a public records requestor exhaust administrative remedies before filing a claim in superior court?

Background
If a public records requestor in San Juan County is not satisfied with the response they receive, the county code has a procedure requiring the requestor to submit a written request for review to the prosecuting attorney and allow two days for a response before initiating a public records lawsuit. The plaintiff, in this case, did not follow that procedure and filed the suit without first requesting a review from the prosecuting attorney.

In this case, the plaintiff filed a broad public records request with the county for a file of the prosecuting attorney. The prosecuting attorney spoke with the requestor to clarify his request and understood the requestor/plaintiff wanted the final report issued by the prosecutor, which had listed other documents the prosecutor had reviewed. If the other documents were wanted, then a follow-up would occur. The public records clerk sent a follow-up letter to the requestor/plaintiff stating this understanding, providing the final report, and closing the request. The letter ended by saying, “if you have any questions related to this request or believe we should have provided additional documents please let me know.”

The requestor/plaintiff received the final report and letter but did not contact the public records clerk nor did he notify the prosecuting attorney in writing as required by the county code. Instead, he waited almost a full year after the County’s response to his public records request and then went straight to court, asserting he never intended to narrow his request during his telephone conversation and claiming damages. Had the plaintiff followed administrative remedies and contacted the prosecuting attorney, the alleged miscommunication could have been identified, and the records he sought promptly provided.

The superior court dismissed the plaintiff’s claim for failure to exhaust his administrative remedies as required by the San Juan County Code.

Status
The Supreme Court accepted review on July 11 and heard oral argument on October 29, 2019. Having no DPA volunteers, WSAC engaged Pacifica Law Group to draft the brief. The Association of Washington Cities, the AWC Risk Management Service Agency, and the Washington State Transit Risk Pool joined the brief.

➢ The Supreme Court ruled against Snohomish County, holding that “nothing in the PRA gives local governments the right to create another layer of administrative review or to require administrative exhaustion before the public may seek judicial review.”

Counsel
Pacifica Law Group

13) King County v. King County Water Districts Nos. 20, 45, 49, 90, 111, 119, 125, et al. and Ames Lake Water Association, Dockton Water Association, Foothills Water Association, Sallal Water Association, Tanner Electric Cooperative, and Union Hill Water Association
   • Supreme Court, No. 96360-6
**Issue**
May a county enact an ordinance requiring reasonable rental compensation for the use of a county right-of-way, and may a county require minimum terms and conditions governing the use of the right-of-way in its franchise agreements?

**Background**
King County Ordinance 1803 requires water, sewer, gas, and electric utilities to pay reasonable rental compensation through a negotiated franchise agreement for their use of county rights-of-way (ROW). To date, public and private utilities have mostly used county ROW for free. Shortly following the passage of the ordinance, several district utilities declared their opposition and stated their intent to sue King County.

King County then filed an action for declaratory judgment seeking a ruling to confirm its legal authority to enact the ordinance. King County named the district utilities as defendants, and the private utilities subsequently interviewed. The utilities argued King County lacked the authority to charge reasonable rental compensation and imposed an illegal tax.

On cross-motions for summary judgment, the trial court ruled King County did not have the authority to enact the ordinance. The court invalidated not only the franchise rental compensation but also ruled the county could not require any minimum terms and conditions governing the use of the ROW in its franchise agreements.

King County sought direct review by the Supreme Court and filed its opening brief on March 1, 2019.

**Status**
Having found no DPA to volunteer to draft an amicus brief, WSAC engaged Arete Law Group to prepare the brief, which focused mainly on the issue of minimum terms and conditions, because Pacifica Law Group represented King County. Arete Law filed WSAC’s brief on August 9, 2019, and the utilities objected to the filing, which necessitated a reply by WSAC. The Court accepted the brief over the objections of the utilities on August 16, 2019. The Court heard oral argument on September 17, 2019.

- The Court ruled in favor of King County, holding King County could collect franchise compensation.

**Counsel**
Arete Law Group

14) **Ron Gipson v. Snohomish County**

- Supreme Court, No. 96164-6

**Issue**
Did the county correctly claim investigative records exempt under RCW 42.56.250(6) when the investigation into discrimination was active and ongoing as of the date of the request?

**Background**
This case involves a question of first impression: does an agency determine the applicability of an exemption on the date the request is received or on the date responsive records are produced? In this case, the county received the request on December 1, 2014. On that date, the EEOC investigation sought was active and ongoing. The investigation closed on February 2, 2015. In response to the December request, the county produced five installments of responsive records. The county provided four after the investigation was closed. The county applied the exemption found at RCW 42.6.250(6) as of the date the request was received and continued to apply it throughout the production of installments. Mr. Gipson challenged the continued use of the exemption after February 2, 2017, arguing the exemption no longer applied once the investigation had closed, and the county violated the PRA by applying the exemption as of the date the request was received.
The trial court ruled in the county’s favor, and the Court of Appeals affirmed the trial court’s decision.

The Supreme Court granted review on November 27, 2018, and heard oral argument on February 26, 2019. WSAC joined in a brief from the Washington State Association of Municipal Attorneys, which was prepared and submitted by Charlotte Archer of Inslee Best.

Status

- The Supreme Court found in favor of Snohomish County, holding they had correctly applied the “active and ongoing investigation” exemption. Installments are not new stand-alone requests but are part of the single request and should be treated as such, with the determination regarding whether any exemption applies made at the time of the request and not at the time of the installment.

Counsel
Charlotte Archer of Inslee Best

15) Thurston County ex rel Snaza v. City of Olympia
- Supreme Court, No. 95586-7

Issue
May counties seek reimbursement from cities for a felon’s pretrial medical expenses if city law enforcement officers initially arrested the offender?

Background
Thurston County brought suit against the cities that refused to pay (Olympia, Lacey, Tumwater, Yelm) for felony pretrial medical expenses. Tenino intervened. Mason County Superior Court ruled in favor of the cities by finding the statute (RCW 70.480.130(6)) does not require cities to pay.

Thurston County petitioned for direct review to the Supreme Court, which the cities agreed was appropriate. WSAC Board approved amicus involvement in January 2018.

Status
The Supreme Court accepted direct review, and John Purves, Kitsap County Deputy Prosecuting Attorney, submitted the brief for WSAC in January.

- The Supreme Court ruled against Thurston County in May, holding that, in the absence of a prior interlocal agreement, a county is not entitled to seek reimbursement from cities for the cost of medical services provided to jail inmates who are arrested by city officers and held in the county jail in felony charges.

Counsel
John Purves, Kitsap County Deputy Prosecuting Attorney

16) Kittitas County v. WSLCB
- Div. III, Court of Appeals, No. 35874-7-III

Issue
Does the LSCB need to consider local development regulations when reviewing applications for cannabis licenses?

Background
Kittitas County Superior Court ruled in favor of Kittitas County, and the LCB appealed to the Court of Appeals.
Status
WSAC had planned to file a joint amicus brief with WSAMA. The lead attorneys were Milt Rowland with Foster Pepper and Dan Lloyd with the City of Vancouver. However, due to the transition in staffing, WSAMA filed the brief without WSAC in early September 2018.

- The Court of Appeals ruled against Kittitas County in April 2019, holding the county’s zoning code did not provide grounds for the WSLCB to deny the applicant a marijuana/processor license because neither the Growth Management Act nor Washington’s marijuana licensing laws require the WSCLB to issue licenses in conformity with local zoning laws.

Counsel (on behalf of WSAMA only)
Milt Rowland, Foster Pepper
Dan Lloyd, City of Vancouver
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

WASHINGTON STATE ASSOCIATION
OF COUNTIES, a Washington non-profit
association; SNOHOMISH COUNTY, a
Washington municipal entity; KITTITAS
COUNTY, a Washington
municipal entity; and WHITMAN
COUNTY, a Washington
municipal entity,

Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant.

No. 19-2-32705-7 SEA
ORDER GRANTING PLAINTIFFS’
MOTION FOR PARTIAL
SUMMARY JUDGMENT

THIS MATTER came before the Court on Plaintiffs Washington State Association of
Counties, Snohomish County, Kittitas County, and Whitman County’s (“Plaintiffs”) Partial
Motion for Summary Judgment (“Motion”). The Court considered the following in deciding
whether to grant Plaintiffs’ Motion:

1. Plaintiffs’ Motion;

2. Declaration of Paul Lawrence in Support of Plaintiffs’ Motion, and the exhibits
attached thereto;

3. Declaration of Eric Johnson in Support of Plaintiffs’ Motion, and the exhibits
attached thereto;

4. Declaration of Sandra Jamison in Support of Plaintiffs’ Motion, and the exhibits

ORDER GRANTING PLAINTIFFS’ MOTION FOR
PARTIAL SUMMARY JUDGMENT - 1
attached thereto;

5. Declaration of Garth Fell in Support of Plaintiffs’ Motion;

6. Declaration of Jerald Pettit in Support of Plaintiffs’ Motion, and the exhibits attached thereto;

7. Declarations of: Brenda Sorensen, Carolyn Fundingsland, David Frisk, Eric Eisenberg, Joseph Maclean, Mary Schmidtke, Rose Ann Carroll, and Shoona Rigs in Support of Plaintiffs’ Motion for Partial Summary Judgment, and the exhibits attached thereto;


10. Plaintiffs’ Combined Opposition to State’s Cross-Motion for Summary Judgment and Reply;


12. The other pleadings and papers on file in this matter; and

13. The argument of counsel.

Based on the foregoing, the Court makes the following findings:

1. In 2017, the Washington State Legislature adopted Senate Bill 5472 (codified at RCW 29A.40.170) requiring counties to install, maintain, and operate ballot drop boxes throughout the State to improve voter participation. The law specifies that county auditors must oversee the installation of “a minimum of one ballot box per fifteen thousand registered voters in the

ORDER GRANTING PLAINTIFFS’ MOTION FOR PARTIAL SUMMARY JUDGMENT - 2
county and a minimum of one ballot drop box in each city, town, and census-designated place in
the county with a post office." (RCW 29A.40.170(2) The Washington Department of
Commerce’s Fiscal Note to SB 5472 stated that county auditors are responsible for the
procurement, maintenance, and operation costs of the new ballot drop boxes. One-time
procurement costs for each drop box, including installation, were estimated to be $4,000 per box,
for a program total of $1,028,000 statewide. The Washington State Department of Commerce
also estimated a cost of $1,000, per box, per year, for ongoing staffing and maintenance costs for
an annual statewide expense of $257,000.

2. To get ahead of the new drop box requirement, Snohomish County commendably
purchased five and installed four new drop boxes for a total of $29,737.25, exceeding the $4,000
per box estimate. The following year, the County purchased nine and installed two more drop
boxes for $54,027.09. In 2019, the County purchased and installed five new drop boxes at a cost
of $43,818.41. Meanwhile, from January 2020 through June 1, 2020, the County installed and
operated seven additional drop boxes for $22,745.42. Pursuant to RCW 29A.40.170, the County
must still install and operate two more drop boxes. If the number of registered voters should
increase, so too will the drop box obligation. To date, Snohomish County has expended about
$155,000 to comply with RCW 29A.40.170.

3. Plaintiff Kittitas County purchased and installed eight new drop boxes in 2018 at
a cost of $16,829.41. Between 2019 and 2020, the County has spent an additional $14,354.58 to
staff and operate the drop boxes. Since passage of the law, Lewis County has purchased and
installed eight new drop boxes for $32,226.53, Grays Harbor County has spent $9,066.83 to
purchase and install two new drop boxes (with another fourteen more to go to reach full
compliance), and Kitsap County has committed $48,355.21 for its eleven newly installed drop
4. Several counties, including Plaintiffs Snohomish and Kittitas, have submitted claims to the State for reimbursement of their compliance costs to date. The State has denied each county's reimbursement claims.

5. Some counties, like Whitman, cannot afford to comply with RCW 29A.40.170. Prior to the law, the County had purchased and installed three drop boxes at a cost of $4,890 each. To comply with the law, it would need to purchase, install, and operate fourteen additional boxes at an estimated cost of $85,000. This sum would eclipse the annual salary of the current County Elections Supervisor, one of only three full time staff members of the County Elections Department. The County estimates that it would have to hire and train 28 individuals to secure the drop boxes on election night. Due to the physical size of the County, it is estimated that one trip to each of the fourteen new drop boxes would call for approximately 292 miles of driving.

6. The Secretary of State’s Office introduced a grant program in 2018 to assist counties with the implementation of RCW 29A.40.170, but only qualified “distressed rural counties” could apply. Even then, the grant was capped at $100,000 and limited qualified applicants up to $1,000 per box location installed after July 23, 2017.

7. Washington’s Unfunded Mandate Law provides that the State “shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the costs of the new programs or increases in service levels.” (RCW 43.135.060(1) When determining whether the State must reimburse local governments for an unfunded mandate, the Washington Supreme Court considers two factors: “1) is the program or service a responsibility imposed by the Legislature; and 2) is it a new program or increased level of service under an
existing program.” *City of Tacoma*, 117 Wn.2d 348, 360 (1991)

8. The parties do not dispute that SB 5472/RCW 29A.40.170 resulted in
“mandatory state legislation.” The law, after all, requires that every county auditor must
establish the specified minimum number of ballot drop boxes. Previously, counties were free to
choose whether to install ballot drop boxes. The parties also do not dispute that the law
mandates both a new program and increased service levels. “Programs” and “services” have
been interpreted by the Washington Supreme Court to mean “measures designed to accomplish
specific public goals and to benefit the public.” *City of Tacoma*, at 359-360

9. The addition of ballot drop boxes has resulted in greater voter turnout overall.

10. Under the Election Cost Allocation Process (“ECAR”) as set forth in RCW
29A.04.410-430, counties may seek capital and operational cost reimbursement. However, the
State’s reimbursement obligation under this process is limited to a portion of election costs
incurred during odd-numbered years. Beginning on July 1, 2021, ESHB 2421 will take effect,
requiring the State to also reimburse for capital and operational election related costs in even-
numbered years. Still, this results only in providing counties pro-rate reimbursement of their
election expenses, divided between the State, smaller jurisdictions, and the counties.

11. To determine the proportionate share of each election, counties follow the
methodology outlined by the State Auditor’s Office in the BARS Manual. The BARS Manual
does not expressly cover the cost of ballot drop boxes. Instead, it allows for reimbursement for
“election costs”, defined as salaries, wages, benefits, services, supplies (pencils and “small items
of equipment”) and equipment. An item is considered “equipment” if it is worth under an
amount designated by the counties, usually $5,000. The State concedes that county auditors
generally do not believe that the full cost of larger equipment like ballot drop boxes can
appropriately be allocated to other jurisdictions as part of “election costs” for a specific election.

12. Items above the cost threshold are considered “capital outlays.” These cannot be included in a county’s total election costs. The purchase and installation costs of new ballot drop boxes have, for some counties, far exceeded the cost threshold and are therefore capital outlays. The State’s claim that counties may use ONE of two methods for recovering capital costs (“depreciation or use charges” and “15 percent overhead factor) over time falls short of full reimbursement. Depreciation or use charges are based on rates that will result in a reasonable recovery of the drop box over its useful life. This means it will take many years to recover the cost of a drop box. The 15 percent overhead factor, meanwhile, theoretically allows a county to recover some portion of its increased operating costs related to the drop boxes, but not the purchase and installation costs for new ones. In any event, counties may choose ONLY one of these options. The State concedes that the use of either method will not result in full reimbursement.

13. An organization has standing to bring legal claims on behalf of its members when: “1) the members of the organization would otherwise have standing to sue in their own right; 2) the interests that the organization seeks to protect are germane to its purpose; and 3) neither claim asserted nor relief requested requires the participation of the organization’s members.” *Int’l Assn of Firefighters, Local 1789 v. Spokane Airports*, 146 Wn.2d 207, 213-214 (2002) The State concedes that Plaintiffs satisfy the first two elements. In this case, the claim for damages are certain and easily ascertaintable. Each individual association member’s participation is not necessary to prove damages. The State is in possession of much of the data – many counties (eight non-plaintiff counties) have already submitted their drop box expenditures and costs to the State in their reimbursement requests. Plaintiffs have also provided the State
with the reimbursement requests as part of this lawsuit. The State legislature has also acknowledged that it is both necessary and desirable for counties to coordinate their administrative programs. RCW 36.32.335. Specifically, the legislature permits counties to "designate the Washington State Association of Counties as a coordinating agency." RCW 36.32.350. The Washington State Supreme Court has also held that the third Int'l Assn of Firefighters, Local 1789 element is intended to "serve administrative convenience and efficiency" and does so by requiring that an associational plaintiff does not lack the "evidence necessary to show the harm with sufficient specificity." Washington State Nurses Ass'n v. Cnty. Health Sys., Inc., 469 P.3d 300, 302 (Wash. 2020) "An overly technical application of the standing rules" is not required, Int'l Assn of Firefighters, Local 1789, 146 Wn.2d at 216, as such an approach would lead to the "increased number of lawsuits arising out of identical facts" that would likely result in an undue economic burden on association members to bring such suits on their own behalf. Id.

14. The State's argument that ESHB 2421 retroactively eliminates its liability to counties under the Unfunded Mandate Statute because it was the intent of the legislature to "harmonize" the law with Ch.29A.04 RCW is not well-taken. First, no such intent is memorialized in ESHB 2421. Second, no bill reports related to ESHB 2421 appear to include any reference about harmonizing it with the ECAR reimbursement process.

15. ESHB 2421's attempt to amend the Unfunded Mandate Statute, if indeed this was the legislature's intent as argued by the State, violates Article II, Section 37 of the Washington State Constitution. Article II, Section 37 requires that "No act shall ever be revised or amended by mere reference to its title, but the act revised or the section amended shall be set forth at full length." Whether an act constitutes an amendment depends on "whether it changes a prior act in
scope and effect.” *Weyerhauser Co., v. King County*, 91 Wn.2d 721, 731 (1979) By amending
the Unfunded Mandate Statute to require only partial reimbursement for the ballot drop box
program, ESHB 2421 has significantly changed the scope and effect of the unfunded mandate
law. The language of RCW 43.135.0606 does not appear in ESHB 2421’s text.

16. ESHB 2421 also fails under the “complete act” exception to the requirements of
Article II, Section 37. If a “new law is a complete act, independent of prior acts and standing
alone as the law on a particular subject which it treats.” Weyerhauser Co., 91 Wn.2d at 732, it
need not in full text every statute that it might impact. To determine if an act is “complete”, the
Washington State Supreme Court established a two-part test: 1) is the new law one in which a
person could determine the scope of his/her rights or duties by review of the act itself; and 2)
would a straightforward determination of the scope or rights or duties under the existing statutes
be made erroneous by the new enactment.

17. The section of ESHB 2421 that violates Article II, Section 37 of the Washington
State Constitution must therefore be invalidated and excised, especially since the portion
addressing the unfunded mandates is not so inextricably intertwined with the larger aim of the
statute – requiring the state funding of state and federal elections in even-numbered years – so as
to interfere with the main goal of the legislation. The Court notes that had the State intended to
amend RCW 43.135.060 so that the ballot drop box program costs would not be subject to full
reimbursement as set forth in the Unfunded Mandate Statute, it could have done so without
violating Article II, Section 37 of the Washington State Constitution by so stating in RCW
43.135.060 (see RCW 43.135.060(4), which amended the Unfunded Mandate Statute to state that
the full reimbursement requirement does not apply to the costs associated with voting devices or
machines).
18. "A statute may not be given retroactive effect, regardless of the intention of the legislature, where the effect would be to interfere with vested rights." *Gillis v. King County*, 42 Wash.2d 373, 376 (1958). The counties in the present case have spent substantial funds in order to comply with the State’s ballot drop box mandate. These counties therefore, were vested in their respective right to seek reimbursement under the Unfunded Mandate Statute. This is to be distinguished from the State’s argument that the counties have no vested right in laws remaining unchanged.

Based on the foregoing, the Court ORDERS that Plaintiffs’ Motion is GRANTED.

The Court applauds the Washington State Legislature for taking affirmative and substantive steps towards increasing voter participation in elections. That said, the counties should not be unduly forced to choose between full compliance and extreme economic hardship.

It is hereby ORDERED that SB 5472 (Chapter 327, Laws of 2017 – RCW 29A.40.170) is an unfunded mandate pursuant to RCW 43.135.060. Nothing in the Unfunded Mandate Statute limits its application to programs or services which have traditionally been State functions. The statute’s language is plain and clear – that where a legislative mandate “increased the level of services provided to the public,” the State must reimburse the local jurisdiction(s) for the costs attributable to the mandate. *City of Tacoma*, 117 Wn.2d at 355-358. All Washington State counties shall be entitled to full reimbursement from the State of Washington in the manner set forth in RCW 43.135.060 for their past and future reasonable costs expended to comply with SB 5472.

It is further ORDERED that Clallam, Cowlitz, Grays Harbor, Jefferson, Kitsap, Kittitas, Klickitat, Lewis, Pierce, and Snohomish Counties are entitled to damages in the form of full reimbursement for funds expended to date in order to comply with SB 5472 but for which the

ORDER GRANTING PLAINTIFFS’ MOTION FOR PARTIAL SUMMARY JUDGMENT - 9
State has denied them full reimbursement.

IT IS SO ORDERED this 14th day of October, 2020.

Honorable Nelson K. H. Lee
King County Superior Court Judge
The Honorable Nelson Lee

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

WASHINGTON STATE ASSOCIATION OF COUNTIES a Washington non-profit association; SNOHOMISH COUNTY a Washington municipal entity; KITTITAS COUNTY a Washington municipal entity; and WHITMAN COUNTY a Washington municipal entity,

Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant.

Per the Joint Stipulated Motion for Change of Trial Date and Issuance of an Amended Case Schedule, the Court hereby finds that good cause exists to reset the trial to April 19, 2021, and to extend related deadlines accordingly.

The case schedule is hereby amended as follows:
<table>
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<tr>
<th>CASE EVENT</th>
<th>EVENT DATE</th>
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<tbody>
<tr>
<td>DEADLINE for Discovery Cutoff</td>
<td>02/19/2021</td>
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<tr>
<td>DEADLINE for Engaging in Alternative Dispute Resolution</td>
<td>03/01/2021</td>
</tr>
<tr>
<td>DEADLINE: Exchange Witness &amp; Exhibit Lists &amp; Documentary Exhibits</td>
<td>03/08/2021</td>
</tr>
<tr>
<td>DEADLINE to file Joint Confirmation of Trial Readiness</td>
<td>03/15/2021</td>
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<tr>
<td>DEADLINE for Hearing Dispositive Pretrial Motions</td>
<td>04/02/2021</td>
</tr>
<tr>
<td>Joint Statement of Evidence</td>
<td>04/09/2021</td>
</tr>
<tr>
<td>DEADLINE for filing Trial Briefs, Proposed Findings of Fact and Conclusions of Law and Jury Instructions</td>
<td>04/09/2021</td>
</tr>
<tr>
<td>Trial Date</td>
<td>04/19/2021</td>
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IT IS SO ORDERED.

DATED this 20th day of October, 2020.

THE HONORABLE NELSON LEE

Presented by:

PACIFICA LAW GROUP LLP

/s/ Paul J. Lawrence
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[PROPOSED] ORDER AMENDING
CASE SCHEDULE - NO. 19-2-32705-7
September 8, 2020

Tina Watkins, Assistant Director of Local Audit
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Lisa Carrell, Assistant Audit Manager
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Alexander Chavez, Assistant State Auditor
Office of the Washington State Auditor
100 North Morain Street
Kennewick, Washington 99336

Re: Uses of Sales/Use Tax Received Under RCW 82.14.370

Dear Ms. Watkins, Ms. Carrell, & Mr. Chavez,

On behalf of Benton County, Washington State Association of Counties ("WSAC"), and Washington Public Ports Association ("WPPA"), we write to address concerns raised by the State Auditor’s Office ("SAO") regarding county distribution of revenues received under RCW 82.14.370 directly to port districts to (1) finance certain port facilities and/or (2) finance certain port district personnel.

**SAO’s Position.** We have framed SAO’s perspective based on communication received that indicates that counties may be barred from distributing revenues collected under RCW 82.14.370 directly to port districts for qualifying projects. Specifically, the SAO contends:

Under RCW 82.14.370 Counties can use these monies to finance public facilities serving economic development purposes however we don’t see where transferring the money directly to the ports is an allowable use. Ports do not have the authority to collect these types of tax revenues and therefore are unable to receive the funds directly; however the County is able to finance the projects as described in the RCW included below.¹

**Response of Benton County, WSAC, and WPPA.** Based on the plain language of the statute, its legislative history, Attorney General Opinions, prior SAO treatment of direct funding schemes under the statute, and actual county practice, direct county distribution to port districts for port facilities and personnel that otherwise meet the statutory criteria for funding is permissible under RCW 82.14.370.

¹ See email from Tina Watkins to Eric Johnson (July 27, 2020), attached to this letter as Attachment A.
A. RCW 82.14.370’s plain language supports direct distribution to port districts for qualifying projects and personnel.

RCW 82.14.370 authorizes “rural” counties to impose a sales and use tax of up to 0.09 percent for specific purposes, provided certain statutory criteria are met:

Moneys collected under this section may only be used to finance public facilities serving economic development purposes in rural counties and finance personnel in economic development offices. The public facility must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county’s comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county’s capital facilities plan or the capital facilities plan of a city or town located within the county.

RCW 82.14.370(3)(a). In defining what constitutes “public facilities” for purposes of this funding, the statute expressly includes “port facilities” as well as items such as roads, bridges, water facilities, and sewer facilities that counties, cities, and other subunits of government (such as water-sewer districts organized under title 57 RCW and public utility districts organized under title 54 RCW) often construct. See RCW 82.14.370(3)(c)(ii). Regarding personnel, the statute defines “economic development office” to include (among other things) “an office of a ... port district ... which promotes economic development purposes within the county.” RCW 82.14.370(c)(iii).

The above statutory language supports direct provision of RCW 82.14.370 funds to port districts for the listed purposes. First, the statute provides that tax revenues may only be used to “finance” certain public facilities and/or personnel. The term “finance” is not defined in the statute, but its plain and ordinary meaning is “[t]o raise or provide funds,” “to raise or provide funds or capital for,” or “to furnish with necessary funds.” Black’s Law Dictionary (11th ed. 2019); Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/finance (last visited Aug. 25, 2020). The Legislature’s choice of the term “finance” (as opposed to “construct,” for example) is instructive, as it contemplates that counties may furnish funds to other entities for qualifying public facilities projects or personnel rather than limiting use of the funds solely to county projects or personnel.

Second, rather than limiting the use of RCW 82.14.370 funds to county facilities, the moneys collected under this statute may expressly be used to finance “port facilities,” which necessarily are owned and/or controlled by port districts. See RCW 53.08.020, .040, .043 (authorizing/describing various types of port facilities). That the statute expressly permits counties to finance facilities not owned by the county supports direct provision of funds to the entity that will construct and own the facility (here, port districts).

---

2 When a term in a statute is not defined, courts may resort to dictionary definitions to ascertain the term’s plain and ordinary meaning. State v. Sullivan, 143 Wn.2d 162, 175, 19 P.3d 1012 (2001).

3 Similarly, because RCW 82.14.370 broadly defines “public facilities” to include items like roads, bridges, and water/sewer facilities and does not limit those items to county-owned facilities, counties must have authority under RCW 82.14.370 to distribute funds directly to cities and other local government entities for qualifying projects.
Finally, moneys collected under RCW 82.14.370 are expressly authorized to pay for certain port district personnel, given that the definition of “economic development office” is defined to include an office of a port district that promotes economic development purposes within the county. RCW 82.14.370(3)(c)(iii). Because port district personnel are not county employees, a county could not “finance” such personnel by making payroll payments to port employees. Rather, a county must provide funds directly to port districts to finance the salaries of qualifying port district personnel.

In sum, a straightforward reading of the statute’s plain text supports the authority of counties to provide funds directly to other local government entities, including port districts, for qualifying projects and/or personnel.

B. RCW 82.14.370’s legislative history further supports direct provision of funds to port districts.

The legislative history of RCW 82.14.370 demonstrates the Legislature’s intent to facilitate economic development statewide, to define broadly “public facilities” for that purpose, and to permit direct provision of funds to port districts. As originally passed in 1997, RCW 82.14.370 did not define “public facilities.” In 1999, the Legislature amended the statute to specify that revenues could only be used for public facilities that met certain listing criteria, and added a definition of “public facilities.” The legislative history of this amendment indicates a broad understanding of what constitutes a public facility, including acknowledgement that such facilities need not be constructed or owned by the county. See H.B. Analysis, HB 2260, 56th Leg., Reg. Sess. (1999) (“A public facility is defined as a project of a local government for the planning, acquisition, construction, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic and industrial water, flood control, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, natural gas, telecommunications, buildings or structures, and port facilities all for the purpose for job creation, retention, or expansion.”) (emphasis added); S.B. Rep., ESHB 2260, 56th Leg., Reg. Sess. (1999) (same).

In 2004, the Legislature made additional changes to the statute with the intent to “reaffirm the original goals of the 1997 act,” specifically that the “continuing legislative goal for RCW 82.14.370 is to promote the creation, attraction, expansion, and retention of businesses and provide for family wage jobs.” Laws of 2004, ch. 130, § 1. The legislation added language requiring that tax revenues be used to finance public facilities “serving economic development purposes” and added certain reporting requirements. Id., § 2. It also defined “economic development purposes” as “those purposes which facilitate the creation or retention of businesses and jobs in a county.” Id.; see also Final B. Rep., SSB 6113, 58th Leg., Reg. Sess. (2004) (“Moneys collected under the local option tax in rural counties may only be used to finance public facilities serving economic development purposes. Economic development purposes are those that facilitate the creation or retention of businesses and jobs.”). The amendments and their legislative history indicate an intent broadly to facilitate economic development within counties, not to limit funding solely to county-owned facilities. See H.B. Rep., SSB 6113, 58th Leg., Reg. Sess. (2004) (funding may be used for “financing public facilities that serve an economic development purpose in a rural county”).

In 2007, the Legislature added the financing of economic development office personnel as an approved purpose to which tax revenues can be directed. Laws of 2007, ch. 250, § 1. The legislative history for this 2007 amendment confirms the intent of the bill was to allow funds collected under RCW 82.14.370 to be used to “finance economic development officers.” S.B. Rep., HB 1543, 60th Leg., Reg. Sess. (2007). It further clarifies that counties may provide funds directly to port districts for economic development purposes under RCW 82.14.370: “Funds are allowed to go to the economic development office staff,
instead of just to the economic development officer. Port districts are eligible to receive the funds collected through the rural county 0.08 percent sales and use tax to promote economic development purposes within the county.” *Id.* (emphasis added).

Indeed, given the legislature’s intent to facilitate economic development within counties, allowing port districts to receive and utilize these funds makes sense. By statute, both counties and port districts are charged with promoting economic development. *See* RCW 36.01.085; chapters 53.04 and 53.08 RCW. Port districts are authorized to meet this mandate by various means, including acquiring, constructing, operating, and developing various port facilities and otherwise engaging in economic development programs. *See* RCW 53.04.010, RCW 53.08.020, RCW 53.08.245. County provision of RCW 82.14.370 funds to port districts within the county for economic development purposes is consistent with the statutory responsibility of both counties and ports to promote economic development.

C. Attorney General opinions support a broad reading of county authority under RCW 82.14.370.

Although no courts have opined on RCW 82.14.370’s meaning, Attorney General opinions shed light on its purpose. In 2002 Op. Att’y Gen. No. 1, 2002 WL 463423, the Attorney General addressed whether a county could use RCW 82.14.370 revenues to fund the purchase and installation of fiber optic cable and optical switching electronics by a private nonprofit electrical cooperative for the purpose of extending broadband telecommunications services to residence and businesses in the county. The Attorney General concluded that the project could not be funded with RCW 82.14.370 revenues because it was owned by a private entity, and therefore was not a public facility as defined in the statute. *Id.* at *2-3. Notably, the opinion did not limit the county’s ability to provide grants to other public entities within the county that propose qualifying projects:

Although RCW 82.14.370 is not absolutely explicit on the point, we are convinced that the term public facilities necessarily assumes a facility in which the ownership is public and not private. We note, first, that the list of facilities qualifying for use of revenues derived from the tax in question consists in great part of structures or facilities which are traditionally built and owned by government agencies rather than private parties. . . .

Second, the term public facility as generally understood presupposes a facility owned by a public entity rather than by a private company or cooperative. . . . Thus, even though RCW 82.14.370 does not spell out expressly that the facilities listed must be publicly-owned, that is implied by the use of the term public.

*Id.* at *2-3 (footnotes omitted; emphasis added).

The Attorney General has also broadly interpreted the types of costs that may be financed by RCW 82.14.370 revenues. These may include, but are not limited to, (1) capital facilities costs, including acquisition, construction, rehabilitation, alteration, expansion, or improvements of public facilities; (2) costs of development and improvement for the public facilities; (3) project-specific environmental costs; (4) land use and permitting costs; (5) costs of site planning and analysis; and (6) project design, including feasibility and marketing studies and plans, and debt and revenue impact analysis, provided those costs are associated with any of the public facilities defined in RCW 82.14.370. 2001 Op. Att’y Gen. No. 5, 2001 WL 1250132, at *2. As noted above, those public facilities expressly include “port facilities.”
D. Your Office has reviewed direct funding schemes under RCW 82.14.370.

In two related opinions in 2011 and 2013, the SAO addressed a county’s direct provision of funds to a water and sewer district under RCW 82.14.370 and raised no concern over that general financing arrangement. See Schedule of Audit Findings and Responses, Island County (2011) and Schedule of Audit Findings and Responses, Freeland Water and Sewer District, Island County (2013). According to these opinions, Island County and the Freeland Water and Sewer District entered into an interlocal agreement in 2009 to assist the District in financing the costs of phase one of a sewer project. The County awarded the District $2.5 million in grant funds under RCW 82.14.370 for the project, which would be paid out on a reimbursement basis. The interlocal agreement provided that if any portion of the funds provided by the County were used for an unauthorized purpose, the District would repay all such funds with interest.

In its 2011 and 2013 opinions, the SAO noted violations including (1) the County reimbursed the District for certain expenditures not authorized under the interlocal agreement because they were not related to the sewer project, and (2) the District failed timely to repay the County for certain RCW 82.14.370 funds used to purchase land for the sewer system following the District’s receipt of an overlapping Department of Ecology grant for the same land purchase. But neither opinion raised any concern about the parties’ arrangement with respect to RCW 82.14.370 funds more generally, namely the interlocal agreement under which the County awarded the District those funds and the County’s practice of distributing the funds directly to the District in response to reimbursement requests as the project moved forward.

The SAO’s recent concern over county provision of funds to port districts under RCW 82.14.370 is inconsistent with its approach in the 2011 and 2013 opinions discussed above. Port districts have similar scope of authority as water and sewer districts. Neither of those types of districts have authority to raise funds under RCW 82.14.370. Given the SAO’s apparent acceptance of direct funding arrangements between counties and water-sewer districts under RCW 82.14.370, there is no reason to treat port districts any differently. Accordingly, counties may provide funds directly to port districts for qualifying projects or personnel under the statute.

E. Counties routinely provide funds directly to other local government entities, including port districts, under RCW 82.14.370.

Finally, the SAO’s recent statement is contrary to the conclusion of not only Benton County, but also numerous other counties receiving this funding. Many rural counties that collect taxes under RCW 82.14.370 have established specific county funds where these revenues are deposited. The funds are either used by the counties themselves or disbursed to local government partners within the county for qualified projects. As to the latter use, the counties administer the funds through grant programs that allocate funds to qualifying projects. The process generally involves cities, ports, economic development offices, etc. submitting applications for funding for public facilities projects. The county evaluates the applications and provides grants of funds directly to qualifying projects/sponsors, often on a reimbursement basis as projects are constructed (like the Island County process detailed in the SAO opinions discussed above). Each project sponsor approved for funds is generally required to enter into a contract/interlocal agreement governing performance of the project and use of funds. Examples of

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counties that use this general structure include Franklin, Lincoln, Island, Benton, Whatcom, Grays Harbor, and Skagit Counties.\(^5\)

Moreover, multiple counties have granted RCW 82.14.370 funds directly to ports through this process. These include, for example, Whitman, Whatcom, Benton, and Skagit Counties.\(^6\)

**Conclusion.** We trust that, after considering the above, the SAO will agree that counties may continue, consistent with the terms of RCW 82.14.370, to provide moneys collected under the statute directly to port districts for projects otherwise eligible under the statutory criteria. Thank you for the dialogue on this matter of high importance across the state.

Sincerely,

Jerrod MacPherson, County Administrator
Benton County

Eric Johnson, Executive Director
Washington State Association of Counties

James Thompson, Executive Director
Washington Public Ports Association

cc: Port of Benton
    Port of Kennewick
    Brenda Chilton, Auditor, Benton County
    Ryan Brown, Chief Deputy Prosecuting Attorney, Benton County

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Attachment A

From: Watkins, Tina (SAO) <watkinst@sao.wa.gov>
Sent: Monday, July 27, 2020 5:15 PM
To: Eric Johnson <ejohnson@wsac.org>
Cc: Carrell, Lisa (SAO) <carrelll@sao.wa.gov>
Subject: Follow up

For your consideration:

What is the statutory authority that counties have in giving these sales and use tax revenues (cash) to ports?

Some background:

Under RCW 82.14.370 Counties can use these monies to finance public facilities serving economic development purposes however we don’t see where transferring the money directly to the ports is an allowable use. Ports do not have the authority to collect these types of tax revenues and therefore are unable to receive the funds directly; however the County is able to finance the projects as described in the RCW included below.

RCW 82.14.370

Sales and use tax for public facilities in rural counties.

(1) The legislative authority of a rural county may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax may not exceed 0.09 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax, except that for rural counties with population densities between sixty and one hundred persons per square mile, the rate shall not exceed 0.04 percent before January 1, 2000.

(2) The tax imposed under subsection (1) of this section must be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue must perform the collection of such taxes on behalf of the county at no cost to the county.

(3)(a) Moneys collected under this section may only be used to finance public facilities serving economic development purposes in rural counties and finance personnel in economic development offices. The public facility must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county’s comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county’s capital facilities plan or the capital facilities plan of a city or town located within the county.
(b) In implementing this section, the county must consult with cities, towns, and port districts located within the county and the associate development organization serving the county to ensure that the expenditure meets the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection. Each county collecting money under this section must report, as follows, to the office of the state auditor, within one hundred fifty days after the close of each fiscal year: (i) A list of new projects begun during the fiscal year, showing that the county has used the funds for those projects consistent with the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection; and (ii) expenditures during the fiscal year on projects begun in a previous year. Any projects financed prior to June 10, 2004, from the proceeds of obligations to which the tax imposed under subsection (1) of this section has been pledged may not be deemed to be new projects under this subsection. No new projects funded with money collected under this section may be for justice system facilities.

(c) The definitions in this section apply throughout this section.

(i) "Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, electrical facilities, natural gas facilities, research, testing, training, and incubation facilities in innovation partnership zones designated under RCW 43.330.270, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington.

(ii) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.

(iii) "Economic development office" means an office of a county, port districts, or an associate development organization as defined in RCW 43.330.010, which promotes economic development purposes within the county.

(4) No tax may be collected under this section before July 1, 1998.

(a) Except as provided in (b) of this subsection, no tax may be collected under this section by a county more than twenty-five years after the date that a tax is first imposed under this section.

(b) For counties imposing the tax at the rate of 0.09 percent before August 1, 2009, the tax expires on the date that is twenty-five years after the date that the 0.09 percent tax rate was first imposed by that county.

(5) For purposes of this section, "rural county" means a county with a population density of less than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

Tina M. Watkins, CPA
Assistant Director of Local Audit, Office of the Washington State Auditor
(360) 260-6411 | www.sao.wa.gov
November 16, 2020

TO: WSAC Board of Directors
FROM: Eric Johnson, Executive Director
SUBJECT: Recognition and Thanks

BACKGROUND

In September 2010, the Washington State Association of Counties adopted an*Amicus Brief Policy and Process* to:

“assure a systematic process to determine WSAC’s amicus curiae participation in appellate judicial matters... Recognizing that counties’ authorities and powers are defined by the state constitution, statutes, and regulations, WSAC should use the amicus curiae process to present its unique point of view.”

We rely heavily on county deputy prosecuting attorneys and outside legal counsel to draft and submit our amicus briefs. WSAC rarely provides direct financial support for the preparation of the briefs. Rather, WSAC involvement depends upon on the availability of resources, including in-house general counsel, Washington Association of Prosecuting Attorneys, elected prosecuting attorneys or appointed deputy prosecuting attorneys from individual county office(s), or special deputies appointed by a prosecuting attorney from an individual county.

DISCUSSION

Over the past 24 months, WSAC has considered over 20 amicus briefs and prepared and submitted 16. In doing so we worked with a variety of county deputy prosecuting attorneys and outside counsel. We want to thank those who have assisted us:

Counties

- Jacquelyn M. Aufderhiede, Kitsap County Chief Civil Deputy Prosecuting Attorney
- Johns Purves, Kitsap County Deputy Prosecuting Attorney
- Elizabeth Doran, Kitsap County Senior Deputy Prosecuting Attorney
- Christopher Horner, Kittitas County Chief Civil Deputy Prosecuting Attorney
- Doug Mitchell, Kittitas County Deputy Prosecuting Attorney
- Dan Hamilton, Pierce County Deputy Prosecuting Attorney
- Haley W. Sebens, Skagit County Deputy Prosecuting Attorney
- Nathaniel Block, Skagit County Deputy Prosecuting Attorney
- Mellani McAleenan, Washington State Association of Counties
- Pam Loginsky, Washington Association of Prosecuting Attorneys
Outside Counsel

- Harrigan, Leyh, Farmer, and Thomsen
- Inslee Best
- Pacifica Law Group
- Washington State Association of Municipal Attorneys
- Arete Law Group
- Foster Pepper

RECOMMENDATION

WSAC staff extends our deep appreciation for the work and time commitment that county deputy prosecuting attorneys and outside legal counsel have provided to WSAC in preparing amicus briefs on our Association's behalf.

WSAC staff recommends that the WSAC Board of Directors appropriately thank and recognize these counties, deputy prosecuting attorney, and outside legal counsel for their support of implementing our amicus policy, preparing amicus briefs, and furthering our goal to represent counties' “unique point of view.”
Resolution # 2020-24

WHEREAS, in September 2010, the Washington State Association of Counties adopted an *Amicus Brief Policy and Process* to “assure a systematic process to determine WSAC’s amicus curiae participation in appellate judicial matters... Recognizing that counties’ authorities and powers are defined by the state constitution, statutes, and regulations, WSAC should use the amicus curiae process to present its unique point of view;” and

WHEREAS, to submit amicus briefs, WSAC relies upon on the availability of resources, including in-house general counsel, Washington Association of Prosecuting Attorneys, elected prosecuting attorneys or appointed deputy prosecuting attorneys from individual county office(s), or special deputies appointed by prosecuting attorneys from an individual county; and

WHEREAS, over the past 24 months, WSAC has considered over 20 amicus briefs and prepared and submitted 16; and

WHEREAS, WSAC has worked with a variety of county deputy prosecuting attorneys and outside counsel who have represented WSAC and submitted amicus curiae briefs on behalf of the Association;

NOW THEREFORE BE IT RESOLVED that the WSAC Board of Directors recognizes and thanks to the following counties, deputy prosecuting attorneys, individuals, outside legal counsel, and firms for their support of implementing the WSAC amicus policy, preparing amicus briefs and furthering our goal to represent counties’ “unique point of view.”

**Counties**

- Jacquelyn M. Aufderhiede, Kitsap County Chief Civil Deputy Prosecuting Attorney
- Johns Purves, Kitsap County Deputy Prosecuting Attorney
- Elizabeth Doran, Kitsap County Senior Deputy Prosecuting Attorney
- Christopher Horner, Kittitas County Chief Civil Deputy Prosecuting Attorney
- Doug Mitchell, Kittitas County Deputy Prosecuting Attorney
- Dan Hamilton, Pierce County Deputy Prosecuting Attorney
- Haley W. Sebens, Skagit County Deputy Prosecuting Attorney
- Nathaniel Block, Skagit County Deputy Prosecuting Attorney
- Mellani McAleenan, Washington State Association of Counties
- Pam Loginsky, Washington Association of Prosecuting Attorneys

**Outside Counsel**

- Harrigan, Leyh, Farmer, and Thomsen
- Inslee Best
- Pacifica Law Group
- Washington State Association of Municipal Attorneys
- Arete Law Group
- Foster Pepper
BE IT FURTHER RESOLVED that WSAC staff transmit our thanks, recognitions, and appreciation as herein stated.

Approved by the Board of Directors of the Washington State Association of Counties on November 16, 2020.

_________________________________              __________________________________
Robert Gelder, WSAC President                Jamie Stephens, WSAC 2nd Vice President
November 16, 2020

TO:        WSAC Board of Directors
FROM:      Eric Johnson, Executive Director
SUBJECT:   Proposed 2021 WSAC Board of Directors Meeting Schedule

BACKGROUND
The Washington State Association of Counties’ Board of Directors historically schedules four Regular Meetings per year:

- One during the legislative session in conjunction with a Legislative Steering Committee Meeting;
- One in the spring in conjunction with Legislative Steering Committee or Board of Director’s biennial planning session;
- One in the fall to review and approve the proposed annual operations and special fund budgets;
- One in November in conjunction with WSAC Annual County Leaders Conference.

The WSAC Bylaws provide the following guidance on meetings of the Board of Directors:

3.7 Meetings
Meetings of the Board shall be open to all members of the Association, except for personnel matters or consideration of an emergency, which requires otherwise.

3.7.1 Regular Meetings
By resolution, the Board may specify the date, time, and place for the holding of regular meetings without other notice than such resolution.

3.7.2 Special Meetings
Special meetings of the Board or any committee designated and appointed by the Board may be called by or at the written request of the President or two-thirds of the Directors in office, or, in the case of a committee meeting, by the chairperson of the committee. The person or persons authorized to call special meetings may fix any place as the place for holding any special Board or committee meeting called by them.

RECOMMENDATION
1. The January/February 2021 WSAC Board of Directors’ meeting shall be conducted as a “Virtual Meeting.”
2. The May 2021 WSAC Board of Directors’ meeting shall be held in person depending on the “Safe Start” status during the second week of May, as previously approved by the WSAC Board of Directors.
3. The September 2021 WSAC Board of Directors’ meeting will be held to recommend the 2022 Budgets.
4. The November 2021 WSAC Board of Directors’ meeting will be done in conjunction with the WSAC Annual County Leaders Conference in Spokane County.
The following dates are recommended for 2021 Regular Meetings of the WSAC Board of Directors:

<table>
<thead>
<tr>
<th>Date</th>
<th>Day</th>
<th>Tentative Time(s)</th>
<th>Location</th>
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<tbody>
<tr>
<td>February 3, 2021</td>
<td>Wednesday</td>
<td>1:00 p.m. – 5:00 p.m.</td>
<td>Virtual Meeting</td>
</tr>
<tr>
<td>May 5, 2021</td>
<td>Wednesday</td>
<td>5:00 p.m. – 8:00 p.m.</td>
<td><strong>TENTATIVE:</strong> Alderbrook</td>
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<td>Mason County Union, Washington</td>
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<tr>
<td>Planning Meeting</td>
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<tr>
<td>May 6, 2021</td>
<td>Thursday</td>
<td>9:00 a.m. – 5:00 p.m.</td>
<td><strong>TENTATIVE:</strong></td>
</tr>
<tr>
<td>May 7, 2021</td>
<td>Friday</td>
<td>8:00 a.m. – Noon</td>
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<tr>
<td>September 16, 2021</td>
<td>Thursday</td>
<td>8:30 a.m. – Noon</td>
<td><strong>TENTATIVE:</strong></td>
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<td>Hal Holmes Center</td>
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<td>Kittitas County</td>
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<td>Ellensburg, Washington</td>
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<tr>
<td>November 16, 2021</td>
<td>Tuesday</td>
<td>Noon – 3:00 p.m.</td>
<td><strong>TENTATIVE:</strong></td>
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<td></td>
<td>WSAC Annual County Leaders Conference</td>
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<td>Spokane, Washington</td>
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</table>

In advance of our Board meeting on Monday, November 16, 2020, please check your calendars, other organization events and activities to ensure we have avoided potential conflicts.

Approve the attached Resolution to establish the 2021 WSAC Board of Directors’ Regular Meeting Schedule and distribute and publish the Regular Meeting Schedule to WSAC Members and the public.
Resolution # 2020-25

WHEREAS, the Washington State Association of Counties' Board of Directors desires to provide notice to WSAC members and the public of the 2021 Regular Meetings of the Washington State Association of Counties Board of Directors, and

WHEREAS, the WSAC Bylaws permits the Board of Directors to specify the date, time, and place for holding regular meetings, and

WHEREAS, the following dates are proposed for 2021 Regular Meetings of the WSAC Board of Directors:

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<td>Spokane County Davenport Grand</td>
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<td>Spokane, Washington</td>
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NOW THEREFORE BE IT RESOLVED that the WSAC Board of Directors establishes the following 2021 regular meeting schedule as provided for in Article 3.7.1 of the WSAC Bylaws:

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<td>Spokane, Washington</td>
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</tbody>
</table>

BE IT FURTHER RESOLVED that WSAC staff is directed to publish and advise WSAC members and affiliates of the 2021 Regular Meeting schedule.

Approved by the Board of Directors of the Washington State Association of Counties on November 16, 2020.

Robert Gelder, WSAC President

Jamie Stephens, WSAC 2nd Vice President
November 16, 2020

TO: WSAC Board of Directors

FROM: Eric Johnson, Executive Director

PREPARED BY: Derek Anderson, Director, Member Services and Communications

SUBJECT: Appointments and Nominations to Statewide Boards & Commissions

The following nominations were received for open county represented positions on statewide boards and commissions. Attached are applications and statements of interest from each candidate.

**Appointments to the Puget Sound Partnership:**

**Ecosystem Coordination Board**  
Eligibility: County Elected Official  
Number of Positions: One  
Number of Applications Received: Two
- Kate Dean, Jefferson County Commissioner
- Dave Somers, Snohomish County Executive

**Puget Sound Salmon Recovery Council**  
Eligibility: County Elected Official  
Number of Positions: One  
Number of Applications Received: Three
- Janet St. Clair, Island County Commissioner
- Marty Campbell, Pierce County Councilmember
- Megan Dunn, Snohomish County Councilmember

**Nomination to the Governor**

**Affordable Housing Advisory Board**  
Eligibility: County Elected Official – Western WA Representative  
Number of Positions: One  
Number of Applications Received: Two
- Temple Lentz, Clark County Councilor
- Greg Brotherton, Jefferson County Commissioner
Position of Interest: Affordable Housing Advisory Board

Name: Temple Lentz
Title: Councilor
County: Clark County

If elected official, your current term ends: December 31 2022

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?

Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?

Yes

Statement of Interest:

In Clark County, I have been deeply involved in the work to increase and improve affordable housing opportunities. Serving a rapidly growing area that has both rural and urban centers, I understand the balance required when representing counties on a state board, and the give and take required when multiple stakeholders are involved. I would welcome the opportunity to work for counties and our constituents to help maintain the livability that we love about Washington State, and ensure the interests of counties are well-represented on this board.
Position of Interest: Affordable Housing Advisory Board

Name: Greg Brotherton

Title: County Commissioner

County: Jefferson County

If elected official, your current term ends?: December 31 2022

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements? Yes

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Statement of Interest:

Affordable Housing is one of the biggest challenges for our small rural county, and I welcome the opportunity to assist in moving the needle in a positive direction in this issue. As the chair of our local Community Action Program, we have a current application for the Housing Trust Fund and federal tax credits. It just missed the federal tax credits last year and I’ve worked with staff and consultants to improve our competitiveness for this round of funding.
Position of Interest: Puget Sound Partnership - Ecosystem Coordination Board

Name: Kate Dean
Title: Commissioner

County: Jefferson County

If elected official, your current term ends? December 31, 2020

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements? Yes

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Statement of Interest:

I currently sit on the ECB representing one of the LIOs in my County. I would like to switch my representation to fill the County rep seat as I believe I would bring more value to this position. Currently, I co-chair a Land Use Subcommittee of the ECB which is aimed at improving relationships with elected officials. WE are creating a tool kit for local governments to provide resources and incentives to permitting and development that restores and protects Puget Sound. Bringing the lens of County government to this work is critical. I have established relationships with the ECB already and am a respected member currently. I think I could fill Commissioner Price-Johnson's shoes well.
Member Nomination Form

Position of Interest: Puget Sound Partnership - Ecosystem Coordination Board

Name: Dave Somers
Title: County Executive
County: Snohomish County
If elected official, your current term ends: December 31 2023

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?
Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?
Yes

Statement of Interest:
I have served previously on the ECB and served as its Chair. I hold degrees in Fisheries Science and Forest Ecology and have many years experience in Puget Sound ecological issues and restoration, as well as a deep understanding of the interface with county government.
Member Nomination Form

Position of Interest: Puget Sound Salmon Recovery Council

Name
Janet St Clair

Title
Commissioner

County:
Island County

If elected official, your current term ends?
December 31 2022

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements?
Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities?
Yes

Statement of Interest:

I am interested in serving on the Salmon Recovery Council in order to promote policies that strengthen our work in restoration and recovery. Prior to being elected as Island County Commissioner, I was Executive Director at Sound Water Stewards and have been a speaker at Sound Water’s University. As an island county, Island County is well positioned both geographically and with our experience to assist in this work. I look forward to representing WSAC on this important work.
Member Nomination Form

Position of Interest: Puget Sound Salmon Recovery Council

Name: Marty Campbell

Title: Councilmember

County: Pierce County

If elected official, your current term ends? December 31 2023

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements? Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities? Yes

Statement of Interest:

Salmon recovery is critically important here in Pierce County. We have been working cross jurisdictionally to address salmon recovery and it is important that we are part the broader solution.
Position of Interest: Puget Sound Salmon Recovery Council

Name: Megan Dunn
Title: County Councilmember
County: Snohomish County

If elected official, your current term ends: December 31 2024

Have you contacted the Board or Commission of interest or visited their website to review the meeting schedule and to determine if you are able to meet their requirements? Yes

As an appointee or nominee of WSAC, you will represent the interests and positions of the Association and act in the best interests of all counties. You may be required to report back to the WSAC Board verbally or in writing, upon request, about activities and decisions of the Board or Commission on which you serve. Do you agree to these responsibilities? Yes

Statement of Interest:

I have a 20-year work and volunteer background improving lives for working families and communities through thoughtful policy change. Prior to my election as councilmember, I served as the Healthy People and Communities Program Director with the Northwest Center for Alternatives to Pesticides, where I led efforts to help protect communities from harmful pesticides and chemicals. This experience will directly relate to work on the salmon recovery council and I am confident I can balance this background and represent county interests. I am dedicated to ensuring that all of our communities have access to clean air to breathe, fresh water to drink, and clean soil for our agricultural needs. I have a bachelor’s degree in Biology-Geology from University of Rochester and a Master of Arts in Policy Studies from University of Washington-Bothell.
Resolution 2020-26

WHEREAS, the Washington State Association of Counties’ Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments’ interests are fully represented on statewide boards, commissions, and committees; and

WHEREAS, there is a vacancy on the Affordable Housing Advisory Board; and

WHEREAS, the following County Commissioners, Councilmembers, Councilors, and Executives have sought nomination for this vacancy:

    Temple Lentz, Clark County Councilor
    Greg Brotherton, Jefferson County Commissioner

NOW, THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties’ Board of Directors nominates the following WSAC member(s) to the Affordable Housing Advisory Board:

BE IT FURTHER RESOLVED that WSAC staff be directed to immediately transmit the nominee’s name(s) to the Office of the Governor of Washington State; and

BE IT FURTHER RESOLVED that WSAC staff is directed to contact the nominee(s) of their selection; and

BE IT FURTHER RESOLVED that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on November 16, 2020.

Robert Gelder, WSAC President
Jamie Stephens, WSAC Second Vice President
Resolution 2020-27

WHEREAS, the Washington State Association of Counties’ Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments’ interests are fully represented on statewide boards, commissions, and committees; and

WHEREAS, there is a vacancy on the Ecosystem Coordination Board; and

WHEREAS, the following County Commissioners, Councilmembers, Councilors, and Executives have sought appointment for this vacancy:

    Kate Dean, Jefferson County Commissioner
    Dave Somers, Snohomish County Executive

NOW, THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties’ Board of Directors appoints the following representative to the Ecosystem Coordination Board:

BE IT FURTHER RESOLVED that WSAC staff be directed to immediately transmit the appointed representative’s name to the Puget Sound Leadership Council; and

BE IT FURTHER RESOLVED that WSAC staff is directed to contact the appointed representative of their selection; and

BE IT FURTHER RESOLVED that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on November 16, 2020.

Robert Gelder, WSAC President
Jamie Stephens, WSAC Second Vice President
Resolution 2020-28

WHEREAS, the Washington State Association of Counties’ Board of Directors is charged with making recommendations and/or appointments to numerous Washington State boards, commissions, and committees, and

WHEREAS, it is vital that county governments’ interests are fully represented on statewide boards, commissions, and committees; and

WHEREAS, there is a vacancy on the Puget Sound Salmon Recovery Council; and

WHEREAS, the following County Commissioners, Councilmembers, Councilors, and Executives have sought appointment for this vacancy:

Janet St. Clair, Island County Commissioner
Marty Campbell, Pierce County Councilmember
Megan Dunn, Snohomish County Councilmember

NOW, THEREFORE, BE IT RESOLVED, that the Washington State Association of Counties’ Board of Directors appoints the following representative to the Puget Sound Salmon Recovery Council:

BE IT FURTHER RESOLVED that WSAC staff be directed to immediately transmit the appointed representative’s name to the Puget Sound Leadership Council; and

BE IT FURTHER RESOLVED that WSAC staff is directed to contact the appointed representative of their selection; and

BE IT FURTHER RESOLVED that applicants not selected be notified and thanked for their commitment and interest in representing county government.

Approved by the Board of Directors of the Washington State Association of Counties on November 16, 2020.

Robert Gelder, WSAC President
Jamie Stephens, WSAC Second Vice President
November 16, 2020

TO: WSAC Board of Directors
FROM: Eric Johnson, Executive Director
SUBJECT: Establishing Goals and Objectives

BACKGROUND

During the February 5, 2020, WSAC Board of Directors Meeting, we initiated a conversation about Association objectives and key results with the intention of pursuing the development of a set of organizational goals and objectives.

For the past 12 years, the Washington State Association of Counties’ Board of Directors has met for a two-day biennial planning meeting (2009, 2011, 2013, 2015, 2017, 2018, and 2019) that has allowed the WSAC Board of Directors time to focus on:

- Strategic Direction
- Goals and Objectives
- Key Actions
- Performance Indicators
- Performance Measurements

The first set of meetings (2009, 2011, 2013, 2015) were used to develop the Association’s preliminary goals and actions. We have used a template/process outlined in John Bryson’s *Strategic Planning for Public and Non-Profit Organizations*. Each time, this planning process allowed the WSAC Board of Directors to develop a set of strategies and actions that generally resulted in good agreement and positive discourse with members of the WSAC Board of Directors.

WSAC also initiated even year Legislative Steering Committee Planning Meetings to establish a biennial legislative agenda and launched the Fiscal Sustainability Initiative from one such planning processes.

The 2017 and 2018 planning meetings – were specifically directed for members to discuss, frame, and authorize the development of a Strategic Litigation and Communications Program. This was a methodical, deliberative, and objective process with a full understanding of the potential risks and outcomes.

On May 9-10, 2019, the WSAC Board of Directors and Legislative Steering Committee met to review WSAC program activities, issues, challenges, and successes of WSAC. This meeting blended both strategic and tactical actions for both internal operations and external policy goals, as well as looking at the linkage and outcomes in four program areas:

- Administration and Operations
- Communications and Member Services
- Legislative and Policy
- Litigation

WSAC Staff and Board Members initially intended to utilize the 2020 Planning Meeting to return to a traditional strategic goal-setting meeting to establish “Objectives and Key Results” – OKRs.
DISCUSSION
Much of our planning processes over the last ten years have focused on actions and product delivery for the Association. This has produced critical planning outcomes and provided direction for resource allocation. Our 2020 Planning Process was de-railed as the Association pivoted to provide COVID-19 response and assistance to counties, and we were forced to cancel our 2020 Planning Meeting. It is time to rebuild the momentum and re-establish a focused planning process.

WSAC staff is working internally on organizational development and processes. One of our early themes is a strong desire to ensure we have a clear vision from the Board with clarity about direction, goals, and objectives. The purpose of our internal process is also to assure that as we identify and agree on results and work products, we have an organizational culture that is sound, resilient, and respectful. WSAC, organizationally, must exhibit and live the identified behaviors so we:

- Create trust;
- Assure accountability;
- Resolve conflict;
- Have positive and productive interpersonal and organizational partnership relationships;
- Have constructive dialogue on difficult issues;
- Are solution-oriented;
- Our organizational and interpersonal actions mirror our values;
- Attracts and retain the highest quality employees;

Establishing Objectives and Key Results (OKRs)
Winston Churchill is said to have noted, “However beautiful the strategy, one should occasionally look at the results.” So while we must develop a strong set of strategic goals, they must be complemented and supported by a group of critical actions and results that we can measure.

Over the next several months, WSAC staff and leadership will work with Board Members to complete a series of exercises to frame the strategic issues to address and identify potential Association goals, objectives, and key results/actions.

We will create processes to help us with strategic issue identification (WHICH, WHY, WHAT) and measurable action (WHEN, WHERE, WHO, HOW).

An OBJECTIVE is the WHAT. What is to be achieved? Objectives shall be:
- Significant
- Concrete
- Action-oriented
- Aspirational

KEY RESULTS are the activities we will measure performance and monitor. They are:
- Specific
- Time-Bound
- Aggressive
- Realistic
- Measurable
- Verifiable – you either meet a crucial result or you don’t
November 16, 2020

TO: WSAC Board of Directors and Alternates

FROM: Eric Johnson, Executive Director

SUBJECT: Executive Director Report

WSAC Officers and Board of Directors Election
On Thursday, November 5, 2020, an email was sent to our 139 Active Members containing voting information and online ballot instructions.

As of November 9th, 30% of WSAC Members had voted. Polling remains open until 2 p.m., Thursday, November 19th. Results will be announced during the WSAC Annual Membership Meeting, Thursday, November 19, 2020.

Changes – WSAC Members by the Numbers
WSAC is comprised of 135 County Commissioners/Councilors and 4 County Executives. Since and including the November 2008 election, there is a 95% turnover in the Washington State Association of Counties membership. This year we are thanking the following WSAC members that are leaving office:

- Adams County Commissioner John Marshall
- Adams County Commissioner Roget Hartwig
- Benton County Commissioner James Beaver
- Chelan County Commissioner Doug England
- Clark County Councilor John Blom
- Columbia County Commissioner Mike Talbott
- Ferry County Commissioner Johnna Exner
- Ferry County Commissioner Howie Hambleton
- Franklin County Commissioner Bob Koch
- Garfield County Commissioner Bob Johnson
- Garfield County Commissioner Wynne McCabe
- Grant County Commissioner Richard Stevens
- Grant County Commissioner Tom Taylor
- Grays Harbor County Commissioner Wes Cormier
- Grays Harbor County Commissioner Randy Ross
- Island County Commissioner Helen Price Johnson
- Jefferson County Commissioner David Sullivan
- Klickitat County Commissioner Jim Sizemore
- Klickitat County Commissioner Rex Johnston
- Lewis County Commissioner Edna Fund
- Lewis County Commissioner Bobby Jackson
- Pend Oreille County Commissioner Karen Skoog
- Pend Oreille County Commissioner Stephen Kiss
- Pierce County Councilmember Connie Ladenburg
• Pierce County Councilmember Doug Richardson
• Pierce County Councilmember Pam Roach
• Pierce County Councilmember Jim McCune
• San Juan County Councilmember Rick Hughes
• San Juan County Councilmember Bill Watson
• Skagit County Commissioner Ken Dahlstedt
• Stevens County Commissioner Steve Parker
• Stevens County Commissioner Don Dashiell
• Thurston County Commissioner John Hutchings
• Wahkiakum County Commissioner Mike Backman
• Walla Walla County Commissioner Jim Johnson
• Whitman County Commissioner Dean Kinzer (Trailing – Possible Recount)
• Yakima County Commissioner Vicki Baker
• Yakima County Commissioner Norm Childress (passed away September 15th)

Please see the attached report for additional county election results.

Activities
In addition to participating and supporting other work outlined in other WSAC Division Reports, my primary activities have focused on the following since the September WSAC Board of Directors Meeting:

• COVID-19
  o CARES Coronavirus Relief Fund (CRF) – Counties Under 500K, Assistance
  o Continued work and communication with Governors’ Office, Department of Commerce, Department on Questions/Information
  o Working with Governor’s Office/Department of Health on Safe Start/Healthy Start Reset
  o Webinars/Calls for WSAC Members and Affiliate Groups:
    • WSAC Members – Every Monday at noon
      o CARES CRF
      o Variance/Phase
      o Targeted
    • IT Directors – Every other week
    • Local Public Health - Weekly
    • County Administrators - Every other week
    • County and Regional Planners - Monthly
    • County Engineers/Public Works - Monthly
    • Solid Waste Managers - Monthly
    • Human Services – Monthly

• Courthouse Briefings
• Preparations for the 2020 County Leaders Conference
• Preparation for November WSAC Board of Directors Meeting
• Preparation for WSAC Annual General Membership Meeting
• Prepared, under the guidance of the Federal Issues and Relations Committee, a draft 2021 WSAC Federal Issues Agenda and Priorities for consideration by the WSAC Membership
• Preparations for Newly Elected Officials Training
• Strategic Litigation and Communication Program Implementation
• National Association of Counties
  o Professional Development Academy: High Performance Leadership Academy
  o Early Childhood Development Grant Opportunity
  o WIR Fall Board of Directors Meeting
• National Council of County Association Executives (NCCAE)
• Media
  o TVW, “Impact” Interview
- KIRO Radio, The Herald – Unfunded mandate/Ballot Drop Box Litigation
- Continued participating in Foundational Public Health Services Committee
- Behavioral Health Integration, Ruckelshaus Center
- Stevens County – Continuity of Government
- Partnership Meetings
  - Washington State Auditor’s Office
  - Washington Association of Prosecuting Attorneys
  - Association of Washington Cities
  - Washington Association of County Officials
  - Association of Washington Business
  - Washington State Department of Health
  - Washington Department of Fish and Wildlife
  - Washington Public Ports Association
  - Washington Department of Natural Resources
  - Office of the Governor
  - Washington Counties Risk Pool
  - Washington Counties Insurance Fund
  - Ruckelshaus Center Advisory Board
  - Washington Complete Count Committee
  - Washington State Association of County Auditors
  - Office of Financial Management
  - Washington State Association of County Engineers
  - Washington State Association of Local Public Health Officials

**WSAC Staff**

Jaime Bodden, WSALPHO Managing Director, was selected as the Puget Sound Business Journal’s 2020 Health Care “Up and Comer” Leadership Award winner! Congratulations to Jaime.

WSAC Staff Continues to excel and grow into their roles. There are fifteen identified WSAC staff positions, with 13 positions filled. Staff members hold eleven of these positions with approximately three years of tenure with the Association or less.

We reduced hours to three positions in October to begin cost-containment measures in anticipation of adopting 2021 budget and revenue reductions.

Maxx Couch, who has served as our Finance Assistance for the past two years, resigned in November to accept a new position with the Highline Water District. We are working on re-assignment of some of Maxx’s responsibilities and analysis of other functions and activities. We do not anticipate replacing Maxx’s position in its current composition.

During 2020 WSAC staff has been working with Amy Leneker, our team coach/facilitator/trainer, to understand better how we can communicate effectively within this virtual work environment and put into action the “5 Behaviors of a Cohesive Team”.

Please join me in thanking your WSAC staff and contractors:

**Administration**

- Eric Johnson, Executive Director
- Bridget Lockling, Finance and Administration Director
- Lynn Fiorillo-Lowe, Operations and Support Assistant
- Vacant, Finance Assistant
- Vacant, Research Director
Communications and Member Services
Derek Anderson, Communications and Members Services Director
Mitch Netzer, External Communications Manager
Tyler Melhart, Web/Graphics Design Manager
Jason Bergquist, Affiliate Services Manger
Melissa Archuleta, Senior Conference Planner

Legislative and Policy
Mellani McAleenan, Director of Government Relations/General Counsel
Juliana Roe, Policy Director
Paul Jewell, Policy Director
Jaime Bodden, Managing Director, Washington State Association of Local Public Health Officials
Jane Wall, Managing Director, Washington State Association of County Engineers

Contractors
Mike Hoover, Policy Consultant, Legislative Affairs
Neil Aaland, Policy Consultant, Columbia River Caucus
Brynn Brady, Policy Consultant, Coastal Counties Caucus
Court Stanley, Policy Consultant, Timber Counties, Timber, Fish and Wildlife Policy
Brad Banks, Policy Consultant, Behavioral Health Organizations/Policy
Gary Rowe, Data and Information Consultant
Pacifica Law Group, Outside Legal Counsel
Spry Communication
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<td>57.16</td>
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<td>Regular</td>
<td>Ted Cummings</td>
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<tr>
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<td>Mary Kuney</td>
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<td>David Green</td>
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<td>Wes McCarr</td>
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<td>Caterina Mejoa</td>
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<td>Michael R Steadman</td>
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<td>Name</td>
<td>Party Preference</td>
<td>Results (%)</td>
<td>Total Votes Cast</td>
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<tr>
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<tr>
<td>Wahkiakum</td>
<td>Commissioner #1</td>
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<td>Mike Backman</td>
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<td>Dan L Cothren</td>
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<td>Walla Walla</td>
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<td>Regular</td>
<td>Roger Esparra</td>
<td>Republican</td>
<td>46.84</td>
<td>11,936</td>
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<td>Walla Walla</td>
<td>County Commissioner District 1</td>
<td>Regular</td>
<td>Jenny Mayberry</td>
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<td>52.1</td>
<td>13,276</td>
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<td>Walla Walla</td>
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<td>Regular</td>
<td>Todd L Kimball</td>
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<td>Art Swannack</td>
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<td>Yakima</td>
<td>County Commissioner; District 1</td>
<td>Short &amp; Full</td>
<td>Amanda McKinney</td>
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<td>Yakima</td>
<td>County Commissioner; District 1</td>
<td>Short &amp; Full</td>
<td>Vicki Baker</td>
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<tr>
<td>Yakima</td>
<td>County Commissioner; District 2</td>
<td>Regular</td>
<td>Ron Anderson</td>
<td>Republican</td>
<td>97.27</td>
<td>73,860</td>
</tr>
</tbody>
</table>

WSAC Board of Directors
November 16, 2020
Page 74 of 93
Cash
WSAC ended the third quarter of 2020 with a total cash position of $1,215,179. Cash reduction is the usual trend as dues are paid the first quarter, and the balance is used up throughout the year to pay expenses. The cash position is $105k less than compared to last year and $471k less than last quarter. Receivables are up by $244k and $110k, respectively, so the cash reduction is largely due to timing of payments from state contracts.

Liabilities
Third-quarter total liabilities are higher this time of year due to booking deferred revenue for annual dues billed in January and not “earned” until the year progresses. Current liabilities are $52k more than last year and $385k less than last quarter. The Statement of Financial Position now reflects the Accounts Payable, Payroll Payable, and Deferred Revenues line item. Previously this was all rolled into a Current Liabilities line. These changes more clearly show the true nature of our liabilities. The most significant liability at the beginning of each year is as deferred revenues from dues that are earned but allocated quarterly.

Budget to Actual Activity
The combined All Funds Actual vs. Budget Summary 2020 report shows a positive bottom line, $98,273. This positive trend will continue as expenses are reduced significantly due to travel restrictions from COVID. Variances highlighted in the financial report include:

- Special Assessments Revenue was corrected to report a 2019 Assessment earned in 2020.
- Contract Services – The negative contract service revenue reflects the Department of Transportation lower than budgeted activities primarily. New contracts and some delay in activity due to COVID reduced anticipated spending.
- Payroll and Benefits – The difference YTD is mainly due to a one-and-a-half-month vacancy of a position. Also, payroll costs are picked up from our DOT grant to cover the WSACE Managing Director. This also affects the Affiliate Assessments earnings since it is based on cost reimbursement of those expenses.
- Meetings & Travel - This item will be underspent this year as travel restrictions, and social distancing have affected conferences and meeting attendance.
- Professional Services include legal expenses that are higher than expected in the SLAC fund.
2020 Dues
Current tracking information is as follows (updated as of 10/31/20):

Dues
General Dues – 100% collected
Transportation Dues – 97% collected (1 county remaining)
Public Lands Dues – 100% collected
Human Services Dues – 100% collected
Litigation & Communication Dues – 100% collected
Solid Waste Dues – 94% collected (2 counties remaining)

Special Assessments
Coastal Counties Special Assessment – 94% collected (1 county remaining)
Marbled Murrelet Special Assessment – 100% collected

Bi-Annual Audit
The Audit work was completed in September and reviewed by the Audit Committee and the Board. Recommended and detailed corrections to 2018 and 2019 have changed previous financial reports.

Finance Department Changes
Maxx Couch, the Finance Assistant, has announced his departure from WSAC. Maxx has been here over 2 years and has kept A/P and A/R running smoothly. Long term plans on the position have not been decided, but in the interim, some support work will be transitioned to Lynn our Office and Support Assistant.

990 Tax Return
The annual 990 tax returns for WSAC, WSALPHO, and WSACE have been completed and filed. They filed the necessary extensions in May so filing was not due until November 15, 2020. The report reflects revenues for 2019 in excess of $3.37 million, expenses of $3.52 million, decrease of net assets for the year of $150k for a combined ending net asset balance of $989k. Copies of these filings are available upon request.

2021 Medical Insurance
Insurance premiums for the medical plans that WSAC provides to staff will increase by nearly 10% in 2021. This increase is more than expected and budgeted. Staff have through November to make any changes during our open enrollment period.
September 30, 2020 Financial Dashboard

**Statement of Activities**

*As of 9/30/2020*

- **Litigation** $321,675
- **Special** $717,674
- **Operating** $1,027,170

**Total Assets**: $2,066,519

- **Litigation** $131,272
- **Special** $710,136
- **Operating** $218,547

**Net Assets/Equity**: $1,059,955

**Total Liabilities**: $1,006,564

---

**2020 Revenues Budget to Actual**

*as of 9/30/2020*

- **DUES**
- **SPECIAL ASSESSMENTS**
- **AFFILIATE FEES**
- **CONTRACT SERVICES**

**Budget** vs **Actual**

---

**2020 Expenses Budget to Actual**

*as of 9/30/2020*

- **MEETINGS & TRAVEL**
- **CONFERENCES & EVENTS**
- **CONTRACT SERVICES**
- **PROFESSIONAL SERV**
- **TECHNOLOGY**
- **GENERAL OPERATING**

**Budget** vs **Actual**

---

**2020 Operating Fund**

- **Revenues are 98% of Budgeted YTD**
- **Expenses are less than 93% of Budgeted YTD**
- **We project to save $100k from budgeted**

---

**ASSET COMPOSITION**

- Cash: 59%
- Long-Term Assets: 8%
- Property & Equip, Net: 3%
- Prepaids: 1%
- Receivables: 29%
- Liabilities: 58%

**LIABILITIES COMPOSITION**

- A/P: 23%
- Payroll Payable: 19%

---

**PAYROLL DETAIL**

- **Salaries**: 989,675
- **Benefits**: 307,385
- **Taxes**: 77,031

---
Key factors for changes in WSAC’s Assets and Equity between 2017 and 2020:

- **Litigation Fund** - a new fund based on the 2018 budget adopted by the members at the November 2017 General Board Member Meeting.
- **Cash** – Cash flow is higher in the beginning of the year and is reduced as it is used throughout the year on general expenses. Cash is $105k less than last year at this time.
- **Receivables & Other Current Assets** - The receivables at the end of each quarter is related to quarterly billing of affiliates. There are also some pending dues payments as well as outstanding state contracts waiting for payment. Total receivables are about $244k higher than last year at this time.
- **Payables & Deferred Revenues** – Regular payables are generally made up of contractor payments. Payroll payables represent accrued vacation liability as well as any payroll liabilities that did not clear the bank the same month, usually the retirement payment. Deferred revenues are from dues payments that are amortized quarterly.
- **Total Net Assets** are $80k higher than last year at this time.
## Actual vs. Budget in Summary
### For the Current Ending Period and 3 Years Prior

<table>
<thead>
<tr>
<th></th>
<th>Total Budget</th>
<th>Actual 9/30/2020</th>
<th>Variance (unfavorable)</th>
<th>12/31/2019</th>
<th>12/31/2018</th>
<th>12/31/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dues</td>
<td>$1,564,072</td>
<td>$1,173,054</td>
<td>$1,173,059</td>
<td>$1,525,193</td>
<td>$1,491,284</td>
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<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Special Assessments</td>
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<td>26,250</td>
<td>118,250</td>
<td>92,000</td>
<td>35,000</td>
<td>35,000</td>
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<td>Affiliate Assessments</td>
<td>672,323</td>
<td>504,242</td>
<td>468,555</td>
<td>(35,688)</td>
<td>596,107</td>
<td>598,051</td>
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<tr>
<td>Contract Services</td>
<td>833,961</td>
<td>625,471</td>
<td>520,410</td>
<td>(105,061)</td>
<td>407,451</td>
<td>632,793</td>
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<td>159,000</td>
<td>19,000</td>
<td>4,050</td>
<td>(14,950)</td>
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<td>-</td>
<td>-</td>
<td>4</td>
<td>-</td>
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<tr>
<td><strong>Total Revenue</strong></td>
<td>$3,264,856</td>
<td>$2,348,017</td>
<td>$2,284,324</td>
<td>(63,693)</td>
<td>$2,769,532</td>
<td>$2,893,570</td>
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<table>
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<tr>
<th><strong>Operating Expense</strong></th>
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<td>Payroll and Benefits</td>
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<td>$1,374,041</td>
<td>$1,355,135</td>
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<tr>
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<td>117,175</td>
<td>30,598</td>
<td>86,577</td>
<td>174,567</td>
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<td>38,400</td>
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<td>33,658</td>
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<td>81,810</td>
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<td>150,420</td>
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<td>Technology and Telecom</td>
<td>44,309</td>
<td>36,938</td>
<td>42,717</td>
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<td>125,863</td>
<td>118,010</td>
<td>7,852</td>
<td>184,008</td>
<td>177,039</td>
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<td><strong>Total Operating Expense</strong></td>
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<td>$201,354</td>
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<table>
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<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$ (64,998)</td>
<td>$ (49,700)</td>
<td>$ 87,961</td>
<td>$137,660</td>
<td>$(188,936)</td>
<td>$(8,316)</td>
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<td><strong>Dues as a % of Total Revenue</strong></td>
<td>47.9%</td>
<td>51.4%</td>
<td>55.1%</td>
<td>51.5%</td>
<td>43.0%</td>
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<tr>
<td><strong># of Permanent Staff</strong></td>
<td>14</td>
<td>14</td>
<td>14</td>
<td>12</td>
<td>12</td>
<td>12</td>
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<tr>
<td><strong>Payroll Exp as % of Total Exp</strong></td>
<td>56%</td>
<td>62%</td>
<td>61%</td>
<td>52%</td>
<td>53%</td>
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<tr>
<td><strong>Net Income as % of Revenue</strong></td>
<td>-2%</td>
<td>4%</td>
<td>-7%</td>
<td>0%</td>
<td>0%</td>
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</table>

*This financial statement is produced directly from WSAC’s MIP Fund Accounting Software through DrillPoint Reports.*
### Special Fund

<table>
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<th></th>
<th>Total Budget</th>
<th>9/30/2020 Budget</th>
<th>9/30/2020 Actual</th>
<th>Variance (unfavorable)</th>
<th>12/31/2019</th>
<th>12/31/2018</th>
<th>12/31/2017</th>
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</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Business Partner Fees</td>
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<td>-</td>
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<td>650</td>
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<tr>
<td>Marketing and Royalties</td>
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<td>Interest Earnings</td>
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<td>18,436</td>
<td>6,116</td>
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<td><strong>Total Revenue</strong></td>
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<td><strong>Operating Expense</strong></td>
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<td>Meetings, Travel and Hosting</td>
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<td>6,938</td>
<td>40,824</td>
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<td>30,000</td>
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<tr>
<td>Conferences and Events</td>
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<td>-</td>
<td>4,096</td>
<td>27,140</td>
<td>30,000</td>
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<tr>
<td>Professional Services Other</td>
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<td>-</td>
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<td>7,500</td>
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<td>Technology and Telecom</td>
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<td>3,700</td>
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<td>11,380</td>
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<td>General Operating</td>
<td>8,650</td>
<td>6,575</td>
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<td>(2,122)</td>
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<td><strong>Total Operating Expense</strong></td>
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<tr>
<td><strong>Changes in Net Assets</strong></td>
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<td>$8,745</td>
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<td>$98,293</td>
<td>$94,153</td>
</tr>
</tbody>
</table>

- Dues as a % of Total Revenue: 0.0%
- # of Permanent Staff: 14
- Payroll Exp as % of Total Exp: 0%
- Net Income as % of Revenue: 41%

*This financial statement is produced directly from WSAC’s MIP Fund Accounting Software through DrillPoint Reports.*
## Actual vs. Budget in Summary

For the Current Ending Period and 3 Years Prior

<table>
<thead>
<tr>
<th>Litigation Fund</th>
<th>Total Budget</th>
<th>9/30/2020</th>
<th>Actual 9/30/2020</th>
<th>Variance (unfavorable)</th>
<th>12/31/2019</th>
<th>12/31/2018</th>
<th>12/31/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dues</td>
<td>$400,000</td>
<td>$300,000</td>
<td>$299,999</td>
<td>$(1)</td>
<td>$400,003</td>
<td>$399,997</td>
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</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>$400,000</td>
<td>$300,000</td>
<td>$299,999</td>
<td>$(1)</td>
<td>$400,003</td>
<td>$399,997</td>
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<tr>
<td><strong>Operating Expense</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Payroll and Benefits</td>
<td>$120,939</td>
<td>$88,730</td>
<td>$89,197</td>
<td>$(467)</td>
<td>$81,065</td>
<td>$61,106</td>
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<td>Meetings, Travel and Hosting</td>
<td>15,000</td>
<td>12,500</td>
<td>-</td>
<td>12,500</td>
<td>1,377</td>
<td>28,273</td>
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<tr>
<td>Conferences and Events</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2,500</td>
<td>849</td>
<td>-</td>
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<tr>
<td>Professional Services Other</td>
<td>340,000</td>
<td>255,000</td>
<td>287,085</td>
<td>(32,085)</td>
<td>337,686</td>
<td>154,746</td>
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<td>Technology and Telecom</td>
<td>1,968</td>
<td>1,476</td>
<td>1,476</td>
<td>-</td>
<td>315</td>
<td>2,397</td>
<td>-</td>
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<tr>
<td>General Operating</td>
<td>500</td>
<td>375</td>
<td>-</td>
<td>375</td>
<td>311</td>
<td>3,821</td>
<td>-</td>
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<tr>
<td><strong>Total Operating Expense</strong></td>
<td>$478,407</td>
<td>$358,081</td>
<td>$376,282</td>
<td>$(18,201)</td>
<td>$423,254</td>
<td>251,192</td>
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<tr>
<td><strong>Changes in Net Assets</strong></td>
<td>$(78,407)</td>
<td>$(58,081)</td>
<td>$(76,282)</td>
<td>$(18,202)</td>
<td>$(23,251)</td>
<td>148,805</td>
<td>-</td>
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<td>Dues as % of Total Revenue</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
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</tr>
<tr>
<td># of Permanent Staff</td>
<td>14</td>
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<td>14</td>
<td>14</td>
<td>12</td>
<td>12</td>
<td>12</td>
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<tr>
<td>Payroll Exp as % of Total Exp</td>
<td>25%</td>
<td>24%</td>
<td>19%</td>
<td>24%</td>
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<tr>
<td>Net Income as % of Revenue</td>
<td>-20%</td>
<td>-25%</td>
<td>-6%</td>
<td>37%</td>
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*This financial statement is produced directly from WSAC’s MIP Fund Accounting Software through DrillPoint Reports.*
Key factors for changes in WSAC's income and expenses between 2017 and 2020:

- 2020 Actual shows three quarters of activity compared to a full year of activity for the prior years.
- Affiliate assessment revenues are based on actual expenses from the affiliates WSAC manages (recorded within Operating Expense) with a 12% overhead charge added.
- Payroll and Benefits – Payroll costs increased significantly from 2018 to 2019 due to filling of staff vacancies.
- Contract Services – fluctuations are due to less work done on the DOT projects but also from the loss of the DFW contract.
- Professional Services Other – Professional services increases in 2019 are mostly from the SLAC legal and communication expenses.
### Total Cash & Investment Position - All Funds

For The Quarter Ended September 30, 2020

#### Total Cash & Investment Position - All Funds

<table>
<thead>
<tr>
<th></th>
<th>Sept '18</th>
<th>Dec '18</th>
<th>Mar '19</th>
<th>Jun '19</th>
<th>Sep '19</th>
<th>Dec '19</th>
<th>Mar 20</th>
<th>Jun 20</th>
<th>Sep '20</th>
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<tr>
<td>Total</td>
<td>1,309,678</td>
<td>749,560</td>
<td>2,324,464</td>
<td>1,656,328</td>
<td>1,320,509</td>
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<td>Undesignated</td>
<td>849,509</td>
<td>340,692</td>
<td>1,627,460</td>
<td>1,093,261</td>
<td>801,327</td>
<td>348,631</td>
<td>1,549,158</td>
<td>1,137,914</td>
<td>793,544</td>
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<td>Litigation Fund</td>
<td>258,169</td>
<td>206,868</td>
<td>577,004</td>
<td>443,067</td>
<td>399,182</td>
<td>183,177</td>
<td>400,332</td>
<td>428,194</td>
<td>301,636</td>
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<td>Board Designated</td>
<td>202,000</td>
<td>202,000</td>
<td>120,000</td>
<td>120,000</td>
<td>120,000</td>
<td>120,000</td>
<td>120,000</td>
<td>120,000</td>
<td>120,000</td>
</tr>
</tbody>
</table>

#### Pie Chart

- **Special Fund**: 560,924 (46%)
- **Litigation Fund**: 301,636 (25%)
- **Board Designated**: 120,000 (10%)
- **Operating Fund**: 232,620 (19%)

#### Bar Chart

- **Checking**: 800,000
- **CDs**: 700,000
- **Money Market**: 600,000

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WSAC Board of Directors
November 16, 2020

Page 83 of 93
November 16, 2020

TO: WSAC Board of Directors

FROM: Eric Johnson, Executive Director

PREPARED BY: Derek Anderson, Director, Communications & Member Services

SUBJECT: Communications and Member Services Division Report

Communications

ePublications
WSAC continues to keep members informed of the changing guidance around COVID-19 through its biweekly newsletter. This resource continues to receive high engagement from subscribers, and WSAC is committed to continuing this publication for the foreseeable future. CMS staff continues to produce two other publications to keep WSAC members and stakeholders informed of county news – Friday Five and The Insider. If you are not receiving these publications, please visit www.wsac.org to sign up.

Social Media
WSAC launched its “Vote It” campaign on social media to help dispel voting misinformation and encourage turnout in the General Election. The campaign did not receive the level of engagement that CMS staff had anticipated due to Facebook's additional restrictions leading up to election day.

Legislative Session
Staff is actively working to develop online tools and resources for the 2021 Legislative session. This work is focused on preparing resources for digital marketing, messaging, and brand awareness in conjunction with our Strategic Litigation and Communications program. Additional resources will be added to the WSAC website in mid-December.

Meetings & Events

County Leaders
As predicted, registration numbers for the virtual County Leaders conference are down compared to previous in-person events. Several groups that meet in conjunction with this event decided not to hold any meetings. While the decline in attendance is disappointing, CMS staff believes numbers will return to pre-pandemic levels once we can safely conduct in-person events. Several longtime exhibitors and sponsors returned to support our virtual event this year, and we encourage board members to thank them for their commitment to this event.

Newly Elected Officials
WSAC prepares to welcome nearly 40 new members to the Association at its Newly Elected Officials training on December 8-10, 2020. Using a hybrid learning model, attendees will have the option to attend small in-person trainings located throughout the state or attend virtually via Zoom. Additional information about this event will be made available at www.wsac.org.
Programs and Services

**Business Partners**
After review from the Board of Directors in September, WSAC entered into three new marketing agreements with the following companies: cashvest by three+one, CyberRisk Collaboration, and Vector Payments. Members will have an opportunity to learn more about these services at the County Leaders conference. Marketing for these new opportunities will begin in January 2021. WSAC has also launched its refreshed Business Partners program and welcomes the following participants: NextEra Energy, Waste Management, Republic Services, Washington Refuse and Recycling Association, Washington Counties Insurance Fund, and the Association of Washington Cities Workers Comp Retro Program. Staff continues to explore cooperative purchasing solutions for members and anticipates a new partnership to be completed in early 2021.

**Local Government Forum: Managing Risks Associated with Homelessness Webinar Series**
WSAC, along with the Association of Washington Cities (AWC), Washington Cities Insurance Authority, AWC Risk Management Service Agency, Washington Counties Risk Pool, and MRSC held its long-anticipated three-part series on navigating the risks and legal landscape of homelessness. Over 130 local government leaders participated in the program. WSAC’s Communications Manager, Mitch Netzer, produced a documentary for the event, which can be found on WSAC’s YouTube page.

**County Professional Development**
CMS staff continues to work with a small group of county leaders to modernize and enhance the Certified Public Official (CPO) program in partnership with the Washington Counties Risk Pool. The anticipated launch date for this program is January 2021 for all newly elected officials.

**Appointments to Statewide Boards & Commissions**
There are no new appointments to report at this time.
November 16, 2020

TO: WSAC Board of Directors and Alternates

FROM: Eric Johnson, Executive Director

PREPARED BY: Mellani McAleenan, Director of Government Relations & General Counsel

SUBJECT: Policy and Legislative Relations Report

**Jaime Bodden - Managing Director, Washington State Association of Local Public Health Officials**

**Coronavirus**

- Local public health response work continues, with local public health serving as the frontline officials and experts for community members. In this role, local public health provides technical assistance and recommendations on reopening guidance for businesses, work closely with schools and districts in reopening strategies, and coordinate testing with healthcare. Additionally, local public health continues to conduct case contact investigations, respond to outbreaks, provide community partner support and assistance, and plan for mass vaccination in partnership with state and healthcare agencies.
- WSAC and Washington State Association of Local Public Health Officials (WSALPHO) continue to convene and connect local public health to state agencies, partner associations, and additional stakeholders. WSAC's weekly webinar with local elected officials continues to focus on keeping local governments connected to state response efforts. WSALPHO holds weekly calls with local health officials and participates in several weekly webinars with health officers, guidance and enforcement teams, businesses, and policymakers.
- On October 27, WSALPHO hosted a Q&A with Washington's Congressional delegation. This event focused on reinforcing local government’s roles and responsibilities during the pandemic, the need for robust federal relief and resources to be dedicated to local governments, and anticipated ongoing activities in pandemic response. In attendance were the offices of Congresswoman DelBene, Congresswoman Jayapal, and Congressman Smith.
- State and federal relief funding will be critical in maintaining and building local capacity on coronavirus response. WSAC and WSALPHO worked with the Office of Financial Management to secure additional CARES funding to local governments. They will be continuing to advocate for local resources that support our response efforts and priorities.

**Foundational Public Health Services (FPHS)**

- WSALPHO and WSAC have continued to work with other governmental public health system partners in FPHS modernization by participating in the FPHS Steering Committee. While larger in scope than the pandemic, it has highlighted areas of FPHS that are critical in keeping our communities prepared in the face of an emergency and healthy.
- The FPHS steering committee will be submitting a joint 2021-2023 decision package totaling $285 M annually to the state legislature requesting ongoing funding for FPHS, concentrating on the areas of communicable disease, environmental public health, assessment, and infrastructure capabilities.
- Identifying sufficient and stable funding sources for FPHS is a critical component of modernizing our public health system. This fall, WSALPHO met with key state legislators and community partners to begin identifying funding sources and potential policy. We anticipate at least two policy bills that seek to fund FPHS – one led by the Governor's Office and one led by the Senate.
Legislative session and policy

- There are several rules that are in process of updates and revisions which impact local public health. Health Officers, directors, and environmental health staff have been actively engaged in the drafting and feedback process for these rules.
  - Chapter 246-101 Washington Administrative Code (WAC): Notifiable Conditions
    - Rule revisions include updating list of notifiable conditions, reporting requirements, and adding demographic information to better understand health disparities
    - Updates and extension of the State Board of Health’s emergency rule on Covid-19 reporting.
  - Chapter 246-290 WAC: Group A Per- and Polyfluoroalkyl Substances (PFAS)
    - This rule would establish standards as state action levels and maximum contaminant levels for unregulated drinking water contaminants. Many LHJs have been engaged on this issue locally as local drinking water in some areas of the state have very high levels of PFAS in both public and private water systems.
  - Chapter 246-215 WAC: Food Service
    - This rule has gone through major revisions to reflect the 2017 FDA Model Food Code. WSALPHO had participated in a food safety workgroup that helped provide drafts and feedback into the revision as local health jurisdictions inspect and license food establishments.
  - Chapter 246-272A WAC: On-site Sewage Systems
    - Rule is under-going major revisions and establishes standards for the siting, design, installation, use, care, and management of on-site sewage systems. Similarly to food establishments, local health inspects and approves on-site systems and has been engaged throughout the revision process.
  - Temporary Work Housing: the health and safety of congregate facilities became an area of focus because of Covid-19 outbreaks in our state's agricultural communities. Rules that strengthen regulations and safety mechanisms have been an important part of Covid-19 response work, and many local agencies have helped provide input into the Department of Health's most recent rule revisions.

- WSALPHO will be making a budget request to fund local Group B Water System programs. This work has been funded in past State Operating Budgets but has been repeatedly vetoed by the Governor's Office, most recently in 2020, in anticipation of budget restrictions due to Covid-19 response.

- WSALPHO expects many bills related to coronavirus and the pandemic, including bills focused on local control, privacy, vaccination, and more. Additionally, we expect several other bills of interest to public health, including water quality, food safety, home visiting, and family supports, housing, and homelessness.

Administrative and Organizational

- Many of WSALPHO's strategic 2020 planned activities were paused, as both WSALPHO and WSAC pivoted to provide support for local pandemic response needs. One activity that has continued to move forward is the rebranding of WSALPHO and developing a consistent and complementary logo and style guide to WSAC.

- At November's general membership and board meeting, WSALPHO will be approving its 2021 budget and will be following similar budget guidelines that WSAC is implementing for the upcoming year. WSALPHO committees also intend to convene this fall and winter to plan 2021 activities.

- Environmental Public Health Directors meeting. The annual fall meeting for local environmental health directors went virtual this year. Included in the condensed meeting were updates on state rulemaking, including: food code, PFAS, on-site sewage systems (OSS), temporary worker housing, and keeping of animals. Additional meetings are planned this fall for local environmental health staff to provide feedback and input into state PFAS and OSS rule making. State agencies also shared a budget and legislative updates as they prepared for the upcoming legislative session. The meeting ended with a robust discussion on the environmental public health's roles during the pandemic and the need to maintain
Jane Wall – Managing Director, Washington State Association of County Engineers (WSACE)

- House Transportation Listening Sessions: House Transportation Chair, Jake Fey, conducted a series of virtual listening sessions through the late summer and early fall to inform the building of his transportation revenue package. In all, Rep. Fey reported that he conducted 80+ of these sessions. County Commissioners and County Engineers were given the opportunity to have two 1.5-hour-long sessions with Rep. Fey and members of this leadership team.
- Senate Transportation "Evergreen Learning Cohort": Sen. Rebecca Saldana, Vice-Chair of the Senate Transportation Committee, and Sen. Liz Lovelett convened a stakeholder group in Summer 2020 to inform their efforts to build a transportation revenue proposal. Their proposal will be built with an emphasis on environmentalism, carbon reductions, and social justice.
- Statewide Needs Assessment Study workgroup: The Statewide Needs Assessment study was commissioned by the Legislature in 2019. It has been a two-year-long process to review existing and potential transportation funding mechanisms to address State needs and priorities. This study included two phases. Phase I was completed in June, and Phase II will conclude by December 2020. For Phase II San Juan County Councilmember Rick Hughes is representing WSAC.
- Electrification of public fleets study: This advisory group looked specifically at the vehicle fleets owned by the State of Washington, cities, counties, and transit agencies. A final report is due in the coming weeks.
- The Washington Freight Advisory Committee: In March 2020, the legislature directed via budget proviso the Washington State Department of Transportation (WSDOT) to convene a freight stakeholder group to develop recommendations for a Washington freight advisory committee. County membership included Whitman County Commissioner Art Swannack and Clark County Councilmember Temple Lentz. WSACE Managing Director, Jane Wall, actively monitored this group and stayed in close communication with WSAC’s representatives to the group. A final report is due in December to the Legislature.
- Capital Projects Advisory Review Board (CPARB) Local Government Public Works Study: In 2019, the Legislature passed SB 5418 that tasked CPRAB, in coordination with the Municipal Research Services Center (MRSC), to conduct a comprehensive review of all local government bid limits for public works. The workgroup met throughout 2020 and concluded its work in fall 2020, with a number of recommendations made to CPARB. CPARB will vote on the proposed recommendations during its November board meeting.
- Participating in bi-weekly meetings with Rep. Deborah Lekanoff on proposed changes to GMA with an emphasis and focus on salmon recovery. Paul Jewell and Jane Wall have been actively engaged with Rep Lekanoff and the stakeholder group she convened earlier in the year.
- WSACE Covid-19 meetings: The County Engineers have scaled back their check-ins but continue to meet monthly to share county updates.

In addition to legislatively commissioned workgroups, WSACE Managing Director, Jane Wall, continues to regularly communicate, work with, and stay actively involved with ongoing county transportation stakeholder groups and agencies. These include:
- The County Road Administration Board (CRAB)
- The Freight Mobility Strategic Investment Board
- The Transportation Improvement Board
- The Fish Passage Barrier Removal Board – Board member alternate
- Capital Projects Advisory Review Board – Board member
- WSDOT Local Programs
- WSDOT Government Relations Office
- WSDOT Office and Minority and Women’s Owned Business Enterprise (OMWBE) Office
- Governor Inslee's Transportation Policy Office
WSACE successfully completed a robust legislative agenda-setting process and will adopt final recommendations during its business meeting at the County Leader's Conference, November 18, 2020.

Agenda priorities include:

1. Surface Transportation Program fund swap
2. Budget increases to Rural Arterial Preservation (RAP) and the County Arterial Preservation Program (CAPP)
3. Increases to the county share of the gas tax
4. Support new state and local revenues under consideration to address the long-term need to maintain, upgrade, and expand the state and local transportation system, including all transportation modes, with the following terms and conditions:
   - As traditional transportation revenues decline and disappear, Counties support exploring new revenue streams, but any new revenues, including a Road Usage Charge or tax on carbon, must be equitably and proportionally shared with counties.
   - All new revenues that are meant to replace the fuel tax should be protected by the 18th amendment.
   - Maintenance and preservation of our transportation system are essential to safeguarding the investment in our existing infrastructure and should be the foremost priority of transportation investments statewide.
5. Transfer the RAP and CAPP programs to an allocation process.
   - CRAB is requesting a change in how money is granted for the RAP and CAPP programs. They would like to remove the programs from the appropriation process and make them subject to allocation to more effectively manage their revenues.

Juliana Roe – Policy Director, Human Services, Justice, and Public Safety

- Held weekly meetings with Association of County Human Services (ACHS) members related to COVID-19
- Participated in various ACHS committee meetings – Behavioral Health, Housing and Homelessness, Veterans, and Developmental Disabilities.
- Participated in various other WSAC lead COVID-19 meetings
- Monitored the meetings held by the Governor's Task Force on Independent Investigations of Police Use of Force.
- Participated in DOH's behavioral health response webinars throughout the interim.
- Participated in legislative meetings related to police use of force.
- Participated in bi-weekly meetings related to statewide COVID-19 housing and homelessness led by the Washington State Low Income Housing Alliance.
- Monitored the Behavioral Health Recovery System Task Force meetings held in the legislature.
- Participated in the Behavioral Health System Coordination Committee meetings led by the Health Care Authority (HCA)
- Exploring issues associated with a medicare waiver for "Justice Involved Individuals."
- Participated in the Behavioral Health Model Ordinance Advisory Committee led by the Department of Commerce.
- Participated in Criminal Justice Treatment Account meetings led by the Health Care Authority.
- Participated in the Board of Judicial Administration Court Recovery Task Force meetings led by the Board for Judicial Administration.
- Participated in Eviction Moratorium Workgroup Meetings led by the Governor's office.
- Worked on issues related to police reform with various legislators, stakeholders, advocates, agencies, and associations.
- Participated in regional, statewide legislative listening sessions.
- Monitored issues related to affordable housing and homelessness, public safety, behavioral health, developmental disabilities, veterans, and other associated topics.
- Attended various housing conferences virtually.

**Paul Jewell – Policy Director, Water, Land Use, and Natural Resources**

- Worked with Washington Association of County Solid Waste Managers (WACSWM) affiliate to develop a solid waste core services model report and legislative agenda.
- Represented counties on the Advisory Group on Water Trust, Banking, and Transfers administered by the Department of Ecology.
- Presented on water banking issues to the Advisory Group on Water Trust, Banking and Transfers, and to the Columbia River Caucus members.
- Continue to oversee and manage the marbled murrelet economic impact study with contractor Mason Bruce & Girard and the steering committee.
- Continue to represent counties on the advisory committee for the "Updating Washington's Growth Policy Framework" process.
- Formed and facilitated steering committee to develop WSAC proposals for Growth Management Act (GMA) reforms and to develop positions on proposals from the "Updating Washington's Growth Policy Framework" process.
- Held numerous meetings with WACSWM and Washington State Association of County and Regional Planning Departments (WSACRPD) affiliates regarding COVID-19 impacts.
- Represented WSAC on the Legacy Pesticide Working Group regarding lead and arsenate contamination on former orchard lands in Central Washington.
- Met with Ecology regarding MTCA funds and Ecology's budget proposal for the next biennial state operating budget.
- Met with Representative Duerr regarding a climate change bill proposal.
- Met with Senator Rolfes regarding WDFW PILT and Local Solid Waste Financial Assistance (LSWFA) funding.
- Met with Senator Warnick on sponsoring a WDFW PILT reform bill that is being supported by the PILT coalition members.
- Met with Representative Lekanoff several times on her proposal to add salmon recovery and net ecological gain to the GMA.
- Met with Representative Fitzgibbon regarding potential GMA reform proposals.
- Represented counties, along with Juliana, on an advisory committee with the Department of Commerce for developing a behavioral health facility siting model ordinance.
- Coordinated Timber Counties meetings, including regular caucus meeting for members and a special meeting to discuss ongoing wild land fire impacts and recovery with the USFS.
- Attended the Washington State Recycling Association annual conference.
- Presented to the Thurston County Solid Waste Advisory Committee.
- Represented WSAC on the Model Toxics Control Act (MTCA) working group and developed letter to the Governor's office regarding the upcoming budget and use of MTCA funding.
- Represented WSAC in various meeting of the Washington Water Policy Alliance.
- Met with Representative Pollet several times to discuss GMA reform issues and potential litigation.
- Developed WSAC Forest Resources policy statement revisions with the Timber Counties Caucus.
- Prepared and submitted comments to Ecology on development of the statewide Contamination Reduction and Outreach Plan (CROP) on behalf of WACSWM.
- Presented to the state Democratic Ag and Rural Caucus regarding county priorities for GMA reforms.
- Presentation to the House Local Government Committee on annexations.
- Presentation to the House Local Government Committee on funding for planning activities.
Mike Hoover – Contract Lobbyist

- Engage with legislators and prepare for possible Special Session and work on general pandemic policy.
- Work with legislators and executive staff on proclamations and extensions of Open Public Meeting Act (OPMA) remote-work waivers and Public Records Act (PRA) remote-work waivers.
- Work with legislators and executive staff on distribution of federal pandemic relief aid.
- Work with legislators and stakeholders on fiscal flexibility legislation.
- Work with legislators and stakeholders on OPMA emergency waiver legislation.
- Work with stakeholders on PRA legislation relating to "nuisance/bad faith" requests.
- General legislative engagement and monitoring for upcoming 2021 Session.
- Regular meetings with WSAC members and staff on pandemic issues.

Mellani McAleenan – Director of Government Relations

- Regular Zoom meetings with IT professionals, county administrators, elected leadership to ensure exchange of information regarding COVID-19 response.
- Development of Tax Policy Workgroup and Tax Principles
- Development of Broadband statement
- Weekly meetings with Rep Gregerson on broadband
- Regular meetings with Department of Commerce staff on county issues and broadband
- Weekly meetings with Office of Financial Management (OFM) and Governor Inslee's staff on coronavirus matters
- Testified at Select Committee on Pension Policy
- Review of draft agency-proposed legislation
- Regular meetings with "city-county champion" legislators
- Attendance and participation at Tax Structure Workgroup
- Various meetings with legislators and policy stakeholders
- Discussion with Attorney General's office on opioids
- Legislative agenda planning
- Joint Housing Forum with Association of Washington Business (AWB) and others
- Bi-weekly meetings with single county and contract lobbyists
- Attendance and participation at Public Works Board meetings
- Committee-based development of equity statement
- Update of Policy Statement
- Meetings with Community Economic Revitalization Board (CERB) and Washington Economic Development Association (WEDA)
- Regular communications with Association of Washington Cities (AWC) policy staff
- Policy team planning
- 2021 session preparation
- Presentation to Justice for Girls on communicating with counties
- Attendance at Challenge Seattle meetings

Brynn Brady – Program Consultant, Coastal Counties Caucus

The following items have been covered to ensure coastal county interests and priorities were brought forward to the coastal counties, Legislative Steering Committee, state and federal agencies, tribal nations and other key stakeholders:

- Supported WSAC members serving on Puget Sound Partnership (PSP) Boards and Councils
- Distributed materials and coordinated discussion of the Toxics in Fish Implementation Strategy proposed by Department of Ecology
- Represented and/or coordinated representation in PSP meetings and other state efforts that impact communities along the Puget Sound and Pacific coast
• Monitored and reported on PSP efforts that involved county policy interests to WSAC policy staff and the CC members including legislative priorities and updating the Action Agenda
• Planning the CC annual meeting at the WSAC Leaders Conference
• Monitoring the Governor’s Salmon Recovery Office efforts to update the Statewide Strategy to Recover Salmon

Neil Aaland – Program Consultant, Columbia River Caucus

The Columbia River Basin Water Supply Development Program was initiated by the state Legislature in 2006. The purpose of the program is to seek out and develop new water supply in eastern Washington. New water supplies are intended for both in-stream and out-of-stream use; water from projects funded by the program are allocated 1/3 for in-stream use and 2/3 for out-of-stream use.

WSAC receives funding from the Department of Ecology to provide staff support to eastern Washington county commissioners. This allows commissioners to participate as full partners in the program. The commissioners meet quarterly as the Columbia River Caucus.

Key facts about the program:
• The program was authorized for a ten-year life, beginning in 2006 and is continuing past that limit
• $200 million in state bonding capacity was authorized – this has been spent and funding for new projects is allocated each biennium
• The Program has broad support from most stakeholders
• As of December 2019, 413,845 acre-feet of new water supply had been made available through the program

Key Accomplishments
The Caucus has monitored negotiations between the U.S. and Canada (the Columbia River Treaty); this may affect the provision of additional water supply. We have participated since the start of work on the U.S. side of the border since 2011 by making presentations to the state caucus, testifying during proceedings, and connecting with British Columbia local governments in working on common interests.

We continue our long-term work to ensure that counties have a voice in Ecology’s management of the CR Program. This is accomplished by continuing having four members of the Columbia River Policy Advisory Group, which advised Ecology’s Office of Columbia River on administering the Columbia River Program. Counties have been part of the CR-PAG since its creation in 2006.

We are continuing to monitor the Environmental Impact Statement process for the Columbia River System Operations Review, a process that started up in late 2016 with a scoping process announcement. During February – June of 2020, draft and final Environmental Impact Statements were issued. During the same time period there were section 7 consultations with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) to ensure compliance with the Endangered Species Act. A Record of Decision was issued on September 30, 2020.

Quarterly meetings of the Commissioners’ PAG continue to be held and are key to ensuring a flow of information both to county commissioners and from them to the CR-PAG and the Department of Ecology. We also have regular discussions and meetings with the Director of the Office of Columbia River occur several times a year.

Court Stanley – Program Consultant

The WSAC timber program serves 27 counties that contain state and federal land. Program highlights for this year include:
• Scott Swanson, who worked in the forest products industry for over 40 years, decided to fully retire from WSAC at the end of June, 2020. Court Stanley began working for WSAC August 1 and is striving to build on Scott’s impressive work.
• The timber counties have met several times this year regarding the DNR State Trust land Sustainable Harvest Calculation and the Marbled Murrelet Long Term Conservation Strategy (LTCS) under their
Habitat Conservation Plan (HCP) Amendment.

- The Timber Counties Caucus began a separate Economic Impact Analysis (EIA) on the effects on taxing districts in western Washington of the HCP Amendment for marbled murrelets during 2019. Mason Bruce & Girard were awarded the contract and are currently conducting the EIA.
- Grays Harbor County Commissioner, Vickie Raines, replaced Skagit County Commissioner, Lisa Janicki, as the counties' representative on the Forest Practices Board (FPB) The FPB is an independent State agency with 13 representatives on the board including 8 that are appointed by the Governor. The Board's duties are to adopt rules that set standards for forest practices such as timber harvests, pre-commercial thinning, road construction and forest chemical applications and to provide Forest Practices Board Manuals as a technical supplement to the rules. The issues that have potential to affect counties originate from the Adaptive Management Program (AMP) which represents landowners, public agencies, the forest industry, environmental community and tribal governments. This program provides science-based recommendations and technical information to help the FPB determine if it is necessary or advisable to adjust the rules.
- The FPB is advised by the AMP Timber Fish and Wildlife (TFW) policy committee, informed by CMER (Cooperative Monitoring, Evaluating and Research). Court Stanley represents timber counties on the TFW policy committee and Jenny Knoth, contracting with counties and small forest landowners, represents timber counties and is one of the co-chairs of the CMER process. Some of the key topics that are currently being considered are:
  - Stream typing, whether a stream is fish bearing (F) or non-fish bearing (N). The discussion centers around the definition of "fish habitat" and the distance from "last fish" to "end of habitat". This discussion has been ongoing since 2000 and there is no firm date for completion.
  - The AMP is now also discussing if the current rules for type N perennial streams are adequate to maintain water temperature within the Department of Ecology's standards. Studies that will help in the decision making will be completed late 2020 and early 2021. These studies will be passed on to Policy for deliberation and eventually to the FPB for potential changes to the current rule.
  - With the state up-listing to endangered for the marbled murrelet, the FPB directed a Wildlife Working Group to analyze whether marbled murrelet regulations for Washington's private forest lands should be amended. Court Stanley represents counties on this committee. The group is scheduled to complete recommendations to the FPB by mid-2021.
  - Small Forest Landowner (SFL) Dispute Resolution. Within the Forest and Fish HCP, The SFL's were promised funding for the Forest Riparian Easement Program, a fully functional Small Forest Landowner Office within DNR, and simplified rules for low impact harvests. After 20 years, these promises have not been fulfilled so the Washington Farm Forestry Association has formally proposed smaller buffer widths for low impact harvests near streams. The proposal has gone into "Dispute Resolution" and Court Stanley has been representing the counties in this process. The discussions have been positive and the counties have proposed a potential middle ground that is currently being considered. The Dispute Resolution will hopefully be completed early in 2021.
  - Research has not been done on the effectiveness of the 20-year-old Forest and Fish Habitat Conservation Plan. There is now an effort to develop an extensive monitoring plan to analyze the condition of the riparian buffers. There is a workshop being planned to make sure all the caucuses are aware of the importance of the research.

- Clallam County Commissioner Bill Peach represents counties on the Board of Natural Resources (BNR) as they manage state forest land for trust beneficiaries such as schools and counties. The BNR has currently been balancing heavy recreational use of DNR forestlands with timber harvests as well as the sustainable harvest calculation and the long-term conservation strategy for the marbled murrelet.
- WSAC has a Cooperative Agreement with DNR to facilitate the active participation by county governments in natural resource issues under the jurisdiction of the DNR, including through provision of technical expertise to the counties' representatives to the Board of Natural Resources and the Forest Practices Board, and to provide the foundation for active and productive communication between DNR and WSAC timber counties on issues of mutual interest.
- WSAC meets monthly with DNR to discuss State lands issues and recently, their legislative agenda for 2021.