



## AIA|WA Final 2020 Legislative Session Report

March 20, 2020

The 2020 Legislative Session officially adjourned on time on March 12. This was the second half of the biennial budget session in which legislators meet for just 60 days to pass policy bills and supplemental budgets. Although short sessions are historically intended to be limited to making minor budgetary adjustments and passing relatively few new policy measures, this session saw an unprecedented volume of new legislation. Overall, 3,672 bills from 2019–20 were in play this year and 377 of those are on their way to the Governor’s desk. Although the Legislature will not need to reconvene this year to address normal business, it is very likely that Governor Inslee will call a special session in the coming months to continue state efforts to address the COVID-19 crisis.

### Session Overview

High-profile topics this session included sex education in schools, the use of facial recognition software, and tribal sports gambling, all of which ultimately passed. A bill to improve the state’s fragmented background check system for firearms by housing it with the Washington State Patrol passed, as did the creation of a statewide Office of Equity. Another high-profile piece of legislation considered this session was the Washington Privacy Act sponsored by Senator Reuven Carlyle (D-Seattle) that would have given consumers more power over their personal digital data. Despite passing the Senate with strong bipartisan support, the significant changes made by House Democrats were ultimately unable to be resolved with the Senate version and the bill failed in the final hours of session. Other bills that failed to advance included proposals to: open the cannabis industry to investors from outside Washington; ban the sale or transfer of high-capacity (gun) magazines; and repeal the death penalty law (already struck down by the State Supreme Court).

### AIA Washington Council Highlights

AIA|WA had a busy session in Olympia, from our Capitol Connections lobbying day in January to tracking legislation to testifying for and against bills in committee hearings. Highlights from the 2020 session include:

- Passing **C-PACER**, a private financing mechanism that will help pay for deep energy and resiliency retrofits.
- Protecting architect licensure by amending or opposing several bills aimed at immediately **licensing** individuals moving to Washington from another state or (in one case) country.
- Fending off numerous legislative **attacks on the state’s energy code**, including the ability of the State Building Code Council to implement code changes.
- Helping legislators wade through a wide variety of bills on **housing** with an emphasis on policies related to increasing urban density.
- Pushing an amendment to HB 1521, the **state contracting in/out bill**, that will limit the scope of eligible contracts.

More info on these and other issues appears below. Thank you to all AIA|WA members who took the time to meet with or write to their legislators during this session. These contacts make a difference, and they build on each other over time. We will continue to reach out to legislators during the summer and fall on key issues that impact architects in anticipation of the 2021 session.

If you are interested in meeting with one or more of your legislators during this time, please let [Kirsten](#) know.

## PRACTICE ISSUES

### State Contracting

After many years of consideration, [HB 1521](#), the bill that would require certain state contracts to be reviewed for bringing the work in-house to be completed by state employees, finally passed this year. AIA|WA opposed this bill to the end, with Democrats rejecting our call to fully exempt architecture and engineering contracts. Over the years, the range of impacted contracts was amended to include only those between \$20,000 and \$500,000 and to address only services that have been “customarily and historically provided by” state classified employees, which is not clearly defined. (The bill excludes all Department of Transportation contracts.) Ultimately, Democrats did vote in favor of an amendment sponsored by WSU and UW and supported by AIA to further narrow the application of contracting out requirements to contracts for services that would displace or relocate classified employees. This is a critical change that will limit the number of A&E contracts impacted for all contracts, not just higher education. You can read the state’s summary of the final bill [here](#).

During this year’s legislative session in particular, the bill’s sponsors maintained that moving A&E contracts in-house was not the intent of the legislation. We will hold them to their word. AIA|WA believes that the final version will not impact a significant number of architecture contracts based on the amendment offered by the universities. We will be monitoring its implementation to make sure that the intent of the bill plays out in the awarding of state contracts. Once signed, this legislation will go into effect on July 1. If you experience impacts related to this change, please let us know.

### Predesign

[HB 2936](#) was introduced in late February to address predesign in state contracting. The bill would have raised the threshold for predesign work from \$5 million to \$10 million and waive the predesign requirement in certain situations. Although AIA|WA supported the higher threshold as a result of escalating costs over many years, we wrote a [letter](#) of opposition to the chair of the House Capital Budget Committee based on concerns over arbitrarily requiring predesign work, which is important to mitigate risks that lead to cost overruns and extended schedules. However, the bill was ultimately amended at the request of the Office of Financial Management to allow only OFM (not the agencies) to decide whether it wants to waive the predesign requirement, and AIA|WA dropped our opposition. This bill passed the House but ultimately failed to move in the Senate and died. It will likely be back in 2021.

### Licensing

Ten bills that would have impacted professional licensing were introduced this year, and all failed to pass. The goal of most of them was not deregulation (which is common in other states) but to make it easier for individuals entering Washington with a professional license to become licensed and be able to work quickly here. However, because architects are licensed by the Department of Licensing and not an independent board (the Board of Architects is considered an “advisory body”), architects’ licenses got caught up in bills aimed at providing immediate reciprocal licensing for professions such as funeral directors, cosmetologists, real estate brokers, and security guards – occupations with a much different level of responsibility for protecting the public.

AIA|WA began the process of getting some of the bills amended to exclude architects based on arguments that 1) protecting the health, safety, and welfare of the public is too important to allow corners to be cut on architect licensing; 2) architects already have a reciprocal licensing agreement that covers all states through NCARB; and 3) architects do not need to have a license to immediately begin practicing in Washington – they just have to work under an existing licensed architect. To exempt architects without explicitly saying so (this was a requirement of the bill sponsor), the amendment language that AIA|WA and House Consumer Protection and Business Committee staff agreed upon exempted “any license in which there exists an agreement with a national organization to facilitate reciprocal professional licensing of an individual licensed in another state” – referring to NCARB’s reciprocity agreement. While most of these bills passed out of their original policy committee, nearly all died in the House Appropriations Committee.

The bill that went the furthest, [HB 2303](#), would have required (most of the bills merely allowed a licensing agency to escalate licensing practices) the state to provide a temporary or provisional license to members of the military or their family who enter the state with a license from another state – something that AIA|WA strenuously opposed. However, this bill was amended to include language limiting the bill’s application to license-holders “unable to engage in the practice of the profession through an interstate compact, reciprocity, or similar agreement,” which meant that architect licenses would have been exempted based on the NCARB reciprocity agreement. This bill made it to the House Rules Committee, but it did not receive a vote on the House floor. AIA|WA opposed most but not all the licensing bills; for example, we did not oppose a bill that would have allowed licensing boards to determine if they wanted to make their licenses easier to obtain for individuals with previous criminal convictions.

AIA|WA will spend time this summer and fall talking with legislators on key committees with jurisdiction over this issue and educating them about the public safety focus of the architect license and the ways in which the licensing of our profession differs from other occupations administered by the Department of Licensing.

## BUDGETS & TAXES

### Budgets

The Legislature passed supplemental Transportation, Operating, and Capital Budgets in the final days of session. Adjustments to the Operating Budget increased appropriations for the 2019-21 biennium by nearly a billion dollars. Major investments include \$174 million to fund homelessness and affordable housing, \$153 million for childcare and early learning, and \$69 million for affordable healthcare. Additionally, amidst growing concern over the COVID-19 virus, the Legislature increased emergency investments in virus-related health services and created a new unemployment fund. While Democrats passed the Supplemental Budget mostly along party lines, funding for the coronavirus response was approved in both houses unanimously.

Affordable housing and homelessness resources included in the final budgets totaled \$173.8 million, including \$40 million for the Housing Trust Fund to build affordable homes and \$68 million for shelter for people experiencing homelessness. The House’s original budget proposal included \$60 million in capital funding for permanent supportive housing, but this was not included in the final budget.

The Transportation Budget approved by Democrats will allocate more than \$10 billion to state transportation projects such as road improvements. Legislators were able to avoid significant

budget cuts this year as a result of Initiative 976 by redirecting funds from non-active projects, but next year they will face the very difficult task of having to figure out how to restructure transportation funding and pay for future projects.

### B&O Tax

After discovering that last year's B&O tax "surcharge" on some service providers (which increased the B&O from 1.5% to 1.8%, including the tax on architectural services) was not generating enough revenue to cover the things it was supposed to pay for, Democrats quickly introduced and passed [SB 6492](#) by Sen. Jamie Pedersen (D-Seattle). The bill eliminates the surcharge and moves all service taxpayers to a new 1.75% rate. There are exceptions for: 1) taxpayers with gross income of \$1 million or below, who pay 1.5%; and 2) some tech businesses, which pay 1.22%. Much of the added revenue will go to the state's program to make tuition at public colleges significantly more affordable or free for students. The bill was given a retroactive effective date of January 1, 2020. No real discussion of more progressive tax vehicles occurred during the session.

### King County Tax for Homelessness Services

Legislation introduced to authorize King County to impose a tax on businesses with employees who earn at least \$150,000 a year to fund homelessness, affordable housing, and behavioral health services failed to pass this session. Despite the flurry of activity in Olympia and in the media, stakeholders were unable to reach an agreement and the bill never made significant progress. This bill will be back in a future legislative session.

## CLIMATE

Although not as many bills passed this year, the 2020 session continued last year's focus on climate and environmental policy proposals.

### C-PACER

#### *Commercial Property Assessed Clean Energy + Resilience*

AIA|WA's top policy priority this year, the C-PACER [bill](#) is on its way to the governor's desk after passing the Senate 40-7 and passing a second time in the House (to concur with the Senate's amendments) 93-4. Gov. Inslee is expected to sign the bill. The legislation will enable low-cost, long-term financing for commercial and multifamily building energy efficiency, renewable energy, and resilience projects. Once developed at the county level (counties may choose to develop a program or not), C-PACER programs will be a critical financing tool for reducing emissions from new and existing buildings in Washington. Rep. Davina Duerr (D-Bothell), the bill's sponsor, said: "As an architect I know that the most sustainable building is an existing building. A C-PACER program will leverage that, making it easier to finance improvements to energy efficiency, seismic resiliency, and more." (We already love having an architect in the Legislature!)

### Embodied Carbon

This year's embodied carbon bill, [HB 2744](#), passed its initial policy committee but failed to pass out of the House Appropriations Committee and died. The original version of the bill would have required bidders for projects funded by the state's capital budget to identify the embodied carbon emissions in construction materials used in each project through environmental product declarations. However, the final version was amended to be a report-only bill, removing requirements that certain state contracts be awarded (or considered to be awarded) to those with lower global warming potential. This was a complicated bill with many opponents, and it was ultimately killed by the addition this year of labor language that mandated specific labor practices for companies producing materials (including foreign companies), as well as the burden of a high

fiscal note (the information agencies provide on how much it will cost them to comply with the legislation) – which means legislators felt the bill was too expensive and complicated for the state to enact. Discussions have already begun among stakeholders on a new embodied carbon bill for next year.

Thanks to the AIA members who served as subject matter experts on this legislation and who have worked closely with the sponsor on the bill language over the last two years. Rep. Beth Doglio (D-Olympia) sponsored this legislation in 2019 and 2020, but she has resigned to run for Congress from the 10<sup>th</sup> district (U.S. Rep. Denny Heck’s open seat). As a result, stakeholders will need to find a new sponsor next year, likely Rep. Joe Fitzgibbon (D-Seattle) or Rep. Davina Duerr.

### Energy Code

AIA|WA spent much time this session working to defeat bills and amendments aimed at maintaining strong energy codes, particularly on the residential side. These bills included language to reduce the ability of the State Building Code Council (SBCC) to make decisions related to the state’s codes and efforts to delay or cancel the implementation of the 2018 energy code update scheduled to go into effect in July.

Legislation introduced in the both the House and the Senate ([HB 2372/SB 6464](#)) would have made the four legislators who are assigned to the SBCC voting members of the Council instead of non-voting members, a seemingly minor change that would have made it harder to cast votes at Council meetings by raising the quorum of eligible voters. A third bill, [HB 2667](#), would have delayed by one year the implementation of the 2018 energy code update and, more alarmingly, it would have changed the stated purpose of the energy code from increasing energy efficiency to reducing costs. AIA|WA testified against all of these bills along with many of our colleagues from [Shift Zero](#) and other organizations.

### Clean Air

Several new climate proposals were introduced in response to the State Supreme Court’s early January ruling that invalidated part of Gov. Inslee’s Clean Air Rule, his plan to cap carbon pollution in the state. The proposed legislation would have given the Department of Ecology the authority to regulate indirect emitters such as fuel distributors as well as direct emitters like refineries. Although none of these proposals were successful, it is expected that this issue will be a major focus of the 2021 session, particularly as some form of cap and trade policy.

One of the above bills, [HB 2957](#), included language that would delay the 2018 state residential energy code update by two years and restrict natural gas bans by local governments prior to July 2022 (this latter provision was aimed at Seattle and Bellingham). The author of this bill was the Democrats’ lead climate legislator, Rep. Joe Fitzgibbon, and the governor’s office, operating under the calculation that the clean air piece was more desirable in terms of progress on climate policy than the residential energy code provisions they were willing to give up to get the necessary votes from moderate Democrats. While this bill ultimately failed, we should expect to see ongoing attacks on the energy code in the future. In fact, the 2018 update may be something that Gov. Inslee agrees to delay in order to help economic recovery in the wake of COVID-19; former Gov. Christine Gregoire delayed the 2010 residential energy code in the wake of the 2008 economic recession.

### Other Climate Legislation

**Low Carbon Fuel Standard:** [HB 1110](#) failed to pass for the second session in a row due to significant opposition from stakeholders and key legislators as well as concerns about the bill’s

potential impact to gas prices. The legislation would have lowered the greenhouse gas intensity of transportation fuel, the largest contributor to greenhouse gas emissions in Washington. This bill will be back in 2021, and we expect it to be an active piece of next year's comprehensive transportation package promised by Senate Transportation Committee Chair Steve Hobbs (D-Eastern Snohomish County).

**Electric vehicles:** Legislators passed [SB 5811](#) to bring more electric-powered vehicles to dealer showrooms. The bill allows Washington to join 11 other states in pressing auto manufacturers to increase the number of zero-emission vehicles the companies sell in the state. A much more ambitious [bill](#) to require all new cars sold in the state by 2030 to be electric quickly died.

**State GHG Limits:** Legislators passed [HB 2311](#), which updates state greenhouse gas emission limits for consistency with the most recent assessment of climate change science. This bill would require the state to, in effect, achieve net zero emissions by 2050. The current goal, set 12 years ago, requires the state to reduce human-caused emissions of greenhouse gases 50% below 1990 levels by 2050 – a goal we are currently on track to fall well short of.

## HOUSING

### Urban Density

AIA|WA advocated for three urban density issues this year, all of which would impact only cities and counties that plan under the [Growth Management Act](#). One of these bills passed and another passed in limited form. You can read more about the below bills in [this](#) Sightline article. This is an issue legislators will continue to tackle in future years as the state works to address our ongoing housing crisis.

A follow-up bill to successful legislation from 2019 ([HB 1923](#)), [HB 2343](#) by Rep. Fitzgibbon provides a series of actions that cities can choose to take to increase housing supply and, for those that do, offers incentives that include cash grants and exemptions from legal challenges. It also lowers the transit frequency times required in order to prevent a local jurisdiction from requiring parking for affordable housing. This bill passed both Houses with wide margins, largely because most of its provisions are not mandatory.

Accessory Dwelling Unit (ADU) [legislation](#) by Senator Marko Lias (D-Mukilteo) also passed. The bill does not require but authorizes cities to allow up to two accessory dwelling units per lot and remove any owner occupancy requirements. It does prohibit counties and cities in GMA areas from requiring the provision of off-street parking for ADUs close to major transit stops, however. Stricter legislation, [HB 2570](#) by Rep. Mia Gregerson (D-SeaTac) and Rep. Andrew Barkis (R-Yelm), would have required local governments to allow ADUs on single-family zoned lots; it passed its policy committee but failed to receive a vote on the House floor. By the time it reached that point, however, it had been significantly watered down to include no mandates.

“Plexes” [legislation](#) by Rep. Nicole Macri (D-Seattle) and Sen. Mona Das (D-Auburn, Covington) would have required cities and counties to allow duplexes and triplexes on any lot and up to six-plexes in single-family detached house zones in counties and cities of 15,000 or more. For cities between 10,000 and 15,000, it would have required duplexes on any lot. Although the Senate version moved further than the House bill, neither was able to overcome legislators' concerns about preempting local government land use decisions.

## Other Housing Bills

Lawmakers passed the following bills to help increase housing affordability and stem the tide of homelessness:

- [HB 1590](#): gives cities and counties the ability to implement a local sales and use tax for affordable housing through a vote of local elected officials, not a ballot measure.
- [HB 1694](#): requires landlords to allow installment payment plans for deposits, last month's rent, and nonrefundable fees and caps holding fees to no more than 25% of first month's rent.
- [HB 2384](#): modernizes and expands a property tax exemption for affordable housing providers.
- [HB 2634](#): creates a Real Estate Excise Tax (REET) exemption when selling to an affordable housing provider who acquires the property for affordable housing.
- [HB 2797](#): provides improvements to last year's [HB 1406](#) so that local jurisdictions can take full advantage of the state sales tax credit for affordable housing.
- [SB 6378](#): makes improvements to last year's eviction reform bill ([SB 5600](#)), including improvements to eviction notices so tenants are informed about resources and improvements to the court eviction process so tenants can stop an eviction when they are able to access rental assistance.
- [HB 2535](#): provides for a grace period before late fees may be imposed for past due rent and allows disabled and elderly tenants receiving federal income assistance to request a rent due date more in line with the date their monthly income arrives.

## What's Next?

Led by the Climate Committee, AIA|WA will continue to participate in the Department of Commerce's rulemaking process for last year's [Clean Buildings Act](#) legislation, which calls for a state energy performance standard for commercial buildings. The final rules should be completed in the fall.

Throughout the rest of the year we'll be working with Shift Zero and other partners on the implementation of the new C-PACER law, which will initially be directed by the state's Department of Commerce but will need to be implemented individually (or in groups) by the counties. County-by-county outreach will be needed to help county governments understand the program and encourage them to initiate C-PACER discussions internally and with lenders.

AIA|WA will spend the summer and fall identifying priorities and partners and talking with legislators about the issues we expect to return next year, including licensing, the importance of the state energy code, and additional housing legislation to allow greater infill in urban areas. We'll also be looking at which legislators AIA|WA would like to support in the November elections through [APAC](#), the AIA Washington Council Political Action Committee. **Please take some time to consider what your priorities are for the 2021 legislative session and share them with us.** We appreciate your support for AIA|WA's policy efforts; please reach out to us any time with questions, comments, or concerns.

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