



April 2021 Advocacy Newsletter

FINAL LEGISLATIVE SESSION REPORT

The Washington State Legislature concluded its 2021 session on April 25, capping off a historical session that was conducted largely virtually.

There was a considerable silver lining to moving the session online: members of the public from across the state could testify before committees and meet with legislators from their homes and offices, without having to make the trek to Olympia.

Architects took advantage of both opportunities, meeting with their legislators virtually as part of AIA's annual Capital Connections event and testifying before legislators on bills important to AIA. The widespread success of allowing greater public access means that this feature is unlikely to disappear once the Legislature returns to in-person sessions.

Democrats control both houses of the Legislature, and before the session began they promised an agenda focused on four priorities: COVID relief; economic recovery; racial equity; and climate change. For the most part they delivered on these agenda items despite (or because of) a year when far fewer bills were introduced due to the constraints of the online session.

All bills passed by the Legislature have been transmitted to Gov. Inslee for his signature or veto (he can also let a bill become law without his signature, but generally this is reserved for making a statement of disapproval while acknowledging that legislators would override his veto). He has until May 15 to sign any outstanding bills. Note that all bills which did not pass will automatically return for the 2022 session.

The following pages review the general themes of the session and provide specifics on AIA's legislative agenda. You may view AIA's bill tracking matrix [here](#). If you have comments or questions, please direct those to [Kirsten](#). AIA's legislative agenda is developed by our [policy committees](#) and approved by the [Board of Directors](#). If you would like more information about this process, and how to provide feedback, please let us know.



SESSION HIGHLIGHTS

Budgets & Finance

While legislators began the session with concerns about the impacts of COVID to the state's economy, by March it was clear that Washington was in fact in a relatively strong financial position. Since last fall, each successive state revenue forecast has shown the economy climbing back to pre-recession levels, buoyed by federal relief dollars that were included in the final state budgets.

Democrats took advantage of this news by rejecting calls for an austerity budget. They argued that the moment demanded additional spending to spur economic recovery, shore up foundational services like public health, and address inequities made clear by the pandemic. (See the Republican response to fiscal and other issues on page 4.)

Democrats passed a seven percent **capital gains tax** targeting profits over \$250,000 in a year from the sale of stocks and bonds. The money raised will be directed to the state's Education Legacy Trust Account to support early learning (including school construction) and child-care.

Separately, Democrats also passed the **Fair Start For Kids Act** to expand access to affordable child care. This bill will increase reimbursement rates for providers and expand eligibility for the state's child care assistance programs.

Given ongoing political unwillingness to officially propose an income tax, Democrats view the capital gains tax as a way to make Washington's tax system less regressive. This tax has **already been challenged** in court to determine whether it is an excise tax, as Democrats claim, or an income tax, which Republicans believe and which would be unconstitutional under current law. This could delay its implementation.



A controversial **wealth tax**, which would have imposed a one percent tax on a limited number of Washingtonians whose wealth exceeds \$1 billion, failed to move out of the House.

Democrats approved a \$59 billion, two-year **state operating budget** which includes revenue derived from the new capital gains tax. In addition to new state spending, the budget will spend approximately \$10 billion in one-time federal relief funds. Top areas targeted for federal spending include: \$1.7 billion to help schools reopen and address learning loss; \$1.1 billion for COVID-19 vaccine distribution, contact tracing, and testing; and \$658 million for rental assistance. (Info on the state's Capital Budget is on page 6.)

A bipartisan bill to fully fund the state's **working families tax credit** also passed this year. Designed as a refund on the sales tax that lower-income families pay, legislators expanded eligibility and, for the first time, funded the credit itself, which was enacted in 2008.

Transportation

As it has in previous years, a deal on a multi-year, multi-billion dollar transportation funding package to provide revenue to pay for a wide range of transportation improvements failed to find consensus among legislators.

This bill is separate from the state's Transportation Budget (which must pass), and it would have provided additional revenue for major projects such as a new bridge over the Columbia River at Vancouver, state ferry electrification, and fish culvert replacements.

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SESSION HIGHLIGHTS

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While it is possible that the larger transportation package could be passed in a special session this year, as called for by the bill's main author, Senate Transportation Committee Chair Steve Hobbs, Gov. Inslee seems less inclined to take that step. He has indicated a preference for continuing to work on a transportation package while the Legislature is not in session to reach an agreement for the 2022 session.

Police Accountability & Racial Equity

The Legislature passed a significant number of measures related to police accountability, prompted by the national outrage over the deaths of Black Americans at the hands of police. These included a ban on the use of chokeholds and other controversial police tactics, a statewide requirement that police intervene if they witness another officer using excessive force, and a higher bar for when police can resort to deadly force.

Other bills will establish a new state office to independently investigate when police kill a citizen and make it easier for the state to decertify an officer for misconduct.

Some bills passed with bipartisan support, including votes to ban Native American mascot names in schools, establish Juneteenth as a state holiday, and replace a statue of pioneer Marcus Whitman with one of tribal treaty rights activist Bill Frank Jr. in the U.S. Capitol.

Another bill will require the University of Washington and Eastern Washington University to comb through property deeds and covenants statewide in search of racial or discriminatory restrictions, with the goal of alerting property buyers and creating a process to strike the unlawful language from local records.

More controversial were bills to automatically restore the voting rights of people leaving state prisons and to end the practice of suspending a person's driver's license for failing to pay traffic tickets, both of which passed.

The Legislature also passed bills to improve access to legal representation. One guarantees the right to an attorney for youth in the child welfare system, another provides juveniles who have been arrested access to a lawyer before they waive their constitutional rights, and a third gives tenants facing eviction access to a lawyer.



Climate

Because AIA focuses our climate work on policies related to the built environment, we did not work on the bills, passed in the last days of the session, that become the Democrats' signature climate victories of the year:

- The **Climate Commitment Act** establishes a cap-and-trade program that will set a statewide cap on greenhouse gas emissions that will lower over time. California and states in the Northeast have similar programs.
- A **low-carbon or "clean" fuel standard** will require cleaner fuels for cars and trucks as part of an effort to reduce carbon emissions from transportation.

California, Oregon, and British Columbia have similar low-carbon fuel standards in place.

Both policies have been under consideration by the Legislature for several years, and both were priorities of Gov. Inslee, who has made combating climate change his signature issue.

Implementation of both bills is contingent on future passage of a gas tax increase of at least 5 cents to fund new projects. Such an increase is likely to be included in a multi-year transportation revenue deal if one can be agreed on. Senate Transportation Committee Chair Steve Hobbs, a moderate Democrat, has endorsed the funding that would enable both bills.



Republican Response

It is frustrating being in the minority in a state legislature, and Washington's Republicans are indeed frustrated. They called for a special session for much of last year after the COVID pandemic hit, arguing that the state was facing a fiscal crises and spending needed to be ratcheted down. These calls were ignored by Democratic state leaders, who preferred to wait until the regular session – and did so.

Republicans also argued that Democrats should have avoided proposing significant new legislative agenda items because of the limitations of and the unpredictable nature of the mostly remote session. "It just really is the wrong time, given the limitations on access that the majority parties have insisted on, to do the types of heavy issues that we're working on," said Senate Republican Leader John Braun early in the session. These calls, too, went ignored.

For the most part, Republicans did not embrace the police reform measures which were a focus for Democrats, arguing that the measures could weaken public safety efforts across the state by getting though on police but not on crime.

Not surprising given their emphasis on fiscal restraint, Republicans generally felt that the Democratic majority spent too much money and failed to consider the economic impact (to jobs and small businesses in particular) of climate bills and other measures – particularly in rural areas. They argued against the Democrats' use of rainy day funds and questioned the need to pass a new capital gains tax when the state is flush with money.



Republicans also argued that the large climate bills passed this year will drive up fuel and energy prices, hitting lower-income residents and those in rural areas who drive long distances to work the hardest.

Finally, Republicans called for Democrats to consider reforming the governor's emergency powers, providing more oversight opportunity for the Legislature in the wake of Gov. Inslee's near unfettered ability to govern under an extended state of emergency during the COVID crisis. Many Democrats would have likely looked favorably on such a proposal had one been brought up by Democratic leadership.

These differences in perspective will ultimately go before the voters in 2022, after an additional session is in the books. Many of the Democrats' new proposals will take root as the 2022 election cycle gains steam, giving voters a chance to review their performance. Complicating the picture is the fact that redistricting after the 2020 census will have taken place by 2022, so most districts will look different than their current configuration beginning with those elections.

By the Numbers

In total, 335 bills passed the Legislature in 2021. Democrats passed 266 (79.4%) and Republicans passed 69 (20.6%). Of the 335 total bills that passed, 24 bills (7.1%) squeaked through on party line votes (by definition, these have Democratic support only).

The 335 total bills passed is the lowest number for an odd year, 105-day session since 1983.



AIA WASHINGTON COUNCIL PRIORITIES

Practice Issues

In a welcome development, bills that would have negatively impacted the practice of architecture were less worrisome this year than in previous years. Here is a review of the bills AIA followed during the session:

State Contracting

- **SB 5032** to reauthorize the use of alternative project delivery for state contracts (the Legislature's previous authorization sunsets this year) passed without strong opposition. AIA supported the bill, which was developed by CPARB (the Capital Projects Advisory Review Board).
- **HB 1023** to increase the threshold for non-higher education state capital construction projects requiring predesign to \$10 million establishes the same threshold for all capital project types. AIA supported the bill.
- **HB 1259** provides for greater scrutiny of firms that are using loopholes to qualify as MWBE contractors.

Licensing

AIA continues to review legislation that would allow legislators to determine requirements for architect licenses rather than the state's Board for Architects. Architect licenses get caught up in these bills, aimed at occupational licenses, because both fall under the Dept. of Licensing.

Last year, AIA requested and received amendments to some of the bills to exclude licenses covered by a national reciprocal licensing agreement such as NCARB. This year, labor groups discovered the bills and came out opposed, signaling their quick defeat.

One bill, to allow felons who have served their time to appeal to individual licensing boards to become licensed, did pass and is expected to be signed by the Governor. AIA supported that bill, **HB 1399**.



Condos

Two bipartisan bills aimed at reducing barriers to condominium construction passed this year, the first attempt to amend condo requirements since major condo liability reform was passed in 2019.

- **SB 5024** will exempt condo projects of two floors and ten units or less from building envelope review, inspection, and reporting requirements.
- **SB 5011** will allow electronic meeting and notice provisions for common interest communities, condominiums, and homeowners' associations, aimed at ensuring that owners are adequately informed of potential lawsuits.

A&E Plan Approval

AIA and the American Council of Engineering Companies (ACEC) opposed **SB 5243** to require local government reviewers to accept any plans stamped by an architect or engineer as long as they meet zoning requirements. This bill did not receive a vote in its policy committee.

Liability

HB 1076 would have allowed private lawsuits against employers on behalf of employees on labor and employment laws, allowing attorneys to seek out employees on whose behalf they could sue and then collect a portion of the settlement. This is known as a qui tam action. AIA opposes the bill each year with a broad spectrum of businesses. Each year it passes the House but ultimately fails in the Senate.

AIA WASHINGTON COUNCIL PRIORITIES

Tax, Education Funding, Capital Budget

Capital Gains Tax

Pending review by the courts, the new capital gains tax will be assessed beginning Jan. 1, 2022 on the sale or exchange of long-term capital assets by individuals. The first \$250,000 of capital gains is excluded (the amount is the same for individuals and couples). Real estate assets and assets held in a retirement account are excluded. The tax will impact architects who own a share of their firms and sell those at retirement. For architects who own a share of smaller firms (less than \$10 million in annual gross revenue), some (but not all) may receive an exemption for the sale of “qualified family-owned small businesses.” The fine print is tricky, however. For more details about this provision, check out AIA’s [cheat sheet](#) (and, of course, consult a tax lawyer). You may also review the state’s [bill summary](#) and the [bill language](#).

Capital Budget

Washington’s 2021-23 Capital Budget is the largest in state history and was viewed this session by both parties (although to differing degrees) as an engine for economic stimulus during the ongoing COVID crisis. You may view the summary, including project lists, [here](#). The bill itself is available [here](#).

Climate

Building Electrification

AIA supported two bills that would have moved new construction away from operating on fossil fuels. Both were introduced by Rep. Alex Ramel (D-Bellingham).

[HB 1084](#) was an ambitious, “kitchen sink” bill that would have:

- required the State Building Code Council ensure that all new buildings be fossil fuel free by 2030;
- allow local governments to voluntarily amend the state’s residential energy code to be stronger;
- extend the state’s benchmarking and operations requirements under 2019’s Clean Buildings Act to smaller commercial buildings;
- require gas utilities to begin to decarbonize their operations;
- support a just transition to electricity by helping gas industry workers and low-income ratepayers; and



- create a state-funded heat pump lab.

The bill faced strong opposition from labor and others and did not pass out of the House. AIA will work with other stakeholders to refine this bill over the summer and fall, including working through issues with labor and, potentially, breaking up the bill into smaller pieces.

[HB 1280](#) would have required additional energy evaluation criteria in the planning of major state-owned or leased facilities for both new construction and renovations. Relatively minor, this bill passed the House and made it to the Senate floor—where it should have passed—but it was not brought up for a vote prior to the cut-off date.

HFCs/Refrigerants

[HB 1050](#) will restrict the maximum global warming potential for hydrofluorocarbons (HFCs) used in new stationary air conditioning and refrigeration and direct the Dept. of Ecology to establish a refrigerant management program. This legislation was a continuation of a [2019 bill](#) that established deadlines for banning the use of HFCs in refrigerants. This bill had strong support among Democrats and is awaiting Gov. Inslee’s signature.

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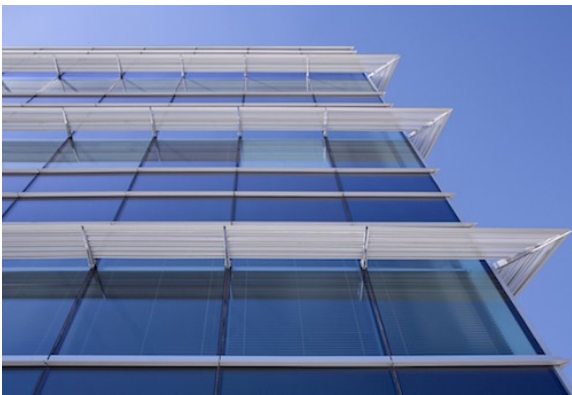
AIA WASHINGTON COUNCIL PRIORITIES

Climate, continued

Embodied Carbon

Legislation to address embodied carbon in building materials continues to struggle in the Legislature. **HB 1103** would have required environmental product declarations for materials used on large state projects as well as reporting on labor practices by the manufacturers of the materials used in the project.

Contractors would have been required to report this information to the state, which would have used it to develop a database used to make decisions on lowest-carbon materials in the future. This bill continues to struggle with the labor provisions that are tied to it, as well as opposition from materials manufacturers. AIA supports the bill.



Greywater Reuse

HB 1184 will establish state standards for non-potable water reuse systems (greywater) in buildings. Currently, such systems are being permitted on an exception basis by local governments. The bill will provide greater certainty for designers and building owners and address critical water resiliency needs by reducing the use of potable water for non-potable needs. It is awaiting the governor's signature.

Budgets

When your bill fails to pass, a common tactic is to add some of the programs it would have created to one of the state's budgets. This happened in 2021 with HB 1084 and HB 1103. Here's a look at the climate items in the Operating and Capital Budgets:

Operating Budget

- \$1.35 million for Commerce to implement building emission reduction strategies
- \$450,000 to the Utilities and Transportation Commission to initiate an investigation to analyze pathways for gas utilities to meet the state's GHG reduction targets (HB 1084)

Capital Budget (Dept. of Commerce)

- Weatherization Plus Health program - \$10 million
Provides energy efficiency retrofits for low-income homes and apartments
- Energy retrofits for public buildings - \$10 million (HB 1084)
- Clean Energy Fund - \$56 million
Provides grants and funding to develop and deploy clean energy technologies
- Buy Clean Buy Fair state pilot program - \$150,000 (HB 1103)

Some of the federal stimulus funds are also expected to be used for climate change-related projects.

Livability & Affordability

Growth Management Act

AIA supported legislation to add key elements to local planning requirements under the **Growth Management Act**. These include:

HB 1220 will broaden existing GMA requirements around housing to include planning for housing for all income-levels, including those experienc-



ing homelessness; to prevent displacement; and to address historical racial bias. This bill passed and will be implemented in time for the 2024 comprehensive plan updates for those local jurisdictions that are required to participate.

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AIA WASHINGTON COUNCIL PRIORITIES

Climate, continued

HB 1099 would have required for the first time planning for climate impacts, including a focus on compact communities that reduce vehicle miles traveled. This bill passed the House and two out of three Senate Committees, but it ultimately failed to be brought up for a vote in the Senate Transportation Committee. However, the Operating Budget included funds to create the programs necessary to implement HB 1099, so it will be in a strong position for reconsideration next year.

Housing & Housing Financing

Bills related to providing more housing in communities across the state did not appear to be as big of a priority in 2021 as they have in recent years. AIA supports robust financing for affordable housing and policies that provide more housing at all income levels. On the financing side, significant funds were allocated to affordable housing and shelter, foreclosure prevention, and rental assistance.

Legislation that passed:

SB 5235 prohibits limits on the number of people living in a home (beyond state law). It also addresses occupancy rules for properties with ADUs, but those provisions were amended to weaken the language to such an extent that the Sightline Institute, a policy research organization based in Seattle, is leading an effort to ask the Governor to veto those sections. AIA has signed onto this request, which is supported by the bill's sponsors.

HB 1277 creates a permanent, state-funded rental assistance and housing stability program funded by a new \$100 document recording fee on real estate-related transactions.

HB 1189 authorizes the creation of property tax-based tax increment financing districts to pay for infrastructure improvements.



Racial and Social Justice

AIA tracked the many racial and social justice bills introduced this year to provide information to our members for their own policy engagement efforts. You can see the full list [here](#). As noted above, these bills were prioritized by the majority Democrats, and it shows in the sheer number of bills which passed. Similar efforts will continue to be a legislative priority in future years, and we welcome your thoughts on how AIA can best engage.

Environmental Equity

HB 5141 to officially implement the recommendations of Washington's Environmental Justice Task Force was enacted this year. The bill will add measures incorporating environmental justice analysis and decision-making into future state agency actions.



Housing bills that did not pass would have:















- Provided local government tax incentives for reducing ADU restrictions.
- Created housing benefit districts to enable local governments to fund the acquisition of land around transit centers for low-income and middle-income housing and community development projects.
- Allowed for planning grants to be used to facilitate transit-oriented development planning by cities.
- Granted cities a partial rebate of the real estate excise tax if they legalize middle housing.

Housing Trust Fund

AIA supports strong funding of the state's Housing Trust Fund in the Capital Budget, generally following the lead of affordable housing advocates. The Housing Trust Fund provides funding for the construction and renovation of affordable housing units to serve low-income and special needs populations. While advocates began the session asking for \$240 million, the trust fund was ultimately funded at \$175 million. Significant other funding for housing was provided for in the budget, however. Read the Washington Low Income Housing Alliance's summary [here](#).

HOW DID WE DO?

Here's the list of objectives we reported on at the beginning of the session, and how we did. Look for next month's Advocacy Newsletter for a overview of AIA's policy work ahead.

Goal	Result
Monitor and respond to efforts that impact the practice of architecture:	
<ul style="list-style-type: none"> Changes to predesign requirements for state contracts 	 Passed with AIA-supported changes related to OFM oversight
<ul style="list-style-type: none"> Capital gains tax 	AIA did not take an official position other than monitor; the bill passed
<ul style="list-style-type: none"> Alternative Project Delivery reauthorization 	 Passed
<ul style="list-style-type: none"> Contracting issues related to state contracts 	 No significant concerns in 2020
<ul style="list-style-type: none"> Robust capital budget funding 	 Historic levels of funding
<ul style="list-style-type: none"> Strong funding for affordable housing 	 Over \$1 billion was allocated for housing, including affordable housing and shelter, rental assistance, and foreclosure prevention
<ul style="list-style-type: none"> Overhaul of the state's transportation funding system 	 Did not pass – will continue to be worked on before and during the 2022 session
Protect architect licenses from attempts to weaken licensing requirements that protect the health, safety, and welfare of the public	 Licensing bills requiring changes w/o approval of the Board for Architects did not pass
Oppose efforts to weaken the state's energy code and the authority of the State Building Code Council	 Efforts to change the voting structure of the SBCC were defeated
Modify the state energy code statute to require greenhouse gas emission reductions in addition to energy efficiency	 Language was included in HB 1084, which did not pass
Promote building electrification policies	 Both building electrification bills, HB 1084 and HB 1280, failed to pass. AIA will continue to work with stakeholders throughout 2021
Support legislation to reduce the environmental impact of refrigerants	 HB 1050 to restrict HFCs passed
Pass embodied carbon legislation to address carbon emissions from the manufacture and transport of building materials	 HB 1103 did not pass
Support major reforms to the state's Growth Management Act to require planning based on climate impacts as well as housing affordability	 One GMA bill – HB 1099 on climate – did not pass. One – HB 1220 on housing, did. 

Attorney General's Opinion Supports Tri-Cities Architects

In March, Attorney General Bob Ferguson's office issued an opinion on an issue regarding the certification of architectural plans that had been submitted at AIA's request.

Kennewick city officials had been allowing engineers to stamp architectural drawings against current law. A 1990 Attorney General's opinion supported this practice, but the law it cited was changed by the Legislature in 2010 as a result of AIA-requested amendments to the Architects Practice Act. Kennewick officials said they would not follow this law without a new opinion by the Attorney General's office.

In July 2020, AIA asked Rep. Amy Walen (D-Bellevue/Kirkland), vice chair of the House Consumer Protection & Business Committee, to submit a request for an updated opinion. Only public officials, including local officials, may request opinions from the Attorney General's office. An Attorney General Opinion is a statement of the Attorney General's official views on a legal question relating to a public officer's duties. It represents the Attorney General's official position on a point of law.

The formal opinion, available [here](#), was issued on March 31. It confirms that, under the 2010 amendments to the Architects Practice Act, the stamping and submission of architectural drawings constitutes the practice of architecture and thus requires registration with the Washington Board for Architecture. An engineer may not stamp architectural drawings.

Opinion

Robert W. Ferguson

Attorney General of Washington

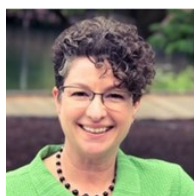
ARCHITECTS—ENGINEERS—Authority Of Engineer To Stamp And Sign Architectural Drawings For Submission For Building Permits

The stamping and submission of architectural drawings constitutes the practice of architecture, which with some exceptions requires registration with the Washington State Board of Architecture.

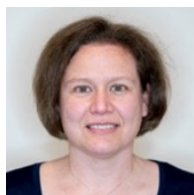
The legislature has amended RCW 18.08.410 to remove a formerly-applicable exception under which engineers could stamp architectural drawings. This legislative change revises the conclusion we reached in AGO 1990 No. 9, which we overrule to that limited extent.

AIA Washington Council

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AIA Washington Council serves as the collective voice for and a resource on state government policies that impact the practice of architecture for all architects and the profession through AIA components in Washington State.

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