



AWPHD 2010 Legislative Summary:

OVERVIEW

Public Hospital Districts (PHDs), because they are legally established as municipal corporations, must be aware of two kinds of public policies: those related to hospitals and health care; and those related to the structure and operations of municipal corporations. For the most part these are separate bodies of policy with different values governing each, different legislative committees addressing each, and different political “agendas” at work. As hospitals and healthcare facilities, PHDs are concerned with the same issues as private hospitals. But, as *municipal corporations*, PHDs also must concern themselves with policies that govern the operations of local governments.

General healthcare legislation considered by the 2010 Legislature has been summarized by WSHA in the April 15 edition of Inside Olympia. The following information summarizes bills that impact PHDs as municipal corporations. More detail can be found in the “AWPHD Summary of Municipal Law Changes, 2010 Legislative Session” which is a companion to this document.

FINANCE

Explicit Mortgage Authority for Public Hospital Districts, Increasing Access to Financing (HB 2510/SB 6300)

Sponsors:

Representatives Kelley, Rodne, Hurst, Bailey, Kirby, Simpson, Morrell

Summary:

Recognizing that in the current tight economy it is often difficult for public hospital districts to get access to the capital they need, AWPHD sought changes in state law that would make capital more available. The result was HB 2510/SB 6300 which explicitly authorizes a PHD issuing bonds in connection with a federal program providing mortgage insurance, including FHA mortgage insurance programs, to grant a lien on its property pursuant to a mortgage, deed of trust, security agreement, or any other security instrument allowed under applicable law. The FHA is authorized to insure mortgage loans for the construction, rehabilitation, replacement, and equipping of hospital facilities, as well as the refinancing of existing debt. In many situations, mortgage insurance obtained from the FHA or another federal agency will result in reduced financing costs for participating hospitals, and will make possible financing options that would otherwise not be available. The law goes into effect June 10, 2010.

Allowing PHDs to Participate in the State Local Option Capital Asset Lending Program in Relation to Voter Approved Bonds Payable from Excess Property Tax Levies (SB 6218/HB 2451)

Sponsors:

Senators Fraser and Brandlan

Summary:

In 1989, the legislature created a program which combined state agency borrowing into larger offerings of securities in order to reduce the cost of financing. In 1998, the legislature expanded the program to allow local governments to participate, thereby lowering their finance costs. However, until now, local governments (including PHDs) that receive voter approval to issue bonds payable from excess property tax levies have been ineligible to use the program. With the enactment of SB 6218/HB 2451, actively supported by AWPHD, PHDs will now be able to participate in the local option capital asset lending program including with respect to voter approved bonds payable from excess property tax levies. The law goes into effect June 10, 2010.

PUBLIC RECORDS**Allowing Public Agencies to Direct Requesters to their Web Site for Public Records (SSB 6367/HB 2582)****Sponsors:**

Senators Hatfield, Regala, Fairley, Fraser, Kohl-Welles, Roach

Summary:

Under the Public Records Act, an agency must respond to a request for records within five days by either: (1) providing the record; (2) acknowledging that the agency has received the request and providing a reasonable estimate of the time the agency will need to respond to the request; or (3) denying the request. AWPHD is aware that in public hospital districts, like other public agencies, the number of public records requests is increasing and requiring more time and resources to respond to such requests. Working in concert with other public agencies, AWPHD actively supported SSB 6367/HB 2582. This legislation, which was adopted, gives agencies another way to respond to requests for records. In addition to the above three options, a public agency can now provide an internet address and link on the agency's web site to the specific records requested. However, if the requester notifies the agency that he/she cannot access the records through the internet, the agency must provide copies of the record or allow the requester to view copies using an agency computer. The bill goes into effect June 10, 2010.

ELECTIONS**Changes to Campaign Contribution and Disclosure Laws, Including Use of Public Service Announcements (2SHB 2016)****Sponsors:**

Representatives Flanigan, Appleton, Hurst, Miloscia, Hunt

Summary:

2SHB 2016 is detailed and complex legislation that changes several provisions related to campaign contribution and disclosure requirements. Some of the changes are effective March 25, 2010, and others January 1, 2012.

Of particular note is a new section, Section 703, which went into effect March 25, 2010. This section prohibits “municipal officers” (**which includes PHD Commissioners**) from making public service announcements (PSAs) beginning January 1 of a reelection year through the general election, or until the official is a candidate. The intent is to prevent people who may be running for office from using PSAs as a kind of informal campaign mechanism.

The Public Disclosure Commission (PDC) is currently working on an interpretation to provide guidance on this new section. One issue is how broadly “municipal officer” will be defined. According to a recent draft from the PDC, the definition would include not just elected officers but also appointed officers, together with all deputies and assistants of such officers, and all persons exercising or undertaking to exercise any of the functions or powers of a municipal officer. AWPHD will be in touch with the PDC and will provide additional information about the PDC interpretation and associated rules as these matters are sorted out.

KEY PROPOSED MUNICIPAL LAW CHANGES THAT DID NOT PASS THIS SESSION

Numerous proposals came before the legislature in the 2010 session that would have made changes to municipal law and impacted public hospital districts (PHDs). Although these proposals did not pass, they give a flavor for the kinds of issues that are being raised and many of the topics are likely to be addressed in future legislative sessions.

PUBLIC RECORDS

SB 6368/HB 2583, which was actively supported by AWPHD, would have provided an additional option to resolve disputes related to public records. Under this proposal, prior to filing a court action alleging a violation of the Public Records Act (PRA), the requester and the agency could confer in person or by telephone regarding any dispute and courts would have been provided with discretion to reduce or eliminate any award for costs, including daily penalties, in some circumstances if this option was pursued by the parties.

HB 2910/SB 6408, actively supported by AWPHD, sought to change the way in which fines are imposed in situations where there has been a request for a public record and the court finds that there is a failure to properly respond. Current law treats a failure to properly respond as denial and awards a person who prevails against an agency in a PRA action an amount of not less than \$5 nor more than \$100 for each day he/she was denied the right to inspect the record(s).

Under the proposed legislation, the court would not award a daily penalty to a person who prevails in court. Rather the court would impose a fine on the agency and the proceeds of the fine would be deposited in the Archives and Records Management Account to enhance the preservation and availability of the state’s public records. The intent was to address financial incentives that can lead some people to make unreasonable public records requests. The court would have also had the discretion to award a portion of the fine to the prevailing person in an amount that reimburses the person for any demonstrated financial loss caused by the failure of the agency to timely release the public record or respond to the request.

HB 3031 would have allowed an agency to require a requester to pay personnel costs for requests that require more than five person-hours in a calendar month to produce, including costs related to searching and copying, that such costs would be limited to actual salary and benefit costs for the personnel required to produce the records, that such costs be paid before the records are released, and that the agency may require payment before a search for the records begins.

HB 2736/SB 6383 would have established the Office of Open Records to provide impartial administrative reviews of appeals by persons or agencies entitled to relief under the PRA and to provide information relating to the implementation and enforcement of the PRA. The Office would have had authority to take various actions, including adopting rules for an appeal process before the Office resulting from decisions of agencies subject to the PRA.

HB 1471 would have made certain records not exempt under the PRA if such records are created or presented by an agency in the course of collective bargaining, or which are received from the bargaining representative by the agency in the course of collective bargaining, when the agency and the bargaining representative agree to the terms of a written collective bargaining agreement.

SSB 6428 would have expanded the definition of “investigative agency” to include any department in an agency whose official duties include investigating complaints and taking steps to remedy the issue raised if the investigation shows a remedy is warranted.

SB 6530 would have allowed requesters requesting records from any agency (not just state agencies), where the agency has determined that the record is exempt from disclosure, to request the attorney general to review the matter, and that when a person prevails in court against an agency regarding the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time, the court would be required to award such person one hundred dollars for each day the requester was denied the right to inspect or copy the public record. The bill was not heard.

OPEN PUBLIC MEETINGS

SSB 6685 would have required that the agenda of all regular meetings of the governing body of a PHD that owns or maintains a web site be posted 72 hours before a meeting, that the agenda of all special or emergency meetings be posted 24 hours before a meeting, that the posting must indicate if the agenda is in draft form, and that the text of any ordinance, rule, or regulation that is under consideration at the meeting be included on the web site at the same time the agenda is posted.

The legislation would have also required that the minutes of all regular and special meetings of the governing body of a PHD that owns or maintains a web site be posted within 15 business days after a meeting, that the posting of the minutes indicate whether or not the minutes are in draft form or adopted, and that all postings remain on the web site for one calendar year. The above requirements would not have applied to special purpose districts providing services to a population of less than one thousand. The proposal would have also required every PHD that owns or maintains a public internet web site to at all times have posted to it a roster of the names of all members of its governing body, identifying the positions, and constituency where applicable, of all members, and that the web site at all times provide both the start date and end date of the elective or appointed terms of all members.

