

May 7, 2010

Memo – 2010 Legislative Wrap Up

To: Hoyt Suppes, Executive Director, NASW-WA
From: Bob Cooper, Managing Partner, Evergreen Public Affairs
re: 2010 Legislative Session

NASW-WA priorities fared reasonably well in the 2010 legislative session, given a \$2.8 billion budget deficit, an entrenched standoff between the House and Senate that sent the legislative session into overtime, and last-minute opposition from the powerful state employees' union that sidetracked Title Protection legislation. General Assistance – Unemployable – now called “Disability Lifeline” – remains, despite the umpteenth attempt to abolish the program.

Budget

The budget logjam that sent the legislative session into overtime (technically “extraordinary session”) was mainly because the Senate clung to the idea of a general sales tax increase (temporary @ 0.3%) that the House rejected while the House had a different menu of tax proposals (i.e., taxing banks on profits from first mortgages) that the Senate found unacceptable.



In the end, the budget was balanced with nearly \$800 million in new revenue, an approximately equal amount in program reduction or elimination, shuffling funds between accounts and additional federal revenues.

The agreed-to package of nearly \$800 million in new revenue included:

- \$246 million from a temporary 0.3% increase in the business and occupation tax on service businesses (taking the rate from 1.5% to 1.8% for the next three years) with a doubling of the credit for the smallest of small businesses (see below)
- \$68 million from extending the sales tax to bottled water, candy and gum (with a job-based credit for in-state producers)
- \$58 million from a temporary tax on beer of 50¢/gallon (4.7¢ per 12 ounces, with an exemption for small brewers)
- \$38 million from a temporary 2¢ per 12 ounce can or bottle of carbonated beverage (levied at the bottling plant when the business exceeds \$10 million in revenue)
- \$101 million from an additional \$1 per pack tax on cigarettes with a similar tax on other tobacco products

- \$158 million from closing a loophole meant to help sellers of Avon, Mary Kay and other products using similar business models but extended to large out-of-state businesses by a court decision
- \$113 million from re-defining economic “nexus” and cracking down on abusive tax avoidance schemes

The B & O Tax increase cuts two ways – the small business credit was increased at the same time, so some small businesses, including sole-practitioner private-practice social workers – could end up paying less. Before the change, small businesses in the service category making less than \$28,000 per year were exempt from the tax, and credits phased out completely at a gross income of \$56,000. Under the new legislation, service businesses (including social workers) making less than \$46,667 will be exempt and the credit phases out at about \$93,000 gross income.

Priorities for NASW-WA in the 2010 session included:

- Title Protection
- “Buying back” social services programs proposed to be reduced/eliminated in an all-cuts budget
- A balanced approach to budgeting – new revenue and controlling spending
- Working Connections Child Care
- Preventing Homelessness
- Updating the Involuntary Treatment Act

Title Protection

The tortured path of title protection for social workers took another step forward, but failed to clear the final two hurdles in the legislative process due to last-minute angst on the part of the Washington Federation of State Employees.

After being apprised of the bill over the last two years, and their repeated reaffirmations that they were neutral on the bill, the union raised objections about two weeks before the end of the session.

A compromise was negotiated that would allow people currently-employed as “social workers” to continue to use the title in the agency where they worked, even if they were laid off due to budget cuts and called back to work at a later date.

But it was too late, mechanically, to make it through the legislative maze, and the bill died waiting to be scheduled for a final Senate vote.

The good news is that it appears all of the opposition has been flushed out and dealt with, giving the bill a good chance in the longer legislative session in 2011.

Oversight and fees

House bill 2617 originally proposed eliminating the Mental Health Counselors, Marriage and Family Therapists and Social Workers Advisory Committee at the Department of Health. Part of an overall effort to cut the number of boards and commissions in state government, the committee was removed from the bill and will continue to operate. The idea was to cut these groups to save money, but when it was pointed

out that fees that pay for the committee cannot be put into the general fund, it and several similarly situated groups were taken out of the legislation.

Licensing fees funds the board, and all of the oversight of social workers. And those fees are likely to rise.

The budget, adopted in the early morning hours of April 13th, and signed by the governor on May 4th, includes a provision saying:

In accordance with RCW 43.70.250 and 43.135.055, **the department is authorized to establish and raise fees in fiscal year 2011 as necessary to meet the actual costs of conducting business** and the appropriation levels in this section. This authorization applies to fees for the review of sewage tank designs, fees related to regulation and inspection of farmworker housing, and fees associated with the following professions: Acupuncture, dental, denturist, **mental health counselor**, nursing, nursing assistant, optometry, radiologic technologist, recreational therapy, respiratory therapy, **social worker**, cardiovascular invasive specialist, and practitioners authorized under chapter 18.240 RCW. (Emphasis added)

The Department of Health had asked for authority to raise the social worker license fee from \$105 to somewhere between \$110 and \$126 in their budget request before the session, so it is likely the fee increase will be somewhere in that range. It would add between \$14 thousand and \$58 thousand to the funds DoH has to oversee the profession.

Balanced Budgeting / Program “Buy-Back”

A number of programs that would have been eliminated or severely crippled in an “all cuts” budget proposed by Governor Gregoire in December were ultimately saved, or, to use the governor’s language, “bought back.” Chief among those programs was the program formerly known as “General Assistance – Unemployable” that was re-named “Disability Lifeline.”

Here’s how NASW-WA’s positions on budget “buy back” fared:

- Five percent proposed cuts in Medicaid reimbursement to hospitals (\$63-76 million) avoided
- Cutting Basic Health Plan benefits for 67,000 people (\$160 million) avoided.
- Apple Health for Kids program’s possible cut of 16,000 children by cutting eligibility from 300 to 205 percent of poverty level (\$33 million) avoided (although outreach funding was cut)¹.
- Buy-Back the GA-U and ADATSA funds for 18,000 people with disabilities (\$134 million).
- GA-U is now named “Disability Lifeline” and includes treatment mandates (see below).
- Working Connections Child Care, originally slated for elimination, saved for 17,000 families.
- 'Optional' Medicaid coverage for adults needing hearing, vision, dental, hospice, podiatry and PT/OT services (\$60 million) – dental services were cut \$6.35 million, but the other service appear to have been spared.
- Maternity Support Services suspension (\$53 million) – avoided.
- Suspending Medicaid interpreter services (\$17 million) – avoided.

¹ Assumes \$12.9 million federal funds – if these funds don’t materialize, 4,000 people will be dropped from the program

General Assistance

Designed to address two issues – the path to federal Supplemental Security Income (SSI) and those who are disabled but won't qualify for SSI – the General Assistance - Unemployable program has developed a reputation over the years for issuing “drunk checks” and supporting people unwilling to work (never mind that that was not the case).

The new Disability Lifeline program will require chemical dependency treatment for those assessed to have an addiction as a co-occurring disorder (addiction as a primary disability has never been covered), and participation in vocational rehabilitation when appropriate. When suitable housing is available, most of the cash grant of \$339/month will be replaced with a housing voucher and \$50 stipend.

While eligibility will be restricted starting Sept. 1st to 24 months in a five-year period, that restriction expires in a few years (when, presumably, the budget situation will look a little rosier).

And medical benefits were preserved, while an outside contractor will be hired to expedite reviews for SSI applications.

Under the legislation, sponsored by Rep. Mary Lou Dickerson (D-Seattle), the Basic Food Employment and Training program will be expanded to an additional three community colleges and a “benefits portal” will be developed with private contributions to consolidate access to state and federal benefits via the Internet.

And while DSHS tried, in the waning days of the special session, to implement more restrictive rules on eligibility, the final budget slapped down that move with a provision mandating:

“The incapacity determination and progressive evaluation process regulations in effect on January 1, 2010, cannot be amended until at least September 30, 2010 ... After September 30, 2010, the incapacity determination and progressive evaluation process regulations may be amended only if the reports under (a) and (b) of this subsection have been submitted, and find that expenditures will exceed the appropriated level by three percent or more.”

Working Connections Child Care

Participants in Working Connections Child Care will now be authorized for 12 months at a time (instead of the current 3-6 months), unless a change in circumstances (which must be self-reported) dictates otherwise. This important step in strengthening the continuity of care for children will, at first, apply only to participants in the Early Childhood Education and Assistance Program (ECEAP), Head Start and Early Head Start. But the bill directs the Department of Social and Health Services to report to the Legislature by Sept. 1st of this year on the prospects of expanding the 12-month authorization to other child care programs.

Part of a broader bill, sponsored by Rep. Ruth Kagi (D-Lake Forest Park), the legislation also repeals the “intent” statement put into law in 1996 (RCW 74.08A.200) when “Work First” was adopted following federal welfare “reform.”

But Governor Gregoire vetoed sections of the bill that mandated a cabinet-level reexamination of Temporary Assistance for Needy Families. She promised to do that review anyway, but balked at what she saw as a predetermination of what direction that review should take.

“ Although I have vetoed Sections 1, 3 and 4, I am directing the WorkFirst Subcabinet to examine the best practices to meet the needs of WorkFirst families to obtain employment and achieve family self-sufficiency” the governor said in her veto statement. “The WorkFirst Subcabinet shall provide a report and plan to implement the best practices for WorkFirst families and children that are sustainable.”

Preventing Homelessness

Several measures related to homelessness stalled during the 2010 legislative session. Sometimes that was good news, but other times not.

Senate bill 6338 would have created an “intermediate tenancy” for people leaving prison or who have addiction issues. It would have, essentially, gutted the landlord-tenant act and allowed landlords to evict people in this separate status on 48 hours notice – even for actions that are, otherwise, legal. The bill passed the Senate but was stopped in the House.

Housing

The Housing Trust Fund that provides money for construction of low-income housing received an additional \$30 million.

\$25 million of that for the “Washington Works Housing Act” sponsored by Rep. Tina Orwall (D-Des Moines and a Social Worker). Overall, Orwall’s legislation dedicates \$1 billion of the Housing Finance Commission’s investment capacity to the development of affordable housing for working families. The capital budget investment will help local organizations leverage additional federal dollars for projects.

The other \$5 million is for two pilot projects to develop housing for Security Lifeline (formerly called General Assistance-Unemployable) recipients with mental or behavioral impairments.

And House Bill 2484, sponsored by Rep. Mary Helen Roberts (D-south Snohomish Co.), would have lengthened from 20 to 30 days the notice to vacate a rented house or apartment. Unfortunately, the bill did not get much traction and died early in the session. Longer notice would have made it incrementally easier for low-income people to find a new place to live.

Involuntary Treatment Act (ITA)

An update to the ITA passed the legislature and was signed into law. It will allow earlier interventions when people appear to be headed toward dangerousness to themselves or others, and will allow consideration of warnings from families and friends of worrisome behavior.

"Very few people with mental illness are dangerous, but we need to pass this law in order to provide treatment to those who are-before their mental state deteriorates into a violent and tragic crisis," said Rep. Mary Lou Dickerson (D-Seattle), the sponsor of House Bill 3076, which was introduced at the request of Gov. Gregoire.

Other Issues

The final budget did not include the proposed elimination of state-funded food assistance for non-citizens (who cannot receive federally-funded "food stamps," or "basic food" assistance). It also preserved funding for food banks and the Women, Infant and Children (WIC) nutrition program.

A proposed \$1 million cut to substance abuse treatment for low-income people was averted.

And resources were added to help people who become homeless get back on their feet, including one-million dollars for services for homeless families through the Washington families fund and a half-million dollars for foreclosure counseling and support.

Budget Vetoes:

The governor vetoed several sections of the budget that include social workers or their clients.

She vetoed a section that directed the Office of Financial Management to conduct a study of residential habilitation centers. In her veto message, the Governor said:

"In order to assess the status of people who currently live in residential habilitation centers, I am directing the Department of Social and Health Services to conduct assessments in a similar manner as is done for people in community residential programs. The assessments shall include interviews with all residential habilitation center residents or guardians of residents to determine the optimum setting for these individuals and shall include the option and choice to remain in a residential habilitation center. The Office of Financial Management shall contract with an independent consultant to review the assessments and determine whether there are funded options available in the community for residential habilitation center residents who indicate an interest in moving to a community placement and whether appropriate services and resources in the community exist or can be developed to provide adequate care for people with developmental disabilities. The consultant shall provide a report to me and the Legislature by December 1, 2010."

She also vetoed a report in health services for children, saying:

"The Department of Social and Health Services is directed to provide a report on improving services for children who are at greatest risk of requiring long-term inpatient and residential care due to the severity of their emotional impairments. The proviso requires the Family Policy Council to prepare an inventory of current publicly funded efforts in Washington to identify children at risk of emotional impairments and to provide intervention before a mental disorder manifests itself. In light of national health care reform and the state's efforts to reorganize in response, requiring that a report be prepared by October 1, 2010, will not give the Department sufficient time to respond to health care reform, formulate a redesigned plan to address children's mental health, and work with the federal government. As the Department is currently

involved in litigation regarding children's mental health, and because I believe that all aspects of the public children's mental health system need to be evaluated in light of national health care reform and because a deadline of October 1 does not provide sufficient time to respond, I have vetoed Section 204(3)(f)."

In developmental disabilities, she vetoed provisos:

- To expand contracts with counties for employment assistance
 - To study of the relative hourly costs of agency providers vs. individual providers (along with a similar provision in aging and adult services)
 - To provide instruction in self-advocacy
- and
- To expand parent-to-parent and community support groups

Other vetoes included:

- Restoration of a budget reduction for limited English proficiency services
- A report on moving Lifeline (formerly GA-U) clients from fee for service to managed care medical services
- A transition plan for aged, blind and disabled clients from fee for service to managed care medical services
- A report on the impact of state-purchased health care to cover autism spectrum disorder diagnosis and treatment for people under 21

and

- Establishment of two pilot projects for low income adults waiting to get onto the Basic Health Plan

Conclusion:

While title protection was not enacted, the NASW-backed bill moved further than it ever has in the past and seems well positioned for a final push in the 2011 legislative session.

Many of the programs supported by NASW-WA were saved from the chopping block, and those that took reductions (i.e., GA-U), took much smaller cuts than originally proposed.

At this writing it is unclear what the 2011 biennial budget picture will look like. Tim Eyman has filed initiatives to repeal most of the revenue increases enacted to balance the current budget, as well as one to reinstate the 2/3 approval requirement for future revenue increases that was repealed this year. (Eyman's initiatives are serious, as opposed to I-1069 which would "... require the Washington State Seal to depict a tapeworm attached to a taxpayer's intestine, encircled by the words: Committed to sucking the life blood out of each and every taxpayer.")

Conversely, William Gates, Sr. (father of the Microsoft co-founder), is backing an initiative to institute a state income tax on high-earning individuals and couples (individuals earning more than \$200,000 per year and couples earning more than \$400,000 per year). If that initiative makes the ballot and passes, it would eliminate the business and occupation tax for most businesses – including social workers in private practice – making less than \$300,000.

Once the November election, where all House members and half of the Senators are up for election, is over, the picture will become clearer as to where things stand for the next biennial budget process and for legislation in the next legislature.

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