

POLITICS & GOVERNMENT JANUARY 9, 2016 1:22 PM

Lawmakers are bystanders on big 2016 decisions

HIGHLIGHTS

Legislature's 60-day session to open with low expectations

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Gov. Jay Inslee turns to rulemaking, executive order

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Voters could weigh in on climate change, wages, sick leave

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BY JORDAN SCHRADER

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Big decisions for Washington state government policy are being made in 2016 — just not necessarily during the 60-day legislative session that starts Monday.

Citizen initiatives and executive action are taking center stage on a number of hot-button issues, with state lawmakers left to react — or relegated to the sidelines.

Unions and their allies plan to file a ballot initiative Monday dealing with minimum wage and paid sick leave, political consultant Christian Sinderman said. Details are still to come.

Proposals to raise the wage floor and mandate paid leave have stalled in the Republican-controlled Senate in recent years. While the ballot measure could ramp up pressure, key lawmakers disagree on whose move must come next, and advocates don't expect to make a strong push at the Capitol.

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“The Legislature’s had their opportunity and they couldn’t do it, so no reason to go through that again,” State Labor Council President Jeff Johnson said. “It’s just more work and quite frankly more heartbreak.”

Similarly disinclined to wait longer for legislative action is Gov. Jay Inslee. The Democratic governor signed an executive order to better track deaths and injuries from gunshots on Wednesday, the same day his administration unveiled the details of a proposed rule

capping emissions from the largest sources of greenhouse gases.

Senate Majority Leader Mark Schoesler sees a “dangerous trend” toward “governing by rulemaking.”

“Jay Inslee could turn us into the other Washington, governing by executive order and litigation,” said Schoesler, a Republican from Ritzville, predicting the carbon-cap rule would draw lawsuits.

Inslee told reporters Thursday that he has “offered a hand” to lawmakers on dealing with both carbon pollution and gun violence, only to be rebuffed.

“I’ve taken years to do that, and the sad fact is that we have not been able to fashion a bipartisan response, in part because one of the parties is less interested in dealing with those issues than perhaps I would have liked,” Inslee said at the Associated Press Legislative Preview forum last week.

In fact, lawmakers from both parties have posed obstacles to Inslee’s efforts on guns and climate.

Inslee pushed in his first months in office in 2013 for universal background checks on gun buyers, but couldn’t secure enough votes in the Democrat-controlled House. Supporters, though, raised more than \$10 million to put a similar proposal on the 2014 ballot and promote it, and voters overwhelmingly passed it.

Inslee’s latest executive order seeks better information on gun violence and how background-check laws are being enforced. It also calls for a public-health campaign to reduce suicide.

CLIMATE ACTION IN 2016?

The governor has made combating climate change one of his top priorities, linking the warming planet to the disastrous fire seasons as well as drought and damage to the shellfish industry. He traveled to Paris last month to take part in climate talks.

But neither House nor Senate passed Inslee’s 2015 proposal for a cap-and-trade system that would limit greenhouse-gas emissions while raising tax revenue.

Nor did House Democrats show interest in a Senate-passed alternative that would have linked carbon emissions more closely to the state's renewable-energy mandate. The Senate measure stated that climate change is real and human activity "may contribute."

In fact, the recent law that stands to have the biggest implications for carbon emissions is an increase in the gas tax and driver fees that will raise \$16 billion for highways, mass transit and other transportation needs, while also limiting the ability of governors to mandate greener fuels.

Inslee conceded that piece of executive authority to secure the transportation package, but then promptly announced that he would move forward with a different rule, the carbon cap.

Far from sidestepping the Legislature, Inslee said, he's taking a step toward achieving ambitious standards for emissions reductions set by the Legislature but never implemented.

As proposed by his Ecology Department, starting in 2017 the cap would cover more than 20 facilities and companies emitting at least 100,000 metric tons of greenhouse gas, a list that expands to about 70 as the threshold drops in increments to 70,000 metric tons in 2035.

Covered emitters would have to either reduce emissions 5 percent every three years or offset their continued emissions somewhere else, such as by buying credits from states or countries with carbon-pricing systems.

Business groups say utilities, fuel sellers and others will pass on the costs to their customers in the form of higher gas and power prices while the money ends up going to governments, businesses and investors outside of Washington. Schoesler said companies whose profits take a hit would lay off workers.

Other environmental-minded businesses argue the rule is an opportunity for promoting green jobs.

Any legislative effort to block the rule is likely doomed because of Inslee's veto authority, although the chairman of the Senate energy committee, Doug Ericksen, R-Ferndale, has announced he will try.

Not waiting for action from any corner of Olympia, environmentalists are turning to voters.

Mainstream environmental groups tend to want a cap-and-trade system that would plow money into the state budget and green jobs. But such a revenue-raising measure is now in doubt for 2016. A grass-roots group struck first and gathered what appears to be enough signatures for a carbon-tax initiative.

The \$25-per-ton tax in Initiative 732, modeled on a British Columbia program, would be offset by cuts in the sales tax and business taxes and by tax rebates to the working poor. Supporters say it will reduce the use of fossil fuels while also revamping the state's regressive tax system.

Lawmakers get first crack at it and could approve it or place an alternative beside it on the ballot. But they are more likely to sit this one out. Republicans are skeptical of pricing carbon, and Democrats worry about the potential for a net loss of tax revenue.

WAITING FOR COURTS

Even on two major issues that do confront the Legislature — underfunded schools and a tax cut that is poised to gut the state budget — lawmakers are poised to hold off on major action. Court decisions could force their hand, however.

Lawmakers write budgets in odd-numbered years, and generally make only tweaks in election years. But the voter-approved tax cut taking effect April 15 threatens to require a rewrite.

Initiative 1366, designed by anti-tax activist Tim Eyman, cuts the sales tax by a penny unless state lawmakers send a state constitutional amendment to the voters making tax increases more difficult.

The amendment would require tax increases to garner two-thirds supermajorities, which Democrats in the Legislature largely oppose and Republicans generally support. Neither party wants to cut more than \$1.4 billion a year out of the state budget, however.

Democratic leaders are hoping the courts solve the problem for them, and quickly.

A King County judge could decide this month whether I-1366 violates constitutional precepts, such as one that requires single-subject laws or another one that gives the Legislature alone the authority to initiate constitutional amendments. The state Supreme Court can choose to have the final word.

Lawmakers will also look to the state's high court to decide whether their plan for education funding is acceptable — if they can even pass such a plan into law.

The court in the McCleary case has demanded a plan for taking over the cost of basic education from school districts. Lawmakers have added more than \$2 billion but haven't produced a plan for what could be billions more needed to meet that goal. A bipartisan group of lawmakers has crafted a plan that promises action in 2017 while seeking more data in the meantime.

The court could be satisfied and lift its contempt order and \$100,000-a-day fines against the state. Alternatively, it could ramp up penalties in a way that might force stronger action.

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