

LODGING WINS DURING THE CORONAVIRUS PANDEMIC

2021 LEGISLATIVE SESSION*

-----HELPED PASS-----

Secured \$12 million in unrestricted funding for tourism promotion

[ESSB 5092](#) – Fiscal biennium operating appropriations

Tourism marketing has never been more critical, and Washington will now have a competitive tourism promotion budget for the first time since the state's tourism office was closed in 2011. The association's full request for \$12 million for tourism marketing, recovery and promotion was included in the biennial operating budget. This unrestricted funding will invest in an aggressive tourism recovery and marketing program.

Clarified that tourism assessments are not subject to sales tax

[ESHB 1512](#) – Lodging-related assessments

In 2019, a Seattle hotel was assessed penalties and back taxes after a Department of Revenue audit claimed it should have paid sales tax on revenue collected for Seattle's special tourism assessment. This bill clarified that tourism assessments are not subject to sales tax. It also included a retroactive clause so that lodging establishments can recoup any taxes or penalties they may have paid related to tourism assessments.

Delivered \$1.73 billion in unemployment insurance relief

[ESSB 5061](#) – Concerning unemployment insurance

ESSB 5061 provided \$1.73 billion in unemployment insurance relief to businesses in time for the first quarterly unemployment insurance payment of 2021. The bill also ensured unemployment insurance rate increases will be capped in future years, established a cap on the social tax rate and established a non-charging benefit period from March 22 to May 30, 2020.

Gained additional unemployment insurance relief for hospitality employers

[ESSB 5478](#) – Unemployment insurance relief for certain employers

This bill provided \$500 million in relief on 2022 unemployment insurance rates and included the hospitality industry in the bill's four prioritized categories. The bill targeted relief to businesses that will experience a rate class increase of three rate classes or more and will relieve benefit charges up to two rate class increases.

* This document only reviews results of the 2021 legislative session relevant to lodging. For legislative wins that impact F&B, please see the association's Legislative Summary which covers the results of the entire 2021 session.

Won property tax deferral ahead of April 2021 tax deadline

[ESHB 1332](#) – Property tax deferral

Lodging properties with a 25% or greater loss in revenue in 2020 were able to request a deferral payment plan for 2020 property taxes thanks to the passage of ESHB 1332. Counties are also prevented from charging interest and penalties as long as the terms of payment plans are met. The association prevailed over intense opposition from local county treasurers by arguing that it was inappropriate for local governments to increase revenue because of our industry's severe financial hardships.

Stopped federal emergency relief from being subject to state taxes

[SHB 1095](#) – Emergency assistance tax relief

Under Washington state tax law, businesses would have had to pay business and occupation tax on federal relief funds they received during the pandemic. This law ensures that relief funds are exempt from state taxes and saves Washington businesses an estimated \$209 million.

-----*HELPED DEFEAT*-----

Protected employers from third-party labor violation lawsuits

[2SHB 1076](#) – Allowing qui tam actions on behalf of the state

This bill would have allowed a third-party “relator” to file a lawsuit against a business for any alleged labor violation instead of utilizing established processes through Labor & Industries — an entire state agency with an annual taxpayer-funded budget in the hundreds of millions. The bill failed to gain enough support and died in the Senate. The association protected businesses from the risk of unnecessary and costly lawsuits by defeating this bill.

Prevented voluntary quits from accessing unemployment insurance

[SSB 5064](#) – Unemployment insurance for voluntary quits

As introduced, this measure would have extended unemployment insurance benefits to individuals who voluntarily leave employment. The Washington Hospitality Association opposed the bill and it failed to gain enough support to move forward.

Protected employers from penalties for unemployment insurance issues

[SHB 1474](#) – Penalties for employer violations of unemployment insurance

This measure suggested that employers were purposefully withholding information from the Employment Security Department and would have assessed significant penalties, regardless of whether the employer unknowingly failed to report. The association opposed the bill and it ultimately did not receive enough support to move forward.

-----*AMENDED TO PROTECT OR MINIMIZE HARM*-----

Ensured short-term hotel guests are not considered tenants subject to eviction moratorium

[E2SSB 5160](#) – Eviction moratorium

This legislative session, the association successfully fought to exclude short-term hotel guests from Senate Bill 5160 which in its original form would have protected tenants—including hotel guests—from eviction for up to two years after the proclamation expires. The association's

government affairs team secured a key amendment: only guests already at a lodging property for more than 30 days prior to March 1, 2020 are considered tenants. As emergency legislation, SB 5160 became law with the governor's signature on April 22. Unfortunately, the attorney general's office has told several hotels they must wait until the March 2020 proclamation expires on June 30 before asking nonpaying guests to leave.

Protected lodging tax revenue from being raided for non-tourism related uses.

E2SHB 1069 - Local government fiscal flexibility

Cities and counties have repeatedly supported legislation to divert lodging tax revenues from their intended use of tourism promotion to other local projects. It happened again in 2021 with a bill that included a provision to allow cities and counties to raid lodging taxes to help cover pandemic-related revenues shortfalls. We stripped the bill of its harmful provisions and protected critical tourism promotion dollars thanks in large part to a great show of member engagement.

Protected real estate and family-owned businesses from new capital gains tax

E2SB 5096 – Capital gains

A new capital gains tax passed this year after nearly a decade of attempts in the Legislature to establish this type of tax. E2SB 5096 assesses a 7% tax on Washington-based long-term capital gains that exceed a \$250,000 annual threshold. The association fought to ensure that real estate or the sale of a family-owned business are exempt from the tax. Multiple lawsuits have been filed against this new law. It may also be subject to an initiative challenge.

Protected loyalty programs from privacy regulations

2SSB 5062 – Consumer data privacy

The Legislature has debated data privacy for the past several years. This year the association secured amendments to 2SSB 5062 that would have protected our industry's loyalty programs. Ultimately the bill failed, meeting the same fate as earlier legislation because the House insisted on including a private right of action, which the Senate opposed.

Reduced the number of TVs requiring closed captioning

SB 5027 – Concerning closed captioning

Early versions of this legislation would have required closed captioning on all TVs intended for public viewing. The association secured amendments so that only 50% of televisions in public spaces are required to activate closed captioning when they clearly display they do not have volume or are on mute.

Protected the Paid Family and Medical Leave Program from untenable expansion

E2SHB 1073 and **ESSB 5097** – Expanding coverage of Paid Family and Medical Leave

HB 1073 as originally introduced threatened to bankrupt Washington's Paid Family and Medical Leave (PFML) program. It sought to significantly reduce the eligibility threshold from 820 hours to \$1,000 and, like E2SHB 1073 would have also required businesses with fewer than 50 employees to provide Family and Medical Leave Act-style job retention and continuation of benefits. The association helped limit the expansion to those impacted by the coronavirus pandemic and ensured this limited expansion would be paid for with federal relief funds instead of the PFML trust fund. These bills were also amended to include only a modified definition of family member that allows the program to be used for loved ones outside traditional family structures.

OTHER RECENT LODGING-SPECIFIC WINS

Passed the strongest statewide short-term rental regulations in the country

The association secured long-sought-after tax fairness and brought consumer safety protections to unlicensed, unregulated short-term rentals with the passage of HB 1798 in 2019. This legislation, together with the Marketplace Fairness Act and the Wayfair Decision, did away with “voluntary tax collection” on short-term rental platforms. The Department of Revenue now collects individual operator tax information and requires short-term rental operators, or the platforms they use, to collect and remit all state and local taxes including local lodging taxes. They must also adhere to basic health and safety standards and acquire liability insurance.

Set a statewide standard for protecting hotel employees

In 2019 the association passed Senate Bill 5258 to protect housekeepers and room attendants who spend a majority of their working hours alone. The legislation requires hotel and motels that employ these workers to adopt an anti-sexual harassment policy, provide anti-harassment and anti-discrimination training, and equip employees with a safety device capable of summoning help. The bill was modeled after the American Hotel and Lodging Association’s 5 Star Promise and sets statewide standards.

This document only reviews results of the 2021 legislative session relevant to lodging. For legislative wins that impact F&B, please see the association’s Legislative Summary which covers the results of the entire 2021 session.

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ADVOCACY ON BEHALF OF LODGING MEMBERS*

----- *First Wave: March to June 2020* -----

When Gov. Inslee issued his first stay-at-home order on March 18, the association had already kicked into high gear supporting its members in the face of an unprecedented crisis. Through its advocacy for lodging interests, our team:

- Ensured hotels were recognized as essential businesses and hospitality employees as essential workers in the governor’s stay-at-home and shutdown orders.
- Helped first responders and stranded travelers find guestrooms by providing a master list of lodging options to the emergency management system.
- Represented impacted hospitality employers and employees in emergency unemployment rulemaking. Secured allowances for SharedWork and ensured other specific types of coronavirus-related UI claims to initially not be charged.
- Got approval for plexiglass or other barriers to be used at front desks in place of the six-foot rule, making Washington the first state in the country to allow this as an infection-mitigation strategy.
- Lobbied for and secured state and local deferrals for B&O taxes, property taxes, UI and workers’ comp premiums without interest or penalties.
- Clarified that prepackaged food was allowed in lieu of breakfast buffets.
- Supported government purchase and distribution of personal protection equipment (PPE) to the industry in King, Pierce, Spokane and other counties.
- Supported King County’s advance of \$8 million for a post-pandemic tourism campaign.
- Supported the instrumental work of the American Lodging & Hotel Association and the National Restaurant Association in the establishment of the Payroll Protection Program.
- Supported establishment of Employee Retention Tax Credit to cover eligible employee wages not paid for with PPP loan funds, giving access to \$5,000 per quarter, per employee for 2020.

** This document reviews wins beyond the state legislature that are relevant to lodging. Also see “Lodging Wins During the Coronavirus Pandemic – 2021 Legislative Session.” For a list of F&B-related wins, please contact the office.*

-----*Second Wave: June to November 2020*-----

With very little known about the novel coronavirus, state and local officials, and union leaders, reacted to the growing pandemic with a hodgepodge of rules and directives. Lodging operators needed consistent and reasonable guidelines, and our team:

- Secured 14-day stay requirement in the governor’s emergency eviction moratorium.
- Worked with Department of Health to replace inconsistent local guidelines with statewide directive for an appropriate, science-based response to workplace exposure.
- Secured standards which allowed socially-distanced business and educational meetings at lodging properties.
- Secured statewide cleaning standards for hotel workers in place of a hodgepodge of local and union-based requirements.
- Worked with governor’s office to allow limited weddings and funerals instead of a complete prohibition.
- Ensured hotel pools were allowed to reopen in Phase 2 with appropriate social distancing restrictions.
- Supported AHLA in passage of legislation that froze FY 2021 and 2022 federal per diem rates at FY 2020 levels and adjusted the 2020 rate-setting period to reduce the impact of the pandemic.
- Promoted PPE giveaways in several counties around the state.
- Helped pass the Payroll Protection Program Flexibility Act which extended the PPP forgiveness period, reduced the payroll requirement and increased the program’s benefit for members.
- Supported establishment of Working Washington Grants to aid small businesses forced to close at some time during the pandemic.
- Supported Spokane County’s OpenTogether program which distributed \$11.5 million in grants to small businesses with 49 or fewer employees.

-----*Third Wave: November 2020 to March 2021*-----

The association remained laser-focused on helping members as a third wave of infections halted the reopening process in mid-November. In addition to securing significant wins in the legislative session, our team:

- Helped secure second round of PPP and increase in loan size specifically for NAICS 72 businesses from 2.5 times to 3.5 times average monthly payroll for a max of \$2 million per location and \$4 million per affiliated group. Won eligibility for restaurants and hotels based on 300 employees per location compared to 300 total employees for other businesses.
- Helped secure extension of the Employee Retention Tax Credit to cover eligible employee wages up to \$7,000 per employee for Q1 and Q2 2021.
- Secured \$100 million in funding for Working Washington Round 3 and helped expand eligibility to \$5 million in annual revenue.
- Designed and helped pass Spokane County's \$10 million hospitality grant program for the county's struggling hotels, restaurants and event venues stay in business.
- Secured open-air guidance which allowed lodging guests to enjoy small holiday gatherings in outdoor tents or plastic domes bubbles.
- Helped policyholders secure initial court ruling in favor of business income loss claims.
- Won deferral of transient accommodation license fees until July 30, 2021.
- Was recognized as having one of the top 20 websites or blogs for hoteliers in the world and the only state association on this list.
- Secured interest-free payment deferral for state B&O taxes.
- Won earlier vaccination eligibility for hospitality workers.
- Called over 8,000 hospitality operators to support their Working Washington 3 grant applications.
- Kept members informed of evolving guidelines for operating under the state's phased reopening.
- Helped create allowances for hotel pools and fitness centers to allow reopening under appropriate restrictions.
- Hosted webinars on how to access and use economic stimulus money.
- Supported Columbia River Economic Development Council's business grants of up to \$30,000 for owners and operators residing in Clark County.

-----*Fourth Wave: April 2021 to Present*-----

An unexpected fourth wave of rising infections threatened to reverse our progress toward reopening. The association, as it worked to finalize its legislative wins, continued to advocate for reasonable measures and pushed to reopen the state. Our team:

- Helped prevent rollback to Phase 2 for several counties by securing a change in the metrics used to evaluate reopening phases.
- Provided direct outreach to over 1,000 members to provide guidance and critical assistance on PPP Round 2 applications. Nationwide, an estimated 69% of accommodation and food service businesses received PPP funding.
- Provided webinars and resources to help members evaluate vaccination and mask policy options.
- Provided work safety training webinars to members at no charge.
- Secured \$240 million in funding for Working Washington Round 4 with eligibility to \$5 million in annual revenue.
- Distributed \$80,000 in Pierce County Hospitality United Way grants between February and May to employees experiencing hardship.
- Mobilized members to push for passage of the Save our Hotel Jobs Act.

This document reviews wins beyond the state legislature that are relevant to lodging. Also see “Lodging Wins During the Coronavirus Pandemic – 2021 Legislative Session.” For a list of F&B-related wins, please contact the office.

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FINANCIAL RELIEF *

Payroll Protection Program

- Supported the instrumental work of the American Hotel & Lodging Association and National Restaurant Association in the establishment of the Payroll Protection Program.
- Helped pass the Payroll Protection Program Flexibility Act which extended the PPP forgiveness period, reduced the payroll requirement and increased the program's benefit for members.
- Helped secure second round of PPP and increase in loan size specifically for NAICS 72 businesses from 2.5 times to 3.5 times average monthly payroll for a max of \$2 million per location and \$4 million per affiliated group. Won eligibility for restaurants and hotels based on 300 employees per location compared to 300 total employees for other businesses.
- Provided direct outreach to over 1,000 members to provide guidance and critical assistance on PPP Round 2 applications. Nationwide, an estimated 69 percent of accommodation and food service businesses received PPP funding.

Employee Retention Tax Credit

- Supported establishment of Employee Retention Tax Credit to cover eligible employee wages not paid for with PPP loan funds. Created access to \$5,000 per quarter, per employee in 2020.
- Helped secure extension of the Employee Retention Tax Credit to cover eligible employee wages up to \$7,000 per employee for Q1 and Q2 2021.

Tax relief

- Lobbied for and secured state and local deferrals for B&O taxes, property taxes, UI and workers' comp premiums without interest or penalties.
- Won deferral of transient accommodation license fees until July 30, 2021.

** This document reviews financial wins relevant to lodging. For a list of additional F&B-related wins, please contact the office.*

- Clarified in new state law that tourism assessments are not subject to sales tax.
- Delivered \$1.73 billion in unemployment insurance relief with passage of ESSB 5061.
- Ensured hospitality employers are eligible for \$500 million in additional unemployment insurance relief.
- Stopped federal emergency relief from being subject to state taxes with SHB 1095.

Working Washington Grants

- Supported establishment of Working Washington Grants to aid small businesses forced to close at some time during the pandemic.
- Secured \$100 million in funding for Working Washington Round 3 and helped expand eligibility to \$5 million in annual revenue.
- Secured \$240 million in funding for Working Washington Round 4 with eligibility to \$5 million in annual revenue.
- Called over 8,000 hospitality operators to support their grant applications.

Local grants

- Designed and helped pass Spokane County's \$10 million hospitality grant program for the county's struggling hotels, restaurants and event venues stay in business.
- Distributed \$80,000 in Pierce County Hospitality United Way grants for employees experiencing hardship.
- Supported Spokane County's OpenTogether program which distributed \$11.5 million in grants to small businesses with 49 or fewer employees.
- Supported King County's advance of \$8 million for a post-pandemic tourism campaign.
- Supported Columbia River Economic Development Council's business grants of up to \$30,000 for owners and operators residing in Clark County.
- Supported government purchase and distribution of personal protection equipment (PPE) to the industry in King, Pierce, Spokane and other counties.
- Excluded real estate and family-owned businesses from law establishing new capital gains tax.