

OREGON PUBLIC PORTS



ASSOCIATION

2015 Legislative Session Final Report

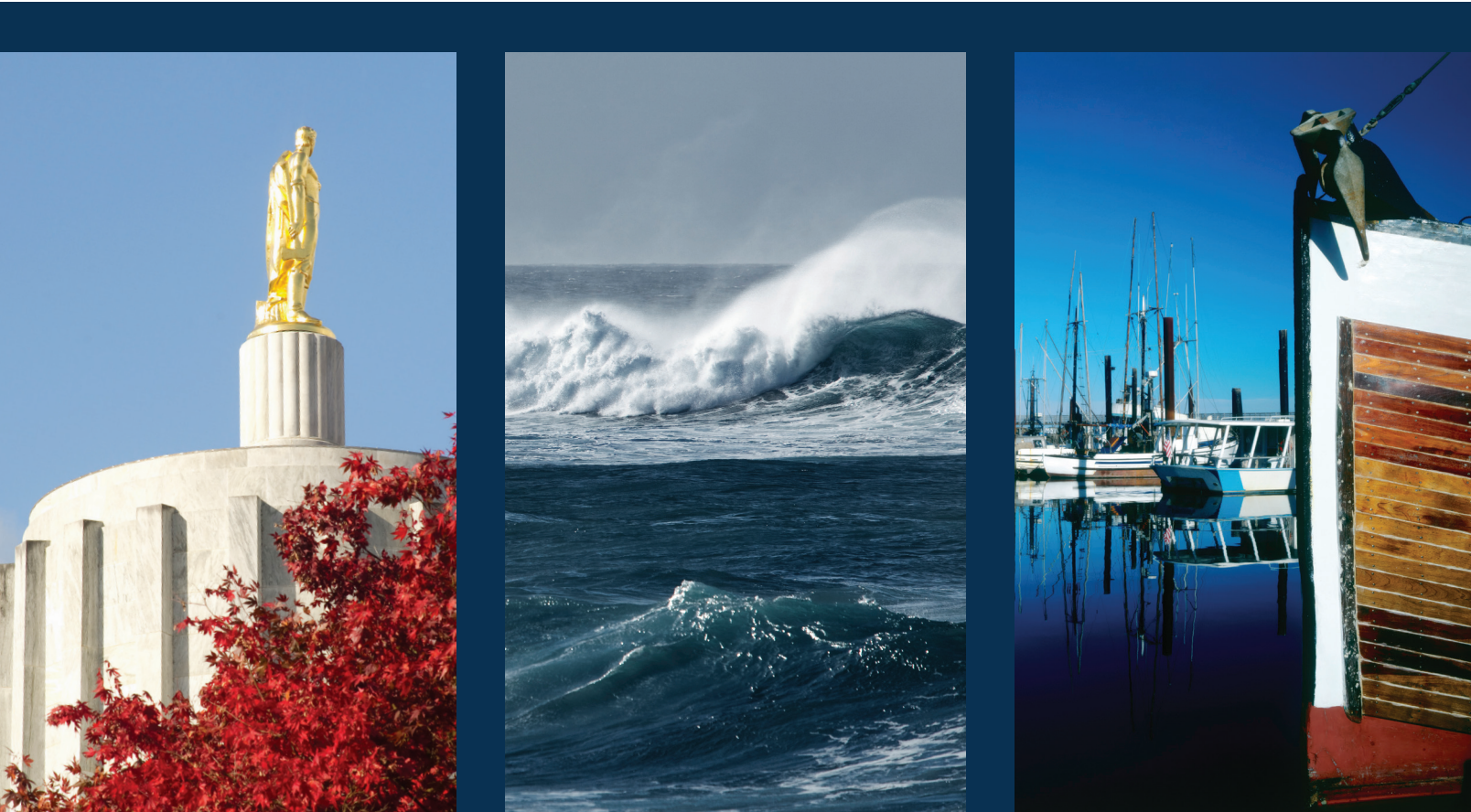


TABLE OF CONTENTS

2015 Legislative Session in Review	1
Notable Actions Taken This Session	3
Looking Ahead	4
Dynamics of the 78th Legislature	5
OPPA Legislative Committee Members	6
Miscellaneous Legislation of Interest to Ports	7

Bills That Passed

HB 2207 – Ballast Water	7
HB 2209 – Shell Fish Task Force	7
HB 2274 – ConnectOregon VI	7
HB 2278 – Coos Bay Channel Project	8
HB 2459 – Fee Increases On Registered Vessels	8
HB 2460 – DSL Easement Fees for Submerged and Submersible Lands	8
HB 2461 – Exemptions to DSL Leasing Requirements	8
HB 2463 – Abandoned and Derelict Structures	9
HB 3104 – Ports and Telecommunications Facilities	9
HB 3225 – Oil Train Safety	9
SB 131 – Willamette Fall Locks	10
SB 249 – Mitigation Credits on Removal-Fill Projects	10
SB 261 – Ballast Water	10
SB 262 – Oil Spill Fee Increase	10
SB 269 – Public Airport Registration Fees	10
SB 412 – Upland Placement of Dredged Materials Is Productive	11
SB 912 – Ownership of Historically Filled Submerged/Submersible Land	11
SB 935 – Maritime Insurance	11
HB 5030 – Lottery Bonding Bill	11
SB 5522 – Oregon Marine Board Budget	12

Bills That Did Not Pass

SB 94 – Tsunami Planning	13
SB 803 – Yaquina & Coos Bay Spring Chinook Hatchery Program	13

Economic Development13

Bills That Passed

HB 2643 – Enterprise Zone Expansion13
HB 2652 – SIP “Rural Area” Definition Modification14
HB 2734 – Brownfield Land-Banking14
SB 129 – Modifications to the SIP and Gain Share14
SB 5525 – Oregon Business Development Budget (Business Oregon)15

Bills That Did Not Pass

HB 2240 – Review of Economic Development Programs in Oregon15
HB 2289 – Tax Credit for Cleaning Brownfields15
HB 2435 – Infrastructure Opportunity Fund15

Elections16

Bills That Passed

HB 2635 – Local Option Ballot Measure Title Language16
HB 2957 – Local Election Reform16

Energy16

Bill That Passed

HB 2187 – Transmission of Ocean Renewable Energy16
SB 319 – Ocean Renewable Energy Facilities17
SB 324 – Low Carbon Fuel Standard17

Bills That Did Not Pass

HB 2216 – Offshore Wind17
HB 2449 – Biomass Tax Credit18
HB 3470 – Carbon Tax/Cap & Dividend/Greenhouse Gas Emissions18

Ethics19

Bills That Passed

HB 2019 – Oregon Ethics Commission Expansion19
HB 2020 – Public Official Definition19
SB 293 – Gift Limit Expansion20
HB 5020 – Oregon Government Ethics Commission Budget20

Finance & Taxation	21
Bills That Passed	
HB 2171 – Tax Reform.....	21
HB 2174 – Municipal Audits.....	21
HB 3125 – Food Processing Exemption Expansion	22
SB 611 – Data Center Central Assessment	22
Bills That Did Not Pass	
HB 2993 – Changed Property Ratio	23
HJR 12/ HB 2080/ HB 2081 – Reset At Sale	23
HJR 20/ HB 2141/ HB 2142 – Local Option Levies Outside of Measure 50	24
SB938 –Industrial Improvement Property Tax Exemptions	24
General Government	24
Bills That Passed	
HB 2038 – Recreational Immunity for Aviation Activities	24
HB 2277 – Drainage Districts and Flood Control.....	24
HB 3315 – ODF&W Fees to Other State Agencies.....	25
SB 306 – Levee Inspection Assistance	25
Labor	25
Bills That Passed	
HB 2007 – Private Right of Action for Wage Inequality	25
HB 2763 – Compensation for Public Employees Serving In the Military	26
HB 3025 – Criminal History Checks for Employment Purposes	26
SB 185 – Unlawful Employment Practice Related To Social Media	26
SB 454 – Paid Sick Leave	27
SB 492 – Assault Victim Leave	27
SB 681 – Change In Definition of Local Government Benefit Eligibility	27
SB 968 – Preemption on Local Flexible Work Schedule	28
Bill That Did Not Pass	
HB 2004 – Lifting Preemption on Setting Minimum Wage.....	28
HB 2012 – Minimum Wage Increase	28
HB 2646 – Parental Leave for School-Related Activities.....	28
SB 87 – Modifications to Required Interviews of Veterans	28
SB 888 – Flexible Work Schedules.....	29

Land Use	29
Bills That Passed	
SB 534 – Services to Airports	29
Bills That Did Not Pass	
HB 2633 – DLCN Natural Hazard Rule-Making	29
HB 3147 – Industrial Development Study	29
HB 3447 – Tsunami Planning Assistance	30
SB 716 – Industrial Lands Expansion in Metro	30
Public Contracting	30
Bills That Passed	
HB 2282 – Least Cost Policy Analysis and Enforcement.....	30
HB 2375 – Standardization of State Solicitation and Contract Forms	31
HB 2716 – MWESB Certification Compliance	31
HB 2987 – 1.5% Green Technology Modifications.....	31
HB 3248 – Termination Requirements for QRF (Nonprofit) Contracts.....	32
HB 3303 – Service-Disabled, Veteran-Owned Business Preference	32
SB 137 – Prevailing Wages.....	32
SB 491 – Pay Equity in Public Contracting.....	33
SB 584 – DBE & MWESB Regulation.....	33
SB 596 – Construction Flagging Contractor Licensing.....	34
SB 675 – Modification to Demonstrating Responsibility	34
Bills That Did Not Pass	
HB 2528 – Task Force on Citizen Review of Public Works Projects	34
HB 2616 – Funding For State Apprenticeship and Training	34
HB 2617 – Responsible Subcontractor Requirements	34
HB 2976 – Employment Restriction for Contracting Agency Personnel	35
HB 3052 – Biodegradable Lubricants.....	35
HB 3061 – Family Friendly Contracting	35
HB 3321 – Posting Requirements for Public Contract.....	35
HB 3322 – Contracting Impact Study	36
SB 644 – One Percent for ADA Compliance	36
SB 809 – Apprenticeship Use.....	36
SB 824 – Clean Diesel Standards	36
Public Records/Meetings	37

Bills That Passed

HB 2208 – Disclosure for Individuals Certified or Licensed By DPSST37
HB 3037 – Non-Disclosure of Public Employee Information37
HB 3557 – Public Interest Standard – Modifications to HB 330737
SB 9 – Audit of State’s Retention and Disclosure Practices.....38
SB 294 – OGEC Rule-Making Authority for Executive Sessions.....38

Bills That Did Not Pass

HB 3505 – Public Records Overhaul38

Public Safety39

Bills That Passed

HB 2270 – State Resilience Officer39
SB 775 – Natural Disaster Preparedness.....39

Transportation.....39

Bills That Passed

HB 2075 – Aviation Fuel Tax Increase39
HB 2614 – Non-Retail Gas Dispensing.....40
HB 5040 – Oregon Department of Transportation Budget.....40

Bills That Did Not Pass

HB 2293 – Transportation Planning.....40
HB 3302 – Transportation Funding Package40
HB 3310 – Clean Diesel Requirements40

Wastewater/Water Quality/Invasive Species.....41

Bills That Passed

HB 2451 – Loan Terms Extended Under the CWSRF.....41
HB 3522 – Water Quality Permit Fee Increase.....41
SB 209 – Invasive Species Council and Coordinator41
SB 829 – Applying Methodologies for Water Quality Standards41
HB 5018 – Department of Environmental Quality Budget.....42

Bills That Did Not Pass

HB 3482 – Government Reporting of Pesticide Applications.....42

Water42

Bills That Passed

HB 5005 – General Obligation Bonds for Water Development Fund42
HB 5030 – Lottery Bonds for Water Supply Projects.....42

Bills That Did Not Pass

SB 712 – Fish Persistence Requirements and Municipal Water Rights43
SB 971 – Fish Persistence Requirements and Municipal Water Rights43

2015 LEGISLATIVE SESSION IN REVIEW

The 78th Oregon Legislature convened a three-day “organizational session” on January 12, 2015, adjourned for two weeks and then reconvened in full session on February 2, 2015. During the organizational days, nearly 1,500 bills were introduced and printed. During the subsequent two weeks, those measures were referred to various policy committees that allowed committees to conduct hearings on bills as soon as the full session began. This was the third full Legislative Session constitutionally limited to 160 days under Ballot Measure 71 (2010). Legislative Leadership created an ambitious legislative calendar under HCR 15 and set a *Sine Die* target date of June 26th (145 days). However, the Legislature ultimately adjourned on July 6th at 6:04 p.m. after a 154-day session.

House Democrats picked up one additional seat in November 2015, giving them a 35-25 majority. Democrats re-elected Tina Kotek (D-Portland) as the House Speaker making her the first Speaker in a decade to serve consecutive sessions and Val Hoyle (D-Eugene) was elected as the Majority Leader. Mike McLane (R-Powell Butte) was re-elected as the House Minority Leader. There were 16 new legislators in the House this session—seven Democrats and nine Republicans.

The Senate Democrats increased their majority by two in this election, going into the 2015 Session with 18 Democrats and 12 Republicans. The Senate elected Peter Courtney (D-Salem) to an unprecedented 7th term as President of the Senate and Diane Rosenbaum (D-Portland) as the Majority Leader for a consecutive third time. Ted Ferrioli (R-John Day) was re-elected as the Senate Minority Leader. All of the new Senators (three Democrats and one Republican) had previously served in the Oregon House. Governor Kitzhaber, serving as the 4th term governor in Oregon’s history, entered his seventh regular legislative session as the chief executive for only the second time with Democratic majorities in both chambers. Notably, female leadership was second only to Colorado with four women holding high leadership positions (Kotek, Hoyle, Rosenbaum and Burdick) and making up 31% of the Legislative body.

In December, Governor Kitzhaber presented his recommended budget to the Legislature. In contrast to previous budgets, it proposed new investments using increased revenues rather than budget cuts. With \$18.6 billion (compared to \$15.9 billion the previous session -- an 11% increase), Kitzhaber’s proposed budget emphasized greater investment in early childhood education, working families tax credit expansion, rural job creation, water and transportation infrastructure, extension of the clean fuels program, and expansion of firearm background check requirements.

Both parties were skeptical about the proposed budget. One of the Co-Chairs of the powerful Ways and Means Committee was very public about his concerns, labeling the proposed ending balance as inadequate and that depending on the Supreme Court’s ruling on previous PERS reforms and the potential for a personal income tax kicker could create significant pitfalls. Additionally, the Governor’s budget actually resulted in a cut in K-12 education funding. As a result, the Senate President and House Speaker directed the Ways and Means

Committee Co-Chairs to produce a different budget framework that avoided the perceived flaws of the one proposed by the Governor.

In mid-January, two weeks before session began, the Ways and Means Co-Chairs revealed this plan. This was the earliest that a legislative budget plan had ever been issued. The plan served as the Legislature's framework for expenditures and balancing the budget for the upcoming biennium. This was important because: 1) it was based on the same revenue forecast used for the Governor's proposed budget; 2) significant additional funds were allocated for education while some cuts were proposed for social services and public safety and; 3) it provided additional time for the public and Ways and Means Subcommittees to discuss the details of all the agency budgets and priorities.

As the session began, both parties outlined their broad agendas. Democrats made clear that investing in education and workforce development, creating family wage jobs, supporting rural Oregon, fighting for working families, and investing in infrastructure were at the top of their agenda. The Republican agenda included creating jobs in struggling communities, increasing economic security for working families, and expanding educational opportunities.

Complicating matters was the increased media scrutiny of the failure of Governor Kitzhaber's Cover Oregon program and his fiancée's personal and business dealings in her role as a policy advisor to the Governor. Very early in the session, President Courtney and Speaker Kotek asked the Governor to step down. Rumors increased when the media reported that the Governor had called Secretary Kate Brown to come back to Oregon from a conference in D.C. Despite several state and federal investigations, the Governor denied he would be resigning. Ultimately, on February 14th, Governor Kitzhaber announced the end of his 37-years of public service, resigning his office effective February 18th.

At 9:56 a.m. on February 18th, only 17 days into the legislative session, and 38 days into Governor Kitzhaber's fourth term, Kate Brown was sworn in as the 38th Governor of the State of Oregon as John Kitzhaber's resignation became effective. Not since 1956 has a governor been sworn in mid-term; Elmo Smith was sworn in after the death of Governor Paul Patterson. With 24 years of public service, Brown's biggest challenge, besides assembling a new staff, was to restore the public's faith in state government. In her address to a joint meeting of the two legislative chambers, Governor Brown made it clear that her family and her staff would not accept or seek outside compensation for any work related to the business of the State of Oregon. She also committed to strengthening the Government Ethics Commission and ensuring the timely release of public documents in order to hold public officials accountable and to foster a culture of transparency. She subsequently appointed Jeanne Atkins (former staff to U.S. Senator Jeff Merkley) as Oregon's Secretary of State.

In late March, Democrats advanced a \$7.25 billion dollar K-12 education budget on a party line vote. This was the earliest date that an education budget had been adopted in nearly a quarter century. Despite the inclusion of full-day kindergarten for every Oregon child, Republicans widely criticized the budget as inadequate. However, leadership made it clear that the approved funding would be used as a floor and that they would try to bolster the funding if additional revenue was raised or if the economy lead to stronger revenue projections. In the end, more than a \$100 million was added to the K-12 budget along with \$300 million for seismic and other safety improvements.

In her April State of the State address, Governor Brown called on the Legislature to pass a comprehensive transportation-funding package. She convened a small bicameral and bipartisan group, called the “Gang of Eight,” who met behind closed doors to construct a viable package. However, despite the Senate’s agreement on modifying the previously approved low carbon fuel standards, the House refused to do so, thereby killing any chance for comprehensive transportation funding. Further complicating matters, the Supreme Court declared the 2013 PERS reforms unconstitutional, largely wiping out future anticipated retirement savings at the state and local level.

The May revenue forecast that is typically used to balance the upcoming biennial budget brought both good and challenging news. The Office of Economic Analysis estimated that the next biennium’s revenue would be up an additional \$463 million. The challenging news was that the state’s kicker would result in \$473 million being returned to individual taxpayers. This final forecast set the stage for the legislature to complete the remaining budgets and enact the remaining measures having budgetary impacts.

In the end, the legislatively adopted budget was nearly \$18.9 billion in General Fund and Lottery resources—an increase of 13% over the previous biennium. Democrats hailed the session as largely a success, while Republicans complained bitterly that their voice was largely ignored. There is little doubt that relationships were strained during the session, not only between the political parties, but also between the leadership in the House and Senate. Only time will tell whether those relationships can be mended.

NOTABLE ACTIONS TAKEN THIS SESSION

- Low Carbon Fuels Standard intended to reduce the carbon intensity of transportation fuels by 10% over the next 10 years (and effectively killing a comprehensive transportation package).
- Paid sick leave requiring businesses with ten or more employees to provide up to five days of paid sick leave per year.
- Universal background checks for firearm transfers.
- Creation of retirement accounts for all Oregonians lacking access to a retirement plan at their place of employment.
- \$45 million for the sixth iteration of the Connect Oregon transportation-funding program.
- Nearly \$7.4 billion for K-12 education.
- Three measures implementing Oregon’s recreational marijuana law.
- Class Action Lawsuits – sending unclaimed damage awards to the state’s legal aid fund.
- \$300 million to retrofit schools and emergency responder buildings to improve earthquake preparedness.
- \$50 million for water infrastructure.
- Self-service gasoline in counties with fewer than 40,000 residents only between 6 p.m. & 6 a.m.

- Motor Voter – automatically registering voters and potentially adding hundreds of thousands of new voters in Oregon.
- New investments in affordable housing.
- Toxic Free Kids Act requiring manufacturers to track and incrementally phase out potentially toxic chemicals in products used by children.
- A balanced budget of approximately \$18.9 billion.

The Governor got the ethics reforms she called for, as well as new investments in affordable housing. However, a few notable issues did not successfully pass this session. The failure to enact a transportation-funding package remains as a blow to her administration.

Other issues that failed to move forward included an increase in the minimum wage, inclusionary zoning, authority for the impeachment of statewide elected officials, and compulsory vaccination requirements for children entering public schools.

LOOKING AHEAD

Under Senate Concurrent Resolution 20 (SCR 20), 2015 “Legislative Days” will be held on September 28 – 30, November 16 – 18, and January 13 – 15 leading up to the short legislative session that will begin on February 1, 2016. Each member of the House and Senate will be permitted to introduce up to two bills, each legislative committee will be allowed to introduce up to three bills, and the Governor and Chief Justice of the Supreme Court will each be permitted to introduce up to five bills.

Under Oregon law, Governor Brown is required to run for election in 2016 to serve out the remaining two years of the former Governor’s term. Candidates seeking to serve the remaining two years of the term can officially file for the election beginning on September 10, 2015. To date, only Salem physician Bud Pierce has announced his intention to run for the Republican nomination.

The Legislature referred only one measure to the voters for their consideration. Senate Joint Resolution 4 would repeal the state’s current mandatory retirement age for judges (75). It is also likely that voters will decide on a host of other ballot measures through the initiative petition process. In order to qualify, 88,184 signatures must be collected to make a statutory change; revisions to the Constitution require 117,578 signatures. The deadline to submit the required signatures is July 8, 2016.

Some likely initiatives include: raising the minimum wage, repeal of the low carbon fuel standard, increasing taxes on large corporations and the wealthy, limiting the ability of public unions to enforce compulsory dues for employees who don’t want to join the union, establishing English as the state’s official language, requiring employers to verify that their workers are in the country legally, limits on attorney fees in class action law suits, and estate tax reform. However, it is likely that there will be additional initiatives filed, potentially making the 2016 election one of the most expensive in Oregon’s history.

DYNAMICS OF THE 78th LEGISLATURE

Session Length:	154	Bills Introduced:	2,799
Date Convened:	February 2, 2015	Bills Signed by Governor:	846
Date Adjourned:	July 6, 2015	Bills Vetoed:	0

OREGON SENATE

Democrats: 18
Republicans: 12

Senate Caucus Leadership:

Senate President Peter Courtney (D-Salem)
Senate Majority Leader Diane Rosenbaum (D-Portland)
President Pro Tempore Ginny Burdick (D-Portland)
Deputy Majority Leader Arnie Roblan (D-Coos Bay)
Majority Whip Mark Hass (D-Beaverton)
Majority Whip Elizabeth Steiner Hayward (D-NW Portland/Beaverton)
Assistant Majority Leader Michael Dembrow (D-Portland)
Assistant Majority Leader Sara Gelser (D-Corvallis)

Senate Republican Leader Ted Ferrioli (R-John Day)
Deputy Republican Leader Chuck Thomsen (R-Hood River)
Deputy Republican Leader Jeff Kruse (R-Roseburg)
Deputy Republican Leader Tim Knopp (R-Bend)
Deputy Republican Leader Herman Baertschiger (R-Grants Pass)

OREGON HOUSE OF REPRESENTATIVES

Democrats: 35
Republicans: 25

House Caucus Leadership:

Speaker of the House Tina Kotek (D-Portland)
Majority Leader Val Hoyle (D-Eugene)
Speaker Pro Tempore Tobias Read (D-Beaverton)
Majority Whip Jessica Vega Pederson (D-Portland)
Deputy Majority Whip Jennifer Williamson (D-Portland)
Assistant Majority Leader Nancy Nathanson (D-Eugene)
Assistant Majority Leader Ann Lininger (D-Lake Oswego)
Assistant Majority Leader Barbara Smith Warner (D-Portland)

Republican Leader Mike McLane (R-Powell Butte)
Deputy Republican Leader Carl Wilson (R-Grants Pass)

Republican Whip Sherrie Sprenger (R-Scio)
Assistant Republican Leader Cliff Bentz (R-Ontario)
Assistant Republican Leader John Davis (R-Wilsonville)
Assistant Republican Leader Gene Whisnant (R-Sunriver)

OPPA LEGISLATIVE COMMITTEE MEMBERS

Michael McElwee
Port of Hood River

Kevin Greenwood
Port of Newport

Bud Shoemake
Port of Toledo

Gary Neal
Port of Morrow

Martin Callery
International Port of Coos Bay

Kathryn Williams
Port of Portland

Michele Bradley
Port of Tillamook Bay

Ted Fitzgerald
Port of Brookings Harbor

I am grateful to OPPA, the Executive Committee and Legislative Committee for their support and guidance up to this point and am looking forward to the challenges and opportunities ahead. I am proud to represent the Oregon Public Ports Association.

MISCELLANEOUS LEGISLATION OF INTEREST TO PORTS

Bills That Passed

HB 2207 – Ballast Water

Effective January 1, 2015 Chapter 704 (2015 Laws)

The Shipping Transport of Aquatic Invasive Species Task Force produced this legislation. Ocean going vessels pick up and discharge ballast water to improve ship stability. Because ballast tanks may have been filled with water from foreign ports, ballast discharge in Oregon ports and harbors has the potential to introduce aquatic non-indigenous species into state waterways. This has the potential to cause ecological damage, economic costs, and/or human health concerns. Because of these threats, the Department of Environmental Quality has had dedicated resources to implement and enforce ballast water management regulations since 2007. House Bill 2207 authorizes the Environmental Quality Commission to adopt standards and procedures for implementing alternative ballast water management including appropriate use of treatment technology and strategies to mitigate risks from vessels with empty ballast tanks that enter waters of the state. Specifically, the bill requires salt water flushing for empty ballast tank vessels, referred to as “No Ballast On Board” vessels. Use of this flushing process is consistent with existing Environmental Protection Agency (EPA) Vessel General Permit regulations. It will also enable Oregon state inspectors to provide technical assistance and enforcement efforts, and will make Oregon’s ballast water regulations consistent with those of Washington State.

HB 2209 – Shell Fish Task Force

Effective August 12, 2015 Chapter 814 (2015 Laws)

This law creates an 11 member Task Force on Shellfish to study how to restore and expand shellfish resources in Oregon. The Task Force is required to produce a draft Oregon Shellfish Initiative outlining priorities and implementation strategies to enhance shellfish production. The Oregon Department of Agriculture is required to conduct a pilot project of increased water quality monitoring in Tillamook Bay. It also appropriates funding and requires studies by Oregon State University.

HB 2274 – ConnectOregon VI

Effective July 20, 2015 Chapter 707 (2015 Laws)

This law changes the name of the Multimodal Transportation Fund to the Connect Oregon Fund. The bill expands the definition of a “transportation project” to include marine projects and clarifies that this does not include operating costs or the purchase of vehicles (as defined by ORS 801.590). It deletes provisions relating to loans and increases the requirement for local project funding from 20% to 30% of project cost. The bill also includes as part of the project selection criteria related to whether a project has a useful life expectancy that offers the maximum benefit to the State. HB 2274 prohibits the Director of Oregon Department of Transportation from appointing members of final project review committee who represents an

entity that has an application under consideration or a direct financial interest in an application under final review. HB 5030 included \$45 million in lottery-backed bonds for this program.

HB 2278 – Coos Bay Channel Project

Effective August 12, 2015 Chapter 815 (2015 Laws)

HB 2278 provides lottery-backed bonding for the Coos Bay Channel Project to support development of an intermodal container terminal.

HB 2459 – Fee Increases on Registered Vessels

Effective January 1, 2016 Chapter 627 (2015 Laws)

This law includes a fee increase on registered vessels, from \$3 per foot to \$4.50 per foot, effective November 2015, and approved increases for a variety of user-specific fees, including:

- Boat Rentals Business of five boats biennial setup fee \$55 to \$90
- Boat Rental biennial per-boat fee \$6 to \$10
- Duplicate Registration or Certificate of Number \$10 to \$15
- Duplicate Decals \$10 to \$15
- Boat Certificate of Title original or transfer \$30 to \$50
- Duplicate Title with no changes \$15 to \$25

HB 2460 – DSL Easement Fees for Submerged and Submersible Lands

Effective June 2, 2015 Chapter 204 (2015 Laws)

The State owns submerged and submersible land (beds and banks) under the navigable and tidally influenced waters in Oregon. Typically, ownership extends to the line of ordinary high water or high tide. The State Land Board and the Department of State Lands (DSL) oversee the land under the territorial sea, tidally influenced land, and the non-tidally influenced beds and banks of 12 rivers and a number of lakes in the state. The revenue from leases and authorizations for waterway uses (marinas, docks, floating homes, wharfs, etc.) are deposited into the Common School Fund for K-12 public schools throughout the state. HB 2460 authorizes DSL to establish and impose a one-time application fee on persons applying for an easement to construct water, gas, electric, or communication service lines, fixtures, or other facilities on state lands. It requires the easement application to include all the crossings of state land within a county. In case where an easement is needed in area involving two counties, the measure permits one application and one application fee.

HB 2461 – Exemptions to Department of State Lands Leasing Requirements

Effective June 2, 2015 Chapter 205 (2015 Laws)

In 2011, the Legislature passed SB 600, which included creating new exemptions to leasing requirements. It also removed authority for the Department of State Lands (DSL) to establish lower-cost registrations through rulemaking, including state-owned submersible lands. HB

2461 reinstates the authority for DSL to adopt rules providing for additional exemptions to such leasing requirements.

HB 2463 – Abandoned and Derelict Structures

Effective January 1, 2016 Chapter 715 (2015 Laws)

There are derelict and abandoned structures, vessels, and other debris throughout Oregon. They pose a danger to the public and may interfere with the public's ability to use waterways safely. Prior to this law, the Department of State Lands (DSL) only had statutory authority to pursue these situations as trespasses and to remove the structures. HB 2463 authorizes DSL to seize and remove derelict or abandoned structures on, under, or over state-owned submerged land or submersible lands. DSL must determine that the structure is abandoned or derelict and the owner has failed to correct any problems within 20 days or longer, and must provide notice and an opportunity for a hearing. HB 2463 also establishes the Submerged Lands Enhancement Fund to assist in paying for the removal of derelict or abandoned structures. Removal of marine debris may also be paid for from this fund. DSL is required to adopt rules and a process for funding requests and evaluation by DSL. The law makes the owner liable for costs of removal, salvage, storage, and disposal of any seized structure.

HB 3104 – Ports and Telecommunication Facilities

Effective January 1, 2016 Chapter 164 (2015 Laws)

ORS Chapter 777 outlines the general authority and powers of Oregon's system of 23 public ports. These laws currently do not authorize Oregon ports to acquire, own, or operate telecommunications infrastructure. HB 3104 expands the statutory authority of rural ports to include telecommunications.

HB 3225 – Oil Train Safety

Effective July 20, 2015 Chapter 739 (2015 Laws)

This law is in response to a number of high profile crude oil train derailments and increasing concern about the shipment of crude oil and other hazardous materials. It requires the Oregon State Fire Marshal to develop plans for coordinated responses to materials spills occurring during rail transport. They must submit an annual report on their planning to the Legislature by February 1st. It must include the following: resource inventories, recommended structural changes to the coordinated response program, reviews and possible revision of the response roles of the state and local governments and between the state and industry (railroads), and strategies for ensuring adequate funding for training, equipment acquisition, and administration at the state and local level. An Oil and Hazardous Materials Transportation by Rail Action Fund must be established by January 1, 2016, to accept revenue from gifts, grants, donations, endowments, or bequests from public or private sources. The Oregon State Police will manage the use of the funds by the State Fire Marshal.

SB 131 – Willamette Fall Locks

Effective July 27, 2015 Chapter 770 (2015 Laws)

SB 131 creates an intergovernmental work group to identify federal and other sources of funding for the repair, reopening, and operation of the Willamette Falls Locks. The work group is required to report to the Legislature on a quarterly basis.

SB 249 – Mitigation Credits on Removal-Fill Projects

Effective June 10, 2015 Chapter 343 (2015 Laws)

SB 249 allows the Oregon Department of State Lands (DSL) to sell credits for a state wetland mitigation bank. This provides a technical fix to address a situation where the state has developed a mitigation bank and a private mitigation bank subsequently enters the same area. This will allow DSL to sell credits through the Oregon Removal-Fill Mitigation Fund until all state costs are recouped.

SB 261 – Ballast Water

Effective January 1, 2016 Chapter 288 (2015 Laws)

The discharge of ballast water, used to provide vessel stability, may introduce aquatic non-indigenous species into Oregon waterways, potentially resulting in ecological damage, economic costs and or human health concerns. State regulations on ballast water management require that all regulated vessels submit ballast water management reports to the Department of Environmental Quality (DEQ) at least 24 hours prior to entering the state. All regulated vessels are subject to boarding, inspection, and ballast water sampling verification by state inspectors. SB 81 (2011) created a \$70 vessel arrival fee to support DEQ's ballast water program efforts, including report monitoring, compliance verification, and technical support services. SB 261 increases the ballast water trip fee to \$88.

SB 262 – Oil Spill Fee Increase

Effective October 5, 2015 Chapter 663 (2015 Laws)

The Department of Environmental Quality (DEQ) administers the oil spill prevention program. It is responsible for collecting fees for the program and civil penalties for oil spills. SB 262 increases the fees for the oil spill prevention program and allows funds in the Oil Spillage Control Fund to be used for planning and preparedness activities. The law also requires DEQ to report the civil penalties recovered by the department for the willful and negligent discharge of oil and the activities of the department in collecting penalties for oil spills.

SB 269 – Public Airport Registration Fees

Effective January 1, 2016 Chapter 450 (2015 Laws)

This law increases registration fee for pilots, aircraft, and public airports. Current registration fees for public airports do not cover the costs incurred by the Oregon Department of Aviation for the services provided to public airports, such as land use coordination with counties, development expertise, and legal and administrative costs. SB 269 raises the registration fee for pilots, aircraft, and public airports. The fee for public airports will increase for all classifications.

SB 412 – Upland Placement of Dredged Materials is Productive

Effective June 18, 2015 Chapter 494 (2015 Laws)

The Port of Portland introduced this law. Dredged materials may be put in upland placement rather than sent to a landfill, if the Department of Environmental Quality concludes that the material in question has: 1) a productive use and; 2) will not create an adverse impact to human health or the environment. Material must have been sampled and tested sufficiently to allow the DEQ to make those determinations. SB 412 changes the first category by declaring that the upland placement of dredged materials by port districts is productive. As a result, port districts will no longer have to demonstrate additional uses and provide a timeframe for use of the dredged material. Ports will still have to characterize the material and demonstrate to DEQ's satisfaction that there will be no adverse impact to human health or the environment.

SB 912 – Ownership of Historically Filled Submerged and Submersible Lands

Effective July 27, 2015 Chapter 804 (2015 Laws)

To address confusion regarding certain land ownership, in 2013 the Legislature asked the Department of State Lands (DSL) work with stakeholders to develop a fair, transparent, and reasonable process to resolve state ownership interests in historically filled submerged and submersible lands. DSL formed the Filled Lands Advisory Group (FLAG). SB 912 codifies the FLAG's recommendations, clarifying the distinction between "historically filled lands" and "new lands" for determining ownership and transfer of ownership of lands. It authorizes the State Land Board (SLB) to adopt rules to create a process for DSL to sell, lease, or trade these historically filled lands. It establishes a process for SLB to identify and declare the state's interest in historically filled lands and prohibits the board from asserting title to such lands unless certain procedures are met by December 31, 2025. DSL is also required to submit a progress report by September 15, 2017.

SB 935 – Maritime Insurance

Effective June 18, 2015 Chapter 505 (2015 Laws)

Wet marine and transportation insurance covers transportation risks for blue water ships, railroads, tugs and barges, terminal operators, vessel construction, and repairers, as well as for aircraft engaged in interstate commerce. Non-admitted insurers often provide coverage for risks that licensed insurers are either unable or unwilling to write. The types of risks getting coverage from the non-admitted market often have atypical underwriting characteristics and may require very large limits of liability. SB 935 makes a technical clarification to the Oregon Insurance Code to make it clear that wet marine and transportation insurance may be sold by insurers that do not have a certificate of authority (license) in Oregon.

HB 5030 – Lottery Bonding Bill

Effective August 12, 2015 Chapter 812 (2015 Laws)

HB 5030 authorizes \$180.2 million of lottery bond proceeds to be issued in the 2015-17 biennium. A total of \$201.8 million of lottery revenue bonds will be issued in the spring of 2017 to provide funds for 33 identified projects, including:

- \$18 million for the Special Public Works Fund in the Oregon Business Development, of which \$5 million is dedicated for levee inspections and repairs.
- \$7 million for the Brownfield Revolving Loan Fund.
- \$10 million for the Coos Bay Rail Line.
- \$12 million of new lottery bonds, which will be combined with unused moneys from an earlier bond sale, to provide a total of \$13 million for Regional Solutions capital projects.

SB 5522 – Oregon Marine Board Budget

Effective July 1, 2015 Chapter 601 (2015 Laws)

The Oregon State Marine Board (OSMB) is funded by three major revenue sources - business licenses and fees, motorboat fuel tax revenues, and federal grant funds. On average, licenses, fees, and taxes (Other Funds), have accounted for nearly 80% of revenue and Federal Funds have accounted for the remaining 20%; fees from boat registrations and titling account for more than 50% of all OSMB revenue. Registration fees are set in statute and vary based on the type and size of vessel. Just over 23% of all revenue, approximately \$8 million comes from the fuel tax. The Oregon Motorboat Fuel Use Survey that is conducted every four years determines these fees. The last one was done September 2014. OSMB also collects fees that are used to support the aquatic invasive species program, charging \$5 for motorboats, \$5 for manually propelled boats over 10 feet in length, and \$20 for nonresidents and annual fees for operators of boat liveries. Federal Funds to OSMB come from the U.S. Coast Guard's Recreation Boating Safety grant program, the Boating Infrastructure Grant program, and the Clean Vessel Act program.

The Boating Facilities program provides grants and technical assistance for maintenance and improvement of public recreational boating facilities statewide. Boating facilities grants are available to cities, counties, ports and park districts, state agencies, and federal agencies. These grants can be used for acquisition, development, or improvement of public boating access. Eligible projects include boat launch ramps, parking, restrooms, courtesy docks, transient tie-up facilities, and other boating-related facilities. Grants rely on partnerships and typically leverage other financial resources such as federal funds, private funds and donations, or other local and state funds. The Legislature approved a total funds budget of \$11,112,220 and 9 FTE.

The Aquatic Invasive Species (AIS) Protection Program makes efforts to mitigate the effects of invasive species on native waters through inspecting and decontaminating watercraft. The program became an independent budget structure during the 2011 Legislative session; previously it was under the agency's Education Section. The program was created in 2009 and manages the permitting process and education and outreach efforts which impact non-motorized boaters, motorized boaters, and out of state visitors bringing their boats to recreate on Oregon waterways. The Oregon Department of Fish and Wildlife also funds this program through an interagency agreement to perform roadside boat inspections for AIS. For 2015-2017, this program has an Other Funds budget of \$1,994,348 and 1.6 FTE. This is a continuation of current services under the 2013-15 biennium.

Bills That Did Not Pass

SB 94 – Tsunami Planning

In committee upon adjournment

This bill would have required the Oregon Department of Land Conservation and Development to adopt rules that required high-risk communities to complete tsunami plans. It would also have done the following: required a heavy lift helicopter be available to local governments; directed and requested the Oregon Homeland Security Council, local emergency entities, and government to begin to address issues with regard to fuel in the event of a disaster. The bill would have authorized local governments to establish partnerships, issue revenue bonds, and make loans to private entities to plan for, and finance, fuel alternatives. The bill did not move out of the Ways and Means Subcommittee on Environment and Natural Resources.

SB 803 – Yaquina and Coos Bay Spring Chinook Hatchery Program

In committee upon adjournment

This bill would have appropriated \$370,000 to State Department of Fish and Wildlife for activities related to the administration, operation, and monitoring of Yaquina Bay and Coos Bay spring Chinook hatchery programs established by the Coastal Multi-Species Conservation and Management Plan.

ECONOMIC DEVELOPMENT

Bills that Passed

HB 2643 – Enterprise Zone Expansion

Effective October 5, 2015 Chapter 648 (2015 Laws)

Enterprise zones exempt qualifying businesses that are within a specified boundary from local property taxes on new investments. Municipal or tribal governments may sponsor enterprise zones, typically as a focal point for local economic development. According to the Oregon Business Development Department, there are currently 66 enterprise zones in Oregon—53 of these area in rural areas and 13 are in urban areas. In addition to standard enterprise zones, there are additional designations including long-term rural enterprise zones, reservation zones, and electronic commerce zones.

This law eliminates restrictions on the number of enterprise zones that may be designated at any time in the state. The bill also allows a sponsor of an enterprise zone, electronic commerce zone, electric commerce city, and reservation enterprise zone to designate the zone if certain statutory requirements are met as determined by the Oregon Business Development Department (OBDD). However, prior to the designation or zone change the sponsor is required to submit documentation to OBDD and requires consultation with department. Zone sponsors may be a city, county, port or tribal government.

HB 2652 – SIP “Rural Area” Definition Modification

Effective October 5, 2015 Chapter 518 (2015 Laws)

The strategic investment program provides a partial property tax exemption for up to 15 years for eligible projects, provided the real market value of a new property investment is equal to or exceeds a specific threshold—\$100 million urban or \$25 million rural. The assessed value below the threshold is subject to property tax assessment and the remainder of the value is exempt. This threshold value grows by three percent per year. Businesses that receive an exemption are subject to a community service fee equal to 25% of the property taxes that would have otherwise been imposed. However, this service fee is capped at \$2 million for projects in urban areas and \$500,000 in rural areas.

Prior to passage of this law, a “rural area” was defined as an area located entirely outside of the urban growth boundary of a city with a population of 30,000 or more on December 1, 2002. This law modifies the definition of “rural area” to be an area located entirely outside of the urban growth boundary of a city with a population of “40,000 or more on the date when the application is submitted. It grandfathers existing projects”.

HB 2734 – Brownfield Land-Banking

Effective January 1, 2016 Chapter 631 (2015 Laws)

A “brownfield” is real property where expansion or redevelopment is complicated by actual or perceived environmental contamination. Brownfields must be cleaned up before they can be reused for jobs, housing, and other community needs. This law, introduced at the request of the Brownfield Coalition, authorizes local governments to organize land banks, which could take ownership of brownfields with immunity from legal liability for legacy contaminations. The bill outlines the authority and duties of land bank authorities and the composition of land bank authority boards. A provision to provide property tax abatements to incent cleanup and redevelopment of these properties was ultimately removed from the original bill.

SB 129 – Modifications to the Strategic Investment Program and Gain Share

Effective July 21, 2015 Chapter 757 (2015 Laws)

Passed after a great deal of discussion and debate, this law will revise the state’s Strategic Investment Program (SIP) and the Gain Share Program. It requires the Oregon Department of Revenue to make automatic distributions of gain share payments, rather than appropriating them biennially. It also modifies the distribution formula from the 50/50 state/local government split of income tax revenue generated to a new distribution – 50/50 based on revenue from new jobs within the program, but reduced to 80/20 state/local for all retained jobs. The bill caps gain share income tax distributions at \$16 million per county per year. This will lower local government’s gain share revenue in Washington County. Finally, the bill extends the sunset on the program from January 1, 2019 to July 15, 2024. There were several other bills introduced this session related to the SIP and Gain Share; this was the only one to pass.

SB 5525 – Oregon Business Development Budget (Business Oregon)

Effective July 1, 2015 Chapter 694 (2015 Laws)

This law provides the budget for the Oregon Business Development Department (Business Oregon). The 2015-2017 budget will be \$429.8 million, with 133.74 FTE. The department is funded largely by lottery funds. The new budget is an 8.8 percent decrease from the 2013-15 biennium, but the Department also received funding in other bills. The department is funded largely by lottery funds. SB 5525 provides \$267.5 million to the Infrastructure Financing Authority. Business Oregon's base budget was supplemented by lottery bond funds in HB 5030 and the final reconciliation bill, SB 5507. In addition, lottery fund allocations and expenditure limitations for Business Oregon were increased in HB 5029.

Bills That Did Not Pass

HB 2240 – Review of Economic Development Programs in Oregon

In committee upon adjournment

This bill would have created a Joint Interim Legislative Committee to review economic development programs in Oregon. Under the bill, this committee would have studied and compiled data regarding economic development programs, determined the effectiveness of these programs, and made recommendations for a consistent, statewide evaluation process. This Committee would have reported to legislative interim committees related to business and economic development by October 1, 2016, and would have had authority to introduce legislation to implement its recommendations.

HB 2289 – Tax Credit for Cleaning up Brownfields

In committee upon adjournment

This measure, introduced at the request of the Brownfields Coalition, would have created a tax credit for the cleanup of brownfield property. It passed the first policy committee but did not make it out of the House Revenue Committee.

HB 2435 – Infrastructure Opportunity Fund

In committee upon adjournment

This bill directed Business Oregon and the Infrastructure Finance Authority (IFA) to create the Infrastructure Opportunity Program and Fund that would have invested in infrastructure projects in rural Oregon. It would have directed the Department and the IFA to consider whether the project would: provide immediate job creation opportunities tied to specific business expansion and recruitments in rural Oregon, take advantage of emerging technologies and innovative approaches, maintain existing manufacturing infrastructure or promote new business, or contribute to the economic stabilization and recovery of rural areas in the state. The proposal would have limited these loans to \$2.5 million.

ELECTIONS

Bills that Passed

HB 2635 – Local Option Ballot Measure Title Language

Effective October 5, 2015 Chapter 41 (2015 Laws)

Current Oregon law requires that any proposed local option tax include an explanatory statement explaining the measure’s primary purpose and state the total projected to be raised, in dollars and cents. If the statement in the ballot title for the measure submitted includes an estimated tax impact, the estimate must be based on the most current estimate of assessed value from the county assessor. These proposed taxes must include the statement: “The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of estimate.”

HB 2635 requires the ballot title for a local option tax measure that is projected to have a tax impact to state: “The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of estimate and may reflect the impact of early payment discounts, compression and the collection rate.”

HB 2957 – Local Election Reform

Effective April 22, 2015 Chapter 44 (2015 Laws)

The initiative and referendum process allows people to propose or amend charters/ordinances or adopt or reject an ordinance or other legislative enactment passed by a local governing body. If a chief petitioner gathers and submits the required number of signatures, the ballot will include the initiative or referendum. However, the timeline for a local governing body to hold an election on an initiative or referenda may require a special election, even if a primary or general election is forthcoming. Conducting an election, outside of the designated primary and general elections, can be costly for a local government.

HB 2957 requires citizen initiatives and referenda measures related to county, city or district issues must only be included on regularly scheduled elections in May or November, in odd and even-numbered years.

ENERGY

Bills that Passed

HB 2187 – Transmission of Ocean Renewable Energy

Effective January 1, 2015 Chapter 311 (2015 Laws)

Oregon’s territorial sea, defined as the ocean and seafloor area from mean low water seaward three nautical miles, are favorable locations for siting renewable energy projects, including wave energy. These options for such facilities vary and may require structures and equipment to be anchored to the seafloor in order to transfer energy to on-shore substations. This law makes it a policy position of the State of Oregon that regional transmission planning

processes should adequately consider the transmission of ocean renewable energy from Oregon's territorial sea and adjacent federal waters.

SB 319 – Ocean Renewable Energy Facilities

Effective June 11, 2015 Chapter 386 (2015 Laws)

In 1994, Oregon adopted a Territorial Sea Plan as a detailed guide to evaluating the uses of these waters consistent with state land use policy and other policies and statutes, through the Land Conservation and Development Commission (LCDC). The plan was amended in 2009 to provide state and federal agencies with specific standards for siting and regulating ocean renewable energy facilities in the territorial sea and in 2013 with the adoption of maps designating areas that are and are not appropriate for locating these facilities. Under current law, an ocean renewable energy facility must also obtain a water right and a hydroelectric license from the Water Resources Department. This law exempts an ocean renewable energy facility from regulation as a hydroelectric project and requires the Department of State Lands to develop a proprietary authorization to construct or operate an ocean renewable energy facility in Oregon's territorial sea. It also requires a permit for removal or fill activities in the territorial sea related to an ocean renewable energy facility.

SB 324 – Low Carbon Fuel Standard

Effective March 12, 2015 Chapter 4 (2015 Laws)

In 2009, the Oregon Legislature passed HB 2186 authorizing the Oregon Environmental Quality Commission (Commission) to adopt rules to reduce average greenhouse gas emissions of gasoline, diesel, and substitutes for those fuels by 10% below 2010 levels by the year 2020. However, that authorization was due to sunset at the end of 2015. Among other things, SB 324 repeals the sunset provisions related to those low carbon fuel standards and makes adoption of standards by the Commission mandatory. It also extends the deadline for the greenhouse gas emission reduction to 2025 or later date, if the Commission determines that an extension is appropriate. The measure also authorizes the use of liquefied petroleum gas to meet the low carbon fuel standard. This measure was one of the most contentious of the entire session.

Bills That Did Not Pass

HB 2216 – Offshore Wind

In committee upon adjournment

Principle Power announced plans for the west coast's first offshore wind farm to be located within 16 nautical miles of Coos Bay. The State has jurisdiction to regulate offshore uses up to three nautical miles off its coastline, Oregon's Territorial Sea. According to Principle Power, the project would consist of five units at a water depth of about 1,400 feet using floating wind turbine technology in use or under development in Europe and Asia. They planned to connect turbines by electrical cables and have a single power cable transmitting electricity to the mainland.

This bill would have opened the door for investor-owned utility customers to purchase power from Principle Power's offshore wind project. Investor-owned utilities, the Citizens Utility

Board, and Industrial Customers of the Northwest all opposed the bill. They argued that power generated by offshore wind is extremely expensive, costing three-to-four times what utilities pay for onshore wind, and that HB 2216 was an inefficient way for utilities to buy renewable resources.

HB 2449 – Biomass Tax Credit

In committee upon adjournment

This bill would have updated the Biomass Producer or Collector Tax Credit Program and extended the program through the 2021 tax year (it is currently due to expire in January 2018). The bill would also have created a six-year pilot program for energy production-based incentives for woody biomass, anaerobic digestion, and biomass heating systems. It would have updated the definition of biomass, thereby extending the tax credit to food processing residues, cooking oil, or waste fats, oils, and grease. The expanded definition would have provided additional support for waste-to-commodity energy projects, including the use of fats, oils, and grease for energy generation by wastewater treatment plants.

HB 3470 – Carbon Tax/Cap & Dividend/Greenhouse Gas Emission Standards

(SB 21, SB 965, HB 2082, HB 2086, HB 2159, HB 3176, HB 3250, HB 3252, HJR 10)

In committee upon adjournment

With the increase in the number of Democrats in the Oregon House and Senate from the November 2014 General Election, environmental advocates were encouraged to introduce a variety of legislative concepts that had not been politically feasible in past sessions. With that came a plethora of carbon-reduction concepts including carbon tax, carbon cap and dividend programs, and greenhouse gas emission standards.

House and Senate Environment Committee Chairs held numerous hearings on these carbon reduction concepts. However, in spite of their increased political power, these concepts failed to pique the interest of the majority of legislators. The Oregon Legislature has already adopted non-binding carbon reduction goals in 2007, limiting 2020 carbon output by 10% below 1990 carbon levels and 2050 carbon levels 75% below 1990 carbon levels. One 2015 bill (HB 3470) would have required the Environmental Quality Commission (which oversees the Department of Environmental Quality) to make those goals binding, enforce them, and set fees accordingly.

In 2013, the Legislature authorized funding for a study of a carbon tax in Oregon. Portland State University conducted the study and found that a carbon tax might not negatively affect the state's economy, depending on how it was structured. Still, these proposals all failed in 2015 as questions lingered about cost to the state versus uncertain benefits. Environmental coalitions vowed to put initiatives on these issues on the November 2016 ballot.

ETHICS

Bills that Passed

HB 2019 – Oregon Ethics Commission Expansion

Effective July 1, 2015 Chapter 619 (2015 Laws)

This law expands the membership of the Oregon Government Ethics Commission from seven members to nine members. Under current law, four of the members are appointed by the Governor from persons recommended by the leadership of the Democratic and Republican parties in each chamber of the Legislature and three members are appointed directly by the Governor without leadership recommendation, limited to only two members of the same political party. The new composition will require the Governor to appoint only one member directly. The Governor will appoint the other eight members legislative recommendation – two each by leadership of Democratic and Republican parties in each chamber.

The law reduces the number of days allowed for the preliminary review phase of an ethics investigation (from 135 days to 30 days) and requires all advisory opinions and economic interest statements to be made available online by January 1, 2017.

Local entities, including special districts, are assessed based on a formula that is connected to the Municipal Audit charge collected by the Secretary of State. The bill increases the current 2015-17 assessment of \$1.6 million by an additional \$455,076 to \$2,057,174.

HB 2020 – Public Official Definition

Effective July 1, 2015 Chapter 620 (2015 Laws)

The spouse of the Governor is commonly referred to as the First Lady or First Gentleman of the state. This is an unofficial title, and neither the title nor an explanation of the duties of this person is defined by state statute. Since Oregon does not officially recognize these positions, they have traditionally been the role played by a spouse in the Governor's mansion.

House Bill 2020 formally defines “first partner” as a spouse or domestic partner of the Governor, or an individual who primarily has a personal relationship with the Governor as determined by rule of the Oregon Government Ethics Commission (OGEC). It expands the statutory definition of “public official” in ORS 244.020(14) to include a first partner.

The law prohibits the Governor, First Partner, Secretary of State, State Treasurer, Attorney General, and Commissioner of the Bureau of Labor and Industries from soliciting or receiving an honorarium, money, or any other consideration (as defined in ORS 171.725) for any speaking engagement or presentation. It also expands the list of public officials who need to file statements of economic interest with the OGEC to include the Deputy Secretary of State, First Partner, the Governor’s legal counsel, the Governor’s deputy legal counsel, and all policy advisors within the Governor’s office.

SB 293 – Gift Limit Expansion

Effective January 1, 2016 Chapter 665 (2015 Laws)

ORS 244.020 (6)(a) defines the term “gift” as anything of economic value that is given to a public official, a relative, or member of the public official’s household that is not equally extended to any nonpublic official. Public officials may only accept a total amount of \$50 per year from a single source that has a legislative or administrative interest. These limits also apply to the public official’s relatives and members of the official’s household. The exemptions to the definition of “gift” include admission provided to, or the cost of food or beverage consumed by, a public official or a member of their household or staff of the public official when accompanying the public official at a reception, meal, or meeting held by an organization when the public official represents a state, local, or a special government body. However, this exemption does not extend to relatives of the public official who are not members of their household.

This law extends the exemption from the statutory gift limit to include admission provided to, or cost of food or beverage consumed by, relative of public official who accompanies public official at reception, meal or meeting. The exemption will apply to a “relative” as defined by ORS 244.020 (15):

- (a) The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official or candidate;
- (b) The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse of the public official or candidate;
- (c) Any individual for whom the public official or candidate has a legal support obligation;
- (d) Any individual for whom the public official provides benefits arising from the public officials public employment or from whom the public official receives benefits arising from that individuals employment; or
- (e) Any individual from whom the candidate receives benefits arising from that individual’s employment.

HB 5020 – Oregon Government Ethics Commission Budget

Effective July 1, 2015 Chapter 465 (2015 Laws)

The Oregon Government Ethics Commission (OGEC) is funded by an assessment model - state agencies and local government entities equally fund its operating costs. State agencies pay assessments to OGEC based on full-time equivalent staff positions. Local entities pay assessments based upon a formula based on the Municipal Audit charge collected by the Secretary of State. A portion of these assessment revenues originates as General Fund. Additionally, OGEC collects fines and forfeitures through civil penalties. Such revenues are transferred to the General Fund and are not used to support agency operations. OGEC collected more than \$25,988 in fines and forfeitures in 2011-13 and anticipates collecting approximately \$30,000 during the 2015-17 biennium. Their 2015-2017 budget is \$2,283,828 in Other Funds. This is an 8.2% increase over 2013-15 and includes 8.0 FTE.

FINANCE & TAXATION

Bills that Passed

HB 2171 – Tax Reform

Effective October 5, 2015 Chapter 701 (2015 Laws)

This law extends and modifies several tax credits, prohibits tax credits from being used to offset the Corporation Minimum Tax, declares certain military active service income earned in Oregon exempt from personal income taxes, and expands the existing charitable property tax exemption to certain museums. The museum property tax exemption extension is expected to cost \$100,000 statewide per biennium and will sunset on July 1, 2019.

The bill also requires the Legislative Revenue Officer to prepare an analysis of options for restricting Oregon's state and local revenue system that include:

- a) Alternatives for restructuring the property tax system,
- b) Alternative methods of taxing consumption in the state, and
- c) Alternative methods for taxing business in the state (including net income, commercial activity and value added taxes).

In addition, an analysis for each option will include the estimated impact on:

- a) Oregon's economy,
- b) State and local tax revenue,
- c) Distribution of the state and local tax burden and,
- d) Stability of the state and local revenue system.

The Legislative Revenue Office is required to provide a progress report to the Legislature by December 1, 2015.

HB 2174 – Municipal Audits

Effective March 16, 2015 Chapter 8 (2015 Laws)

Oregon statute requires annual audits of cities and counties with annual expenditures over \$500,000. An accountant must perform these or the Secretary of State (SOS), with an audited financial statement submitted to the SOS. Within 30 days of filing an audit report, a municipality must inform the SOS of the actions it proposes to take to correct any deficiencies that were identified in the audit, such as failure to follow generally accepted accounting principles (GAAP), failure to establish adequate financial controls, or failure to comply with all legal requirements in its financial affairs. If a municipality does not correct deficiencies identified by the SOS for two consecutive audit periods, the SOS may direct the State Treasurer, the Director of the Department of Revenue, the Director of Transportation, and the Director of the Department of Administrative Services to withhold 10% of certain state funds (state shared revenues) until the deficiencies are corrected.

HB 2174 permits the SOS to grant up to a one-year filing extension, or longer in extraordinary circumstances, to a city or county for their audit. It requires cities or counties whose audit

report contains deficiencies to adopt a plan to address these deficiencies and file it with the SOS. It also requires the SOS to prepare an annual report about the timeliness of audit filings and deficiencies for each city and county and to submit this to the appropriate legislative committee by March 1 of each odd-numbered year.

HB 3125 – Food Processing Exemption Expansion
Effective October 5, 2015 Chapter 827 (2015 Laws)

Current law provides a property tax exemption for newly acquired machinery or equipment used by food processing businesses. The machinery and equipment may be new or used as long as the machinery and equipment is newly acquired by the food processor. Food processing businesses are those businesses that freeze, can, dehydrate, concentrate, preserve, process, or repack fruit, vegetables, nuts, legumes, or seafood in any procedure prior to the first sale by the processor. Qualified machinery and equipment is certified by the Oregon Department of Agriculture and is exempt for five years following certification.

HB 3125 expands the existing property tax exemption for qualified machinery and equipment used in food processing to include machinery and equipment used to process grains, bakery products, dairy products, and eggs. These exemptions are effective for property tax years beginning on or after July 1, 2016. The law requires qualified machinery and equipment used to process grains and bakery products to have real market value of at least \$100,000 when placed in service in order to qualify for exemption.

The State Department of Agriculture is required to submit a report on the impact of expanding this exemption to interim Legislative revenue committees by September 15, 2018. The statewide revenue loss to taxing districts is projected to be \$400,000 in the 2015-17 biennium and \$1.9 million in the 2017-2019 biennium.

The Governor issued a letter of concern when she signed the bill, asking the 2016 Legislature to examine some technical issues related to the bill's implementation.

SB 611 – Data Center Central Assessment
Effective October 5, 2015 Chapter 23 (2015 Laws)

ORS 308.505 - 308.665 requires the Department of Revenue to assess utility properties as described in 308.515(1). This is referred to as "central assessment". Central assessment differs from property assessments done by a county assessor in that central assessment follows a unitary assessment approach. Unitary valuation is the process of singularly valuing an integrated group of assets functioning as an economic unit without reference to the component values. Unitary valuation includes the tangible and intangible value of a company in reaching a unitary value. Beginning with the 2009-10 tax year, reflecting general industry changes, the Department of Revenue changed its interpretation of a communication company as defined in ORS 308.515(1). As a result, companies that were previously locally assessed became centrally assessed. The Oregon Supreme Court upheld this interpretation in *Comcast Corporation v. Department of Revenue* (issue related to maximum assessed value remanded to Tax Court). The result of the court ruling was to classify more companies as "communication" companies, and therefore subject to central assessment, including both their tangible and intangible value in their property tax assessment. The composition of a communication

company's tangible and intangible value can vary considerably, and high levels of intangible to tangible value can result in tax assessments several times greater than an assessment based on tangible value only. This change was especially acute for companies newly investing tangible communication property in Oregon.

SB 611 creates new exemptions to companies subject to central assessment. These relate to the value of franchises, satellites used to provide service directly to retail consumers, and an alternative exemption calculation based on a company's historical or original cost of real property and tangible personal property multiplied by 130%. For companies receiving an exemption related to a new qualified project, Oregon allocated value will be based on the greater of \$250 million or the real market value of real and tangible personal property located in Oregon as of the assessment date. The exemptions apply to tax years beginning July 1, 2016.

SB 611 also clarifies that a company that is an owner or lessee of a data center is not centrally assessed under ORS 308.515 if certain conditions are met. The company must own, lease, or use a data center as defined in ORS 308.516. Moreover, the original cost of construction and installation of real and tangible personal property used by the company in the business of communication, unrelated to the company's data centers, cannot equal more than 10% of the original cost of the real and tangible personal property of all data centers owned, leased, or used by the company in Oregon. The law clarifies that data center property of a company that is subject to central assessment must be locally assessed if the total historical or original cost of the real and tangible personal property of all data centers owned, leased, or used by the company in Oregon is equal to or greater than \$200 million. The provisions related to data center property apply to property tax years beginning on or after July 1, 2015.

Bills That Did Not Pass

The Senate and House Revenue Committees discussed three proposals related to property tax reform during the 2015 legislative session. None of the bills moved forward.

HB 2993 – Changed Property Ratio

In committee upon adjournment

This bill would have corrected inequities in tax liabilities between similarly situated and valued properties by modifying how new property is added to the tax rolls using a citywide, rather than countywide, property ratio.

HJR 12/HB 2080/HB 2081 – Reset at Sale

In committee upon adjournment

This package of bills would have referred a constitutional amendment to voters to address inequities that occur when properties are sold for the same price but are subject to different property tax rates.

HJR 20/HB 2141/HB 2142 – Local Option Levies Outside of Measure 50 Limits

In committee upon adjournment

This package of bills would have referred a constitutional amendment to voters allowing them to approve temporary local option levies outside of the current \$10 limit per Ballot Measure 50. SDAO supported this package of measures.

SB 938 – Industrial Improvement Property Tax Exemptions

In committee upon adjournment

SB 938 would have allowed cities and counties to adopt ordinances allowing property tax exemptions of \$2 to \$25 million. It would have required 51% of the taxing entities affected by the property tax exemption to concur with the exemption. Unlike the existing Enterprise Zone Program, the bill did not require any economic development conditions (e.g. job creation) to qualify for the exemption. SDAO opposed the bill because these provisions were retroactive.

GENERAL GOVERNMENT

Bills that Passed

HB 2038 – Recreational Immunity for Aviation Activities

Effective January 1, 2016 Chapter 308 (2015 Laws)

Current Oregon law does not exempt landowners for personal injury, death, or property damage resulting from the use of land for aviation activities. This law creates such limits except under limited circumstances, such as public airstrips and those who charge a fee for the use of the land for aviation purposes.

HB 2277 – Drainage Districts and Flood Control

Effective June 25, 2015 Chapter 544 (2015 Laws)

The Multnomah County Drainage District (MCDD) requested this legislation to expand the authority of drainage districts currently managing federally authorized flood control projects. The law authorizes such drainage districts to acquire, construct, reconstruct, repair, improve, or extend improvements to comply with new and existing drainage district statutes. For drainage districts located within a county with a population greater than 700,000 (Multnomah County), these flood protection activities would be deemed to be “urban services” under ORS 195.065. HB 2277 authorizes the district to adopt ordinances consistent with sanitary, agricultural, public health, or public safety purposes, including flood protection. It authorizes the district to adopt rates, fees, fines, or charges to operate the district and for construction, maintenance, repair, and improvement of the works. A drainage district must provide written notice to any city within the district boundary of any proposed ordinances.

Current law allows drainage districts to assess, tax, or charge a city, county, or town for land situated within the district. HB 2277 maintains that authority, but requires them to be a

provision of an intergovernmental agreement or urban services agreement between the city and the district, or when assessing a city for property located within the district and the costs are under the same terms and conditions as other property owners. A drainage district board of supervisors will also have additional powers related to performing flood control activities.

HB 3315 – Oregon Department of Fish and Wildlife Fees to Other State Agencies

Effective June 25, 2015 Chapter 566 (2015 Laws)

The Oregon Department of Fish and Wildlife (ODFW) has traditionally received its largest source of funding from hunting and fishing licenses, tags, and associated fees. Recently, license and fee revenue have not adequately funded ODFW operations. However, the agency provides a variety of services to other state agencies, with no compensation (e.g. determining water rights for the Oregon Water Resources Department or assisting the Department of State Lands with removal/fill permits). The Ways and Means Natural Resources Subcommittee Co-Chair introduced this measure to require ODFW to track and report on the hours their staff are spending assisting other state executive department agencies, including the applicable hourly rates. This collection will begin on July 1, 2015, and continue for four fiscal years. On July 1, 2019, the agency will begin invoicing other state agencies for services projected in next biennium. By January 1, 2017, ODFW must report to the Legislature on the types of permit review work to be invoiced and a list of statutes and rules applicable to the department's permit review work.

SB 306 – Levee Inspection Assistance

Effective July 6, 2015 Chapter 667 (2015 Laws)

Many levees in Oregon urgently need inspection or repair in order to maintain FEMA accreditation under the National Flood Insurance Program. Historically, the U.S. Army Corps of Engineers performed inspections, but private engineering firms, charging higher fees to cover liability insurance payments, are now conducting these inspections. SB 306 authorizes the Oregon Infrastructure Finance Authority (IFA) to provide loans or grants for levee projects. It also authorizes the Water Resources Department to inspect, evaluate, and assess the condition of a levee with the permission of the levee's owner and maintains the legal liabilities of a levee's owners. Funding for levee inspections is contained in HB 5030 (below).

LABOR

Bills That Passed

HB 2007 – Private Right of Action for Wage Inequality

Effective January 1, 2016 Chapter 307 (2015 Laws)

In 2013, the Legislature passed Senate Bill 744, directing the Oregon Council on Civil Rights to study wage inequality and the factors that contribute to it. In January 2014, the Council issued its formal recommendations to address pay inequality in Oregon and this session, HB 2007 was introduced to address one of its recommendations. This law will protect employees who inquire about, discuss, or disclose information about their wage or the wage of another

employee. The measure also protects an employee who makes a charge, files a complaint, or institutes any proceeding based on the disclosure of wage information by the employee. A violation is an unlawful employment practice that allows an aggrieved employee to file a private right of action.

HB 2763 – Compensation for Public Employees Serving in the Military

Effective April 22, 2015 Chapter 42 (2015 Laws)

ORS 408.240 requires public employers to treat employees who are also members of the National Guard or Reserve as "absent on leave" during periods of deployment and not able to perform their duties. It also prohibits the public employer from paying the employee-service member while they are deployed, though they are required to maintain the service member's position and employer-sponsored benefits. HB 2763 removes the prohibition on compensation, permitting public employers to offer compensation while service members are deployed provided the compensation does not exceed the base salary on the date of deployment. This law is permissive and does not require a public employer to provide compensation while deployed.

HB 3025 – Criminal History Checks for Employment Purposes

Effective January 1, 2016 Chapter 559 (2015 Laws)

This law stipulates when it is an unlawful employment practice for an employer to exclude an applicant from an initial interview. It prohibits this exclusion solely because of a past criminal conviction (if the employer requires disclosure of convictions on an employment application or prior to an initial interview) or, if no interview is conducted, prior to a conditional offer of employment. HB 3025, however, does not prevent an employer from considering an applicant's conviction history when making a hiring decision. It also creates exceptions for employers subject to federal, state, or local law that require that the applicant's criminal history be considered. It also exempts law enforcement agencies, employers in the criminal justice system, and nonemployee volunteers. The Bureau of Labor and Industries is given enforcement authority; there is no private right of action.

SB 185 – Unlawful Employment Practice Related to Social Media

Effective January 1, 2016 Chapter 229 (2015 Laws)

In 2013, the Legislature passed House Bill 2654 to prohibit employers from pressuring employees or job applicants to provide access to their social media accounts or to add the employer as a social media contact as a condition of employment. It also prohibited retaliation based on refusal to disclose such information about an employee or job applicant's social media account. SB 185 makes it an unlawful employment practice for an employer to require an employee or job applicant to authorize the employer to advertise on the personal social media account of the employee or applicant. A "personal social media account" is defined to clarify that such an account is unrelated to any business purpose of the employer and it is not provided by or paid for by the employer.

SB 454 – Paid Sick Leave

Effective January 1, 2016 Chapter 537 (2015 Laws)

Oregon became the fourth state in the nation to adopt a paid sick leave requirement. SB 454 requires most employers with ten or more employees to implement a sick leave policy allowing an employee to earn, accrue, donate, or use up to 40 hours of paid sick time per year. Most employers with fewer than ten employees are also required to implement an unpaid sick leave policy. The new law requires employers to maintain certain records related to the accrual and use of sick leave by employees and to provide written notice to employees of the requirements of the sick leave law. Employers are allowed to require medical verification in certain circumstances and to prohibit retaliation or discrimination against an employee who asks about or uses sick leave.

Employers located in Portland are required to comply with the same provisions, but are required to provide up to 40 hours of paid sick leave if they have six or more employees. All other local government regulations related to sick leave are preempted. The Bureau of Labor and Industries is responsible for processing and investigating complaints regarding the measure and for enforcement with employers found to be out of compliance. This law also provides for a private right of action.

SB 492 – Assault Victim Leave

Effective January 1, 2016 Chapter 352 (2015 Laws)

Under current law, any employer with at least six employees is required to allow an eligible employee to take reasonable leave to seek services, assistance, or treatment if they are a victim of domestic violence, harassment, sexual assault, or stalking. The employer may limit the amount of leave if the absence would create an undue hardship on the business. An employee is allowed to use any paid accrued vacation leave or paid leave offered in lieu of vacation leave, but the employee does not have the right to use accrued sick leave when taking domestic violence leave. SB 492 allows employees to use accrued sick leave or personal business leave for the purpose of handling matters related to domestic violence, harassment, sexual assault, or stalking.

SB 681 – Change in Definition of Local Government for Benefit Eligibility

Effective January 1, 2016 Chapter 300 (2015 Laws)

The Public Employees' Benefit Board (PEBB) designs, contracts, and administers a program of benefits for the state as an employer and cities, counties, or special districts can enroll in benefits plans offered by PEBB. These benefits include medical and dental coverage, life, accident, disability and long-term care insurance, and flexible spending accounts. PEBB also offers health care insurance options for retirees who are not yet eligible for Medicare and individuals in other participating groups. SB 681 changes the definition of "local government" to include inter-governmental entities.

SB 968 – Preemption on Local Flexible Work Schedule

Effective June 25, 2015 Chapter 591 (2015 Laws)

In an effort to improve efficiency and reduce labor costs, some employers are increasingly scheduling optimal staffing levels through use of part-time employees and requiring employees to remain on-call. This law preempts all local government authority to set requirements relating to work schedules before sine die of the Legislature's 2017 regular session. It creates an exemption that allows local governments to set such work schedule requirements for public employers and public contractors and subcontractors.

Bills That Did Not Pass

HB 2004 – Lifting Preemption on Setting Minimum Wage

In committee upon adjournment

This bill would have repealed the preemption of local government authority to set minimum wage requirements. Similar measures were introduced but also did not pass (HB 2956 and SB 130).

HB 2012 – Minimum Wage Increase

In committee upon adjournment

In 2002, Oregon voters enacted Measure 25, setting the Oregon minimum wage at \$6.90 an hour and directing the Bureau of Labor and Industries to adjust the Oregon minimum wage annually for inflation, as determined by the annual change in the U.S. Department of Labor's Consumer Price Index. The current Oregon minimum wage is \$9.25 an hour. House Speaker Kotek strongly supported HB 2012 that would have raised Oregon's minimum wage to \$13.50 by 2017. It would have also adjusted it annually for inflation in years thereafter. None of the many other bills introduced to increase the state's minimum wage were passed. (See HB 2008, 2009, SB 332, 597, 610, 682).

HB 2646 – Parental Leave for School-Related Activities

In committee upon Adjournment

This bill would have made it an unlawful employment practice for an employer to fail to grant an employee unpaid leave in order to attend a child's school-related activity.

SB 87 – Modifications to Required Interviews of Veterans in Public Employment

In committee upon adjournment

ORS 408.225 governs veterans' preference in public employment. In 2011, the Legislature passed HB 3207 (codified as ORS 408.237) to compliment ORS 408.225 as an attempt to increase the number of veterans who qualified for interviews for public employment. Since its passage, the implementation of the interview statute proved difficult. SB 87 was introduced to simplify and clarify how veterans' preference was to be applied. It repealed existing statutes governing veterans' preference in interviewing and public employment and established processes to implement the preference in such a way as to emphasize in-person interviews for

veteran applicants. The bill passed in the Senate but stalled in the House. It is likely that a work group will improve this measure over the interim and reintroduce it in 2016.

SB 888 – Flexible Work Schedules

In committee upon adjournment

SB 888 would have required employers to notify employees of their work schedule 21 days in advance and would have permitted employees to request flexible or predictable work schedules from their employers. It would have required employers to grant flex schedule requests subject through a process that attempted to establish a mutually acceptable work schedule. The measure would also have required employers to provide notice of schedule changes and to compensate employees for changes in certain circumstances and would have made retaliation against employees who requested a flex or predictable schedule an unlawful employment practice. A similar bill - HB 2010 - was introduced in the House.

LAND USE

Bills That Passed

SB 534 – Services to Airports

Effective July 27, 2015 Chapter 787 (2015 Laws)

This law is intended to help the Aurora Airport. It permits a city and airport to enter into an agreement that allows a city to extend sewer and water services to an airport without requiring annexation, or to consent to eventual annexation.

Bills That Did Not Pass

HB 2633 – DLCD Natural Hazard Rule-Making

In committee upon adjournment

This bill would have required the Department of Land Conservation and Development (DLCD) to create rules for natural hazard planning related to landslides, coastal erosion, and tsunamis under Goal 7 of the statewide land use planning goals. DLCD would have been required to develop best practice guidelines for communities working on Goal 7, which includes flooding and wildfires.

HB 3147 – Industrial Development Study

In committee upon adjournment

This bill would have required the Department of Land Conservation and Development to provide a report on opportunities to decrease the amount of time needed to site and develop industrial uses.

HB 3447 – Tsunami Planning Assistance

In committee upon adjournment

The Oregon Department of Land Conservation and Development (DLCD) released “Preparing for a Cascadia Subduction Zone Tsunami: A Land Use Guide for Oregon Coastal Communities” on January 15, 2014. It was intended to assist vulnerable communities incorporate tsunami resilience measures into their local land use programs. The guide can be tailored by communities to address their individual tsunami risk and location, and provide comprehensive information focused on land use planning approaches to reduce tsunami hazard risk and implement important land use resilience measures. This bill directed the DLCD to develop guidelines, best practices, model plan provisions, and recommendations for building code provisions related to tsunami resilience. It also would have appropriated monies to enable DLCD to assist communities in implementing tsunami guidance and resilience measures.

SB 716 – Industrial Lands Expansion in Metro

In committee upon adjournment

This bill would have authorized Washington, Multnomah, and Clackamas Counties to each designate one large-lot industrial reserve of 150 to 500 acres. The bill failed to receive the necessary votes to get out of the Senate Environment and Natural Resources Committee.

PUBLIC CONTRACTING

Bills That Passed

HB 2282 – Least Cost Policy Analysis and Enforcement

Effective January 1, 2015 Chapter 708 (2015 Laws)

This law was introduced and eventually passed as a transportation-related bill. However, during the final weeks of session, proposed amendments would have made profound changes to the existing requirements for public contracting agencies to construct public improvements at the lowest cost to the agency.

Current law requires public contracting agencies to prepare an annual list of all public improvement projects it intends to perform using its own equipment and personnel that will have an estimated cost of \$125,000 or more.

The proposed amendments (A -10), which were not adopted, would have required public contracting agencies to prepare an analysis of how the contracting agency’s decision to use its own equipment and personnel conforms to the “least cost” policy. For transportation projects, the analysis would have had to include a comparison of the estimated cost of constructing the project using a private contractor to the estimated cost of using the contracting agency’s own equipment and personnel. When estimating the costs in-house, the agency would have had to use applicable prevailing wages. The analysis would have had to account for internal costs of

administration, overhead, subcontracts, tax revenue not realized to the state, in addition to other costs a private contractor would incur (insurance, warranties, and seeking participation from small business enterprises). The proposed amendments would have allowed any person to file a complaint for alleged violations with the Oregon Bureau of Labor and Industries. Allowable enforcement actions taken against the contracting agency could have included a settlement agreement, a contested case hearing, a cease and desist order, or a fine of up to \$5,000 for each violation. Public entity opposition prevented a work session on the amendments.

HB 2375 – Standardization of State Solicitation and Contract Forms

Effective July 6, 2015 Chapter 646 (2015 Laws)

This law requires the Attorney General and the Department of Administrative Services (DAS) to develop standardized solicitation, contract, and template forms for all state procurements. It also requires training or previous professional experience for state employees doing procurements. DAS is required to establish training and experience requirements, develop recommendations for promoting best practices, and report to the Legislature by November 30, 2015. The measure originally applied to local contracting entities as well, but those requirements were dropped in response to local government concerns.

HB 2716 – MWESB Certification Compliance

Effective June 10, 2015 Chapter 325 (2015 Laws)

This law requires contracting agencies to include a requirement in public contracts that the contractor remain certified as a disadvantaged, minority, women or emerging small business enterprise during the entire term of the contract. This requirement applies when a contract was awarded based on the contractor's certification. Contractors are required to include a similar provision in any subcontracts for the project.

The law includes an exemption for emerging small businesses that no longer qualify for certification during the term of the contract because of an increase growth in the number of full-time employees or in average annual gross receipts. It also requires public contracting agencies to verify that a contractor is paying certified subcontractors in accordance with the Public Contracting Code (ORS 279B.220 and ORS 279C.570). Contracts must be terminated if the contractor or subcontractor is no longer certified. These requirements begin January 1, 2016.

HB 2987 – 1.5% Green Technology Modifications

Effective June 16, 2015 Chapter 424 (2015 Laws)

Public agencies entering into a public contract to construct a public building, or to reconstruct or perform a major renovation of a public building, are currently required to reserve at least 1.5% of the total contract price to include appropriate green technology. "Green energy technology" is defined as a system employing solar or geothermal energy for space or water heating or to generate electricity, or passive solar building design that reduces energy use from other sources by at least 20%. If a contracting agency finds that green energy technology is not appropriate for the project, they must set aside at least 1.5 percent of the total contract price in order to include green energy technology in a future public building project.

HB 2987 eliminates the requirement to reserve money for a future project only if the contracting agency determines including green energy technology is not appropriate and if no state funds were used for the project (if state funds were used, the carry over requirement continues). The law requires contracting agencies to report the amount that would have been spent on green energy technology, if it had been appropriate, to the Department of Energy (ODOE). ODOE is required to submit annual reports on how contracting agencies are complying with these requirements to the Legislature. The law takes effect January 1, 2016.

HB 3248 – Termination Requirements for QRF (Nonprofit) Contracts

Effective June 22, 2015 Chapter 526 (2015 Laws)

The 1997 Legislature established the QRF (qualified rehabilitation facility) program, intended to encourage and assist individuals with disabilities through useful and productive gainful employment by assuring an expanded and constant market for sheltered workshop and activity center products and services. HB 3248 requires a public agency that terminates a contract with a qualified nonprofit QRF to require any new contract for the same work to offer employment to the employees of terminated QRF at wages and health benefits (for employees working more than 28 hours) that are at least as favorable as under former contract. It also requires that any employment offer made by the new contractor must stand for at least 90 days. Public agencies are allowed to procure products and services from sources other than QRFs provided the former QRF employees receive an employment offer of at least 90 days. The law also allows a contracting agency to require QRFs to comply with applicable local ordinances that govern labor standards and to disqualify from public contracts any QRF that repeatedly violates local labor standard ordinances. These requirements take effect on January 1, 2016.

HB 3303 – Service-Disabled, Veteran-Owned Business Preference

Effective June 25, 2015 Chapter 565 (2015 Laws)

The Oregon Business Development Department, also known as Business Oregon, certifies businesses that meet the criteria for the Disadvantaged Business Enterprise (DBE), Minority/Women Business Enterprise (MWBE), and Emerging Small Business (ESB) certifications. To qualify, a firm must be an independently owned and operated for-profit business, properly licensed and registered with the Secretary of State, and be at least 51% owned and controlled by a socially and economically disadvantaged individual who manages the day-to-day operations. Businesses meeting these criteria are eligible for certain contracting opportunities and preferences with federal, state, county, and city governments and special jurisdictions. HB 3303 expands disadvantaged enterprise certification to service-disabled veteran-owned businesses. It also changes the name of the “Office for Minority, Women, and Emerging Small Business” within the Oregon Business Development Department to “Certification Office for Business Inclusion and Diversity.”

SB 137 – Prevailing Wages

Effective June 18, 2015 Chapter 482 (2015 Laws)

Under Oregon law, the hourly wage for a public works contract must be equal to or greater than the prevailing wage rate. Public works projects are typically covered by the state’s

prevailing wage rate law under the following conditions: the total project cost exceeds \$50,000, the project is for construction, reconstruction, major renovation or painting, and the project directly or indirectly uses public agency funds. Projects on privately owned roads, highways, buildings, structures, and improvements of any type are subject to prevailing wage law if the project uses both private funds and at least \$750,000 in public funds. Construction projects where one or more public agencies will occupy or use at least 25% of the project's square footage are also subject to prevailing wage laws. .

SB 137 changes the definition of “public works” to include projects on both publicly and privately owned roads, highways, buildings, structures, or improvements of any type as long as it receives at least \$750,000 in public funds. In addition, it deletes the requirement that the project must also include private funds.

SB 491 – Pay Equity in Public Contracting

Effective June 16, 2015 Chapter 454 (2015 Laws)

This law only applies to the State of Oregon. It directs the Department of Administrative Services (DAS) to establish a pay equity training program for contractors with 50 or more full-time workers who plan to bid on state contracts over \$500,000. It prohibits state contracting agencies from awarding a contract unless the bidder possesses a certificate indicating completion of the DAS training program. The law also prohibits a contractor from retaliating against an employee who discusses compensation with another employee. It takes effect on January 1, 2016.

SB 584 – DBE & MWESB Regulation

Effective May 21, 2015 Chapter 148 (2015 Laws)

This law gives local contracting agencies authority to regulate violations related to a disadvantaged business enterprise (DBE), or minority, women, or emerging small business enterprise (MWESB). It allows a local public contracting agency to suspend the rights of a bidder, proposer, contractor, or subcontractor to submit a future bid or proposal or to receive a future award of a public contract with a known violation of ORS 200.075. Such violations will include use of a DBE or MWESB in a manner that does not provide a commercially useful function, and for contractors, subcontractors, bidders, and proposers who fail to provide a commercially useful function. SB 584 increases the suspension period for a first offense from 90 days to one year, and from 1 year to 3 years for a second offense. A third offense will continue to carry a five-year suspension as authorized under current statute. The law requires an affected public contracting agency to notify Business Oregon of investigations of DBEs or MWESBs that fail to perform a commercially useful function. Under existing statute, a public contracting agency may investigate fraudulent certification as a DBE or MWESB, but are required to forward any civil penalties imposed and collected to the Office for Minority, Women and Emerging Small Business. SB 584 authorizes a public agency to keep such penalties.

SB 596 – Construction Flagging Contractor Licensing

Effective July 1, 2017 Chapter 356 (2015 Laws)

This law creates new licensing requirements for construction flagging contractors. The bill exempts public bodies from the requirement to become a licensed contractor, and prohibits a person from undertaking, offering to undertake, or bidding to do work as a construction-flagging contractor unless they hold a license. In order to be licensed, a contractor must file an application with the Oregon Construction Contractors Board, obtain a surety bond, and have general liability insurance.

SB 675 – Modification to Demonstrating Responsibility

Effective June 22, 2015 Chapter 539 (2015 Laws)

This law simply eliminates the requirement that a bidder and a proposer for a public contract to a state or local contracting agency are able to demonstrate responsibility by submitting signed affidavit that attests that bidder or proposer complied with tax laws of this state. Instead, a bidder or proposer for a public contract with a local contracting agency is required to attest to being current on state taxes.

Bills That Did Not Pass

HB 2528 – Task Force on Citizen Review of Public Works Projects

In committee upon adjournment

This measure would have created a Task Force on Citizen Review of Public Works Projects. The Task Force would have studied the need for, and feasibility of, establishing a board to review, approve, and oversee state public works projects over \$30 million that involved geologically sensitive conditions

HB 2616 – Funding for State Apprenticeship and Training

In committee upon adjournment

This bill would have provided additional funds for the newly created State Apprenticeship and Training Fund. It proposed a fee of \$500 per \$1 million increment on public improvement projects of \$1 million or more. These funds would be used to provide grants to programs providing career and technical education opportunities in the construction industry. The bill also proposed to modify the definition of public works to include any project receiving tax abatement, incentive or other funds from a public entity.

HB 2617 – Responsible Subcontractor Requirements

In committee upon adjournment

Under current law, contracting agencies must award public improvement contracts to the lowest responsible bidder. A “responsible bidder” is defined under ORS 279C.375 and includes requirements such as having the resources and expertise to complete the contract, holding current valid licenses, having liability insurance, and having completed previous contracts with a satisfactory performance record. HB 2617 would have required public contracting agencies to include a provision in public improvement contracts allowing

contractors to award subcontracts only to responsible subcontractors, who would provide an affidavit demonstrating their responsibility. It required a bidder for a public improvement project to submit an affidavit attesting that the bidder did not have outstanding construction debt owed under a court award or to employees as unpaid wages, and stating that the bidder was in compliance with state tax laws. A contractor submitting false statements on an affidavit would have been barred from receiving awards for public improvements.

HB 2976 – Employment Restrictions for Contracting Agency Personnel

In committee upon adjournment

This measure would have prohibited employees who separated, voluntarily or otherwise, from a public contracting agency from becoming, or seeking employment with a contractor doing business with the contracting agency for two years after the date of the employee's separation. It would have also required such employees to sign an agreement upon separation agreeing to follow these restrictions.

HB 3052 – Biodegradable Lubricants

In committee upon adjournment

This bill would have required contractors and subcontractors to use biodegradable lubricants for any public contract. It provided exceptions for equipment or machinery that needed specific types or grades of lubricants. It also would have required the Department of Environmental Quality to specify the standards for biodegradable lubricants by rule, considering, at a minimum, the impacts on water quality in determining which lubricants are biodegradable.

HB 3061 – Family Friendly Contracting

In committee upon adjournment

This bill would have established a 15-member task force to develop a framework for giving preferences to contractors who bid on public contracts with family-friendly employment practices. Examples of such practices included: paid sick leave, flexible/predictable working hours, paying a living wage, and pay equity.

HB 3321 – Posting Requirements for Public Contracts

In committee upon adjournment

This bill would have required all public contracting agencies to post specific information on the Oregon Transparency Website. It would have required posting “public contract” information, including a purchase, lease, rental, acquisition, sale or disposal of personal property, goods or services, personal services, and minor repairs, alterations and maintenance for a public improvement. The Oregon Department of Administrative Services would have been responsible for listing all current state and local public contracts, all contracts in the last five years, the total amount of each contract, a graphic representation of the amount spent on all contracts as a percentage of the contracting agency’s total budget, a graphic representation of the amount spent for full-time equivalent positions for contractors compared with full-time equivalent positions of the contracting agency, and a wage and salary comparison of contractor positions with equivalent positions for the contracting agency. It also would have

required contractors to provide the contracting agency with copies of records, books, and documents used in performing the public contract and would have made those records subject to public records law. Additionally, meetings between the public contracting agency and contractor would have been subject to public meetings law.

HB 3322 – Contracting Impact Study

In committee upon adjournment

This bill would have required public contracting agencies to conduct a study before procuring services that had an estimated contract price greater than \$250,000. The study would examine how the procurement would affect employment, worker income, social services and public assistance programs, other businesses, tax revenue for the local jurisdiction, the environment, and any other local concerns. The study results would have to be posted on the state of Oregon Transparency Website. The bill would have also required contractors to provide health insurance and other benefits to employees comparable to the insurance and benefits of public contracting agency employees. Finally, HB 3322 would have required public contracting agencies to conduct public hearings on the procurement.

SB 644 – One Percent for ADA Compliance

In committee upon adjournment

This bill would have required all public bodies, except special districts, to reserve one percent of the cost for constructing, reconstructing, or renovating a park or public building for renovating or improving existing parks or public buildings to meet the current accessibility standards for persons with disabilities under the Americans with Disabilities Act.

SB 809 – Apprenticeship Use

In committee upon adjournment

This bill would have required bidders on public contracts of \$5 million or more to employ apprentices for 10% or more of the hours their employees worked on contracts during the previous calendar year, or by belonging to a local joint committee whose training agents employed apprentices for 10% or more of the hours those employees worked on contracts in the previous calendar year. In 2021, the requirements would have applied to contracts of \$3 million or more.

SB 824 – Clean Diesel Standards

In committee upon adjournment

Originally, SB 824 would have required the Environmental Quality Commission (EQC) to adopt standards that would be at least equivalent to the California standards for non-road diesel vehicles. The proposed bill would also have required certain public improvement contracts to reserve one percent of the total contract price for performing qualified retrofits or repowers on non-road diesel engines used under the contract. Facing an outburst of concerns, the bill was amended to create a 19-member task force to investigate the establishment of a statewide clean diesel program.

PUBLIC RECORDS/MEETINGS

Bills That Passed

HB 2208 – Disclosure for Individuals Certified or Licensed by DPSST

Effective June 10, 2015 Chapter 313 (2015 Laws)

This law provides an outright disclosure exemption for personal information of individuals certified or licensed by Department of Public Safety Standards and Training. This exemption includes current licensees, past licensees, and certificate holders. It specifically exempts from disclosure: residential address and telephone number, personal cellular numbers, personal email addresses, driver license numbers, emergency contact information, Social Security numbers, and dates of birth. HB 2208 also provides for a public records disclosure exemption for personal information of civil code enforcement officers unless the public interest requires disclosure. A code enforcement officer must make the request that their information not be disclosed.

HB 3037 – Non-Disclosure of Public Employee Information

Effective April 9, 2015 Chapter 26 (2015 Laws)

The Public Records statute (ORS 192.502) provides a list of records that are exempt from disclosure and generally do not have a public interest disclosure requirement. Although the addresses, Social Security numbers, birthdates and telephone numbers of public body employees and volunteers fall within this category, the exemption does not apply if the requestor shows by clear and convincing evidence that the public interest requires disclosure. HB 3037 removes the public interest disclosure based on clear and convincing evidence. It extends the exemption to residential addresses, telephone numbers, personal cell phone numbers, personal email addresses, driver's license numbers, employer-issued identification card numbers, and emergency contact information. It requires a public body that has this information to redact that personal information prior to releasing documents. See HB 3557 below.

HB 3557 – Public Interest Standard - Modifications to HB 3307

Effective July 28, 2015 Chapter 805 (2015 Laws)

This law restores the clear and convincing public interest standard for the release of personal information of public employees, volunteers and others pursuant to a public records request. Instead, it requires public bodies to delay responding and a requirement to forward such requests to the affected persons or their representatives. HB 3557 permits a public body to recover the costs associated with notifying individuals whose personal information is sought and for determining whether clear and convincing public interest standard has been met. It also grants civil and criminal immunity to public bodies or public official for any harm caused by the release of the information based on its determination that clear and convincing evidence of public interest required its disclosure.

SB 9 – Audit of State’s Retention and Disclosure Practices

Effective June 15, 2015 Chapter 413 (2015 Laws)

SB 9 directs the Secretary of State (SOS) to conduct a performance audit to examine the retention and disclosure practices of state agencies for public records and public record requests. The audit will examine a sample of large, medium, and small state agencies to identify and make recommendations regarding best practices and procedures for receiving and processing public records requests. This audit must review: agency response to requests by gathering and disclosing responsive records; record retention, and how agencies calculate fee estimates, decisions to impose or waive fees, timeliness, accuracy and completeness in responding to public records requests; responsibility for record retention management and record request processing and establishing guidelines concerning the use or creation of email, text messaging, instant messaging and other forms of social media. The audit report must be submitted by November 20, 2015.

SB 294 – OGEC Rule-Making Authority for Executive Sessions

Effective January 1, 2015 Chapter 666 (2015 Laws)

The Oregon Government Ethics Commission (OGEC) is responsible for reviewing and investigating complaints alleging that a public official has violated statutes governing executive sessions (ORS 192.660). However, they do not have rulemaking authority to implement, interpret, or describe the procedures for the governance of executive sessions. SB 294 gives OGEC rulemaking authority to enforce the statutes regarding executive sessions; this authority does not allow rules defining representative of news media.

Bills That Did Not Pass

HB 3505 – Public Records Overhaul

In committee upon adjournment

This bill was introduced in response to Governor Kitzhaber’s scandal related to the release of emails associated with his fiancé. It would have created a minimum three-year retention period for public records, required public bodies to respond to public record requests within seven days of the request, and at seven-day intervals until the request had been completed. It would have waived the fees associated with the generation of those records if the requested records were not delivered within three weeks and it would have considered it a public record denial if requested records had not been delivered to the requestor within six weeks. An alternative method to calculate fees was included in the measure and would have required public bodies to store electronic records, including social media and texts, on storage equipment owned by the public body within 30 days.

PUBLIC SAFETY

Bills That Passed

HB 2270 – State Resilience Officer

Effective July 27, 2015 Chapter 762 (2015 Laws)

Senate Bill 33 (2013) created a 17-member Task Force on Resilience Plan Implementation to facilitate a comprehensive plan to implement the Oregon Resilience Plan to reduce risks and improve recovery after the next Cascadia earthquake. In December 2014, the Task Force narrowed more than 140 recommendations in the Plan to those most critical to implement in the 2015-17 biennium. The top recommendation was to centralize ongoing, long-term, statewide resilience oversight within the Governor's office. This law creates the new position of State Resilience Officer within the Governor's office to provide centralized policy guidance and oversight of efforts to implement the Oregon Resilience Plan.

SB 775 – Natural Disaster Preparedness

Effective June 23, 2015 Chapter 541 (2015 Laws)

Natural disaster preparedness is on the minds of Oregonians and was a frequent topic of discussion during the 2015 Legislative Session. Many bills were introduced to improve Oregon's resilience in the event of a natural disaster - most likely a large earthquake and/or tsunami. There were few successes, but SB 775 did manage to squeak through the process in spite of complaints from the Oregon Trial Lawyers Association. The law makes the pre-disaster measures taken by a utility or other party inadmissible in court as evidence of negligence. Many Oregon utilities have engaged in disaster planning preparation and evaluations, though not all measures to protect the utility have been implemented due to cost and time limitations. SB 775 prevents such lack of action from being used against a utility in the event of a natural disaster.

TRANSPORTATION

Bills That Passed

HB 2075 – Aviation Fuel Tax Increase

Effective October 5, 2015 Chapter 700 (2015 Laws)

This law increases fuel taxes by two cents on jet fuel, aviation gasoline (avgas), and motor fuel used for aviation, raising approximately \$5.25 million for the Oregon Department of Aviation in the 2015-17 biennium. This increased tax begins January 1, 2016, and ends in 2021. It provides criteria for the Oregon Department of Aviation to use in allocating these tax revenues, including: safety and infrastructure development, aviation-related economic benefits for airports, assistance with meeting federal match requirements, emergency preparedness and resiliency, and other airport improvement projects.

HB 2614 – Non-Retail Gas Dispensing

Effective June 2, 2015 Chapter 207 (2015 Laws)

The Boring Water District requested this law. Under current law, nonretail fuel dispensing facility customers that fail to meet the 900-gallon threshold may lose access to the card lock facility. HB 2614 provides exceptions to the 900-gallon requirement for a number of special districts, including people’s utility districts, domestic water supply districts, mass transit districts, metropolitan service districts, special road districts, sanitary districts, sanitary authorities, rural fire protection districts, water improvement districts, water control districts, and 9-1-1 communications districts.

HB 5040 – Oregon Department of Transportation Budget

Effective July 27, 2015 Chapter 761 (2015 Laws)

HB 5040 is the FY 2015-2017 biennial budget for the Oregon Department of Transportation. It provides the department with an all-funds budget (including federal funds) of nearly \$3.5 billion, down 28 percent from the legislatively approved budget for fiscal years 2013-2015.

Bills That Did Not Pass

HB 2293 – Transportation Planning

In committee upon adjournment

Initially introduced as a speed bump bill, HB 2293 was gut-and-stuffed to require the Oregon Transportation Commission to expand the scope of long-range transportation planning to include all modes, and to ensure that the plan was reviewed and upgraded every six years.

HB 3302 – Transportation Funding Package

In committee upon adjournment

This bill, introduced at the request of the Oregon Transportation Forum as a possible vehicle for a comprehensive, multimodal transportation-funding package. It contained several elements the Forum agreed should be included in a funding package. As drafted, it proposed an increase and indexing of the state gas tax, funding for the next iteration of *ConnectOregon*, and would have required the Oregon Department of Transportation to conduct a multimodal transportation needs assessment.

HB 3310 – Clean Diesel Requirements

In committee upon adjournment

This bill would have required the Oregon Environmental Quality Commission (EQC) to conduct rulemaking to develop a phased-in requirement for public and privately owned diesel trucks and buses to be upgraded, repowered, or retrofitted to reduce diesel emissions. It also would have required the EQC to adopt a phased-in implementation of the use of best available control technology for on-road diesel vehicles owned by a municipality or public utility.

WASTEWATER / WATER QUALITY / INVASIVE SPECIES

Bills That Passed

HB 2451 – Loan Terms Extended Under the CWSRF

Effective January 1, 2016 Chapter 626 (2015 Laws)

The Clean Water State Revolving Fund (CWSRF) provides low interest loans to local governments for the planning, design, and construction of wastewater treatment facilities, implementation of nonpoint source pollution management plans, and design and implementation of estuary management plans. Loans must be repaid within twenty years, and all repayments, including interest and principal, are credited to the CWSRF. Eligible agencies include federally recognized Indian tribal governments, cities, counties, sanitary districts, soil and water conservation districts, irrigation districts, various special districts, and certain intergovernmental entities are eligible for these loans. Since 1990, the program has loaned \$1 billion to 146 communities. HB 2451 permits the Department of Environmental Quality to use this fund to buy or refinance the debt obligations of public agencies for all eligible projects. The law also extends the loan term that may be authorized, from 20 to 30 years.

HB 3522 – Water Quality Permit Fee Increase

Effective January 1, 2016 Chapter 640 (2015 Laws)

The Environmental Quality Commission has the authority to increase water quality permit fees annually in an amount to pay for the anticipated increased costs of administering the permit program or three percent, whichever is less. HB 3522 authorizes a larger fee increase if the increase is included in DEQ's legislatively approved budget. This year, that larger fee increase (12%) was authorized in HB 5018 – DEQ's budget.

SB 209 – Invasive Species Council and Coordinator

Effective January 1, 2016 Chapter 486 (2015 Laws)

The Oregon Invasive Species Council is a 17-member body established by the Legislature in 2001. It is made up of local, state, federal, tribal, and private entities that work to combat the threat posed by invasive species. This law requires the appointment of a State Invasive Species Coordinator to serve as a nonvoting, ex officio member of the Council and clarifies the voting roles of other members.

SB 829 – Applying Methodologies for Water Quality Standards

Effective January 1, 2015 Chapter 587 (2015 Laws)

This law requires the Oregon Department of Environmental Quality (DEQ) to follow certain procedures when developing or selecting methodologies for assessment of water under sections 303(d) and 305(b) of the federal Clean Water Act. Prior to publishing draft assessments of water based on methodologies, DEQ is required to solicit independent scientific and technical input, including scientific peer review, and to provide notice and an opportunity for the public to comment on the draft assessment methodologies. It also requires

DEQ to provide the Oregon Environmental Quality Commission an informational overview of draft assessment methodologies.

HB 5018 – Department of Environmental Quality Budget

Effective July 1, 2015 Chapter 593 (2015 Laws)

The budget for the Oregon Department of Environmental Quality (DEQ) supports the department’s land, air, and water quality programs. It includes a 12% fee increase for water quality permits for the 2015-17 biennium. This large increase was to address the nearly \$1.2 million shortfall for the department’s water quality program. DEQ will use these additional funds to restore six FTE in the permitting program and to replace an outdated permit data management system. As a result, DEQ has committed to forego their annual 3 percent increase for two years. Stakeholders worked closely with the agency to ensure that the fee increases would result in improvements to the permitting program. A budget note directs the agency to hire an outside consultant to evaluate the water quality-permitting program and to make recommendations; DEQ must report to the Legislature on this evaluation.

Bills That Did Not Pass

HB 3482 – Government Reporting of Pesticide Applications

In committee upon adjournment

This bill would have required the Oregon Department of Environmental Quality to create a new form for local and state government to use when reporting pesticide applications. The bill would have also implemented specific reporting timelines and records retention requirements for government agencies.

WATER

Bills That Passed

HB 5005 – General Obligation Bonds for Water Development Fund

Effective July 15, 2015 Chapter 685 (2015 Laws)

HB 5005 authorizes issuance of general obligation bonds, revenue bonds, and other financing agreements for the 2015-17 biennium, including \$30.5 million to the state’s Water Development Fund. This fund was established in 1977 under Article XI-I of the Oregon Constitution to finance loans for the construction of water development projects including irrigation, drainage, fish protection, watershed restoration, and municipal uses. Only municipalities and communities with populations less than 30,000 are eligible for the fund.

HB 5030 – Lottery Bonds for Water Supply Projects

Effective August 12, 2015 Chapter 812 (2015 Laws)

HB 5030 allocates lottery bonds for various public purpose projects, including nearly \$21 million to support water supply development projects. Allocations for water-related projects and programs are as follows:

- Approximately \$6.25 million for loans and grants under Oregon’s Water Supply Development Fund. Eligible projects include instream and out-of-stream water supply development projects as authorized under SB 839 (2013);
- \$2 million for qualifying feasibility study grants through the state’s Water Conservation, Reuse and Storage Investment Fund;
- \$750,000 to support local place-based water resource strategies (SB 266);
- \$11 million to support Umatilla Basin projects; and
- \$1 million for Mosier Creek Well Casing.

Bills That Did Not Pass

SB 712 – Fish Persistence Requirements and Municipal Water Rights

In committee upon adjournment

Municipal water suppliers introduced this measure in response to a 2013 Oregon Court of Appeals decision in *Waterwatch v. Cottage Grove*. That decision applied “fish persistence conditions” retroactively to the undeveloped portion of pre-1998 municipal water right permits despite the fact that these conditions were adopted during the 2005 Legislature (HB 3038). The Oregon Water Resources Department adopted rules and provided guidance to affected municipalities that had applied the fish persistence conditions when they submitted an application for an extension, or in other words, “to date.” Multiple applications were processed in this manner; however, not all of the extension applications were processed because of administrative holds and a backlog of applications. As a result, applications that had not been processed by the department became subject to the court’s retroactive interpretation of the 2005 law.

This bill would have applied the fish persistence conditions to those remaining pre-1998 municipal water permits as of the date of the court’s decision (December 11, 2013). When it was heard in the Senate Environment and Natural Resources Committee, WaterWatch vehemently opposed the measure and the Chair directed the parties to find a solution. To comply with session timelines and keep the bill alive, it was moved to the Senate Rules Committee where it ultimately died. (See SB 971, below).

SB 971 - Fish Persistence Requirements and Municipal Water Rights

In committee upon adjournment

This was the second attempt by municipal water interests to address the application fish persistence conditions (along with the failure of SB 712, above). The measure was the result of negotiations between the Special Districts Association of Oregon and WaterWatch of Oregon. It would have applied fish persistence conditions to pre-1998 permits beginning on June 29, 2005 – the date HB 3038 became effective. The bill would have helped reduce the effects of these requirements on municipal water suppliers that had made investments prior to the 2005 date. However, municipal water suppliers who had made investments after June 29, 2005, would have still faced retroactive conditions based on the Oregon Court of Appeals ruling, such as having some portion of their water retroactively conditioned for fish

persistence. One city proposed an amendment to set the date as December 11, 2013 (the same as SB 712). This was supported by only a few of the members of the Rules Committee and opposed by WaterWatch and the Oregon Conservation Network. The bill never moved out of committee.

The failure of SB 712 and 971 will result in the retroactive application of fish persistence conditions on a municipality's next extension application for pre-1998 permits. Those conditions will be applied to the portion of water that was not put to use as of the date of the last approved extension of time.

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