

OREGON PUBLIC PORTS



ASSOCIATION

2021 LEGISLATIVE SESSION

FINAL REPORT





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2021 LEGISLATIVE SESSION IN REVIEW

The 81st Oregon Legislative Assembly convened an “organizational session” on January 11, 2021 and delayed the convening of the session due to heightened security concerns following the US Capitol Insurrection and Inauguration of President Biden. During the organizational days more than 1,500 measures were printed. Those measures were subsequently referred to one of the over 50 committees and sub-committees, thereby enabling committees to conduct hearings on bills when the session began on January 19, 2021. This was the sixth full Legislative Session that was constitutionally limited to 160 days under Ballot Measure 71 (2010). Leadership outlined an ambitious legislative calendar under HCR 21, which established various deadlines, and set a target date of June 18th for *Sine Die* (151 days). However, the legislative session ended on June 26th at 5:37 pm, just over 30 hours before the constitutional requirement to adjourn *Sine Die*. As a result, the session lasted 159 days, one day short of the maximum amount of time session permitted under Oregon’s Constitution.

During the November election House Democrats maintained a 37-23 majority, which provided them one more seat than necessary to achieve a super-majority (3/5ths or 36 votes) required to increase taxes without Republican support. The majority party re-elected Tina Kotek (D-Portland) as the House Speaker (the first Speaker to serve five consecutive sessions in several decades) after Rep. Janelle Bynum challenged Rep. Kotek for the position. Rep. Barbara Smith-Warner (D-Portland) was elected the Majority Leader. This marked the third session in a row, and the third time in Oregon history, the majority party was composed primarily of women (22 of the 37).

Representative Christine Drazen (R-Canby) was elected as the House Minority Leader. Nine of the 23 members in the Republican caucus were women. In addition, there were 15 freshman legislators in the House this session (9 Democrats and 6 Republicans).

The Senate Democrats, maintained their 18-12 seat advantage after the General Election, thereby giving the democrats a super-majority as well. The Senate elected Peter Courtney (D-Salem) to an unprecedented 10th term as President of the Senate and Rob Wagner (D-Lake Oswego) as the Majority Leader for his first term in that position. Senator Fred Girod (R-Stayton) was elected as the Senate Minority Leader for his first session in that position. There were seven freshman Senators entering this session, 4 Democrats and 3 Republicans. It should be noted that during the session Senator Brian Boquist (Dallas) declared his independence and did not participate in Republican Caucus meetings. Nevertheless, he largely voted with their caucus. Furthermore, Senator Art Robinson (R-Cave Junction) withdrew his name as a member of the Republican Caucus. He also voted largely with his Republican colleagues.

In early December, Governor Brown released her proposed \$25.6 billion General Fund budget – 8% more than the previous biennium. However, her proposal was considered a “cuts budget”

because that amount of funding would not maintain existing service levels for the state. Her budget document outlined many of her policy priorities including securing additional federal assistance to address the many demands associated with the global COVID-19 pandemic, wildfire response and mitigation after the historic forest fires that plagued the state, racial and environmental justice, as well as affordable housing and homelessness.

The Legislature met in special session three times in 2020 to deal with the unprecedented challenges. Due to the Governor's Executive Orders, the Capitol was closed to the public. As a result, hearings during those special sessions were conducted virtually while floor sessions were conducted in person. This caused a great deal of controversy because Republicans felt that the public was being shut out of the legislative process. During one of these special sessions Rep. Mike Nearman (former R-Independence) intentionally compromised the building's security which allowed demonstrators to breach the Capitol. Those demonstrators were ultimately repelled by the State Police and Rep. Nearman became the first sitting legislator to be removed from office in Oregon because of his actions. These special sessions addressed: eviction and foreclosure moratoriums, unemployment insurance, law enforcement reforms, education funding, alcohol to go, and public meetings that could no longer be held in person due to the Governor's various Executive Orders that were designed to mitigate the spread of the virus.

To say that the 81st Legislative Session was unprecedented is an understatement. As noted previously, the Capitol was closed to the public and staff support was limited. All hearings were conducted remotely to avoid legislators being near one another. The House had to cancel floor sessions and several committees on two different occasions due to COVID exposures and the need for members to quarantine. The business of the Legislature was cancelled on another occasion due to an ice storm that knocked power out for thousands of Oregonians, including some legislators. Furthermore, House and Senate Republicans utilized stall tactics to slow the business of the assembly. On one occasion, Senate Republicans denied a quorum, and in the House, Republicans required the full reading of bills prior to them being debated on the floor. Republicans eventually dropped this requirement when a deal between the majority and minority parties was struck to even out the membership of the House Redistricting Committee. As previously mentioned, the House removed one of its own members for the first time in the state's history. Additionally, in February, prior to Rep. Nearman's expulsion, a panel of lawmakers determined that Representative Diego Hernandez (D-Portland) had used his position inappropriately and created a hostile working environment. Rep. Hernandez was asked to resign by his own caucus and refused to do so until March 15, 2021, the day before the House was set to expel him.

The May revenue forecast, used to balance the upcoming biennial budget, brought some unexpected news. Despite record high unemployment, personal income taxes combined with enhanced unemployment insurance, federal payment protection program for employers, rental assistance, direct federal assistance, and corporate income taxes far exceeded predictions at the beginning of the pandemic and resulted in more than \$1 billion in unanticipated revenue, shattering all expectations. This excluded the \$1.5 billion sent to Oregon cities and counties as

well as the \$2.6 billion that was provided to the state under the Congressional American Rescue Plan Act (ARPA).

Not only did personal and corporate tax revenues far exceed anticipated levels, but the personal income tax kicker is also predicted to kick to the tune of \$1.9 billion while the corporate kicker is expected to kick \$847 million into the K-12 Education fund. This final forecast set the stage for the legislature to balance the state's budget for the next two years, complete the remaining budgets and enact the measures projected to have budgetary impacts.

In the end, the Legislative Assembly was able to close the pre-session current service level funding gap largely due to two federal relief packages enacted by Congress. The legislature was able to balance the budget with relative ease compared to some of the previous recent sessions. The final Legislatively adopted budget amounted to nearly \$26.8 billion (compared to \$23.7 billion in the 2019-2021 biennium) in General Fund and Lottery resources, an increase of 12.1% over the previous biennium. Democrats declared that the legislative session was a resounding success. Meanwhile, Republicans complained bitterly that the legislature's urban centric agenda only deepened the urban-rural divide in the state.

NOTABLE ACTIONS TAKEN THIS SESSION

- \$9.3 billion budget for K-12 schools, the largest school budget in state history, which is 3.3 percent higher than the previous biennium.
- Passage of the Clean Energy Bill (HB 2021) that establishes a 2040 deadline for investor-owned utilities in Oregon to get to 100% clean energy. Major components include:
 - A timeline for clean energy targets for a 100% reduction by 2040 in the baseline greenhouse gas emissions, determined by the average emissions in 2010-2011.
 - The Community Renewables Investment Fund to provide grants for public entities and indigenous tribes to plan and build community renewable energy projects.
 - Community Benefits Advisory Panels, a study of small-scale renewable energy projects, labor provisions, and a prohibition on the siting of new fossil gas plants.
- Addressed housing supply providing \$530 million for acquiring, building, and preserving affordable housing, supportive housing with services, revolving loan fund, early learning co-location financing, and stabilizing manufactured home parks.
- Comprehensive wildfire package (SB 762) and investments of more than \$600 million for wildfire recovery, response, and prevention programs. This includes \$150 million for housing and land acquisition; \$75 million to house and care for survivors; \$10 million for programs to incentivize fire-resistant building strategies; and more than \$100 million toward infrastructure.

- Plastic Pollution & Recycling Modernization Act (SB 582) modernizes Oregon's recycling system by expanding access to recycling, upgrading facilities that sort recyclables, and involving producers and manufacturers in the structure and funding of the program.
- Passage of a massive water and sewer package to improve access to clean water in communities across Oregon. The package invests \$420 million in drinking water, wastewater, and groundwater programs and infrastructure projects across the state.
- The legislature authorized \$110 million in economic development funding to support brownfield cleanup and redevelopment, main street revitalization, investment in emerging business sectors, and grants for the live events industry.
- \$120 million approved for broadband planning and infrastructure grants to be distributed to local communities, schools, libraries, and key projects throughout the state. The budget also includes full funding for the Oregon Broadband Office.
- Allocation of \$100 million to provide medical care to uncovered people including undocumented adults, DACA recipients, legal permanent residents with a 5-year ban, and young adults who age out of Cover All Kids.
- \$350 million investment in behavioral health programs to expand access to mental health and addiction services, and to grow and diversify our state's mental health workforce. Part of this investment includes residential centers and housing for Oregonians with behavioral health needs.
- Passage of the Secure Firearms Requirements & Gun Free Zones that requires firearm owners to store guns safely with a cable lock, in a locked storage container, or in a gun safe when not under the control of the owner. The bill designates the State Capitol as a gun-free zone and allows schools and other local governments to prohibit concealed carry of firearms in their buildings.
- Investment of \$100 million in the Special Public Works fund to support communities in meeting their infrastructure needs.
- Temporary measures approved to prevent rental evictions and foreclosures.
- Established the Oregon Rural Capacity Fund to assist in securing economic development grants for rural communities.
- Multiple bills addressing equity in policing, the courts, and justice reform.
- Passage of a Healthy Homes initiative that invests in home repairs for low-income Oregonians to improve energy efficiency, safety and drive down costs.

- Streamlined Oregon’s response and recovery programs and systems by consolidating them under the new Oregon Department of Emergency Management (ODEM), which will coordinate emergency response year-round.

This session faced several exceptional challenges and will be remembered for years to come. Some of the most difficult include the prohibition of the public entering the Capitol which required the hearings and testimony to be conducted via video conferencing. They struggled with technical and logistical difficulties throughout the session, oftentimes resulting in limiting the time for individual testimony before those committees, multiple COVID-19 exposures resulting in members and staff having to quarantine and delaying the business of the body, an ice storm that knocked power out for thousands, including legislators, and the removal of a sitting House member.

LOOKING AHEAD

After the session ended much of the attention was shifted from policy and to redistricting and reapportionment. Due to the delay in receiving data from the US Census, the Oregon Supreme Court granted the Legislative Assembly additional time to complete redistricting and reapportionment by September 27, 2021. Oregon gained an additional Congressional seat thanks to population growth, an increase of roughly 393,000 since 2010. The Senate Redistricting Committee had a Democratic majority of three with two members of the Republican Party. As a result of an agreement struck in the House by the two-party leaders, the House Redistricting Committee was initially split evenly 3 Republicans to 3 Democrats. The Senate passed the congressional and legislative maps along party lines on the first day of special session, however, things did not run as smoothly on the House side. The House Speaker broke the negotiated agreement to balance the House Redistricting committee equally. She instead appointed two committees, a Congressional Redistricting Committee with two Democrats and one Republican and a legislative Redistricting Committee with four Democrats and four Republicans. Aside from strong Republican opposition in committee and on the floor, other issues delayed the vote of the bill including the inability to hold floor sessions due to a member testing positive for COVID-19 and a Republican walkout. As a result, the House remained in session until the deadline, passing both bills on the last day. The congressional map passed the house party-line and received concurrence from the Senate, while the legislative map passed with two Democrats joining the Republicans in voting no.

Former Secretary of State, Bev Clarno, and three other former Republican officials filed a challenge to the newly passed congressional districts in the Marion County Circuit Court on October 11th. They argue that the plan amounts to blatant partisan gerrymandering that is unconstitutional and contrary to state law. The petitions will not be considered by that court. Instead, the law provides for a five-member panel, named by Chief Justice Martha Walters, to include one member from each of the current congressional districts. If the panel decides the plan does comply, the next step is the Supreme Court. The panel has until October 22nd, 10 days

after the deadline for filing objections, to set a schedule for considering written and oral arguments. It must decide on those petitions no later than November 24th. Appeals of the panel's decisions then go directly to the Supreme Court with a deadline of November 29th, when notices must be filed. If the panel upholds the Legislature's plan for congressional districts unanimously, the justices will proceed to hear the appeals. The Supreme Court has until January 3rd to decide on the appeals and must make the plan final by February 7th.

Objections to the legislative maps and supporting arguments have been filed directly with the Supreme Court (which meets the October 25th deadline) challenging the boundaries of Representative Marty Wilde's seat. The Legislature and the Secretary of State are parties to the lawsuit, which state why the plan does not comply with the standards outlined in state law and the Oregon Constitution — and how it should be corrected. They have until November 8th to file their responses to the challenges. The justices will then have until November 22nd to decide the lawsuits. If the court decides no changes are required, the plan takes effect January 1, 2022. If the court decides changes are required, the justices will issue an opinion and direct Secretary of State Fagan to make the changes.

Voters will decide the fate of two legislative referrals. The first measure, SJR 12, would amend the Oregon Constitution to add that the state “ensure that every resident of Oregon has access to cost-effective, clinically appropriate and affordable health care as a fundamental right balanced against the requirements to fund schools and other essential services. The second referral, SJR 10, is a Constitutional Amendment that would remove language in the Constitution allowing slavery and involuntary servitude as a punishment for a crime. Each of these measures will be on the November 2022 ballot.

To qualify a statutory measure for the ballot 112,020 signatures must be collected; constitutional measures will require 149,360 signatures. The deadline to turn in signatures is July 8, 2022. So far there have been 37 petitions submitted to the Secretary of State but only 4 have been approved for circulation so far.

Due to term limits, Governor Brown is prevented from running for the same office in 2022 and has now presided over her last long legislative session. That leaves the highest public elected office open and there has been speculation as to who will mount a credible campaign. Several have announced their intent to run including House Speaker Tina Kotek and current State Treasurer, Tobias Read. Republican perennial candidate Bud Pierce announced his candidacy for the top office last spring. In addition, Sen. Betsy Johnson (D-Scappoose) announced she will give up her Democratic Party affiliation and enter the race as an Independent. With respect to other statewide elective offices, State Treasurer, will be up for election in November 2022, while Secretary of State Shemia Fagan has stated that she intends to fulfil her current term of office.

Finally, SCR 25, which was passed by the Assembly establishes limits on the number of measures that may be drafted for the 2022 legislative session by each Senator, Representative, interim committee, the Governor, and the Chief Justice of the Supreme Court. Each Senator

will be allowed to introduce two bills (an increase from previous short sessions), each Representative will be allowed to introduce two bills, each committee will be permitted to introduce 3 bills and the Governor and Chief Justice will be permitted to introduce three bills each (a decrease of 2 from previous short sessions).

DYNAMICS OF THE 81st LEGISLATIVE ASSEMBLY

Session Length:	159	Bills, Resolutions, etc. Introduced:	2,519
Date Convened:	January 19, 2021	Bills Signed by Governor:	685
Date Adjourned:	June 26, 2021	Bills Vetoed:	2

OREGON SENATE

Democrats: 18

Republicans: 11

Independent: 1

Senate Caucus Leadership:

Senate President Peter Courtney (D-Salem)

Senate Majority Leader Rob Wagner (D-Lake Oswego)

President Pro Tempore James Manning (D-Eugene)

Deputy Majority Leader Elizabeth Steiner Hayward (D-Portland)

Majority Whip Lew Frederick (D-Portland)

Majority Whip Sara Gelser (D-Corvallis)

Assistant Majority Leader Michael Dembrow (D-Portland)

Assistant Majority Leader Kate Lieber (D-Beaverton)

Senate Republican Leader Fred Girod (R-Stayton)

Deputy Leader Chuck Thomsen (R-Hood River)

Assistant Republican Leader Lynn Findley (R-Baker, Grant, Harney)

Republican Whip Dennis Linthicum (R-Klamath Falls)

OREGON HOUSE OF REPRESENTATIVES

Democrats: 37

Republicans: 23

House Caucus Leadership:

Speaker of the House Tina Kotek (D-Portland)

Majority Leader Barbara Smith-Warner (D-Portland)
Speaker Pro Tempore Paul Holvey (D-Eugene)
Majority Whip Andrea Salinas (D-Lake Oswego)
Deputy Majority Whip Julie Fahey (D-West Eugene/Junction City)
Assistant Majority Leader Pam Marsh (D-Ashland)
Assistant Majority Leader Rachel Prusak (D-Tualatin/West Linn)
Assistant Majority Leader Janeen Sollman (D-Hillsboro)

Republican Leader Christine Drazen (R-Canby)
Deputy Republican Leader Daniel Bonham (R-The Dalles)
Republican Whip Duane Stark (R-Grants Pass)
Assistant Republican Whip Kim Wallan (R-Medford)
Republican Assistant Deputy Bill Post (R-Keizer)
Assistant Republican Leader Shelly Boshart Davis (R-Albany)
Assistant Republican Leader Cedric Hayden (R-Roseburg)
Assistant Republican Leader Rick Lewis (R-Silverton)

**OPPA LEGISLATIVE COMMITTEE MEMBERS
2020-2021**

John Burns
IP of Coos Bay

Ivo Trummer
Port of Portland

Paula Miranda
Port of Newport

Andrea Klaas
Port of The Dalles

Michele Bradley
Port of Tillamook Bay

Margaret Barber
IP of Coos Bay

Ryan Neal
Port of Morrow

Lisa Middleton
Port of Morrow

Roxie Cuellar
IP Coos Bay

Kevin Greenwood
Port of Hood River

I am grateful to the OPPO, the Executive Committee and the Legislative Committee for their support and guidance through the session and am looking forward to the opportunities and challenges going forward. I am proud to represent the Oregon Public Ports Association.

2021 LEGISLATIVE REPORT

ECONOMIC DEVELOPMENT BILLS - PASSED

HB 2037 – Increase in Maximum Loan Amount Under OBDF

Effective: January 1, 2022 Chapter: 19 (2021 Laws)

The Oregon Business Development Fund (OBDF) is a revolving loan fund that provides term, fixed-rate financing for land, buildings, equipment, machinery, and permanent working capital. Participants must typically be a traded-sector business in manufacturing, processing, or distribution. The program gives preference to projects located in rural and distressed areas and to small businesses with fewer than 100 employees. Applicants for the program must demonstrate the ability to create or retain jobs because of the loan. Expansion projects can be financed for up to 40 percent of eligible project cost and participation of a lending or financing partner is required. HB 2037 increases the maximum loan amount from the OBDF from \$1 million to \$2 million beginning January 1, 2022 and requires Business Oregon to annually adjust the maximum amount to reflect inflation.

HB 2343 – Enterprise Zone Relief

Effective: September 25, 2021 Chapter: 552 (2021 Laws)

Any city, county or port may designate an area within the city, county, or port as an enterprise zone by joint resolution and subject to approval by Oregon Business Development Department (OBDD aka Business Oregon). Under ORS 285C.135 and 285C.200, qualified property (not including land) owned or leased and newly placed into service by a qualified business firm in an enterprise zone is fully exempt from property tax for three to five consecutive years. The property tax exemption may apply to new and growing businesses, and the requirements for qualification can include conditions on timing, local hiring, increases in hiring, and business operations. HB 2343 permits the governing body of an Enterprise Zone sponsor to adopt a resolution to suspend employment obligations of a participating firm due to pandemic impacts. Under the bill a qualifying business may continue to receive an exemption if failure to meet qualifications results from the pandemic and state of emergency declared on March 8, 2020 if the resolution with alternative requirements is adopted by the governing body. The bill contains reporting requirements, provides refunds of taxes already collected for non-compliance of Enterprise Zone requirements during this period, and requires that a resolution may not be adopted after 45 days following effective date of Act.

HB 2518 – Brownfield Redevelopment

Effective: September 25, 2021 Chapter 529 (2021 Laws)

This bill, introduced at the request of the Oregon Brownfield Coalition, requires Oregon Business Development Department (OBDD) to establish a forgivable loan program for the purpose of reimbursing costs to the owner or operator of a brownfield property that incurs specified eligible costs for the removal or remedial action at the brownfield property. Under

the bill the amount of a forgivable loan is equal to the lesser of 50 percent of eligible costs incurred by owner or operator or \$250,000. Allows additional forgivable loan equal to 25 percent of eligible costs for up to two specified enhancements owner or operator includes in removal or remedial action (like creating a vehicle charging stations, affordable housing development, or park space). Limits total amount of forgivable loan to lesser of 100 percent of eligible costs incurred by owner or operator or \$500,000. Allows additional forgivable loan enhancement for specified uses of brownfield property after completion equal to lesser of 25 percent of eligible costs incurred by owner or operator or \$125,000. The bill creates the Oregon Brownfield Properties Revitalization Fund with an appropriation of \$5,000,000 from the General Fund to the Department for purposes of the forgivable loan program. Requires OBDD to establish by rule the procedures and criteria for program administration that must include methods of distributing forgivable loans, loan amount, and term of loan. OBDD is required to consider how participation by minority-owned businesses, women-owned businesses, and emerging small businesses may be encouraged. OBDD will be required to report to the Legislative Assembly by January 1, 2023, the data regarding recipients of forgivable loans and any third parties with which recipients contracted.

HB 5006 - Broadband Funding in Christmas Tree Bill

Effective: August 6, 2021 Chapter 669 (2021 Laws)

HB 5006 includes \$120 million of American Rescue Plan Act (ARPA) Capital Project funds for Business Oregon's Broadband Fund. Monies in the fund are available to provide grants or loans through the Oregon Broadband Office and for the administrative costs of the office. Eligible uses of the grants and loans include projects for the planning and development of broadband service infrastructure. The bill also allocates ARPA funds for legislator sponsored broadband projects, some of which include direct funding to communities and organizations.

ECONOMIC DEVELOPMENT BILLS - FAILED

HB 2218 – Study of Economic Impacts of Wetlands

This measure would have required Business Oregon to study the impact of laws related to wetlands on economic development, and to report the results of the study to interim committees of the Legislative Assembly by September 15, 2022. The measure passed the House but remained in the Ways & Means Committee.

ENVIRONMENTAL BILLS – PASSED

HB 2021 – Decarbonization of Oregon's Electricity

Effective: September 25, 2021 Chapter: 508 (2021 Laws)

This bill is a product of intensive negotiations between the state's largest utilities, environmental justice groups, and renewable energy advocates. The bill requires utilities with more than 25,000 customers, PGE, and Pacific Power, to submit plans to reduce emissions by

80% from a baseline amount by 2030, 90% by 2035, and eliminate emissions by 2040. Most states have opted to ratchet down greenhouse gas emissions by requiring utilities to gradually increase the amount of power they get from renewable energy sources like wind and solar. Oregon, which has already had such a “renewable portfolio standard” since 2007 is taking a more straightforward approach: requiring the large electrical utilities to reduce their overall carbon emissions, which are tracked by the Department of Environmental Quality. The bill also bans the expansion or new construction of power plants that burn natural gas or other fossil fuels, sets labor standards for any large-scale renewable energy projects built in the state, includes \$50 million in grants for community renewable energy projects, allows cities in Oregon to create so-called “green tariffs,” where they agree to pay utilities more money for power from a cleaner mix of sources in order to meet their own climate goals and requires power companies to consider input from low-income ratepayers, environmental justice communities, federally recognized tribes and others as they develop strategies for reducing emissions.

HB2377 – Recovery of Insurance Assets from Dissolved Businesses

Effective: September 25, 2021 Chapter: 221 (2021 Laws)

This bill, introduced at the request of Oregon’s Attorney General, essentially modifies the statute of limitation for the pursuit of remaining insurance assets of companies that no longer exist. It accomplishes this by adding a provision to Oregon law clarifying that a party can pursue claims against a dissolved corporation or Limited Liability Company to the extent of available insurance assets, subject to otherwise applicable statutes of limitation. The bill is based on similar laws adopted in other states, including Washington and California. The Attorney General pursued this bill because those assets would become a windfall for the insurance companies and could harm taxpayers. For example, the state is a Potential Responsible Party (PRP) in the Portland Superfund site. It is estimated that cleaning up the harbor will be about \$1.7 billion. Without the recovery of these remaining assets the Attorney General has argued that Oregon taxpayers will be responsible for a greater share of the cost of cleaning up the harbor than if these assets were not pursued and collected.

HB 3185 – Agricultural Drainage Channels

Effective: January 1, 2022 Chapter: 256 (2021 Laws)

In 2019, the Oregon Legislative Assembly passed HB 2437 that authorized limited maintenance activities without a removal-fill permit from the Oregon Department of State Lands in dry, traditionally maintained, agricultural drainage channels under certain circumstances. This bill defines “undisturbed wetland” as a wetland that has not been materially affected by human activity and as further defined by Oregon Department of State Lands by rule. The bill prohibits spreading of material in an undisturbed wetland during agricultural channel maintenance.

HB 3372 - DEQ Chronic Violator Provisions

Effective: September 25, 2021 Chapter: 307 (2021 Laws)

Current law authorizes the Oregon Department of Environmental Quality (DEQ) to refuse to

issue, modify, suspend, revoke, or renew any permit issued if the department finds that the applicant: made material misrepresentations or false statements in the permit application; failed to comply with conditions of a permit; or violated applicable rules, standards, or laws. HB 3372 authorizes the Oregon Department of Environmental Quality (DEQ) to request information from an applicant for an air quality, water quality, solid waste, reuse and recycling, or hazardous waste permit or license. The information requested would need to be sufficient for the DEQ to evaluate the permittee or license holder's history of compliance with environmental quality laws over a 10-year period. The bill authorizes the DEQ to consider the permit or license holder's history of compliance when determining whether to deny, revoke, suspend or refuse to renew a permit, but stipulates factors that must be considered prior to making such a determination. HB 3372 specifies that any decision to deny, revoke, suspend or refuse a permit or license is subject to approval from the director of the DEQ.

SB 246 – Radioactive Materials

Effective: January 1, 2021 Chapter: 38 (2021 Laws)

Recently, the state became aware that some radioactive materials were sent to and disposed at the Arlington Hazardous Waste site in Oregon. This material was disposed in violation of existing laws. This bill modifies the definition of radioactive waste and requires the Energy Facility Siting Council (EFSC) to adopt standards and rules necessary to prevent the disposal of radioactive waste in Oregon. In addition, the bill provides the ODOE Director and EFSC additional authority for the administration and enforcement of laws related to the disposal of radioactive waste.

SB 582 - Plastic Pollution and Recycling Modernization Act

Effective: January 1, 2022 Chapter: 681 (2021 Laws)

This bill requires packaging producers to share responsibility for effective management of their products after use. Oregon is the second state in the United States to adopt a producer responsibility policy for packaging. The new law requires establishing a single list of materials that can be recycled anywhere in Oregon, regardless of whether it is an urban or rural community. This will reduce consumer confusion about what can and can't be placed in the recycling bin.

Facilities that process recyclable materials will be required to meet new performance standards, including improved material quality, more detailed reporting about where recyclables go, and paying living wages to facility workers. These processing facilities must send the sorted materials to end markets that can handle the material appropriately – without creating plastic pollution or other social harms. Producers will be obligated to help make sure materials collected in Oregon reach these responsible end markets.

SCR 17 - Environmental Justice Framework

Filed with Secretary of State

This resolution establishes a state environmental justice framework of principles. All state agencies are required to consider equity and environmental justice when their implementing statutory and regulatory responsibilities.

ENVIRONMENTAL BILLS – FAILED

HB 2386 – Independent Scientific Review Board

This bill would have established the Oregon Independent Science Review Board (Board). The board would have addressed requests for independent scientific review of complex, multidisciplinary issues that require involvement of multiple agencies. The "Secretariat," consisting of the Board Administrator and all personnel employed in the Secretariat would have been placed within the Institute for Natural Resources at Oregon State University among other provisions.

HB 2479 – Black Carbon

This bill would have included black carbon and certain aerosol air contaminants in the definition of global warming and required the Department of Environmental Quality to track estimated human-caused black carbon emissions in the state and estimate the net impact of human-caused black carbon sources on climate change among other provisions.

HB 2674 – Diesel Engine Taxes

Originally this bill would have directed the Department of Environmental Quality to study the impacts of engine emissions on the environment and provide results of study in a report to interim committees of Legislative Assembly no later than September 15, 2022. However, an amendment to replace the bill would have imposed excise, privilege, use and other taxes on diesel engines and nonroad diesel equipment and authorizes the department to pay the actual expenses of the department for the administration and enforcement of the clean diesel engine taxes out of moneys received from the clean diesel engine taxes. Under the bill the department would have transferred the balance of the moneys received from the clean diesel engine taxes in the Clean Diesel Engine Fund after payment of administrative and enforcement expenses. It also imposed taxes of 3.5 percent for rentals of nonroad diesel equipment and 2 percent for rentals of all other qualified heavy equipment, with certain moneys transferred to the to the Clean Diesel Engine Fund. Required moneys attributable to the privilege tax imposed on heavy-duty vehicles be transferred to the Clean Diesel Engine Fund. Requires moneys attributable to the privilege tax imposed on light-duty vehicles be transferred to the Connect Oregon Fund.

HB 2814 - Diesel Emissions

This bill would have required the Department of Environmental Quality (DEQ) to study program and policy approaches to reducing diesel engine emissions attributable to indirect sources of air contamination. The study would have included: 1) an evaluation of diesel emissions reductions attributable to commodity transactions; 2) an evaluation of available approaches, tools, and models for quantifying the diesel emissions and public health impacts attributable to different types of indirect sources of air contamination; and 3) an evaluation of programs and policies in other jurisdictions designed to reduce emissions attributable to indirect sources of air contamination.

HB 3269 – DEQ Emergency Response Program

The Department of Environmental Quality’s Emergency Response Program works to prevent and respond to spills of oil and hazardous materials, including herbicides, insecticides, residues resulting from any industrial or manufacturing process, and other materials that pose a substantial threat to human health or the environment. Hazardous waste management fees collected from producers are partially used to fund the Emergency Response Program. HB 3269 would have directed the Department of Environmental Quality (DEQ) to study and develop strategies to fund DEQ’s emergency response program, provide updates on progress of the study to interim committees of Legislative Assembly, and to provide a final report on June 15, 2022.

SB 286 – Environmental Justice Task Force Name Change

In 2007, the Legislature enacted SB 420 (ORS 182.535 – 182.550) creating a 12-member Environmental Justice Task Force (EJ Task Force). This bill would have renamed the EJ Task Force as the Environmental Justice Council (Council) and established the Council within the Department of Environmental Quality. Furthermore, the bill directed the Council to develop an environmental vulnerability assessment and required natural resource agencies to utilize the environmental vulnerability assessment.

GENERAL GOVERNMENT BILLS – PASSED

HB 2168 – Establishment of Juneteenth as State Holiday

Effective: September 25, 2021 Chapter: 201 (2021 Laws)

June 19th of each year commemorates the emancipation of slaves in the United States and is also known as Juneteenth, Emancipation Day, Jubilee Day, and Freedom Day. Juneteenth, or June 19, 1865, is considered the date when the last slaves in America were freed, when Union General Gordon Granger rode into Galveston, Texas, and issued General Order Number 3 announcing the end of the Civil War and the end of slavery. HB 2168 formally establishes Juneteenth on June 19 as a state holiday.

HB 2345 – Rural Capacity Assistance

Effective: July 27, 2021 Chapter: 614 (2021 Laws)

This bill establishes the Oregon Rural Capacity Fund (Fund) to provide resources to Oregon's Economic Development Districts (EDDs) to assist rural jurisdictions to learn about, apply for, and manage grants and other funding opportunities to support workforce, infrastructure, economic development, and community development. It requires Oregon Business Development Department to develop and communicate program policy and purposes, determine moneys available, consult and coordinate with EDDs on distribution, and make distributions from Fund. Requires periodic consultation with League of Oregon Cities, Association of Oregon Counties, Oregon School Boards Association, and Special Districts Association of Oregon on program implementation. Limits use of funds by individual EDDs to provide grant writing, grant administration, rural grant, and rural capacity building services to rural jurisdictions. Requires individual EDDs to report quarterly to Department. Requires OBDD to report annually to Legislative Assembly on program activities and certain metrics and appropriates \$918,750 from General Fund to Department to spend on program.

HB 2918 – Reporting Public Surplus Lands for Affordable Housing

Effective: July 27, 2021 Chapter: 624 (2021 Laws)

This bill requires cities, counties, and transit districts to submit a survey of surplus real property owned by the agency or district to the Department of Land Conservation and Development (DLCD) on January 1 of each even-numbered year. DLCD is charged with developing and maintaining an online database but is not responsible for verifying the accuracy of inventory uploaded by local governments. The measure also requires city councils to consider, in the sale of city-owned real property, the potential of a given parcel for affordable housing development. An amendment was contemplated by the sponsor of the bill to require all special districts to make a similar report to DLCD. Staff was able to convince the sponsor to not pursue this amendment.

HB 2993 – Proposed Administrative Rules Racial Equity Statements

Effective: January 1, 2022 Chapter: 463 (2021 Laws)

Administrative rules are agency directives, standards, regulations, or statements of general applicability that implement, interpret, or prescribe law or policy, or that describe the procedure or practice requirements of an agency. Rules are created by any state board, commission, department, or officer authorized to make rules or issue orders. Agencies may adopt, amend, repeal, or renumber rules, either permanently or temporarily. This bill adds a statement identifying how adoption of the rule will affect racial equity in Oregon to the list of materials that must be included in a notice prior to adoption, amendment or repeal of any administrative rule; requires that if an agency convenes a rulemaking or fiscal impact advisory committee, the membership of the committee must represent the interests of person and communities affected by the rule; and specifies that an agency may not appoint an officer, employee, or other agent of the agency to serve as a member of the rulemaking or fiscal impact

advisory committee. These requirements apply to notices of intent to adopt rules filed on or after January 1, 2022.

HB 3071 – All Public Officials are Mandatory Reporters

Effective: January 1, 2022 Chapter: 251 (2021 Laws)

Oregon law requires certain individuals to report suspected abuse of vulnerable persons to the relevant authorities immediately. These individuals are referred to as "mandatory reporters" and include social workers, teachers, health care workers, childcare providers, law enforcement, mental health professionals, and members of the Legislative Assembly, among others. This bill expands the list of mandatory reporters to include all state and local elected officials.

HB 3115 – Homeless Camping on Public Property

Effective: June 23, 2021 Chapter: 370 (2021 Laws)

In 2019, the Circuit Court of Appeals in *Martin v. Boise* (920 F. 3d 584) held that the government cannot criminalize certain conduct, such as lying, sitting, or sleeping on the streets, that is unavoidable because of homelessness. The Court further concluded that to punish such conduct would be comparable to punishing a person's homeless status and to do so would be unconstitutional under the 8th Amendment of the U.S. Constitution, which prohibits imposing excessive fines, bail, or cruel and unusual punishments. This bill requires that by July 1, 2023, local laws regulating the acts of sitting, lying, sleeping, or keeping warm and dry in outdoor public spaces be objectively reasonable as to the time, place, and manner with regards to persons experiencing homelessness. The bill creates an affirmative defense to an alleged violation of local law that law is not objectively reasonable. The bill also allows persons experiencing homelessness to file suit for relief to challenge the objective reasonableness of local laws. The bill does not create a right of action for monetary damages but does authorize the court, under certain circumstances, to award attorney fees to prevailing plaintiff. Districts should work with their cities, counties, and local law enforcement to ensure that any ordinances regulating these activities will continue to protect special district interests.

HB 3124 – Homeless Camp Posting for Sweeps

Effective: June 23, 2021 Chapter: 371 (2021 Laws)

Local governments are required to adopt humane policies when regulating camping by homeless individuals. Some local governments have established guidelines for the removal of homeless individuals from campsites on public property being used for shelter or as a temporary residence, and for the storage and/or disposal of their personal property after they are removed. For jurisdictions that have adopted policies, at least 24 hours advance notice of removal is required in writing, and law enforcement must store homeless individuals' unclaimed personal property for at least 30 days, among other requirements. This bill increases the notice requirement from 24 hours to 72 hours in advance, for law enforcement to inform homeless persons in writing of the removal of an established campsite. The measure also

provides for the receipt and storage of unclaimed personal property by local social services agencies, charitable organizations, outreach workers, local agency officials, and individuals authorized to issue citations for unlawful camping, rather than by law enforcement, and for its orderly storage, grouped by individual ownership to the extent reasonably possible. (Items with no apparent value or utility, or that are unsanitary, may be discarded immediately; and weapons, non-prescribed controlled substances, and items that appear to be stolen or evidence of a crime must be given to law enforcement.) The bill also requires unclaimed personal property in Multnomah County to be stored within six blocks of a public transit station.

HB 3307 – Intergovernmental Agreements

Effective: June 23, 2021 Chapter: 375 (2021 Laws)

This bill authorizes an intergovernmental entity created by written agreement to seek benefits from any public or private entity that an individual local government or American Indian tribe, as a party to the same agreement, may also seek to obtain. The measure requires that benefits sought be limited to the purposes for which the intergovernmental entity was created.

SB 58 – DEQ Credit Card Fees

Effective: January 1, 2022 Chapter: 568 (2021 Laws)

The Department of Environmental Quality (DEQ) has begun modernization efforts to integrate application, payment, and reporting systems for 25 programs it administers, into one environmental data management system, known as Your DEQ Online. Once fully implemented, regulated entities will be able to submit applications and renewals, make electronic payments, track status, communicate with DEQ through a secure login, and in some cases, submit reports to both DEQ and the federal Environmental Protection Agency (EPA). In addition, the public will have access to certain environmental data without having to submit a request for public records. DEQ has estimated that the total project will require an investment of \$18 to \$21 million over 10 years to cover the cost of system development and implementation. This bill authorizes DEQ to add a reasonable fee to recover credit card transaction costs and a surcharge on invoices generated by the environmental data management system. Under this measure, DEQ may also impose an annual surcharge of no more than four percent on each fee or invoice generated using the Department's Environmental Data Management System (EDMS), to defray the costs of licensing and hosting the system. Funds collected from this surcharge are to be deposited in the newly created Environmental Data Management System Fund, which is to be used for EDMS maintenance and operations costs.

SB 289 – RESTRICTIONS TO USE OF PUBLIC RECREATIONAL LANDS

Effective: January 1, 2022 Chapter: 393 (2021 Laws)

In 2019, Governor Brown directed a Task Force on the Outdoors to develop a set of recommendations to ensure that the benefits of outdoor recreation—to individual wellbeing, community livability, and a thriving economy—are enjoyed by all Oregonians. One of the guiding principles of the work of the Task Force was to champion safe and easy access to parks,

natural areas, and special places for improved wellbeing. The Task Force identified that one barrier to enjoyment of the outdoors for Oregonians is the incidence of bias crime while on public lands. SB 289 A limits a person's access to areas under Oregon Parks and Recreation Department jurisdiction for a period of at least six months and not more than five years if the person is convicted of first- or second-degree bias crime (ORS 166.155 or 166.165) and the incident was committed while on waters of the state or publicly owned land used for outdoor recreation. The measure makes an exception for entry onto State Capitol Park land, and for entry onto public land if done so pursuant to community service requirements under the measure.

SB 622 – Lottery Bonds for the Levee Grant Program

Effective: July 27, 2021 Chapter: 654 (2021 Laws)

In 2019 the Legislative Assembly established the Levee Grant Fund and allocated \$15 million in lottery bond sales to the program. However, due to a significant decline in lottery revenues during the biennium, no lottery revenue bonds, and funding were available for approved projects and programs. Previous levee project funding flowed through a subaccount in the Special Public Works Fund at OBDD, though primarily for loans rather than grants.

Senate Bill 622 authorized \$15 million in lottery bonds for deposit in the Levee Project Grant Fund. The measure requires at least 60 percent of awarded grant funds to be used for projects in the following areas: areas outside the Portland Metropolitan Area Regional Urban Growth Boundary; areas outside the urban growth boundaries of cities with 30,000 or more residents; or counties, cities, or other areas OBDD classifies as distressed based on economic indicators such as unemployment. In addition, Senate Bill 622 expands the definition of levee projects to include levee construction and capital improvements, flood control embankments, and flood control facilities. A similar measure, HB 2885 was introduced in the House.

HB 5010 - DOGAMI Budget Bill

Effective: July 1, 2021 Chapter: 5 (2021 Laws)

This was the budget bill for the Oregon Department of Geology and Mineral Industries (DOGAMI). DOGAMI plays a key role in increasing understanding of Oregon's geologic resources and hazards through science and stewardship and has two primary programs: the Geologic Survey and Services (GS&S) program and the Mined Land Regulation and Reclamation (MLRR) program. SDAO joined several local government partners to continue funding for the department and the important information services it provides after the Governor proposed to dissolve the department and move semblances of the programs to other agencies. The Legislature quickly rejected that proposal by retaining the department and passage of its budget.

GENERAL GOVERNMENT BILLS – FAILED

HB 3049 – County Rights of Way Permit Fees

Oregon law allows for construction and operation of utility lines, fixtures, and other facilities along the public roads of the state, except within city limits, if they do not obstruct public roads or navigable streams. Counties and the Oregon Department of Transportation have authority to designate location for roads under their jurisdiction where these facilities may be located. This bill would have authorized counties to charge a permit fee for construction or alteration of utility lines, fixtures, and facilities within right of way of highways under their jurisdiction. The measure also would have allowed counties to charge utilities for any costs incurred due to failure to relocate utility facilities in cases where notice was provided regarding work that would require relocation of utility facilities.

HB 3181 – Utility Location Paint

This bill would have required the Oregon Utility Notification Center to adopt rules requiring that paint used for marking underground facilities to be temporary marking paint or other industry-accepted low-impact marking. It would have required operators to remove markings that continue to be visible on private property after reasonable period had passed since the excavation had been completed. Under the measure operators that did not remove marking in compliance with rules would have been responsible to private property owners for all costs associated with damages caused to the private property in the process of removing the markings.

SB 299 – Creation of Children’s Special Districts

This bill would have authorized the formation of children's special districts with the power to levy and collect taxes to pay the cost of children's services within district boundaries. It defined "children's services" as provided outside school hours in support of children's total health and well-being. The bill required the petition to form the district to be signed by greater of 10 percent or more of electors in the territory or 100 electors. It required the district to discontinue a project or program if an action was filed asserting a valid claim that any revenue of the district is subject to the \$5 limitation per \$1,000 of real market value under Article XI, Section 11b, of Oregon Constitution. The bill passed the Senate but remained in committee in the House.

LABOR BILLS – Passed

HB 2231 – Military Reemployment

Effective: September 25, 2021 Chapter: 62 (2021 Laws)

Currently, a member of the uniformed services has the right to return to their civilian job without penalty or discrimination if their cumulative voluntary military service does not exceed

five years. Being called-up involuntarily does not count. Reservists, however, have reported that their orders characterize their service as voluntary regardless of whether they volunteered or not for deployment overseas or to respond to a domestic emergency or disaster. This bill exempts time spent in voluntary service overseas and domestic voluntary service responding to a declared emergency or disaster from the five-year limit on reemployment rights.

HB 2474 – Family Leave Update for Public Health Emergencies

Effective: January 1, 2022 Chapter: 182 (2021 Laws)

The Oregon Family Leave Act (OFLA) requires companies that have 25 or more employees to provide eligible employees up to 12 weeks of unpaid leave per year for specified purposes. To be eligible for OFLA parental leave, an employee must have worked for an employer for at least 180 days. For all other OFLA leave benefits, an employee must have worked at least 180 days and at least an average of 25 hours a week during the 180 days before leave begins. This bill modifies the Oregon Family Leave Act to protect leave for all employees of a covered employer during a public health emergency who have been employed at least 30 days and worked at least 25 hours per week in the 30 days leading up to the leave. The measure also provides leave protections for employees who separate and are reemployed within 180 days or who would otherwise lose protection because of a temporary cessation of scheduled hours.

HB 2935 - Create a Respectful and Open World for Natural Hair (CROWN) Act

Effective: January 1, 2022 Chapter: 239: (2021 Laws)

This bill prohibits discrimination by including physical characteristics including hair type, texture, and style within the definition of race in school discrimination policies, interscholastic organization activities, and in unlawful employment practices, and prohibits school or employer dress codes or policies from disproportionately impacting members of a protected class.

HB 3041 – Gender Identity Definition

Effective: June 23, 2021 Chapter: 367 (2021 Laws)

This bill distinguishes sexual orientation from gender identity and ensures that both characteristics are clearly listed where appropriate in the Oregon Revised Statutes. Specifically, the bill separates "gender identity" from the definition of "sexual orientation" within the definitions chapter of the Oregon Revised Statutes and defines "gender identity." The bill adds "gender identity" to all statutes that reference "sexual orientation" and removes language referencing that sexual orientation is not a physical or mental impairment.

HB 3398 – Paid Family Leave Delay

Effective: September 25, 2021 Chapter: 639 (2021 Laws)

HB 2005 (2019) created a new insurance program to provide Oregon employees with a portion of wages while on family, medical, or safety-related leave. The program is administered by the Oregon Employment Department (OED). This bill delays the implementation dates for the

program, including changing the start date for employer and employee contributions from January 1, 2022 to January 1, 2023; benefit payments from January 1, 2023 to September 3, 2023; and employer assistance grants (those employers with fewer than 25 employees who provide Family and Medical Leave to their employees) from January 1, 2023 to June 30, 2023. Beginning January 1, 2023, employees will be eligible for 12 weeks of insurance benefits per year, with an additional two weeks of benefits for pregnancy-related leave. An employee can take a total of 16 weeks a year under this program in any combination of paid leave and unpaid OFLA leave (18 weeks if pregnancy-related leave is also taken). Benefits will be based on the worker's average weekly wage with a cap set at 120 percent of the state's average weekly wage (approximately \$1,215). Employees who have worked at least 90 days will have job protection when on leave. An employee may use vacation or sick time to supplement insurance, up to 100 percent of wages, with the employer's consent. An employer, with the Department's approval, may provide leave benefits through an equivalent plan.

SB 184 – Veterans Preference in Hiring

Effective: January 1, 2022 Chapter: 195

Eligible veterans receive preference in trying to gain public employment. Potential public employers, within certain guidelines, add "preference" points to veterans and disabled veterans engaged in the public employment hiring process for vacant civil service positions or certain promotions to civil service positions. The preference seeks to restore veterans to competitive positions in public employment and to acknowledge the greater obligation to disabled veterans. Currently, for the preference to apply, a veteran must have been discharged under honorable conditions, as defined by rules adopted by the Oregon Department of Veterans' Affairs (ODVA). This bill modifies eligibility requirements to claim veterans' preference in public employment by allowing otherwise eligible veterans to certify that they expect to be discharged under honorable conditions within 120 days.

SB 483 – Employer Retaliation

Effective: June 15, 2021 Chapter: 336 (2021 Laws)

Oregon law makes it an unlawful employment practice for an employer to retaliate against an employee or prospective employee because that person reported or opposed a workplace health or safety violation, filed a complaint, or testified in a proceeding under the Oregon Safe Employment Act. The elements of retaliation are: (1) the employee engaged in a protected activity; (2) the employee was subjected to an adverse employment action; and (3) there is a causal link between the activity and the adverse employment action. Currently, the burden is on the employee to prove the employer's action was retaliatory. An aggrieved employee or applicant may file a complaint with the Bureau of Labor and Industries (BOLI) and may file a civil action in court. In general, an action relating to an unlawful employment practice must be filed within one year of the occurrence of the practice. This bill creates a rebuttable presumption that prohibited retaliation or discrimination has occurred if an employer bars or discharges an employee or prospective employee from employment or otherwise discriminates against that

person within 60 days of an employee or prospective employee engaging in protected activities regarding workplace safety.

SB 569 – Driver’s Licenses for Existing and Prospective Employees

Effective: January 1, 2022 Chapter: 279 (2021 Laws)

This bill makes it is an unlawful employment practice for an employer to require an employee or prospective employee to possess or present a valid driver license as a condition of employment or continuation of employment unless the ability to drive is an essential job function or related to a legitimate business purpose. The measure also declares it is unlawful employment practice for an employer to refuse to accept from an employee or prospective employee other forms of identification deemed acceptable for verifying the identity and employment authorization of employees hired in the country.

LABOR BILLS - Failed

HB 3029 – Electronic Signatures for Card Check Certification Process

The Oregon Employment Relations Board (ERB) administers the certification (and decertification) of labor organizations for purposes of representing public employees. There are two routes to certification: election or card check. Under the card check process, a petition is filed with the ERB alleging that more than 50 percent of the employees in a unit appropriate for collectively bargaining have signed authorizations designating the labor organization as the employee’s bargaining representative. If an investigation determines the allegation to be true, the ERB certifies the labor organization as the exclusive representative without holding an election. This bill would have directed the Employment Relations Board to develop guidelines and procedures for the use of electronic records and electronic signatures in the card check certification process

PORT BILLS – Passed

HB 2434 – Aviation Fuel Tax

Effective: September 25, 2021 Chapter: 526 (2021 Laws)

House Bill 2075 was passed during the 2015 Legislative Session. The measure amended ORS 319.020 by increasing aircraft fuel (Avgas) tax from nine cents to eleven cents per gallon and increasing Jet fuel tax from one cent to three cents per gallon. This measure became effective on January 1, 2016 and is set to sunset on January 2, 2022. Over the course of six years, the Aviation System Action Program fund (ASAP) program, which was created as a result of the passage, was estimated to provide over \$20M in funding to airports throughout Oregon. The ASAP of HB 2075 directs the increased fuel tax revenue (after 5% is deducted for ODA’s administration costs) to the following three programs that benefit Oregon airports and aviation:

1. Critical Oregon Airport Relief (COAR) program receives 50% of the funding. These grants are

distributed to assist airports in Oregon with match requirements for Federal Aviation Administration (FAA) Airport Improvement Program grants, emergency preparedness and infrastructure projects in accordance with the Oregon Resilience Plan, services critical and essential to aviation, aviation related business development, and airport development for local economic benefit.

2. Rural Oregon Aviation Relief (ROAR) receives 25% of the funding. These grants are used to assist commercial air service to rural Oregon.

3. State Owned Airports Reserve (SOAR) program funds (25%) are distributed towards state-owned airports for the purposes of safety improvements and infrastructure projects at public use airports.

This Measure increases the COAR distribution from 50% to 75% and it also adds a fourth priority to the COAR program, which is to assist commercial air service to rural Oregon. The remaining 25% will fund the SOAR (State Owned Airports) program for infrastructure and safety improvements at federally and non-federally funded state-owned airports. This legislation changes the reporting requirements from semi-annual to annual from State Board of Aviation to related legislative committees regarding the grant programs and adds commercial air service to rural Oregon to the COAR program. This measure also keeps the priorities but removes the order of those priorities from the COAR program. The previous ordered priorities were as follows: First, to assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants. Second, to make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan or the Oregon Aviation Plan. Third, to make grants for: Services critical or essential to aviation, including, but not limited to, fuel, sewer, water, and weather equipment; Aviation-related business development, including, but not limited to, hangars, parking for business, aircraft, and related facilities; and Airport development for local economic benefit, including, but not limited to, signs and marketing. Finally, the measure allows for commercial leases to be 50 years rather than the current law maximum of only 30 years.

HB 2456 – Short-line Rail Tax Credit

Effective: September 25, 2021 Chapter 528 (2021 Laws)

This bill makes changes to several tax provisions including property tax exemptions, income tax expenditures, and the vehicle privilege tax. One of the components of the bill makes changes to the short line railroad rehabilitation tax credit. The changes are technical corrections and eliminations of redundant statutory language.

HB 2564 – Willamette Falls Locks

Effective: June 11, 2021 Chapter: 229 (2021 Laws)

The Willamette Falls Canal was constructed in the 1870s to allow river traffic to navigate around the 40-foot, horseshoe-shaped basalt ridge between Oregon City and West Linn on the Willamette River. In 1915, the U.S. Army Corps of Engineers purchased the locks; the locks were placed on the National Register of Historic Places in 1974. The locks were deemed non-

operational in December 2011. Senate Bill 131 (2015) established the Task Force on the Willamette Falls Navigation Canal and Locks to gather information related to the locks, including their current and potential future value. In 2017, Senate Bill 256 created the Willamette Falls Locks Commission.

This bill establishes the Willamette Falls Locks Authority as a public corporation consisting of between seven and eleven members. The Authority is directed to appoint an executive director. Its primary purpose is to establish and exercise operational authority over the Willamette Falls Locks project and its associated properties and facilities. As part of this mission, the Authority may create a tax-exempt entity, issue, and sell revenue bonds, and enter into financing agreements.

HB 2603 – Territorial Sea and Underground Cables

Effective: September 25, 2021 Chapter: 534 (2021 Laws)

This bill requires the Ocean Policy Advisory Council, in consultation with the Department of Land Conservation and Development (DLCD), the Department of State Lands, and relevant local and tribal governments, to review and propose amendments to the part of the Territorial Sea Plan that addresses the placement of cables, pipelines, and other utilities in the territorial sea. The measure requires an applicant for an easement to place an undersea cable within the territorial sea to acquire and maintain, until construction of the undersea cable is completed, financial assurance to ensure that the applicant constructs the undersea cable according to the terms and conditions of the easement

HB 3055 – Omnibus Transportation Bill

Effective: September 25, 2021 Chapter: 630 (2021 Laws)

This bill became the catch-all for various transportation proposals that were before the Joint Transportation Committee during the previous short session and the current one. Among other things, the bill allows electric companies and natural gas utilities to recover the costs from consumers for the construction and installation of infrastructure to support adoption of alternative forms of transportation fuels like electric and compressed natural gas. The bill also clarifies types of infrastructure that qualifies for short line railroad tax credits to include those short line railroads that are leased. The bill also restructures statutes related to tolling and financing of tollway projects, and provides for flexibility in funding the major projects outlined in House Bill 2017 (2017), as well as adding the Interstate 5 Boone Bridge and toll program implementation to that list of projects

HB 3114 – Ocean Acidification and Hypoxia

Effective: July 19, 2021 Chapter: 545 (2021 Laws)

This bill appropriates \$1,060,000 from the General Fund to the Oregon Ocean Science Trust for the biennium beginning July 1, 2021 to expend on ocean acidification and hypoxia as competitive grants in consultation with the Oregon Coordinating Council on Ocean Acidification

and Hypoxia (OAH Council) as follows: \$100,000 for intertidal and \$300,000 for subtidal ocean acidification and hypoxia monitoring at Oregon marine reserves; \$100,000 for ocean acidification and hypoxia monitoring at Yaquina Bay; \$140,000 for ecosystem modeling of submerged aquatic vegetation; \$25,000 to develop recommendations through workshops or seminars, for maximizing the abundance of wild shellfish, cultured shellfish, and submerged aquatic vegetation in estuaries in Oregon; \$150,000 to develop best management practices for conducting shellfish cultivation in a manner that protects or promotes estuarine health; \$180,000 to fund a study on the life cycle impacts of ocean acidification and hypoxia on shellfish species that are of importance to Oregon; and \$65,000 to develop a communications plan and strategy for outreach and education on ocean acidification and hypoxia impacts, science, and solutions. Appropriates General Fund moneys to Oregon Department of Fish and Wildlife (ODFW) for the biennium beginning July 1, 2021 as follows: \$420,000 for the shellfish and estuarine assessment of coastal Oregon project and \$50,000 to conduct estuary mapping for long-term documentation of ocean acidification and hypoxia impacts. Appropriates General Fund moneys to the Higher Education Coordinating Commission, for distribution to Oregon State University, for the biennium beginning July 1, 2021 as follows: \$170,000 to support the Molluscan Broodstock Program at the Hatfield Marine Science center in conjunction with the Whiskey Creek Shellfish Hatchery; \$100,000 to support the work of the Cooperative Institute for Marine Resources Studies in augmentation of sampling along the Newport Hydrographic Line in order to support research on ocean acidification and hypoxia; and \$100,000 to support the work of the College of Earth, Ocean, and Atmospheric Sciences in monitoring for ocean acidification using Burke-O-Lator systems

HB 3375 – Offshore Wind Energy

Effective: September 25, 2021 Chapter: 376 (2021 Laws)

This bill establishes the policy position of the State that any federal planning or permitting process for offshore wind energy research and development in federal waters off the Oregon coast would adequately consider the prompt decommissioning of any offshore facility after permanent cessation of the use of the facility. The measure requires the Oregon Department of Energy to conduct a literature review and gather feedback from stakeholders, including the United States Department of Defense, on the benefits and challenges of integrating up to three gigawatts of floating offshore wind energy into Oregon’s electric grid by 2030.

HB 5020 – Oregon State Marine Board Budget

Effective: July 1, 2021 Chapter: 428 (2021 Laws)

The OSMB’s mission is to serve the recreational boating public through education, enforcement, access, and environmental stewardship for a safe and enjoyable experience. The Board is responsible for registering and titling all recreational motorized and sailboats, 12 feet and longer, in the state; providing boater education; marine law enforcement; facility access and mitigating the effects of invasive species on native waters. The approved budget for the OSMB totals \$36,756,677 and 40 positions (39.50 FTE). The total funds budget is an increase of 4.6% from the 2019-21 legislatively approved budget

Two programs of interest to ports:

Boating Facilities Programs: The Boating Facilities Program provides grants and technical assistance for the maintenance and improvement of public recreational boating facilities statewide. Eligible projects include boat launch ramps, parking, restrooms, courtesy docks, transient tie-up facilities, and other boating-related facilities. The grants rely on partnerships and the leveraging of other financial resources such as Federal Funds, private funds and donations, and other local and state funds. The approved budget for this program is \$11,087,753 and nine positions (9.00 FTE).

Aquatic and Invasive Species Program: The Aquatic Invasive Species (AIS) Program's purpose is to mitigate the effects of invasive species on native waters through inspecting and decontaminating watercraft. The AIS Program was created because of a law enacted by the Legislature in 2009, with the intent of protecting the state from invasive species. This program manages the permitting process and the education and outreach efforts, which impact nonmotorized boaters, motorized boaters, and out of state visitors bringing their boats to recreate on the Oregon waterways. The legislature provided \$1,755,444 and one position (1.20 FTE) to this program.

HB 5023 – Oregon Business Development Department Budget

Effective: July 19, 2021 Chapter: 560 (2021 Laws)

Business Oregon's mission is to invest in Oregon businesses, communities, and people to promote a globally competitive, diverse, and inclusive economy. The Department executes the state's economic development strategy to enable the creation, retention, expansion, and attraction of businesses that provide sustainable living-wage jobs for Oregonians through public-private partnerships, leveraged funding, and support of economic opportunities for Oregon companies and entrepreneurs. The Legislature enacted a budget of \$1,060,121,709 total funds and 141 positions.

Business, Innovation, Trade: The Business, Innovation, and Trade Division includes the staff and the funding sources used by the Department to support economic strategies and provide services, grants, and loans to assist businesses with job retention and creation. Direct financing programs, as well as investments made through the Oregon Growth Board, improve the availability of capital for Oregon companies. The Division also promotes international trade through trade missions, the attraction of foreign direct investment, and the promotion of exports for small and medium sized Oregon businesses. Finally, the Division funds a variety of innovation initiatives aimed at encouraging research and development and entrepreneurship, many of which work in collaboration with public universities. The Legislature provided \$148,609,924, including 58 positions (58.00 FTE) for this program area.

Infrastructure: The Infrastructure Division assists communities in building and maintaining critical infrastructure through low-cost financing, grants, technical assistance, and capacity

building. The Division has dedicated funding sources for municipal infrastructure, water, and wastewater facilities ensuring compliance with federal law, seismic rehabilitation for schools and emergency facilities, port and airport facilities, levee improvements, marine navigation improvements, and other facilities supporting economic and community development. The Legislature provided \$759,010,560, including 34 positions (34.00 FTE) for this program area.

PORT BILLS – Failed

HB 2781 – Cancellation of Port Property Taxes

This bill, introduced at the request of the Oregon Public Ports Association would have canceled the uncollectable property taxes and interest for the International Port of Coos Bay and the Port of Tillamook Bay. The bill passed the House, however, it stalled in the Senate Finance and Revenue Committee in the final weeks of the session.

HB 3339 – Railroad Crossing Blockage Penalties

This bill would have prohibited the willful obstruction, blockading, interference with, or prevention of use of an at grade railroad-highway crossing for a period of longer than 10 consecutive minutes. The measure would have exempted any actions preempted by federal law; actions unavoidable and related to an emergency, breakdown, or mechanical failure; and any employees directed to take actions resulting in blockage. The bill provided for a first-time civil penalty of not more than \$3,000 and directed ODOT to adopt a penalty schedule for second and subsequent violations. Revenues from civil penalties would have been deposited into the Grade Crossing Safety Improvement Fund.

HB 3371 – New DSL Authorities for Submerged and Submersible Lands

This bill, introduced because of the Goble episode along the Columbia River, would have required the Department of State Lands to consider potential risks in authorizing the use of submerged and submersible lands, including damage to state lands and risks to public safety. The measure defined “damage” as loss or harm resulting from injury to a person or property or compensation in money for loss or injury. It also permitted the department to require authorized users of these lands to procure insurance policies to compensate the state for possible damages, while exempting wharfs from those requirements. Finally, the measure clarified that personal property retrieved from an unauthorized vessel and unclaimed by the owner for more than 30 days is considered abandoned.

SB 859 – Increased Funding to Remove ADVs

This bill, introduced by Senator Taylor, would have increased the amount of money the Oregon State Marine Board had to set aside for the removal and disposal of Abandoned Derelict Vessels (ADV). Currently, the Salvaged Vessel Subaccount within the Boating Safety, Law Enforcement, and Facility Account may be used for the salvage, towing, storage, and disposal of abandoned

and derelict vessels that weigh less than 200 gross tons. Existing law limits the funds the State Marine Board may deposit and retain in this subaccount each biennium at \$150,000. SB 859 would have raised that limit to \$1 million each biennium. Other bills that would have sought more funds for this purpose included SB 740 and SB 840.

PUBLIC CONTRACTING BILLS – Passed

HB 2682 – Leased Equipment

Effective: September 25, 2021 Chapter: 234 (2021 Laws)

This bill requires a person renting a utility vehicle to a public contracting agency to provide, upon request, specified records and an affidavit attesting compliance with safety standards and vehicle inspections. The provisions apply to persons who received less than \$100,000 in income from renting utility vehicles in the prior calendar year.

HB 3055 - ODOT Omnibus Legislation (Public Contracting Provisions)

Effective: September 25, 2021 Chapter: 630 (2021 Laws)

This bill was an omnibus for various provisions of law related to the Oregon Department of Transportation. However, Sections 46 through 50 of the bill make several specific changes to public contracting requirements, some of which apply to local governments:

- Current law prohibits a public agency from accepting bids for personal services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with, or otherwise overseeing a public contract if the contractor, or an affiliate of a contractor, is a party to the public contract. Those current provisions do not apply to certain construction manager/general contractor services or to a design- build procurement contract. HB 3055 clarifies the process to seek an exception from these provisions and outlines the circumstances and requirements that must be met to award a contract that is subject to the prohibition.
- In addition, the bill increases the contract threshold by which a state or local contracting agency may, limit competition for a public contract to an emerging small business that is certified under ORS 200.05. Under current law, competition may be limited for such contracts if the contract price is estimated at \$100,000 or less and is funded by the Emerging Small Business Account established under OR 200.180. HB 3055 increases that amount to \$250,000 or less for contracts funded by the Emerging Small Business Account established under ORS 200.180.

HB 3082 – Contract Solicitation Threshold Increase

Effective: September 25, 2021 Chapter: 127 (2021 Laws)

The Oregon Public Contracting Code requires competitive bidding for all public improvement contracts and provides exceptions from this requirement. Examples of exceptions include a public improvement contract with a qualified nonprofit agency that provides employment

opportunities for individuals with disabilities and a public improvement contract with a value of less than \$5,000. HB 3082 raises the price at which public improvement contract solicitations are exempt from the competitive bidding requirements from \$5,000 to \$10,000 beginning January 1, 2022.

SB 420 – Community Benefit Contracts

Effective: September 25, 2021 Chapter: 488 (2021 Laws)

This bill amends the public contracting code to allow contracting agencies and local review boards to designate a public improvement contract as a "community benefit contract." Community benefit contracts may include terms and conditions such as a requirement that the contractor qualify as an apprentice training agent, employ apprentices to perform a specified percentage of work hours in apprenticeable occupations, provide employer-paid family health benefits for each worker, and meet any other requirements established by the contracting agency. Advertisements and solicitations for bids must clearly state the procurement is for a community benefit project and contracting agencies may require bidders to prequalify for public improvement contracts. The measure applies to procurement contracts designated as a community benefit contract advertised or entered on or after January 1, 2022.

SB 493 – Prevailing Wage Rate Determination

Effective: September 25, 2021 Chapter: 104 (2021 Laws)

Public works projects are generally covered by the state's prevailing wage if the total project cost exceeds \$50,000 and the project is for construction, reconstruction, major renovation, or painting projects. Private projects for construction, reconstruction, major renovation, or painting that use at least \$750,000 in public funds are subject to prevailing wage rate requirements. Projects also subject to prevailing wage requirements are private projects in which one or more public agencies will occupy or use at least 25 percent of the project's square footage, projects on real property owned by a public university, and solar projects on property owned by a public body. Furthermore, current law requires BOLI to annually calculate the Prevailing Wage Rate (PWR) for each trade or occupation in 14 localities using an independent wage survey. If the Commissioner determines that data from the survey is insufficient to determine the PWR, the Commissioner must consider additional information such as collective bargaining agreements (CBAs), other independent wage surveys, and the PWR determined by appropriate federal agencies or adjoining states. If there is not a majority of hours paid at the same rate, then the prevailing wage is the average paid to the workers in same trade or occupation in the locality. SB 493 provides that the PWR for a trade or occupation is the wage established in a collective bargaining agreement (CBA) for that locality. If there is more than one CBA in a locality, then the highest wage rate among the CBAs prevails. If a CBA does not exist for a given trade or occupation in a locality, the Commissioner must determine the PWR using an independent wage survey. The measure applies to all public works procurements advertised and contracts entered on or after January 1, 2022. There were multiple other bills introduced this session related to prevailing wages, but this was the only one to make it to the Governor's desk.

PUBLIC CONTRACTING BILLS – Failed

HB 2324 - Prevailing Wage Rates for Enterprise Zones Projects

HB 2324 contained several provisions including language that would require private construction project owners to abide by public prevailing wage laws if the project owner receives a tax credit or exemption of \$750,000 or more.

HB 2419 - Prevailing Wage Rate Determinations

HB 2419 would have changed the prevailing wage rate determination process to use the highest wage rate in a collective bargaining agreement in lieu of a wage survey. While HB 2419 appeared to lack the votes necessary to pass out of committee; a similar bill, SB 493, did pass and will likely represent a significant wage rate increase for certain public projects in some parts of the state (see SB 493, Public Contracting – Bills that Passed).

HB 2597 - Reduction in Prevailing Wage Regions

This bill would have consolidated prevailing wage regions from 14 to five. These regions are used to determine prevailing wage rates and to ensure that prevailing wage rate determinations reflect local economies and wage rates for construction. The proposed consolidation would have grouped many rural parts of the state with larger, urban areas.

HB 2694 – Expansion of “Minority Businesses” for LGBT

The Certification Office for Business Inclusion and Diversity (COBID) certifies eligible businesses with the goal of providing certified firms a fair opportunity to compete for government contracts. Eligible businesses include those owned by an individual who is a minority, woman, or service-disabled veteran. This bill would have expanded the definition of "minority individual," for purposes of COBID certification, to include an individual who is lesbian, gay, bisexual, or transgender.

HB 3083 – Seismic Standards Applied to Public Improvement Contracts

This bill would have required all public improvement contracts to adhere to seismic safety and seismic rehabilitation standards in constructing or renovating public buildings or critical infrastructure at a location susceptible to seismic events. The bill would have required contracting agencies to consult with the Seismic Safety Policy Advisory Commission, Department of Consumer and Business Services, and local government, if local government administers building code with seismic standards.

SB 213 – Duty to Defend

This bill would have voided provisions of a construction contract agreement that required a

design professional to defend or indemnify another against claims or damages arising from negligence in design services, except to the extent the design professional's proportionate negligence caused the indemnitee's damage as determined at trial or arbitration.

SB 639 - Prevailing Wage Threshold Increase

Under current law, all public contracts greater than \$50,000 are subject to payment of prevailing wage and applicable prevailing wage requirements. This bill would have increased the project threshold for the application of prevailing wage rate requirements from \$50,000 to \$64,000 and would have established a mechanism for future threshold increases based on consumer price index. The current project threshold of \$50,000 hasn't been increased since 2005.

PUBLIC MEETINGS/RECORDS BILLS – Passed

HB 2560 – Public Meeting Access by Telephone or Video Conference

Effective: January 1, 2021 Chapter: 228 (2021 Laws)

During the beginning of the global pandemic local governments were in the middle of developing their coming fiscal budgets. However, due to the Governor's COVID restrictions most local governments could not conduct in person meetings open to the public. As a result, representatives of local government requested the ability to conduct public meetings telephonically, by video conference or other electronic means while still fulfilling the requirements of public participation in local budget law. This bill generally makes those changes permanent. It requires all public meetings held by a governing body, excluding executive sessions, to reasonably provide opportunity for members of the public to access and attend the meeting by telephone, video, or other electronic or virtual means, and where in-person oral or written testimony is allowed, to allow oral testimony by telephone, video, or other electronic or virtual means and written testimony by electronic mail or other electronic means. Applies requirements to hearings under comprehensive land use and county planning and zoning statutes but excludes contested case hearings under the Administrative Procedures Act.

SB 315 – Unmanned Aircraft System Information Exemption

Effective: September 25, 2021 Chapter: 174 (2021 Laws)

Unmanned aircraft systems (UAS) are regulated by the Federal Aviation Administration, which has designated seven official test sites across the nation to support integration of UAS into the national airspace system. Oregon hosts three UAS test ranges that are partnered with the University of Alaska Fairbanks as part of the Pan-Pacific UAS Test Range Complex: Pendleton Airport; Tillamook Public Airport; and the Warm Springs Reservation. This bill makes information that would create a competitive disadvantage for owners or users of a UAS test range exempt from public records, including business records, customer records, and research data.

SB 500 – Independence for Public Records Advocate

Effective: July 19, 2021 Chapter: 582 (2021 Laws)

This bill makes the Office of the Public Records Advocate (PRA) an independent office within the executive branch and authorizes the PRA to seek office facilities and administrative support from state agencies. The measure removes requirements for executive appointment and Senate confirmation of the PRA and requires the PRA to appoint a deputy who, along with other responsibilities, assumes the duties of the PRA when the position is vacant. The measure also changes how the Public Records Advisory Committee operates, requiring the body to select a chairperson and vice-chairperson and authorizing the body to support, oppose, and request legislation relating to public records law.

PUBLIC MEETINGS/RECORDS BILLS – Failed

HB 2478 – Disclosure of Public Attorney-Client Privileged Information

Oregon's Public Records Law is primarily a disclosure law, and every public record of a public body is subject to inspection, except as expressly provided by statutory exemptions. ORS 192.390 allows certain public records that are more than 25 years old to be available for inspection, except for those records described in ORS 192.398. House Bill 2478 amends ORS 192.398 to also exempt public records that are lawyer-client privileged and exempt from disclosure. This bill was introduced in response to the *City of Portland v. Bartlett*, Or. App. 580, 468 P.3d 980 (2020).

HB 2485 – Media Cost Reduction for Public Records

Under Oregon's Public Records Law, "every person" has a right to inspect any nonexempt public record of a public body. All public bodies in Oregon must have a written procedure for responding to public records requests and may charge a fee to recover the cost of fulfilling a records request. Fees may be waived or reduced if doing so is in the public interest. Current law gives discretion to waive the fee to public bodies. This bill, introduced at the request of the Society of Professional Journalists, would have required state agencies to reduce their public records request fee by 50 percent if the request is in the public interest and to waive the fee completely if the request is in the public interest and is narrowly tailored. The bill also made it clear that members of the media's requests were automatically in the public interest and eligible for at least a 50 percent price reduction. Importantly, the measure would have applied the same requirements to local governmental entities, including special districts, as of January 1, 2022, unless the individual public body held a public meeting and passed a resolution or ordinance opting out of these provisions prior to effective date.

SB 666 – Applying Public Meetings Laws to Labor Negotiations

Current law allows labor negotiations to be held in executive session if both sides request to do so. If labor negotiations are held in executive session, public notice of that session is not

required. This bill would have required labor negotiations to be conducted in open public meetings and required notice of labor negotiations held in executive session to be subject to public notice requirements including information on the time and place for holding the executive meeting.

PUBLIC SAFETY BILLS – Passed

HB 2426 – Emergency Preparedness Equipment

Effective: September 25, 2021 Chapter: 454 (2021 Laws)

The State Preparedness and Incident Response Equipment (SPIRE) Grant Program funds the purchase and distribution of emergency preparedness equipment to local jurisdictions, including vehicles and other property, to be used during an emergency. The SPIRE equipment list was last updated in 2019. This bill directs the Oregon Homeland Security Council to update the list of equipment for the SPIRE grant program before January 1, 2022, prioritizing urban search and rescue equipment and grant requests from certain search and rescue teams.

HB 2605 – Tsunami Building Codes

Effective: January 1, 2022 Chapter: 360 (2021 Laws)

In 1995, the Legislative Assembly established a moratorium on constructing new essential buildings, like schools and hospitals, in the tsunami inundation zone along the coast. The moratorium was lifted on January 1, 2020 pursuant to House Bill 3309 (2019). Currently the State Building Code does not provide tsunami resilient design provisions for new facilities that may be built in the tsunami inundation zone. The American Society of Civil Engineers (ASCE) provides minimum tsunami and earthquake design standards for certain buildings and structures, and Oregon's Structural Specialty Code categorizes buildings according to risk. Risk Category III includes buildings that would pose a substantial hazard to human life in the event of failure, such as schools, residential care facilities, power-generating stations, water and wastewater treatment facilities and other public utilities, and any building with more than 5,000 people. Risk Category IV includes essential facilities such as fire, rescue, ambulance, and police stations; emergency preparedness, response, and back-up facilities; structures that contain highly toxic materials; aviation and air traffic controls and emergency aircraft hangars; and water storage facilities and pump structures for fire suppression.

This bill requires Risk Category III and IV buildings and structures to meet minimum tsunami design criteria based on specified standards of the American Society of Civil Engineers (ASCE). It permits the Department of Consumer and Business Services (DCBS) to require new building sites for certain structures to be evaluated for seismic vulnerability and requires developers of Risk Category III or IV structures to consult with State Department of Geology and Mineral Industries (DOGAMI) on potential tsunami impacts before submitting design plans. DOGAMI is required to notify developers and officials responsible for approving development, of potential tsunami impacts and any changes it recommends mitigating those impacts within 45 days of receiving development requests. It also requires DOGAMI to report to Legislative Assembly by

September 15 each year and applies these new requirements to initial permits issued on or after January 1, 2022.

HB 2927 – Oregon Emergency Management Reorganization and New Name

Effective July 19, 2021 Chapter: 539 (2021 Laws)

Among many things, this bill renames the Office of Emergency Management to the Oregon Department of Emergency Management (ODEM) and establishes ODEM as an independent state agency, effective July 1, 2022. The measure also establishes the Local Government Emergency Management Advisory Council to provide advice and recommendations to ODEM regarding ODEM's emergency preparedness and response functions. The bill also transfers the Oregon Homeland Security Council from the Office of Emergency Management to the Office of the Governor. Under the bill a special purpose appropriation is established in the Emergency Fund in the amount of \$1,807,561 General Fund, to be allocated to the Department of State Police to prepare the Office of the State Fire Marshal to operate as a separate state agency as well. The bill renames the Office of the State Fire Marshal to the Oregon Department of the State Fire Marshal (DSFM) and establishes a Task Force on Implementation. The bill establishes DSFM as an independent state agency effective July 1, 2023. The Task Force on Implementation is charged with making recommendations as to whether the Office of the State Fire Marshal should be made an independent state agency, and if not, in which existing state agency the office of the State Fire Marshal should be housed.

SB 554 – Firearms in Public Buildings

Effective: September 25, 2021 Chapter: 146 (2021 Laws)

This bill establishes standards for the transfer, storage, and reporting of the loss or theft of firearms. It prohibits the possession of firearms within the Capitol, on school grounds subject to a policy as described in this act, and within the passenger terminal of a commercial service airport with over one million passenger boarding's per year and removes the existing affirmative defense provided for concealed handgun license holders. The bill also permits local governments, including Special Districts, to determine whether it will allow or prohibit those with firearms, including individuals with concealed weapon permits from entering the buildings of that district. The measure also increases fees for concealed handgun licenses.

SB 762 – Comprehensive Wildfire Package

Effective: July 19, 2021 Chapter: 592 (2021 Laws)

This bill became the catchall for bills that proposed address wildfire risk reduction, response, and recovery. Among other things, the measure addresses the potential risks of fire from electrical utilities by requiring utilities to operate with a risk-based wildfire protection plan filed with the Public Utility Commission. The Commission is required to facilitate a process for public utilities to adopt best practices regarding wildfires and to evaluate a public utility's wildfire protection plan and plan updates through a public process. A statewide map of wildfire risk that displays the five wildfire risk classes at the property-ownership level is to be developed and

maintained by Oregon State University via agreement with the Department of Forestry, which is to oversee the development and maintenance of the map. Defensible space is defined for the purposes of the bill, and the State Fire Marshal is required to establish minimal defensible space for certain lands in the wildland-urban interface. The measure allows for the enforcement of those requirements by local governments. The State Fire Marshal is required to establish a community risk reduction program and a mechanism is established for the provision of financial assistance to local governments. The Department of Land Conservation and Development is required to identify updates to the statewide land use planning program, local comprehensive plans, and zoning codes that are needed to incorporate wildfire risk maps and minimize wildfire risk in those plans and codes. The Department of Consumer and Business Services is required to adopt wildfire hazard mitigation building code standards and to develop and maintain an interactive mapping tool that displays, at the property level, wildfire hazard mitigation standards covered in the Oregon Residential Specialty Code. To address the health impacts of wildfire smoke, the Department of Environmental Quality is required to implement programs to support local communities in monitoring air quality conditions and mitigate environmental and public health impacts of wildfire smoke. The Oregon Health Authority, in consultation with the Department of Human Services, is required to establish and implement a grant program that allows local governments to establish emergency clean air shelters and to equip public buildings with smoke filtration systems to allow the buildings to serve as cleaner air spaces during wildfire smoke or other poor air quality events. The measure also requires the Oregon Health Authority to establish a grant program to increase availability of residential smoke filtration devices, and periodically report on the use and effectiveness of the devices. The Department of Human Services is designated as the lead state agency for clean air shelter operations, coordinating with the Oregon Health Authority on operation and grant funding for shelters.

Reduction of wildfire risk is addressed by requiring the Department of Forestry to design and implement programs for the restoration of landscape resiliency and the reduction of hazardous fuels on public or private forestlands and rangelands and in communities near homes and critical infrastructure. The Department is required to develop a 20-year strategic plan that prioritizes restoration actions and geographies for wildfire risk reduction. The measure also establishes a small forestland grant program at the Department to provide competitive grants to support small woodland owners in reducing wildfire risk and establishes a Certified Burn Manager Program for prescribed fires.

The Department of Forestry is directed to adopt rules in collaboration with the State Fire Marshal and local governments regarding baseline levels of wildfire protection for lands outside of forest protection districts and to provide financial assistance to counties to assist landowners, individuals, and businesses with forming jurisdictions to provide wildfire protection. The Office of Emergency Management is required to update its statewide emergency plan as necessary to prepare for or respond to wildfire emergencies on an area-wide or statewide basis.

Wildfire response capacity is addressed in the measure by requiring the Department of Forestry to establish and maintain an expanded system of automated smoke detection cameras. Both the Department of Forestry and the State Fire Marshal are directed to increase the wildfire readiness and response capacity of the agencies including fire prevention and response personnel, aviation assets, and administrative support personnel.

The measure defines the term “wildland-urban interface” and requires the Board of Forestry to establish five classifications for the term based on fire hazard, fire risk, and structural characteristics within the wildland-urban interface by rule.

PUBLIC SAFETY BILLS - Failed

HB 2461 – Preparedness Stockpile

This bill would have required the Oregon Homeland Security Council to create the Oregon Critical Disaster Preparedness Stockpile to ensure a robust stock of emergency supplies and equipment and directed the Oregon Business Development Department to establish the Oregon Resiliency Partnership Program. The bill failed to move out of the Ways & Means Committee

HB 2486 – Media Access to Emergency Areas

This bill would have required officials of public bodies to grant news media representatives access to scenes of emergencies or emergency police activity that are otherwise closed to public. It provided exceptions when access may be denied. It directed the Department of State Police to develop guidelines for press credentialing, when circumstances warranted a denial of access, when news media representatives could be required to use personal protective equipment, and for conducting safety briefings. It also required the department to consult with local law enforcement and fire department personnel, representatives of local governing bodies, and representatives of news media organizations in developing the guidelines.

WASTEWATER BILLS – Passed

SB 5516 - Department of Environmental Quality Budget

Effective: August 6, 2021 Chapter: 673 (2021 Laws)

HB 5516 is the 2021-23 legislatively adopted \$595 million budget for the Oregon Department of Environmental Quality. The 2021-23 budget increased 26.2% from the 2019- 21 legislatively approved budget. Key budget highlights include: \$1.379 million for continued implementation of the department’s greenhouse gas reduction program; \$1.06 million in general funds to increase the department's capacity to develop and implement clean watershed plans known as TMDLs (Total Maximum Daily Loads); and \$1.599 million in other funds expenditure limitation for the procurement of a commercial off-the-shelf loan portfolio management software to replace the current Clean Water State Revolving Fund’s (CWSRF) manual and outdated system.

Wastewater Bills – Failed

HB 2657 – Timelines for Permits

This bill would have required DEQ to approve or disapprove an application for a permit within 60 days of receipt or according to timeline established by EQC for permits that require public participation. Permit timelines would become operative January 1, 2022.

HB 2660 – DEQ Fees

This bill would have required DEQ to create and update annually a list of charges for permits, licenses, authorizations, or services provided and publish the list for members of the public to access and review. The measure would have also required DEQ to submit to the Legislative Assembly no later than September 15, 2022, a report on the list of charges for services provided, costs of providing permits, licenses, authorizations, or services and a comparison of costs to DEQ and amounts charged. The bill would have sunset the report requirement on January 2, 2023.

Water Bills – Passed

HB 2018 – Ground Water Budgets, Evaporation and Ground Water Monitoring

Effective: January 1, 2022 Chapter: 608 (2021 Laws)

This bill directs the Water Resources Department to enter into a cost-matching agreement with the United States Geological Survey (USGS) to develop and publish ground water budgets for all major hydrologic basins in Oregon. Additionally, the bill requires WRD to contract for a peer-reviewed report on statewide consumptive water evaporation from all major reservoirs between 1984 and 2020; expand the ground water level monitoring network; produce reports that quantify ground water recharge for all major hydrologic basins in Oregon; produce maps and datasets that quantify open water evaporation from all major reservoirs in Oregon; collect and process data regarding baseline ground water levels and use; and assess the time and cost to conduct ground water basin studies. WRD staff are also directed to serve as community engagement coordinators to help communities provide and use data collected. The bill will sunset on January 2, 2032. The Ways and Means Committee provided \$2,386,808 General Fund and nine permanent, full-time positions (5.75 FTE) for WRD to meet the requirements of the bill.

HB 2032 – Traditionally Maintained Channels

Effective: May 17, 2021 Chapter: 26 (2021 Laws)

The Legislative Assembly passed House Bill 2437 in 2019, establishing a notice-based program for agricultural maintenance activities in dry, traditionally maintained channels without the need for a removal fill permit from the Department of State Lands under certain circumstances. This bill establishes that DSL and Oregon Department of Agriculture rules for implementing the

traditionally maintained channels program may provide for regional implementation and requires implementation throughout the state within a five-year period.

HB 2142 – OWRD Transaction Fees

Effective: July 19, 2021 Chapter: 515 (2021 Laws)

This bill, introduced at the request of the Oregon Water Resources Department increases water right transaction fees and dam safety fees for the department. In 2009, negotiations with fee payers resulted in an agreement that 50% of the funding necessary to support the OWRD transaction services and staffing needs would come from fees, with the other 50% from the state general fund. Since 2009, the department has increased fees every four years to sustain current service levels. However, despite the most recent fee increase that occurred in 2017, the department has not had sufficient revenue to fully staff the transactions division and has held seven positions vacant. Under the bill fees are increased by 17.39% to keep pace with the Oregon Department of Administrative Services inflationary costs estimates for 2021-2025. Despite this proposed increase the department would still need to cut approximately 6.33 full-time equivalent positions within the transaction division. Several stakeholders testified with concerns that the current funding structure is flawed and unsustainable, resulting in significant fee increases as well as inadequate staffing and cuts. Stakeholders have encouraged the department to develop a long-term funding plan for the water rights transaction division in order stabilize funding and fee increases, while ensuring the efficient and timely processing of water rights applications and transfer requests in the future. In response to stakeholder concerns over cuts that would have resulted even with the fee increases as approved, the Legislature allocated an additional \$3 million in general funds through passage of HB 5006 (Budget Reconciliation) which allocated much of the state's share of American Rescue Plan Act dollars. The additional \$3 million will provide staffing to the water rights transaction division but will also further support a facilitated stakeholder engagement process to develop a long-term funding plan.

HB 2145 – Well Inspection, Enforcement and Repair

Effective: January 1, 2021 Chapter: 610 (2021 Laws)

This bill establishes additional requirements for well constructor licensure and increases the start card fee for new wells from \$225 to \$350. The bill also changes the timelines and the application information required to commence well-related construction, alteration, or abandonment work. It establishes a 120-day timeline for the OWRD to review well logs for any deficiencies, assess compliance with standards, and notify the well constructor upon completion of the review. The bill establishes a Water Well Abandonment, Repair and Replacement Fund within the OWRD to provide financial assistance to permanently abandon a well, or to repair or replace a well that is used for household purposes. The funding will also be authorized to help pay for the services of a licensed well constructor, or a match for other available funding programs. The program will provide between 50-75% of the project costs, for

eligible projects, depending upon the applicant and project type. Finally, the bill modifies the membership of the Well Constructors Continuing Education Committee to include one member from the department, one member with expertise in employee safety and one member with expertise in water quality or public health.

HB 3103 - Stored Water Transfers

Effective Date: January 1, 2022 Chapter 633 (2021 Laws)

This bill, requested by the League of Oregon Cities and individual cities to establish a process to restore the Oregon Water Resource Department's (OWRD) ability to process and approve transfer requests seeking to change the type of use of stored water (i.e., what the stored water can be used for). In 2018, the OWRD issued a memo indicating they lacked statutory authority necessary to process transfer applications seeking to change either the type of use for stored water or the location of where water was being stored; despite the department having processed these types of transfers for decades prior to that determination. Since that time, stakeholders have convened numerous workgroups attempting to find a statutory fix to restore that authority. While stakeholders have generally agreed on the process for transfer applications for the type of use of stored water, there has been more complexity and disagreement around how to process stored water location transfers. HB 3103 re-establishes the authority of the department to process stored water type of use transfers, while providing funding for a workgroup that will work to resolve the location transfer issue.

HB 3293 – Community Engagement on Water Projects

Effective: January 1, 2022 Chapter: 129 (2021 Laws)

This bill authorizes the Oregon Department of Environmental Quality, the Oregon Water Resources Department, the Oregon Health Authority, the Oregon Business Development Department (Business Oregon), the Oregon Watershed Enhancement Board and the Oregon Department of Fish and Wildlife to utilize funding, that would otherwise be available for water project support, for the purpose of enabling local organizations and local governments to develop and implement community engagement plans related to a water project, including funding to increase participation by representatives of disproportionately impacted communities in planning processes and water project decision-making. The bill defines “water project support” as planning, technical assistance, or financial support of a water project, including watershed enhancement, in-stream flow protection or enhancement, water resource conservation or development, or water supply and wastewater treatment and disposal projects. In addition, HB 3293 defines “disproportionately impacted communities” to include rural communities, coastal communities, and other communities that face barriers to meaningful participation in public processes. The bill outlines specific requirements for community engagement plans to be eligible for state funding assistance, and a process for agency coordination to ensure that best practices are regularly updated and applied consistently.

HB 5006 - Budget Reconciliation Bill – Water Funding Package

Effective Date: August 6, 2021 Chapter: 669 (2021 Laws)

HB 5006 represents the budget reconciliation bill (commonly referred to as the Christmas Tree Bill). The bill included significant funding for water-related programs and projects, including more than \$440 million in grant funding for drinking water, water supply and water quality projects. In addition, the bill includes the following water-related investments:

OWEB Funding (section 69):

- OWEB Grants for riparian, upland restoration, protection of water quality - \$10.75 million
- OWEB Grants for floodplain restoration and reconnection - \$5 million
- OWEB grants to EWEB for McKenzie River protection - \$4 million

DEQ Funding (section 112-116):

- Scoping/design of a database framework of water and infrastructure data - \$350K
- Backfill of water quality revenue - \$420k
- Septic Loan Program - \$15 million for program; \$569k for administrative costs
- Hazardous Waste and Structural Debris Wildfire Clean-up - \$3 million

ODFW Funding (section 124):

- Fish screens and fish passage - \$5 million

Business Oregon (section 197-198):

- Levee Funding - \$15 million
- Special Public Works Fund - \$100 million (Note: SB 5534 also included an additional \$50 million in lottery bonds for the Special Public Works Fund; totaling \$100 million)

OWRD Funding (sections 232-252):

- Over \$55 million for various programs/projects (includes funding for place-based planning, Integrated Water Resources Strategy Update, Newport, and Wallowa Dams; and \$350,000 for a statewide business case assessment to examine the value of water.

SB 5545 - Oregon Water Resources Department Budget

Effective: July 27, 2021 Chapter: 665 (2021 Laws)

SB 5545 is the budget bill for the Oregon Water Resources Department. The budget includes \$1.5 million to support equitable water access and indigenous energy resiliency as recommended by the Racial Justice Council. Investments focus on conducting community- led

assessments of water needs of Black, Indigenous, Latino, Latina, Latinx, Asian, Pacific Islander, Native American, and Tribal communities; convening a Justice, Equity, Diversity, and Inclusion Advisory Group as part of the Integrated Water Resources Strategy; and assessing and facilitating implementation of best practices to advance diversity, equity and inclusion within the department's programs and processes. The approved budget also includes funding for two engineers to assess dams for seismic, flood and other safety risks; \$400,000 to develop a flood methodology for dams; and \$600,000 for engineering analyses on dams. The budget also included funding for a position that will work to coordinate, plan, and provide outreach on earthquakes, drought, floods, climate change, and dam failures, and work on Natural Hazards Mitigation, Climate Adaptation, the Governor's Climate Executive Order, the Continuity of Operations Plan, and planning for and responding to potential dam failures. Finally, SB 5545 includes funding for: information technology upgrades, five new assistant watermasters, a new deputy division administrator position, seven new positions to support groundwater studies, funding to support complex basin issues in the Deschutes and Willamette River basins, and funding to cover increased legal service costs.

Water Bills – Failed

HB 2240 – Prohibition on Storm Water Fees for Specific Federal Facilities

This bill would have prohibited a city from assessing offsite stormwater charges on certain federal facilities held in lease by the United State Air Force, if the federal facility treats stormwater onsite and in compliance with a permit issued by the Oregon Department of Environmental Quality, and discharges the stormwater, treated onsite, into a waterway that is not within the jurisdiction of the city.

HB 2241 - DEQ Third-Party Review and Permit Approval Timelines

This bill would have required the Oregon Department of Environmental Quality (DEQ) to approve a minimum of three businesses qualified to provide permit application review services to any applicants for a water quality permit. Following permit application review, under the bill the prequalified business would submit a report to the DEQ indicating whether the applicant has met requirements for a permit. Upon receipt of the report, DEQ would then have 30 days to either approve or disapprove the application. Failure by the DEQ to take any action, or to receive an extension from the Environmental Quality Commission, would have resulted in automatic approval of the permit. Some stakeholders expressed concerns that the timelines could have further exacerbated staffing capacity challenges, forcing limited staff to prioritize permits reviewed through this alternative process when other permit work may be warranted, creating a potentially inequitable permit review system.

HB 2246 – Limiting Wetland Enhancements After Violations

Oregon's removal-fill law requires landowners who plan to remove or fill material in wetlands or waterways to obtain a permit from the Department of State Lands. The law applies to all

landowners, whether private individuals or public agencies. In wetlands and waterways, a permit is required if an activity involves filling or removing a combined volume of 50 cubic yards or more of removal, fill, or alteration of material. House Bill 2246 would prohibit the director of the Department of State Lands from requiring enhancement of, or other conditions in, wetlands to correct violation of removal-fill law. The bill was heard and posted for a work session but never progressed out of committee.

HB 2310 – Preemption on Piping Material Design Specifications

This bill would have preempted local governments from adopting any ordinance, resolution, rule, or other law to prohibit, restrict or limit an evaluation, comparison or use of pipe or piping materials for a water project. The same bill was introduced during Oregon’s 2020 legislative session, and similar legislation has been introduced at the request of the American Chemistry Council, in at least 14 other states, even though it has failed to pass in any state so far. While the preemption in the bill would have only applied to projects receiving direct or indirect state funds, many were concerned that it could have created a disincentive for communities that need to utilize state funding assistance for water infrastructure projects. While there were some provisions in the bill that would have allowed a local government to have a professional engineer provide project-specific (case-by-case) specifications, it would still have made it more difficult for a local government to select the most appropriate pipe for their specific water or wastewater system. In addition, if a local government were to fail to get a project engineer to implement specifications for each component of a water project, they would have been required to accept bids for all types of pipes that meet certain standards. Under this scenario, if an invitation to bid was extended due to a lack of upfront design specifications, the local government would be subject to public contracting laws that require awarding a contract to the lowest responsible bidder.

HB 2594 – Source Water Protections for Non-Public Suppliers

In its original form, this bill would have required private landowners to agree or decline to negotiate with a water utility’s, defined as a corporation, company, individual or association providing water to the public, request to acquire a conservation easement over the landowner’s property and would have authorized OHA to exercise eminent domain to acquire a conservation easement if the landowner declined to negotiate or declined an offer made by a water utility. An amendment by the proponents would have replaced the original bill and would have directed the State Board of Forestry (Board) to review rules related to streams, channels, and tributaries with domestic water use and update rules consistent with current science, water quality best management practices, and standards established by Safe Drinking Water Act and Clean Water Act. Representatives from Environmental Quality Commission and Oregon Health Authority would assist in the review and updating process; periodically assess application of classification for streams, channels, and tributaries; and adopt and maintain rules establishing a process for determining watershed-specific rules when a surface-based stream is used as a drinking water source and when evidence indicates that forest practices post a

serious risk to continued use of stream as a drinking water source. The bill never moved, and a work group has been established.

HB 3091 - Stored Water Transfers Location Taskforce

As initially introduced, this bill would have established a Taskforce on Location Transfers of Stored Water. The bill was requested by the League of Oregon Cities and individual cities to establish a process to restore the Oregon Water Resource Department's (OWRD) ability to process and approve transfer requests seeking to change the location of stored water. In 2018, the OWRD issued a memo indicating they lacked statutory authority necessary to process transfer applications seeking to change either the type of use for stored water or the location of where water was being stored, despite the department having processed these types of transfers for decades prior to that determination. Since that time, stakeholders have convened numerous workgroups to find a statutory fix to restore that authority. While stakeholders have generally agreed on the process for transfer applications for the type of use of stored water, there has been more complexity and disagreement around how to process stored water location transfers. While HB 3091 did not pass, another bill, HB 3103, did pass and does re-establish the authority of the department to process stored water type of use transfers while providing funding for a workgroup that will work to resolve the location transfer issue. HB 3091 was amended to create a "fast-track" process for Oregon Supreme Court judicial review to determine whether the OWRD does, in fact, lack statutory authority for processing stored water transfers.

HB 3093 - Harmful Algal Blooms

This bill would have required the Oregon Health Authority to coordinate with the Oregon Department of Environmental Quality to develop and implement a strategy for monitoring and responding to harmful algal blooms. The bill required interagency communication among state, local, federal, and tribal governments, as well as other organizations that monitor water quality, and would have required various agencies to identify roles and responsibilities related to harmful algal blooms. In addition, HB3093 would have required the development of enhanced protocols, based on analysis of water quality samples and other data, for issuing public health advisory alerts to the public and other stakeholders affected by the occurrence of harmful algal blooms.

HB 3105 - Place-Based Water Resources Planning

This bill would have provided funding to support the development of place-based plans or to support the implementation of developed plans. While HB 3105 did not pass, funding was included in HB 5006 that will support entities that are currently participating in place-based water resource planning.

HB 3166 - Water Measurement

HB 3166 would have implemented a new, water measurement program within the Oregon Water Resources Department. The bill was heavily negotiated throughout the session among various stakeholder groups, but a final compromise was not reached prior to adjournment. Currently, municipal water right holders are already subject to water measurement and reporting requirements. HB 3166 would have expanded measurement requirements to other types of water right holders. The bill would have required the Oregon Water Resources Commission to designate between three to five water basins, or sub-basins, as “priority water basins” for determining where new measuring requirements would apply. HB 3166 also included funding for a cost-share program to help cover costs associated with installation of measurement devices. While HB 3166 did not pass, HB 5006, included \$1 million in funding for a new, Water Measurement Cost Share Revolving Fund.

HB 3228 - Cooperative Water Management Plans

This bill would have authorized water right holders and other affected parties to develop cooperative water management plans to promote more effective and efficient water management, conserve or protect water resources through increased in-stream flow, improve water quality, or restore ground water levels in the plan area. Participation in the plan would be voluntary but would need to receive approval from the Oregon Water Resources Department.

HB 3242 - OWRD Groundwater Monitoring

This bill would have directed the Oregon Water Resources Department to undertake certain activities related to studying and monitoring groundwater, and would have directed the department to report back to the Legislature on the costs and timing of providing regular basin reports on: groundwater recharge; consumptive groundwater use; evapotranspiration; groundwater levels and trends; the status of groundwater-dependent ecosystems; estimated costs for conducting groundwater basin studies; and recommendations for how to prioritize water management in major hydrological basins in this state.

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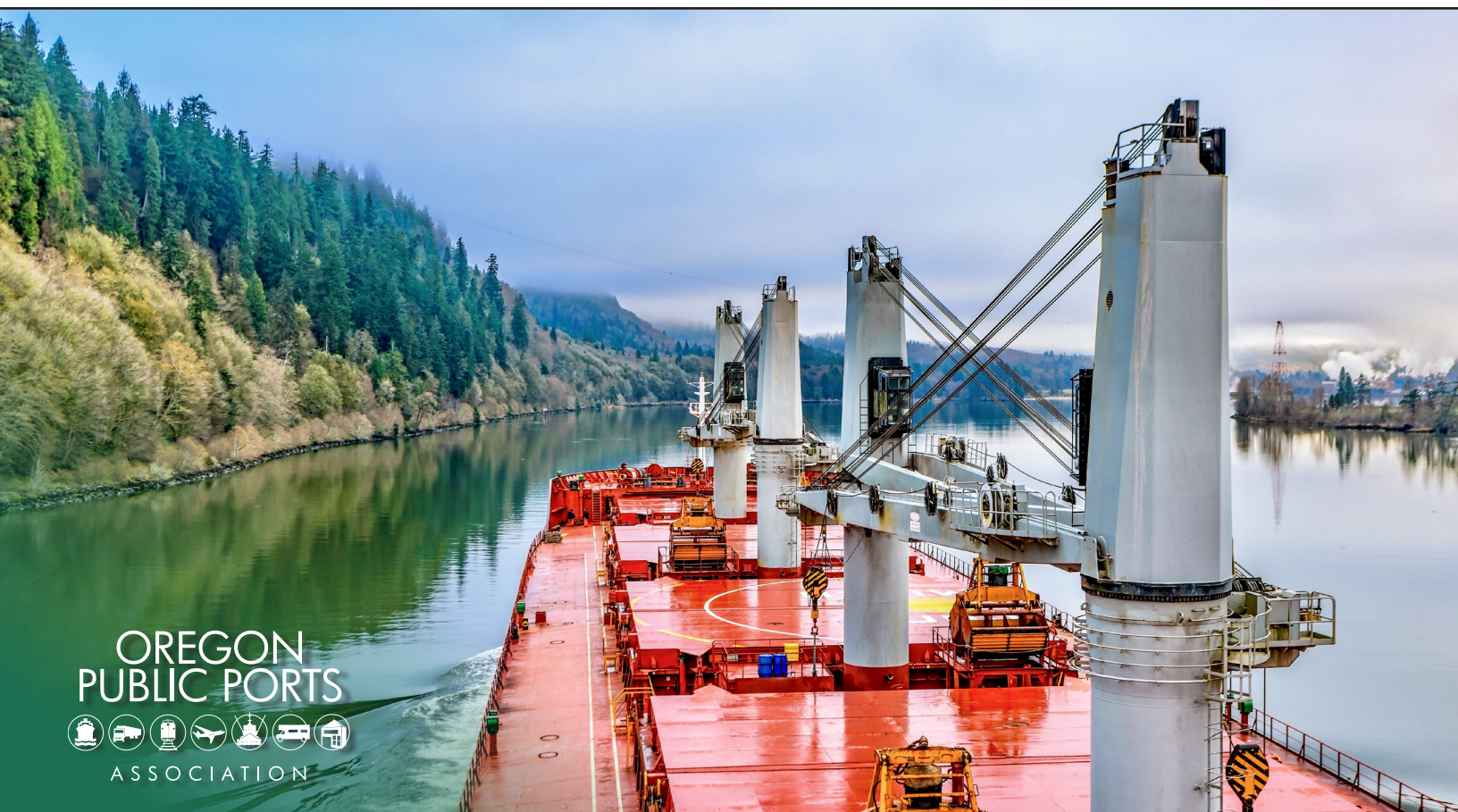
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2021 LEGISLATIVE SESSION

FINAL REPORT