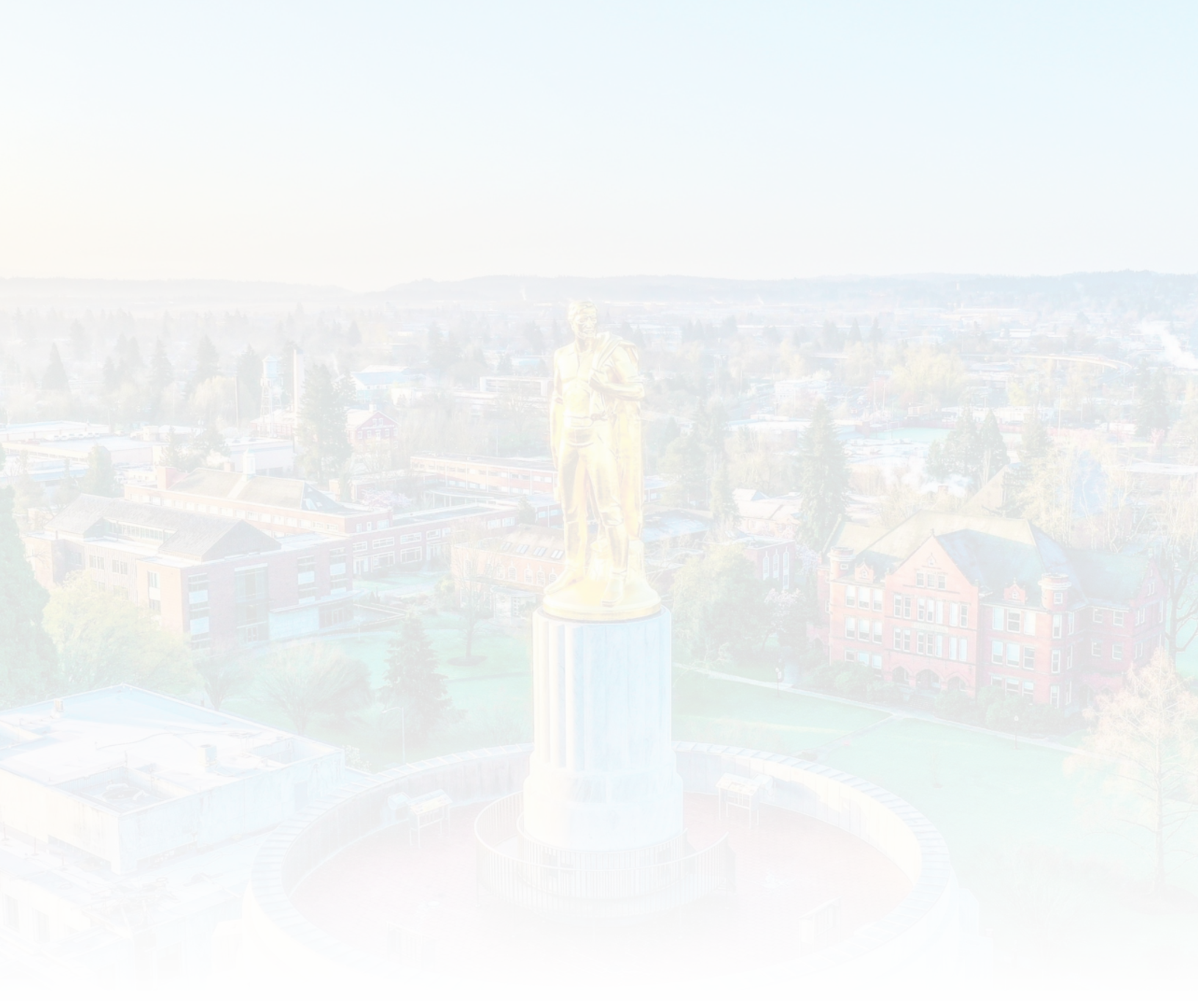




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2022 LEGISLATIVE SESSION

Final Report



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2022 LEGISLATIVE SESSION
Final Report

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2022 LEGISLATIVE SESSION

OREGON'S SIXTH CONSTITUTIONALLY REQUIRED ANNUAL LEGISLATIVE SESSION

Voters approved Ballot Measure 71 at the November 2010 ballot. They rejected a similar measure in 1990, but resoundingly supported the Constitutional amendment in 2010 with 68% of voters favoring annual sessions. Some of the arguments supporting the amendment included the following justifications and reasons to support the measure included:

- The Legislature will meet for fewer days overall and will be able to provide greater accountability and more consistent budgeting.
- By not waiting every two years to do the people's business, taxpayer dollars would be enhanced through government transparency and efficiency.
- The Legislature could increase responsiveness and get the greatest value for every tax dollar to improve the delivery of vital services.

Annual legislative sessions are now limited to a maximum of 35 days in even-numbered years and 160 days in odd-numbered years. This was the sixth, even-numbered year, constitutionally mandated legislative session.

2022 LEGISLATIVE SESSION OVERVIEW

Since the conclusion of the long session on June 18, 2021, the Legislature convened for two special sessions. The first special session was held in September (2021) and focused on redrawing legislative and congressional districts; this resulted in significant acrimony between the two parties. The second special session, held in mid-December (2021), addressed on-going COVID-19 pandemic related issues like rental assistance. The assembly also extended assistance to the agricultural sector due to on-going drought conditions in the state and addressed some of the emerging challenges created by the multitude of illegal cannabis grows located primarily in Southern Oregon.

In the weeks and months leading up to the 2022 short session, several resignations resulted in a raft of new members and new leadership was installed. Tina Kotek, Oregon's longest serving Speaker of the House, resigned after five sessions as Speaker to make a bid to become the state's next Governor. Furthermore, Representative Barbara Smith-Warner resigned as the Democratic Majority Leader. Rep. Dan Rayfield (D-Corvallis), a four-term Democrat and previous Co-Chair of the powerful Ways & Means Committee, was elected as the new House Speaker, and Representative Julie Fahey (D-Eugene) was elected as the new Democratic Majority Leader. On the other side of the aisle, Rep. Christine Drazen resigned her seat and her position as Republican Leader to run for Governor. She was replaced by Vicki Breese-Iverson (R-Prineville) as the new Minority Leader. There were 11 new members of the legislative assembly that were appointed to office since the previous election in 2020. In the Senate, Tim Knopp (R-Bend) was elected by his colleagues to serve as the new Republican Leader in the Senate. Long-serving member Senator Betsy Johnson resigned to conduct an independent run for Governor. Additionally, Oregon's longest serving legislator and longest serving President of

the Senate, Peter Courtney, announced that he would not seek another term in the Oregon Senate, thereby ending a nearly 30-year span of service in Oregon's Legislative Assembly.

The 81st Oregon Legislative Assembly, 2022 Regular Session convened on February 1st with Democrats controlling the Senate by an 18 to 11 margin with one Independent member. In the House of Representatives, Democrats held a 37 to 23 majority over their Republican counterparts. Measures that were not posted for a work session by February 7th were considered dead, and those that were posted but had not been moved out of their originating committee by February 14th were also considered dead under the provisions of Senate Concurrent Resolution 25 (2021). As a result of these deadlines, many of the bills introduced and printed at the beginning of the session saw no further action. Bills that moved to the second chamber were required to be posted for a work session by February 18th and moved out of committees by the 24th. These timelines did not apply to the Joint Ways & Means Committee, neither chamber's Rules Committees, the House and Senate Finance and Revenue Committees, or other "Joint" committees.

Entering the short session, a great deal of attention had been given to agriculture worker overtime. Attempts to enact similar legislation in the previous session had failed and a workgroup was formed during the interim with the hope of reaching a compromise, but those efforts failed as well. Democrats, mostly from urban areas of the state, stated that the exemption to overtime for farm workers was a remnant from a time where people of color were the subject of discrimination in Oregon. Furthermore, farm workers have been subjected to extraordinarily difficult working conditions recently due to heat and smoke while continuing to feed Oregonians during a world-wide pandemic. Republicans, on the other hand, worried that the new overtime requirements would force some farms to mechanize, thereby reducing working opportunities or would simply strangle small family farms and eliminate their ability to survive. As the bill progressed, Republicans attempted to slow the process by requiring all bills be read in their entirety prior to a floor vote. The result was a slow-down in each chamber that lasted for much of the session.

State coffers were full of money from unspent federal financial relief funds and state tax revenues that far exceeded projections considering the circumstances and the number of people who were forced out of work due to the pandemic. The December state economic and revenue forecast projected \$1.5 billion more in revenue than budgeted for the 2021-2023 biennium. When lawmakers received their March forecast in mid-February, projections showed that they had an additional \$800 million available to spend. That is after the state sends taxpayers a \$1.9 billion in kicker refunds for the 2021 tax year.

As in previous short sessions, policy makers were intent on addressing more than budget adjustments and technical fixes. Policy measures were filed to address several issues including Ethics Commission oversight of public meetings, press access to emergency areas, illegal cannabis grows, a private forestry accord, adoption of building reach codes, a petroleum diesel phase-out, making school districts whole after devastating wildfires impacted student enrollment, affordable housing, and homelessness. Leadership limited each member's ability

to introduce legislation to a maximum of two bills in the House and, for the first time, Senate members were allowed to introduce two bills (unlike previous short sessions when each Senate member was allowed to introduce only one bill). Committees were prohibited from introducing more than three pieces of legislation, with a few exceptions. In the end, 275 pieces of legislation were introduced for consideration.

A few high-profile measures made it to the Governor's desk including farm worker overtime and the private forestry accord, but many others died due to the short timelines. The bigger impacts across the state will be felt from the record amount spending during this short session. Aside from individual earmarks, approximately \$300 million was spent on an education package to address the staffing crisis in Oregon's schools, create summer learning opportunities, support wild-fire impacted school districts, and address education disparities; \$400 million was allocated for affordable housing and homelessness; \$200 million investment in workforce development to help workers gain access to skills and training; \$300 million cost of living relief package, including direct, one-time relief payments of \$600 that will help more than 240,000 low-wage workers; \$120 million to move an elementary school in Portland; over \$300 million for healthcare needs; \$100 million climate resilience budget; and \$100 million to help rebuild critical infrastructure in rural Oregon. The legislature's end of session "Christmas Tree" bill included \$2.2 billion in federal funds, \$2.1 billion in other funds, \$1.5 billion in general fund, and \$82.1 lottery funds that resulted in a grand total of \$5.8 billion in total expenditures.

The Legislative Assembly adjourned sine die shortly before noon on March 4th – three days short of the constitutionally required adjournment. Of the 275 bills and resolutions introduced, roughly 2/3 of the bills passed. SDAO monitored 89 of the measures introduced because of their potential to impact our member districts in one way or another.

This fall, elections will be held for all 60 seats in the state House, along with 16 state Senate seats, all six of Oregon's U.S. House seats, U.S. Senator Ron Wyden's seat will be up, the Governorship, and the Commissioner for Bureau of Labor.

2022 INTERIM PROCESS

The legislature has designated three separate blocks of "interim committee days" to receive reports and updates on designated issues and to preview legislative concepts for 2023:

- June 1st – 3rd
- September 21st – 23rd
- December 7th – 9th

Several key dates for interest groups seeking to introduce legislation are listed below:

- September 23rd – Pre-Session Legislative Requests Due
- December 5th – Pre-Session Legislative Drafts Returned
- December 21st – Pre-Session Filing Closes

State agencies must submit legislative concepts to the Department of Administrative Services (DAS) by April 15, 2022. DAS will approve introduction of agency concepts by June 3, 2022. Legislative counsel will have completed all agency legislative concept drafts by October 28, 2022. The Governor's office will then review approved DAS legislative concepts. Pre-session filing closes for state agencies on December 9, 2022.

LOOKING FORWARD TO THE 2023 LEGISLATIVE SESSION

Composition of the Legislative Assembly

The House of Representatives currently is comprised of 37 Democrats and 23 Republicans. Democrats currently have a super majority, which allows them to vote for tax increases without the need of a single Republican member. Of the 60 members of the Oregon House sworn in last year, 26 –or 43%– will not run for their seats this year. Five of the 60 seats did not draw an opponent from the opposite party (one Democrats and four Republicans), and they are guaranteed to hold that seat in the November General Election.

Democrats control the Senate by an 18 – 11 margin with one Independent – also giving them a super majority allowing them to vote for tax increases without the need of a single Republican member.

Kate Brown is unable to seek another term due to term limits. The two leading Democrats vying to be Oregon's next Governor are former House Speaker Tina Kotek and current State Treasurer Tobias Read. Former House Minority Leader Christine Drazen, Salem oncologist and former gubernatorial candidate Bud Pierce, along with Sandy Mayor Stan Pulliam, are contending for the Republican nomination. Former Senator Betsy Johnson is running as an independent candidate for the center office. Current Labor Commissioner Val Hoyle is running to replace retiring Congressman Peter DeFazio, while Senator Ron Wyden seeks another six-year term in the U.S. Senate.

INITIATIVE PETITIONS

Initiative petition sponsors have until July 8, 2022, to submit the required number of valid signatures to place a measure on the ballot. Measures that propose to change Oregon's Constitution need 149,360 valid signatures and statutory changes require 112,020 signatures.

Several measures have been approved for signature gathering for the upcoming ballot. These include changes to the tax refund kicker by increasing the minimum tax on all corporations with Oregon sales exceeding \$25 million to 3% and eliminating the minimum tax cap; ranked choice voting; the repeal of prostitution laws; limiting large capacity magazines and military style weapons; privatization of alcohol; and one that would disqualify legislators with 10 unexcused absences from seeking re-election. At this time, it is difficult to predict what will and won't appear on the November ballot.

LEGISLATIVE REFERRALS

The 2021 legislative assembly referred two measures to the voters statewide for the general election in November. 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 Oregon Constitution allowing slavery and involuntary servitude as a punishment for a crime. Each of these measures will be on the November 2022 ballot.

BUDGET BILLS

HB 5202 – Budget Reconciliation

Chapter Law: Not Assigned Effective Date: April 4, 2022

This bill is the omnibus budget reconciliation bill for the 2022 legislative session, implementing the statewide rebalance plan that addresses changes in projected revenues and expenditures since the close of the 2021 session. HB 5202 allocated approximately \$1.4 billion in funds including the following:

- Nearly \$200 million General Fund in state agencies’ budgets for employee compensation increases and pension obligation bond cost adjustments,
- \$120 million to relocate Harriet Tubman Middle School in Portland,
- \$150 million General Fund for a 2022 summer learning program,
- \$65 million for the Oregon Worker Relief Fund to aid those who have lost their jobs but are ineligible for Unemployment Insurance,
- One-time allocation of \$100 million General Fund a variety of programs that bolster and support the childcare sector in the state,
- \$400 million to increase the affordable housing supply, and support homelessness response efforts in specific communities,
- \$2 million Federal Funds expenditure limitation to distribute American Rescue Plan Act (ARPA) Coronavirus State Fiscal Recovery Fund dollars to the Special Districts Association of Oregon Grant Program,
- \$310,000 for distribution to the Devils Lake Water Improvement District for invasive aquatic vegetation management,
- \$576,000 allocated for the Port of Bandon for High Dock Administrative Offices,
- \$1,140,000 for the Port of Newport for seawall repair,
- \$75,000 to the Colton Rural Fire District for replacement of a water tender chassis,
- \$85,661 to the City of Gates for the Gates Rural Fire Protection District,
- \$69,722 for distribution via the City of Stayton to the Stayton Rural Fire Protection District to offset the district’s revenue losses from the 2020 fires,

- \$2 million directed to Oregon Business Development Department (OBDD) to provide grants to local governments to aid in short and long-term wildfire recovery efforts from recent wildfire seasons including, but not limited to, activities such as human resources, land use planning, infrastructure planning, FEMA recovery applications, building permit application processing, financial and administrative program support, and translation services,
- Reallocation of funding for the Panther Creek Septic and Stormwater project,
- Reduced the special purpose appropriation for the natural disaster prevention, preparedness, response, and recovery activities by \$25 million to help pay for drought resiliency and preparedness efforts, residual balance at \$26.3 million for future allocation,
- \$15 million General Fund for the Oregon International Port of Coos Bay to support final completion of the engineering and design work related to the deepening and widening of the Federal Navigation Channel at Coos Bay to support existing businesses and promote new business opportunities, and
- \$750,000 of funding to the U.S. Geological Survey (USGS) for placement and maintenance of approximately 25 streamflow gauges, with the possibility for matching funding from USGS that would increase that total to 50.

SB 5701 – General Obligation Bonding Bill

Chapter Law: Not Assigned Effective Date: April 4, 2022

SB 5701 increases bond authorizations for the 2021-23 biennium and makes changes to previously approved bonds authorizations. Much of the bonding went to OLCC warehouses, university, and community college facilities. However, one of note is an authorization to the Oregon Department of Emergency Management, Resiliency Grant Fund. The legislature approved \$5,105,000 Article XI-Q bonds to finance \$5,000,000 of project costs and \$105,000 for costs of issuing the bonds. The bond proceeds will be used to purchase emergency preparedness equipment, which will be owned by ODEM and distributed to local governments and other federal tax-exempt qualified recipients through the State Preparedness and Incident Response Equipment Grant (SPIRE) program. A maximum of \$1,000,000 may be spent on urban search and rescue preparedness equipment.

SB 5703 – Lottery Bonding Bill

Chapter Law: Not Assigned Effective Date: April 4, 2022

The Department of Administrative Services, Office of Economic Analysis, March 2022 revenue forecast of 2021-23 biennium lottery resources is \$90.8 million (or 5.3%) above the level assumed in the 2021-23 legislatively adopted budget. Three allocations are specified in the constitution:

- The Education Stability Fund receives 18 percent of net lottery proceeds,
- The Parks and Natural Resources Fund receives 15 percent of net lottery proceeds, and
- The Veterans’ Services Fund receives 1.5 percent of net lottery proceeds.

Based on the March 2022 forecast of lottery revenues, the constitutionally dedicated distributions are increased by the following amounts (or 5.1%) over the levels anticipated in the 2021-23 legislatively adopted budget:

- Education Stability Fund – \$15.2 million,
- Parks and Natural Resources Fund – \$12.7 million,
- Veterans’ Services Fund – \$1.3 million.

ELECTION BILLS THAT PASSED

HB 4133 – Voter Registration

Chapter Law: 19 Effective Date: April 4, 2022

On March 1, 2010, Oregon became the fourth state in the nation to provide online voter registration. In 2009, the Legislative Assembly passed House Bill 2386 directing the Secretary of State (SOS) to adopt an electronic voter registration system. In addition to online voter registration, Oregonians may register to vote by returning a voter registration form by mail, in person at a county elections office, or automatically after a qualifying interaction with the Oregon Department of Motor Vehicles (Oregon Motor Voter). House Bill 4133 allows individuals to register to vote online with the last four digits of their Social Security number and to electronically submit an image of their signature for use in elections.

ELECTION BILLS THAT FAILED

SB 1526 – Campaign Finance Limits

Oregon is one of five states with no campaign finance limits. In 2006 voters approved campaign finance reform limits via the November ballot (Ballot Measure 47). However, the entire measure was thrown out because Oregon’s Supreme Court ruled the measure violated Oregon’s constitutional free speech provisions. In the November 2020 election, Ballot Measure 107, which proposed to amend Oregon’s constitution to allow for campaign finance limits, passed with 78% of the vote. SB 1526 would have enacted limits on campaign contributions but after one hearing the bill failed to move forward.

ENVIRONMENTAL BILLS THAT PASSED

HB 4077 – Environmental Justice

Chapter Law: 58 Effective Date: June 3, 2022

This bill renames the Environmental Justice Task Force as the Environmental Justice Council and establishes the Council within the office of the Governor. HB 4077 directs the Council, with staff support from the Department of Environmental Quality (DEQ) and Oregon Health Authority

(OHA), in collaboration with the office of Enterprise Information Services, the Institute for Natural Resources, the Portland State University Population Research Center, and natural resource agencies, to develop an environmental justice mapping tool.

SB 1501 – Private Forestry Accord

Chapter Law: 33 Effective Date: March 17, 2022

SB 1602 (2020 First Special Session) directed Governor Brown to facilitate mediation sessions between members of forest industry and environmental interests to discuss changes to the Oregon Forest Practices Act (FPA) in accordance with a Memorandum of Understanding announced by the Governor on February 10, 2020. The purpose of the mediation sessions was to recommend substantive and procedural changes to Oregon FPA laws and regulations to advance the attainment of federal regulatory assurances for aquatic and riparian-dependent species. Senate Bill 5711 (2020 First Special Session) appropriated funds to pay the costs of contracted services for this mediation. On October 31, 2021, the Governor announced that the parties had reached an agreement. The agreement is memorialized in the Private Forest Accord Report. The agreement directs changes to the FPA and regulations, the development of a Habitat Conservation Program, and the issuance of an incidental take permit under the federal Endangered Species Act (ESA). Among the many results of this will be larger riparian buffers on waterways going through privately held forests.

ENVIRONMENTAL BILLS THAT FAILED

HB 4141 – Petroleum Diesel Phase-Out

As originally introduced, this bill would have set timelines for the prohibition of non-retail sale of petroleum-derived diesel to consumers for use in motor vehicles as follows: January 1, 2025 in Clackamas, Washington, and Multnomah counties; January 1, 2027 in western Oregon; and January 1, 2029 throughout all of Oregon. Retail sale of petroleum diesel would be prohibited a year later for both the three-county and western Oregon in 2025 and 2028 but would likewise be prohibited statewide beginning January 2029. Additionally, HB 4141 directed the Oregon Department of Agriculture to study petroleum diesel and renewable diesel supplies in Oregon. The study was to look at whether the supply of alternatives to petroleum diesel would be sufficient to meet the anticipated demand for fuel while satisfying the timeline requirements, and to determine whether the cost of renewable diesel exceeded the cost of petroleum diesel by greater than ten percent. The bill was ultimately turned into a study bill that remained in the Joint Ways & Means Committee upon adjournment.

HB 4148 – Mitigation Credits for Salmon Habitat Restoration

House Bill 4148 would have directed the Department of State Lands (DSL), in consultation with Oregon Department of Fish and Wildlife (ODFW), to establish a salmon credit program to encourage voluntary restoration of salmonid habitat and allow individuals to meet

compensatory mitigation obligations. In establishing the salmon credit program, DSL would have had to: identify waters of this state and adjacent agricultural lands and forestlands suitable for salmon credit projects; establish requirements for salmon credit projects, including: prioritizing salmon credit projects that would provide the greatest increase in functions and values of water resources associated with salmon credit projects; develop a system for measuring the functions and values of water resources associated with salmon credit project sites and sites for which a salmon credit would be purchased; establish procedures for the inspection, certification, and recertification of salmon credit projects; establish a salmon credit price; and establish a method for calculating the amount of salmon credit dividend payments.

ETHICS BILLS THAT PASSED

HB 4114 – School Board Statements of Economic Interest

Chapter Law: 66 Effective Date: January 1, 2023

ORS 244.050 specifically requires certain public officials and candidates for office to file an Annual Verified Statement of Economic Interest (SEI) with the Oregon Government Ethics Commission (OGEC) by April 15 of each calendar year. SEIs require disclosure of sources of income and to list all real property owned (other than principal residences) within the jurisdiction they serve. Officials required to file SEIs include statewide elected officials, legislators, judicial officers, state agency directors, every elected city or county official, members of many state boards and commissions, and the chief administrative officer and financial officer of each common and union high school district, education service district, and community college district.

A May 2021 audit of the OGEC by the Secretary of State Audits Division recommended adding school board members to the list of public officials required to submit a SEI. The audit noted that since school board members manage a critical public function and allocate billions of dollars in revenue as part-time public officials with other employment and community connections, “it is important to provide the public with adequate information about these potential conflicts to maintain accountability and fairness.” Currently port commissioners are the only special district public officials who are required to file SEIs; all other special district members are exempt from the SEI requirement. House Bill 4144 requires school district board members to file SEIs.

ETHICS BILLS THAT FAILED

HB 4140 – Mandatory Public Meeting Training

Currently the Oregon Government Ethics Commission (OGEC) enforces laws prohibiting public officials from using their office for financial gain and requiring public disclosure of conflicts of interest. These enforcement mechanisms are funded by local governments who pay fees to OGEC on a sliding scale based upon the size of their annual municipal audit. Complaints and

violations of Oregon’s executive session laws are also within the regulatory purview of OGEC; violations of public meetings are not. The remedies for public meetings are limited to filing a writ of review with the courts or recalling the public official who violated the law.

HB 4140 would have given OGEC authority over public meetings laws. The bill would have enacted civil penalties for violations of public meetings law a personal liability for each member of governing board on whom penalty is imposed. Furthermore, it would have prohibited civil penalties from being paid for or indemnified by the associated governing board or public body. The bill would have required OGEC to develop and present training to governing bodies on public meetings law and best practices. Each member of a governing body would have been required to attend training at least once per term of elected or appointed office during first year of term. In addition, public officials who engage with, provide advice and counsel, or otherwise interact with a governing body would also be required to attend training at least once every two years.

GENERAL GOVERNMENT BILLS THAT PASSED

HB 4014 – SDC Study Extension

Chapter Law: 1 Effective Date: March 2, 2022

In 2021, the Legislative Assembly passed HB 3040, which required Oregon Housing and Community Services (OHCS) to conduct a comprehensive study on System Development Charges (SDC). Under the measure, OHCS is required to provide a final report on the study to the Legislative Assembly by June 1, 2022. HB 4014 changes the deadline for submission of the final SDC study report to December 15, 2022.

HB 4059 – Definition of Large-Scale Project

Chapter Law: 51 Effective Date: March 23, 2022

HB 2021 (2021) established targets for certain utilities and electricity suppliers to provide emissions-free electricity by 2040. The measure also outlined contractor labor standards related to large-scale renewable energy generation, sequestration, or storage facility projects with a capacity rating of 10 megawatts or greater. Those standards require, among other standards, a person who constructs or repowers large-scale projects to:

- ensure that 15 percent of total work hours is performed by apprentices,
- establish and execute an outreach, recruitment, and retention plan for women, minorities, veterans, and people with disabilities to aspire toward at least 15 percent of total work hours performed by individuals in one or more of those groups; and
- have policies in place to prevent workplace harassment and discrimination. The measure provided a good faith exception to these three specific standards.

Additionally, the labor standards outlined in HB 2021 (2021) required a person who constructs or repowers large-scale projects to require all contractors and subcontractors pay the area wage standard for an hour's work. House Bill 4059 clarifies that the good faith exception applies only to the 15 percent work hour requirement for apprentices. The measure also redefines "large-scale project" as "covered project," and adds community solar projects with a capacity rating above three megawatts. Lastly, the measure requires payment of the prevailing wage rate for work on a covered project with a capacity rating of at least ten megawatts.

HB 4092 – Broadband

Chapter Law: 60 Effective Date: March 23, 2022

In 2021, the United State Congress passed the Infrastructure Investment and Jobs Act which allocated \$65 billion for broadband expansion in the United States. Under the Act, Oregon will receive at least \$100 million, with the potential for additional money, allocated based on state need. Grants will also be available for specific projects, including for tribal governments. HB 4092 makes several changes to the Oregon Broadband Advisory Council. It requires the Office to collect geospatial and other data from internet service providers and other entities with broadband infrastructure to determine eligibility for grants and loans and confirm the allocation of funds from the federal Infrastructure Investment and Jobs Act to the State. It permits the Office to enter into nondisclosure agreements with service providers and exempts proprietary information subject to nondisclosure agreements from disclosure under Oregon public records law. The bill establishes the Connecting Oregon Libraries Fund to support libraries' access to broadband. Finally, the measure requires the Oregon Public Utility Commission (PUC) to study the Oregon Telephone Assistance Program and make recommendations to help low-income residential customers access broadband or other telecommunications services.

SB 1518 – Reach Code

Chapter Law: 35 Effective Date: March 17, 2022

As originally introduced, this bill would have permitted cities or counties enforcing the state's building code to individually adopt the REACH Code for residential and commercial developments. This code has higher energy savings as compared to Oregon's existing residential and commercial codes. However, the bill was amended to create a Task Force on Resilient Efficient Buildings for the purpose of identifying and evaluating policies related to building codes and building decarbonization for new and existing buildings. SB 1518 would enable the state to meet greenhouse gas emissions reduction goals and to make policy recommendations to the interim committees related to the environment prior to the 2023 regular session.

SB 1536 – Cooling Stations

Chapter Law: 86 Effective Date: March 23, 2022

Senate Bill 1536 expands the Department of Human Services (DHS) grant program for local

governments to establish emergency shelters for clean air, warming, and cooling, and to upgrade public building facilities to include warming and cooling as acceptable uses of grant funds. It clarifies that shelters or facilities receiving grants must notify 211Info regarding shelter location, capacity, and hours and dates of operation. The bill appropriates \$2,000,000 out of General Fund to DHS in the biennium ending June 30, 2023, for this purpose.

SB 1554 – Public Health COVID Analysis

Chapter Law: 93 Effective Date: March 23, 2022

SB 1554 directs the Oregon Health Authority (OHA) to contract with a neutral, third-party consultant to study and report on the state’s public health response to the COVID-19 pandemic. An initial report will be produced no later than November 15, 2022, addressing funding, coordination of resources, public health mandates, messaging, and outcomes. The bill requires a subsequent report to a committee of the Legislative Assembly no later than April 1, 2023, reviewing the COVID-19 pandemic broadly, summarizing key lessons learned, and identifying areas of the public health system that need improvement. A final report with findings and recommendations will be issued no later than September 1, 2023.

SB 1565 – Cash Payments

Chapter Law: 98 Effective Date: June 3, 2022

This bill provides that a place of public accommodation that refuses to accept United States coin and currency as payment for goods and services engages in an unlawful practice. It permits a place of public accommodation to refuse to accept as payment for goods and services coins in an amount equal to or greater than \$100 or currency in denominations of \$50 or \$100. SB 1565 makes specified exceptions, including farmers' markets and roadside stands; transactions occurring on aircraft; transactions involving transient lodging or transportation; internet-based transactions; the purchase of diesel fuel or Class 1 flammable liquids at a filling station, service station, garage, or other dispensary where diesel fuel or Class 1 flammable liquids are sold at retail during the hours in which the location is unattended or attended by only one person to dispense the fuel or liquids; licensees under the Oregon Consumer Finance Act; membership-only retail establishments where goods and services are sold to members who pay a recurring membership fee; and on-street and off-street parking pay stations that do not accept currency, provided that the pay station accepts coins as one method of payment.

Furthermore, SB 1565 permits a place of public accommodation to require patrons to use a payment system that converts cash into a cashless payment instrument, such as tokens, cards, or wristbands so long as no transaction fee for the conversion is required. The bill provides a process by which a complaint may be filed with the Commissioner of the Bureau of Labor and Industries for refusal to accept United States coin and currency.

SB 1567 – Oregon’s Critical Energy Infrastructure Hub

Chapter Law: 99 Effective Date: June 3, 2022

Senate Bill 1567 requires owners or operators of bulk oil and liquid fuels terminals located in Columbia, Multnomah, or Lane Counties to conduct and submit seismic vulnerability assessment to the Department of Environmental Quality (DEQ) by June 1, 2024. The seismic vulnerability assessment must include:

- Seismic risk assessment conducted by qualified professionals using the most recent industry standards,
 - Determination of the bulk oils or liquid fuels terminal’s vulnerability to liquefaction triggering and liquefaction consequences,
 - Determination whether the certain existing structures or supporting facilities have been designed, improved, or retrofitted to reduce potential for significant structural damage in event of a Cascadia Subduction Zone earthquake, and
 - Determination of most vulnerable structures to seismic risks and the potential of those structures to maintain safe operating conditions or safe shut down procedures.
- Requires DEQ to review and approve seismic vulnerability assessments.

The measure authorizes Environmental Quality Commission (EQC), in consultation with the State Department of Geology and Mineral Industries (DOGAMI), to adopt requirements for the seismic vulnerability assessment by rule and to require owner to submit updates under certain circumstances no more than once every three years. SB 1567 requires the owner or operator of bulk oils or liquid fuels terminal to properly implement seismic risk mitigation implementation plan approved by DEQ. Additionally, DEQ must submit a report on seismic vulnerability assessments to interim committees of Legislative Assembly by November 1, 2024.

GENERAL GOVERNMENT BILLS THAT FAILED

HB 4155 – Cybersecurity

The Federal government, via the Infrastructure Investment and Jobs Act, has created the state and local cybersecurity grant fund. This is a non-competitive, formula-based grant program that is expected provide Oregon with approximately \$15 million in federal funding (with required state matching funds) between federal FY 2022 and 2025. At least 80% of those funds must be distributed to local governments. Accessing those and other cybersecurity related grant funds will require coordinated governance, planning, grant application, distribution of funds, and project implementation among and between Oregon’s state and local government representatives in the months and years to come. House Bill 4155 would have established the Oregon Cybersecurity Workforce Development Fund to invest in cybersecurity workforce development programs, provide cybersecurity-related goods and services to Oregon public bodies.

LABOR BILLS THAT PASSED

SB 1514 – Pay Equity Exemption

Chapter Law: 23 Effective Date: March 7, 2022

Oregon's pay equity law makes it an unlawful employment practice for an employer to pay wages or other compensation to any employee at a rate greater than other employees of a protected class for work of a comparable character. Employers may not reduce compensation to comply and are liable for unpaid wages if they violate the pay equity law. In 2021, the Legislative Assembly passed House Bill 2818, to remove hiring and retention bonuses from the definition of "compensation" for purposes of the pay equity law. The change applied only to complaints filed with the Bureau of Labor and Industries (BOLI) and to claims filed in circuit court on or after May 25, 2021, until March 1, 2022. Senate Bill 1514 removes hiring and retention bonuses from the definition of "compensation" for purposes of the pay equity law and applies the change to complaints filed with BOLI and to claims filed in a circuit court during the period beginning on or after March 1, 2022, until 180 days following the expiration of the state of emergency that was first declared by the Governor on March 8, 2020.

SB 1515 – Paid Family & Medical Leave Insurance Benefit Year

Chapter Law: 24 Effective: January 1, 2023

This bill defines a "benefit year" for the purposes of the Paid Family Medical Leave Insurance (PFMLI) program to mean a period of 52 consecutive weeks beginning the Sunday before leave commences, or 53 weeks if necessary to avoid overlap with any quarter of the base year of a previously filed valid claim. SB 1515 removes the requirement that the Director of the Oregon Employment Department determine the 12-month benefit year and establish alternatives by which an employer may determine a benefit year period.

SB 1586 – Non-Disclosure Agreements

Chapter Law: 107 Effective Date: January 1, 2023

The Legislative Assembly passed the Workplace Fairness Act (WFA) in 2019. Under the WFA, a private employer must adopt a written policy outlining their procedures and practices for reducing and preventing discrimination and sexual assault. The WFA also prohibits employers from entering into a nondisclosure agreement (NDA) as a condition of employment, continued employment, promotion, sexual assault that occurred between employees or between the employer and the employee.

In 2019, the Legislative Assembly passed Senate Bill 479 which applied the same requirements and prohibitions to public employers. The law currently provides two exceptions that would permit an employer to enter into an otherwise prohibited NDA. First, an NDA is permitted if an employee claiming to be aggrieved by employment discrimination requests the NDA as part of a settlement, separation, or severance agreement. Second, an NDA is permitted if the employer

makes a good faith determination that the employee engaged in employment discrimination. An aggrieved employee may file a complaint with the Commissioner of the Bureau of Labor and Industries and file a civil action, which can result in recovery of back pay for the prior two-year period as well as compensatory and punitive damages.

Previously, the WFA restricted employers from requesting, in both settlement agreements and separation agreements with employees claiming discrimination under certain statutes, confidentiality and non-disparagement provisions pertaining to conduct that allegedly would constitute discrimination, as well as no-rehire provisions. If an employee requested confidentiality, non-disparagement, or no-rehire, the employer was free to agree to it.

Senate Bill 1586 expands the restrictions to prohibit employers from requesting confidentiality about the amount of or fact of any settlement. Again, that confidentiality provision is still permitted upon the employee's request. The measure makes it a violation of the WFA for an employer to make an offer of settlement or separation conditional upon a request by the employee to include any of these restricted terms.

The bill also requires that employers provide employees with whom the employer seeks to enter into a settlement or separation agreement a copy of the employer's anti-discrimination policy, which is described in ORS 659A.375. When an employer mediates claims or allegations covered by the WFA with an employee who is not represented by an attorney, the bill requires the mediator to provide the unrepresented employee with a copy of the model procedures and policies made available by the Bureau of Labor and Industries under ORS 659A.375.

Finally, SB 1586 allows an individual who files a complaint related to violations to recover liquidated damages of up to \$5,000 (the original version of the bill set the damage amount at \$5,000 vs. up to \$5,000). The original bill rendered confidential communications made during mediation discoverable in litigation and admissible as evidence, but those provisions were removed from the bill prior to its passage.

LAND USE BILLS THAT PASSED

HB 4064 – Placement of Manufactured Housing

Chapter Law: 54 Effective Date: March 23, 2022

This bill standardizes definitions to allow the siting of prefabricated structures designed for use as a single-family dwelling in mobile home or manufactured dwelling parks, including parks that are cooperatively owned. Under HB 4064, local governments must allow siting of manufactured homes and prefabricated structures in single-family dwelling zones inside urban growth boundary (UGB). Local governments would be prohibited from applying standards to prefabricated and manufactured homes located within a UGB that differ from standards applicable to detached, site-built single-family dwellings on the same land, except as necessary to comply with protective measures adopted pursuant to statewide land use planning goals, or

to require manufacturer certification that the home or structure meets energy efficiency performance standards equivalent to those required for single-family dwellings under the Low-Rise Residential Dwelling Code. It expands the manufactured dwelling replacement program to borrowers whose manufactured home or prefabricated structure was destroyed by a natural disaster and allows an eligible replacement home to be located either inside or outside a natural disaster area.

LAND USE BILLS THAT FAILED

HB 4063 – Substantial Completion

In 2019 the Legislative Assembly enacted HB 2306 that required local governments to issue certain residential building permits that would otherwise have been denied for failure to meet conditions of development, in cases where public improvements are “substantially complete,” and a bond or other approved financial guarantee has been secured. “Substantially complete” means certain systems meet applicable standards, including water, fire hydrants, sewage, storm drainage, curbs, streets, and street signs.

HB 4063, introduced at the request of the Oregon Home Builders Association, would have clarified certain provisions of the previously enacted legislation. Specifically, it would have permitted submission of building permits when plats had not been finalized, defined roads as being substantially complete when they were at the compacted gravel stage and allowed for temporary addresses among other things. The measure would have also created a study. The bill was heavily negotiated, but at the end of the day the home builders decided that there was not enough time to complete the bill.

PUBLIC CONTRACTING BILLS THAT FAILED

HB 4019 – Qualified Nonprofit Agency Procurement Changes

House Bill 4019 would have required the Department of Administrative Services (DAS) to audit each public agency at least once every five years to verify compliance with qualified nonprofit agency procurement requirements and publish results on its website. DAS would have been required to supervise and approve all successor service contracts entered by a public agency for specified services to verify compliance with employment transition requirements for individuals with disabilities who worked 28 hours or more per week when the prior contract ended. The bill would have granted DAS enforcement and rulemaking authority.

PUBLIC SAFETY BILLS THAT PASSED

HB 4068 – OEM Reorganization Cleanup

Chapter Law: 55 Effective: March 23, 2022

The Oregon Homeland Security Council was established by House Bill 2101 (2005) to assess risks to the state with an emphasis on domestic terrorism and critical infrastructure. The Council is made up of legislators and the heads of several state agencies. Currently, the Council resides within the Office of the Governor; House Bill 4068 moves it under the umbrella of the Oregon Office of Emergency Management (OEM). The Oregon Pre-Disaster Mitigation Fund was established by House Bill 3626 (2008) to use federal funds for pre-disaster mitigation efforts to issue grants through the Oregon Military Department, which formerly housed OEM. House Bill 4068 transfers the Fund to OEM.

HB 4068 requires all elected officials and state agency administrative directors, as well as all persons in state government management services, to complete an introductory course on incident command and the National Incident Management System (NIMS). Originally issued in 2004, NIMS provides a consistent, nationwide framework for partner agencies and entities throughout federal, state, and local government to work together to prevent, protect against, respond to, recover from, and mitigate the effects of incidents.

The measure also directs OEM to create, fill, and utilize at least six positions to support the emergency notification system. The system is maintained by the Department of State Police, and, beginning July 2022, will operate under a service agreement with OEM for daily operation of the system as a continuously available communications network and a component of the state's emergency operations center. The measure also directs OEM to develop a program of periodic emergency exercises, including: an annual multi-disciplinary, all-hazards emergency response exercise involving at least 10 percent of all public and private safety agencies in the state; and an annual internal exercise testing at least one element of the state's emergency preparedness.

In addition, each county is directed to conduct a tabletop learning exercise each year related to emergency response, except in years when the county's emergency operations center was activated. OEM is directed to consult with the Oregon Homeland Security Council on priorities for these exercises. HB 4068 directs the Oregon Homeland Security Council to establish a program to create an Oregon Critical Disaster Preparedness Stockpile and coordinate the development of a list of essential equipment and materials, as well as the manufacturing capacity and distribution network for those supplies.

The Council is directed to report to legislative committees on efforts taken to establish the stockpile by September 30, 2023. Once this process is complete, the measure directs the Oregon Business Development Department to establish and administer the Oregon Resiliency Partnership Program to ensure the stockpile is maintained.

The bill modifies the membership provisions of the Emergency Preparedness Advisory Council, which is housed within the Office of the Governor, to specify that there should be at least one member of the council with experience or knowledge of each federal emergency support function. HB 4068 requires that the Governor, when making appointments to the Council, consider diversity criteria such as language, socioeconomic status, and experience.

Finally, the measure specifies that, during a declared state of emergency, the Oregon Department of Transportation must issue a commercial driver license to individuals experienced in driving an equivalent military motor vehicle, concurrent with a similar federal waiver. Licenses issued under this authority would remain valid until termination of the emergency.

HB 4087 – Press Access to Natural Disasters on Public Lands

Chapter Law: 59 Effective Date: March 23, 2022

This bill requires officials of public bodies to allow credentialed representatives of news media organizations access to scenes of wildfires or natural disasters on certain public lands that are otherwise closed, by January 1, 2023. HB 4087 permits those public officials to require members of the news media to have completed specified safety training, as well as permits on-site commander or designee to deny access or to authorize unescorted access to news media representatives who agree to assume risk. Members of the media will be required to carry appropriate personal protective equipment (PPE).

The measure also exempts a public body or public employee from liability for injury or death of news media representatives. Under the bill the Office of Emergency Management (OEM) will convene a group of stakeholders to develop voluntary guidelines for training, circumstances for denying access, and when PPE is required. Finally, HB 4087 requires a report to Legislative Assembly by September 1, 2022.

HB 4113 – Firefighter Cancer Workers’ Compensation Presumption

Chapter Law: 8 Effective Date: January 1, 2023

Workers’ compensation law requires most employers to provide their workers with workers’ compensation insurance coverage; the law provides an exclusive remedy for job-related injuries and occupational diseases. In 2009, legislation was passed that created a “presumption” for 12 types of cancers (brain cancer, colon cancer, stomach cancer, testicular cancer, prostate cancer, multiple myeloma, non-Hodgkin’s lymphoma, cancer of the throat or mouth, rectal cancer, breast cancer, and leukemia, including oral, respiratory, digestive, and male reproductive cancers). These cancers are “presumed” to be compensable occupational diseases for non-volunteer firefighters who have been on the job for at least five years. An employer can rebut the presumption by providing clear and convincing medical evidence that cancer was not caused or materially contributed to by the firefighter’s employment. Since 2009 no employer has overcome the clear and convincing burden of proof therefore the “presumption” has

consistently been granted to the claimant/firefighter. HB 4113 adds bladder cancer and gynecological cancers to the list of 12 occupationally presumed cancers.

PUBLIC SAFETY BILLS THAT FAILED

HB 4097 – Volunteer Firefighter Tax Credit

HB 4097 would have created a \$1,000 tax credit for volunteer firefighters. To qualify for the proposed credit, a volunteer firefighter would have been required to provide volunteer services during the tax year to a regularly organized fire department, a rural fire protection district, a municipal corporation, or any other public or private safety agency that provides firefighting services. The volunteer firefighter would have had to complete, at minimum, two specified actions as a volunteer firefighter during the year. The bill failed to move forward after its initial hearing.

WATER BILLS THAT PASSED

HB 4057 – Efficient Water Sprinkler Heads

Chapter Law: 4 Effective Date: June 3, 2022

This bill establishes minimum energy efficiency standards for spray sprinkler bodies manufactured on or after January 1, 2023, and which are included in the scope of the United States Environmental Protection Agency’s “WaterSense Specification for Spray Sprinkler Bodies, Version 1.0.” HB 4057 requires spray sprinkler bodies to include an integral pressure regulator and meet water efficiency and performance criteria. It prohibits individuals from selling or offering for sale a new spray sprinkler body unless the energy efficiency of the new product meets or exceeds the minimum energy efficiency standards specified in statute (ORS 469.233), except when the device is: 1) manufactured in this state and sold outside this state; 2) manufactured outside this state and sold at wholesale inside this state for final retail sale and installation outside this state; 3) installed in a mobile or manufactured home at the time of construction; or 4) designed expressly for installation and use in recreational vehicles.

The measure prohibits individuals from installing a new spray sprinkler body for compensation unless the energy efficiency of the new product meets or exceeds the minimum energy efficiency standards specified in statute (ORS 469.233), except if the product is installed in a mobile or manufactured home at the time of construction or designed expressly for installation and use in recreational vehicles.

HB 4061 – Record Keeping for Bulk Water Purchases

Chapter Law: 52 Effective Date: June 3, 2022

House Bill 4061 requires a water supplier who sells water to the public at a distribution location to maintain specified records (name, date, amount of water, and license plate) of water sales

for at least 12 months and immediately provide them to law enforcement or the OWRD upon request. It exempts from record requirement water sales to state or local government bulk water purchasers, to licensed contractors, and in bulk for firefighting purposes. The bill gives immunity from certain civil or criminal liabilities to water suppliers who comply with the requirement to immediately submit records to law enforcement or OWRD. The measure prohibits a person from hauling or arranging to haul water to an unregistered or unlicensed cannabis grow site that is growing a quantity of plants not allowed under state law and prohibits a person from willfully or negligently providing false information to law enforcement or the Oregon Water Resources Department (OWRD) regarding water hauling for cannabis.

The bill requires that a person who purchases water from a water supplier at a distribution location to be hauled for irrigation or nursery purposes keep specified records for at least 12 months and immediately provide them to law enforcement or OWRD upon request. Furthermore, it authorizes OWRD to adopt rules for implementation, and requires OWRD, the Oregon Liquor and Cannabis Commission (OLCC), and Oregon Department of Agriculture (ODA) to make reasonable attempts to provide notice of the requirements to potentially interested persons.

HB 4061 changes the Water Resources Commission timeline to notify violators of the time allowed to correct a violation from five to ten business days after the commission first becomes aware of the violation. Additionally, it establishes civil penalties for violation of record-keeping requirements related to a person who purchases water to be hauled, as well as determines civil penalties and Class A misdemeanor criminal penalties for violation of the prohibition against providing false information to law enforcement or OWRD. The bill creates Class A misdemeanor criminal penalties and a maximum fine of \$25,000 for violation of the prohibition against hauling or arranging to haul water to an unregistered or unlicensed cannabis grow site that is growing a quantity of plants not allowed under state law if the person owns the water hauling business or owns, operates, or is responsible for the relevant grow site. Finally, the measure establishes Class A misdemeanor criminal penalties and a maximum fine of \$25,000 for appropriation of surface or ground water without a permit for an unregistered or unlicensed cannabis grow site that is growing a quantity of plants not allowed under state law.

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2022 LEGISLATIVE SESSION

Final Report