



2017 LEGISLATIVE SESSION IN REVIEW

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2017 LEGISLATIVE SESSION IN REVIEW

The 79th Oregon Legislative Assembly convened a three-day “organizational session” on January 9, 2017. The assembly then adjourned for roughly two weeks and reconvened in full session on February 1, 2017. During the organizational days nearly 1,200 bills were printed. Those measures were referred to the various policy committees during the subsequent 2 weeks, which allowed the committees to conduct hearings on bills the very first day of full session. This was the fourth full Legislative Session that was constitutionally limited to 160 days under Ballot Measure 71, which was passed in 2010. Legislative leadership created an ambitious legislative calendar under HCR 17 and set a target date of June 23rd for *Sine Die* (143 days). However, in a move that hasn’t happened since 2003, the Senate adjourned *Sine Die* at 11:30am on July 7th, three hours before the House adjourned. The session lasted 156 days.

During the November election House democrats maintained their 35-25 majority. The majority party re-elected Tina Kotek (D-Portland) as the House Speaker (the first Speaker to serve three consecutive sessions in several decades) and Jennifer Williamson (D-Portland) as the Majority Leader. Interestingly, for the first time in Oregon history of the majority party were women (19 of the 35).

Mike McLane (R-Powell Butte) was re-elected as the House Minority Leader. Three of the 25 members in the Republican Caucus were women. In addition, there were 14 freshman legislators in the House this session (10 Democrats and 4 Republicans).

The Senate Democrats, on the other hand, lost one seat after the General Election resulting in 17 Democrats and 13 Republicans. The Senate elected Peter Courtney (D-Salem) to an unprecedented 8th term as President of the Senate and Ginny Burdick (D-Portland) as the Majority Leader for her first full term in that position. Ted Ferrioli (R-John Day) was re-elected as the Senate Minority Leader for the fifth consecutive full session. There were four new Senators this session (2 Democrats and 2 Republicans), and only one of them had previously served in the House.

Governor Brown was elected to serve out the remaining two years of former Governor Kitzhaber’s term, which he resigned from under enormous pressure in early 2015. She captured 51 percent of nearly 1.7 million votes cast. She will have to run again in 2018 if she wants to pursue a full four-year term as Oregon’s Governor.

Republican Dennis Richardson was elected Secretary of State, breaking a 22-year lock on partisan statewide office races. A feat not equaled since Jack Roberts won the office of Labor Commissioner. However, Gordon Smith was the last Republican to win any statewide election when he won a second term to the U.S. Senate in 2002.

With the state facing a nearly \$1.8 billion budget deficit in meeting current service levels, ballot measures played a big role in determining how the legislature was going to be able to balance the state's budget. Ballot Measure 97 would have raised nearly \$3 billion a year by taxing corporations with more than \$25 million in Oregon sales. The measure turned out to be the most expensive ballot measure fight in the state's history with over \$26 million in contributions to defeat the measure and approximately \$16.5 million in support. The measure was soundly defeated by Oregon voters by nearly 20 points. Ballot Measure 98, which was resoundingly passed by the voters, dedicated \$800 per high school student for career technical education and dropout prevention; thereby costing the state up to \$294 million to fully implement. Ballot Measure 99 was passed by the voters, and dedicated up to four percent of lottery proceeds, or approximately \$44 million, to pay for one week of Outdoor School for every 6th grader in Oregon. Finally, Ballot Measure 96, which dedicated 1.5% of Lottery revenues for veteran's services – equaling approximately \$19 million every two years, was also passed by the voters.

The three measures that passed represented \$357 in new spending and equaled 1/5th of the budget gap faced by the Legislative Assembly. The other two big cost drivers responsible for the budget gap were increased payments to address the growing unfunded liability under the Public Employee Retirement System (PERS) as well as expanded Medicaid eligibility with lower federal reimbursement.

In December, Governor Brown presented her recommended budget and described it as a "short-term budget solution." Her proposed \$20.9 billion budget (\$2.1 billion more than the previous biennium's budget or an 8.56% increase) used an equal amount of new revenues and program cuts in order to fill the daunting budget shortfall. Specifically, she asked for nearly \$900 million in new revenue to include increases in tobacco and liquor taxes, the elimination of a corporate tax break created in 2013, and an increase in hospital assessments and health insurer taxes.

Her budget invested in education, health care, housing and job creation through a transportation funding package. The proposed \$8.01 billion for K-12 education funding was met with skepticism and her higher education funding proposal simply maintained funding levels from the previous biennium – thereby requiring substantially higher tuition costs for students. Other proposals included cutting diesel emissions, expanding DEQ's air toxic monitoring, and continued modest investments in water related infrastructure.

The Governor's proposed budget was met with wide-spread concern from both parties largely due to the assumed approval of several tax votes that would have been required under her plan. As a result, in mid-January, the Co-Chairs of the powerful Ways and Means Committee released an "Existing Resources Framework" for the 2017-19 state budget. This plan was based on "existing law" and served as the framework for balancing the budget for the upcoming biennium. The proposal put in stark terms what the next budget would look like without any new revenue. Hundreds of millions of dollars in cuts across state programs were outlined in the document and included a three percent cut to education as well as the discontinuation of nearly 400,000 Oregonians Medicaid coverage. With the release of the framework plan, the

Full Ways and Means Committee announced their intent to conduct a statewide listening tour to seek public input on budget priorities for the upcoming biennium. They hoped that the budget cuts outlined in their framework would be rejected by the public and that the next revenue forecast would allow them to develop a recommended budget.

Meanwhile, discussions continued on the deficiencies of Oregon's tax structure. One side maintained that corporations were not shouldering their fair share of the tax burden while the business community stated that runaway costs of the PERS system needed to be addressed before they would be willing to discuss new taxes. This circular discussion continued throughout the session without any resolution on either corporate tax reform or substantive modifications to the PERS system.

As the session began, both parties outlined their broad agendas. The majority party made clear that education investment, a transparent and accountable government, continued economic growth, worker and family rights protection, supporting women, seniors, communities of color, and healthy communities were their top priorities. The republican's agenda included higher standards for government transparency and accountability, investment in students and workforce, prioritizing rural Oregon, strengthening the integrity of Oregon elections, and keeping our promise to Oregon veterans.

Tax reform was a huge topic of debate throughout the course of the session. The Joint Committee on Tax Reform was created and given the task to come up with new ways to reform and increase corporate taxes. The various proposals, although they attracted a great of attention from the press, made very little progress due to Republican demands to produce substantial savings under PERS. . At one point in the session the K-12 Education budget was held up to try to leverage votes for a corporate tax reform measure. In the end when Governor Brown identified Medicaid funding, transportation and cost containment as her go home requirements for the session, any wind remaining in the corporate tax reform debate was lost.

Another major topic of discussion was transportation. The 14-member Joint Committee on Transportation, Preservation and Modernization spent nearly a year touring various areas of the state and gathering information on local projects. The committee broke up into five subcommittees and then reported their recommendations to the full committee. Many legislators, and lobbyists alike, began to speculate that there would not be enough time to pass a funding package as early May approached. Then a nearly 300-page amendment was printed on May 31st that proposed a \$8.2 billion 10-year funding package. Several weeks passed with interest groups complaining that the proposal was too big and whispers of a potential referral to the voters were heard throughout the Capitol. By June some folks even began to speculate that a transportation funding package or corporate tax reform would have to be taken up during a special session either in the late summer or fall. At one point, SEIU even threatened to refer the transportation package if the legislature would not pass a corporate tax hike. However, once a deal was struck on limiting costs related to the low carbon fuel standard enacted in 2015, a trimmed down version of the bill passed both chambers comfortably.

The May revenue forecast, used to balance the upcoming biennial budget, brought additional good news. The February forecast showed an additional \$200 million for the General Fund. The Office of Economic Analysis estimated that the next biennium's revenue would be up an additional \$200 million – thereby reducing the funding gap to meet current service levels to \$1.4 billion. The challenging news was they also predicted the personal income tax kicker would kick for tax year 2017 to the tune of \$408 million. This final forecast set the stage for the legislature to complete the remaining budgets and enact the measures projected to have budgetary impacts.

The Legislative Assembly was able to close the pre-session funding gap of \$1.8 billion largely due to: the passage of a \$211 million cost-containment bill; \$400 million predicted in the two previous revenue forecasts; passage of a health care provider tax and health insurance tax totaling \$550 million; underfunding a voter approved Ballot Measure for career technical education and drop-out prevention by \$120 million; eliminating tax credits such as the residential solar tax credit, and elimination of a corporate tax break enacted during the 2013 session.

House Democrats intentionally avoided bringing forward highly controversial proposals with the hope of engendering good will with the minority party. However, after it was clear that no corporate tax reform would move forward, several highly contentious issues were brought to the floor. These included restrictions on certain individuals possessing guns, reproductive health insurance, and a bill to set a special session in January of 2018, to name a few.

In the end, the Legislature adopted budget amounted to nearly \$20.9 billion in General Fund and Lottery resources, an increase of 10.3% over the previous biennium. Democrats hailed the session as a success with the one notable exception that corporate tax reform must be addressed. Meanwhile, Republicans complained bitterly that the legislature failed to address the crippling costs driven by the PERS unfunded liability. There is little doubt that relationships were strained during the session, not only between parties but also between leadership in the House and Senate as evidenced by the two chambers adjourning separately, rather than concurrently.

NOTABLE ACTIONS TAKEN THIS SESSION

- Passage of a comprehensive transportation funding package, including phased increases to the gas tax, registration and title fees and an employee payroll tax among other revenue sources that is expected to generate approximately \$5.3 billion over the next 10 years.
- Nearly \$8.2 billion for K-12 – approximately \$800 million more than the previous biennium (11 percent increase) but \$200 million below what advocates and even protestors wanted to avoid teacher layoffs, shortened school years, and increases in class sizes.

- Pay equity that will ensure that Oregonians are paid a fair and commensurate wage regardless of race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age.
- A first of its kind predictive scheduling law for employees of the hospitality, restaurant and retail industries.
- Electronic recording of grand jury proceedings.
- A cost containment bill that will review how agencies classify positions, merge public employee health care programs, modify select procedures for PERS and put limits on payments to hospitals as well as the growth of health care premiums.
- \$30 million for OregonConnect VII; additional money for the program will be generated from a privilege tax on new car sales provided that it is determined to not violate the Constitutional restrictions for the State Highway Fund.
- Strict timelines for public bodies to release information requested under Oregon's Public Records law.
- Raising the age to purchase tobacco from 18 to 21.
- \$200 million for school seismic upgrades and a matching program to fix outdated, dilapidated or hazardous school facilities.
- \$100 million to renovate community college facilities.
- \$260 million for renovations and other projects on state university campuses.
- \$80 million for affordable housing construction and \$25 million for affordable housing preservation.
- \$20 million for the Special Public Works Program and an additional \$10 million for levees under the program.
- \$15 million for the Water Supply Development Account.
- Funding to support the next steps of the Portland Harbor Superfund Cleanup.
- \$100 million to keep the Elliot State Forest in public hands.
- Making Oregon Drivers Licenses compliant with the Federal REAL ID Act.
- A balanced budget of approximately \$20.9 billion.

The Governor got the transportation funding package that she called for as well as new investments in affordable housing, funding for Medicaid and some modest cost containment. However, there were a few notable issues that did not successfully pass this session. The failures to enact corporate tax reform this session will likely result in another brutal ballot fight in November 2018. Other issues that failed to move forward included paid family leave, rent control, and no-cause evictions.

LOOKING AHEAD

Governor Brown will likely run for a full four-year term after succeeding Governor Kitzhaber and winning an election to serve out the remaining two years of office. Knute Buehler (R-Bend) has announced his candidacy, but it remains to be seen whether any other challengers will emerge.

It is likely that it will be a contentious ballot season again. Representative Julie Parish (R- West Linn) has threatened a referral of the health provider tax that was key to balancing the state's budget and providing as many as 350,000 Oregonians health care coverage over the next biennium. As a result of this threat, Democrats passed legislation over strenuous Republican objection that allows them to write the ballot title and require the referral to be voted on in a special election that will occur on January 23rd, 2018. The reasoning for the special election is that if the referral were to succeed, the Legislative Assembly could address this new funding shortfall during the February session.

With the failure of any corporate tax reform the Oregon Education Association, the state's largest teacher's union, filed a multi-billion dollar corporate tax initiative. The proposal would have raised as much as \$1.75 billion annually for K-12 and higher education through a corporate tax that would have been assessed based on a company's sales. The same union also filed another ballot initiative, Initiative Petition 26, which would have enabled the Legislature to raise corporate taxes to pay for education by removing the three-fifths supermajority to increase taxes to pay for education. IP 26 was deemed unconstitutional and rejected by the Secretary of State on August 7th. SEIU 503 and OR AFSCME filed a third initiative that would require publicly traded companies to report their Oregon taxes to the Secretary of State's office.

Former Republican nominee for Oregon, Governor Bud Pierce, has filed a term limits ballot measure. His proposal would take effect immediately and be retroactive, thereby immediately removing 25 legislators from office, or nearly one third of the entire Legislative Assembly.

In order to qualify a statutory measure for the ballot 88,184 signatures must be collected; constitutional measures will require 117,578 signatures. The deadline to turn in signatures is July 6, 2018. Some of the potential measures include: requiring voters to prove citizenship, voter privacy, a slew of proposals relating to immunizations, franchise fees, cigarette taxes, a proposal to repeal Oregon's "Sanctuary" statute, a constitutional proposal that would open the door towards limiting campaign contributions, and a constitutional prohibition to taxing groceries. However, it is likely that there will be more to come which could set up the 2018 election to possibly being the most expensive in history, despite the eye-popping record setting amount spent in 2016.

PERS unfunded liability payments continue to escalate for the nearly 900 state and local governments across the state. Governor Kate Brown has appointed an Unfunded Liability Task Force to seek to reduce the current \$22 billion unfunded liability by \$5 billion. The task force will explore the possibility of liquidating SAIF, the OLCC, the lottery, elements of Tri-Met, and possibly even assets including property owned by local government. There majority party also had some "unfinished business." During the 2018 session we will likely see further efforts to include an elimination of no-cause evictions, allow cities to undertake rent control, and an attempt to put a price on carbon.

Current Labor Commissioner Brad Avakian has announced that he will not seek the office again in 2018. As a result, two Oregon state-wide offices will be up for grabs including the Office of

Governor. There will also be several vacancies to fill due resignations (Ann Lininger D-Lake Oswego) and those who have announced their intention to not seek re-election (Sal Esquivel R-Medford.)

DYNAMICS OF THE 79th LEGISLATIVE ASSEMBLY

Session Length:	156	Bills Introduced:	2,647
Date Convened:	February 1, 2017	Bills Signed by Governor (18 th of Aug):	751
Date Adjourned:	July 7, 2017	Bills Vetoed:	2

OREGON SENATE

Democrats: 17

Republicans: 13

Senate Caucus Leadership:

Senate President Peter Courtney (D-Salem)
Senate Majority Leader Ginny Burdick (D-Portland)
President Pro Tempore Laurie Monnes-Anderson (D-Gresham)
Deputy Majority Leader Sara Gelser (D-Corvallis)
Majority Whip Mark Hass (D-Beaverton)
Majority Whip Rod Monroe (D-Portland)
Assistant Majority Leader Michael Dembrow (D-Portland)
Assistant Majority Leader Chuck Riley (D-Hillsboro)

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

OREGON HOUSE OF REPRESENTATIVES

Democrats: 35

Republicans: 25

House Caucus Leadership:

Speaker of the House Tina Kotek (D-Portland)

Majority Leader Jennifer Williamson (D-Portland)
Speaker Pro Tempore Paul Holvey (D-Eugene)
Majority Whip Dan Rayfield (D-Corvallis)
Deputy Majority Whip Barbara Smith Warner (D-Portland)
Assistant Majority Leader Caddy McKeown (D-Coos Bay)
Assistant Majority Leader Alissa Keny-Guyer (D-Portland)
Assistant Majority Leader David Gomberg (D-Central Coast)

Republican Leader Mike McLane (R-Powell Butte)
Deputy Republican Leader Greg Barreto (R-Cove)
Republican Whip Jodi Hack (R-Salem)
Assistant Republican Leader Carl Wilson (R-Grants Pass)
Assistant Republican Leader Cliff Bentz (R-Ontario)
Assistant Republican Leader Duane Stark (R-Grants Pass)

Summary of Ways & Means Expenditures

SB 5505 – Lottery Bond Authorization and SB 5506 Lottery Bond Allocation

Effective Date: July 1, 2017

Chapter: 570 & 747

Under SB 5505 the Legislative Assembly authorized general obligation bonds, revenue bonds, certificates of participation and other financing for various state facilities and programs, including higher education. This bill authorizes the Oregon Department of Administrative Services to issue bonds for the lottery bond projects listed in HB 5530 (see below). The project list for the bond authorizations is contained in SB 5506 where more than \$738 million in bonds were authorized for various state projects. Project highlights impacting special districts include:

- \$20 million to Oregon Business Development Department for Seismic Rehabilitation Grant Program for emergency services buildings)
- \$10 million to Department of Environmental Quality to finance pollution control facilities or related activities and provide match for federal Clean Water State Revolving Fund grants)

SB 5529 – Lottery Fund Allocations

Effective Date: July 1, 2017

Chapter: 598

Oregon’s Constitution requires that 18 percent of net proceeds be distributed to the Education Stability Fund, 15 percent be distributed to the Parks and Natural Resources Fund and 1.5 percent be distributed to the Veteran’s Services Fund. In addition, there are several other statutory allocations of the net proceeds. Senate Bill 5529 allocated lottery revenue from the Economic Development Fund and the Veterans’ Services Fund (see details in SB 5530). Under the bill more lottery dollars are being allocated to education and debt service, resulting in less money for economic development.

SB 5530 – Lottery Bond Authorization

Effective Date: July 1, 2017

Chapter: 748

- The Legislature authorized \$165.1 million in lottery bond proceeds to be issued during the 2017-2019 biennium. A total of 31 projects and programs are specified in the bill including:
 - Oregon Business Development Department:
 - \$20 million: Special Public Works Fund (SPWF) – General Recapitalization
 - \$10 million: Special Public Works Fund (SPWF) – Levee Subaccount
 - \$4 million: Regional Solutions Projects
 - Water Resources Department:
 - \$15 million: Water Supply Development Account

\$1.5 million: Water Resources Department-Water Conservation, Reuse & Storage Investment Fund
\$3 million: Crescent Sanitary District wastewater treatment plant
\$1.2 million: Santiam Water Control District Mill Creek Corporate Center
\$3 million: Portland Harbor Cleanup Department of State Lands

Energy Bills That Passed

SB 168 – Biomass Tax Credit

In committee upon adjournment

Oregon’s Biomass Producer or Collector (BPC) tax credit was created by the Legislature in 2007 to promote sustainable growth of the biofuels market in Oregon. Currently, the Oregon Department of Energy (ODOE) accepts tax credit applications from applicants who collect or produce certain biomass material in Oregon that is delivered for use as feedstock for bioenergy or biofuel production in the state. The ODOE issues a tax credit certificate to successful applicants, and certificate holders may sell the credit. Only entities with tax liability are eligible to apply, which excludes non- profits, tribes and public entities. SB 168 would have extended the sunset on all of the biomass tax credits until January 1, 2024, and transferred woody biomass tax credits to the Oregon Department of Forestry instead of the Oregon Department of Energy. The bill received a hearing in the House Environment and Natural Resources Committee, but did not advance further. *A modified tax credit was included in HB 2066, the comprehensive tax credit bill.*

SB 334 – Inventory of Biogas & Renewable Natural Gas

Effective Date: October 6, 2017 Chapter Law: 328

SB 334 requires the Oregon Department of Energy to develop and maintain an inventory of biogas and renewable natural gas sources in Oregon, and submit a report to the Legislature on the inventory by September 15, 2018. “Biogas” is defined as gas generated from organic waste or other organic materials through anaerobic digestion, gasification, pyrolysis or other technology. This could include gas from landfills, waste lagoons, and wastewater treatment processes. The inventory will identify a list of biogas and renewable natural gas sources and existing sites as well as estimate potential production quantities for each source. The bill also requires the department to estimate the potential quantity of renewable natural gas that could be produced and used as transportation fuel or natural gas for residential, commercial and industrial consumers. Finally, the bill directs the department to appoint an advisory committee to assist in developing, maintaining and periodically updating the inventory. In addition, they are responsible for making recommendations to remove barriers for production and utilization of biogas and renewable natural gas to improve air quality and reduce greenhouse gas emissions.

Environmental Bills That Passed

SB 3 – In-stream Suction Dredging Prohibition

Effective Date: January 1, 2018 Chapter: 300

This bill repeals the current moratorium and prohibits motorized in-stream placer mining up to ordinary high-water line in any river containing essential indigenous anadromous salmonid habitat. In other areas, the bill requires suction dredge operators to obtain either an individual permit or a general permit from the Department of Environmental Quality, and establishes specific permit conditions on hours of operation.

SB 1008 – Clean Diesel Funds

Effective Date: August 15, 2017 Chapter: 742

As introduced, SB 1008 would have implemented a variety of mandates for the phase-out of certain on-road and off-road diesel engines. The bill proposed public contracting requirements for the mandated use of clean diesel equipment on certain public improvement work. A coalition of interests opposed the bill as introduced and it was subsequently amended to eliminate the mandate language, clarifying definitions, and authorize the receipt and use of approximately \$70 million from the Environmental Mitigation Trust Agreement (Volkswagen settlement funds). The bill adds qualifying replacements of motor vehicles and equipment costs as eligible under the Clean Diesel Engine Fund. This provides grants and loans to incentivize the phase out, including retrofits, repowers and now replacements, of certain diesel engines and equipment. The bill also requires the Environmental Quality Commission to adopt rules for standards associated with funding retrofits, repowers and replacements of diesel engines, and to provide preferences for loan and grant funds. It prioritizes funds for owners and operators of school buses with a goal of reducing emissions from at least 450 diesel-powered school buses. Finally, SB 1008 extends the deadline for all school buses to retrofit, replace or repower diesel engines to January 1, 2025. The previously mandated deadline was January 1, 2017. A prior version of SB 1008 required the Oregon Department of Environmental Quality to contract with a third-party organization to develop a comprehensive, statewide inventory of non-road diesel engines used in Oregon. That provision was deleted from the final version of SB 1008, however, the Legislature did include funding in HB 5006 that appropriates \$500,000 for a similar inventory study of public and private fleets.

Environment Bills That Failed

HB 2110 – Clean Diesel Standards through Rulemaking

In committee upon adjournment

HB 2110 would have required the Environmental Quality Commission to create programs and standards for reducing diesel emissions from medium-duty and heavy-duty trucks and non-road

diesel engines by January 1, 2022. The standards and programs would have been adopted through administrative rule.

HB 2711 – Hydraulic Fracking Moratorium

In committee upon adjournment

HB 2711 would have imposed a statewide moratorium on hydraulic fracturing until 2027. It defined "hydraulic fracturing" and excluded from definition any drilling required for natural gas storage wells, geothermal wells or coal bed methane extraction wells in existence as of effective date of the bill. This bill passed the House but stalled in the Senate.

HB 3312 – Baseline Federal Standard Requirements

In committee upon adjournment

HB 3312 would have established baseline federal standards related to environmental law as of January 19, 2017, and would have prohibited the Environmental Quality Commission from amending or revising state rules to be less stringent than the baseline standards. The bill would have required state agencies that have been delegated authority to administer federal environmental laws to submit a report to the Legislature identifying:

- Federal laws administered by the agency
- Proposed federal changes to those laws
- Whether proposed changes would diminish environmental protections
- Recommendations for legislation or resources needed to maintain baseline federal standards.

This bill was introduced in response to the election of President Trump.

SB 971 – Clean Diesel Inventory

In committee upon adjournment

This bill would have permitted grants and loans from the Clean Diesel Engine fund to be used for the replacement of diesel engines while making other modifications to provisions for grants and loans for reducing emissions from diesel engines. SB 971 would have authorized the state to receive money pursuant to Volkswagen Environmental Mitigation Trust Agreement. Those funds were to be deposited in the Clean Diesel Engine Fund and would have been used to award grants for reducing emissions from diesel engines. The Oregon Department of Environmental Quality (DEQ) would have been required to hire or contract with a third-party organization to complete the inventory of non-road diesel engines used in Oregon. That inventory would have been needed to be completed no later than July 1, 2019, and the DEQ would have been required to make the aggregate form of the inventory publicly available

SB 995 – Hazardous Materials Reporting

In committee upon adjournment

SB 995 would have expanded requirements under the Oregon Community Right to Know and Protection Act, which was legislatively adopted in 1989 to inform first responders on locations of hazardous substances in their jurisdiction. The current program is administered by the Oregon Office of the State Fire Marshal. This bill proposed additional reporting requirements under the act, including a requirement for employers to submit an annual materials balance report to the Oregon Department of Environmental Quality (DEQ) showing the weight in pounds of each facility's input and output of hazardous substances. Reporters would have needed to demonstrate that their input and output of hazardous substances are equal. Finally, the bill would have permitted the DEQ to adopt rules to implement the new requirements.

Finance & Taxation Bills That Passed

HB 2278 – Local Budget Law Cleanup

Effective Date: October 6, 2017 Chapter: 26

HB 2278 makes a technical fix related to general obligation bonds that are approved by voters during a May election. Taxing districts are required to adopt their budget by June 30 and certify the tax imposed to an assessor by July 15, but the bond sale frequently occurs after this deadline. HB 2278 provides for a contingent tax and follow-up resolutions after the sale for bonds approved in May and sold after July 1. In addition, the bill allows a late certification date to the county assessor of September 15. Finally, the bill makes several miscellaneous changes to correct statutory references and clarify other areas of local budget law.

Finance & Taxation Bills That Failed

HB 2362 – County Road Franchise Fees

In committee upon adjournment

HB 2362 permitted counties, pursuant to passage of an ordinance or execution of a contract, the authority to charge fees for the construction, maintenance or operation of water, gas, electricity, communication service lines, fixtures or other facilities located in county rights of way. It also would have prohibited counties from charging such fees of other public bodies.

SB 202 – Franchise Fee Preemption

In committee upon adjournment

Introduced at the request of the Association of Oregon Counties and the Special Districts Association, this bill would have prohibited cities from charging franchise fees to other public entities occupying a city's public right of way in excess of the city's cost of management. The bill received a hearing before the Senate Finance and Revenue Committee.

SB 840 – Franchise Fees

In committee upon adjournment

SB 840 would have placed new restrictions on a city's ability to charge excessive franchise fees. The legislation contained a five percent cap on the franchise fees and privilege taxes cities could impose upon utilities occupying streets, roadways or other public property within that city's jurisdiction. The bill also placed a similar restriction on cities as contained in SB 202, effectively limiting cities to only recovering imposed costs by other public bodies with infrastructure in a city's right of way.

General Government Bills That Passed

HB 2403 – Exchange of Insurance After a Motor Vehicle Accident

Effective Date: January 1, 2018 Chapter: 75

Under current law, all drivers involved in a motor vehicle accident are required to provide the other driver(s) involved in accident with their name, address, the registration number of their vehicle they were operating, and the name and address of any other occupants of the vehicle. Under current law, there is no requirement that drivers exchange information regarding their motor vehicle insurance coverage. This bill requires drivers involved in an automobile accident to exchange the names of their respective insurance carriers and the applicable policy numbers associated with the vehicles involved in the accident.

HB 2482 – Self-Service Gasoline Dispensaries

Effective Date: January 1, 2018 Chapter: 207

HB2482 allows self-service at retail locations 24 hours per day in rural counties with fewer than 40,000 residents in eastern Oregon. Those counties are Malheur, Union, Wasco, Hood River, Jefferson, Crook, Baker, Morrow, Lake, Grant, Harney, Wallowa, Gilliam, Sherman, and Wheeler. The measure specifies that retail dispensaries that sell goods and services at the same location must provide an employee to dispense fuel between the hours of 6:00 AM and 6:00 PM. Finally, the bill allows nonretail card lock fueling facilities in low-population eastern Oregon counties to provide access to retail customers for self-dispensing of fuel.

HB 2568 - Vehicle Code: Length of Vehicles

Effective Date: June 8, 2017 Chapter: 265

Oregon law allows a public utility, telecommunications utility, people's utility district or cooperative rural electrification district to exceed the maximum allowable vehicle length in the event of an emergency when necessary to replace power or utility poles that may exceed the maximum allowable length. However, statute is not clear as to exactly what constitutes an emergency. HB 2568 clarifies that an emergency exists when there is a disruption of services at a time when it would not be possible for the utility to acquire a variance permit.

HB 2597 – Cell Phone Hands-Free Driving

Effective Date: October 1, 2017 Chapter: 629

This bill greatly increases the penalties and clarifies the laws and penalties for the operation of mobile electronic devices while operating a motor vehicle. Under this bill individuals who hold and use a mobile electronic device while driving can be ticketed or fined with a maximum penalty of \$2,000. A mobile electronic device is defined as not permanently installed in a motor vehicle and includes, but is not limited to, a device capable of text messaging, voice communication, entertainment, navigation, accessing the Internet, or producing electronic mail.

The bill narrows the existing exemptions under the current law. Under this bill, drivers can use mobile devices in the following situations as long as the use is within the scope of the person's employment. These include:

- Drivers employed as a commercial motor vehicle driver or school bus driver if the use is permitted under regulations promulgated pursuant to 49 U.S.C. 31136
- Two-way radio devices being used while operating a school bus or school activity vehicle
- Two-way radio devices being used while operating a vehicle owned or contracted by a utility for the purpose of installing, repairing, maintaining, operating or upgrading utility service including but not limited to natural gas, electricity, water, or telecommunications
- Police officers, firefighters, emergency medical services providers, or those operating an ambulance or emergency vehicle.

HB 2880 – POW/MIA Flag and Flag Poles

Effective Date: January 1, 2018 Chapter: 269

Existing law requires the Oregon state flag and the National League of Families' POW/MIA flag to be displayed with the United States flag on public buildings that are capable of displaying them. Public buildings include state institutions, county courthouses and all other state buildings that the Oregon Department of Administrative Services determines are capable of displaying the three flags. This bill expands the definition of "public building" to include county, municipal, school district and special district buildings. As a result, all local governments will be required to display all three flags if the flag pole is capable of displaying them. Furthermore, buildings built after the effective date of this legislation are required to install flag poles that are capable to displaying all three flags.

HB 2933 – Special Public Works - Emergency Projects Grants

Effective Date: January 1, 2018 Chapter: 398

The Legislative Assembly established the Special Public Works Fund (SPWF) in 1985 to provide financing for local governments to construct, improve and repair public infrastructure and

facilities. The SPWF is capitalized through biennial appropriations from the Oregon Lottery Economic Development Fund, bond sales for dedicated project funds, loan repayments, and interest earnings. The SPWF is administered by the Oregon Business Development Department (OBDD) and Infrastructure Finance Authority (IFA). Current law restricts the IFA to expenditures of no more than \$2.5 million in any biennium for emergency project grants, which includes grants for critical community services, as defined by OBDD by rule after consultation with cities, counties, ports and special districts. HB 2933 lifts the \$2.5 million cap on IFA grants and relocates in statute qualifying language as to what constitutes an emergency project.

SB 34 – Move Over Law

Effective Date: January 1, 2018 Chapter: 305

Oregon’s current “move over law” requires a person operating a motor vehicle to change lanes to a non-adjacent lane when approaching an emergency vehicle, roadside assistance vehicle, tow vehicle or ambulance that is stopped and displaying warning lights. If it is not possible to change lanes, the operator must reduce speed by at least five miles per hour under the speed limit. A violation of this law is a Class B traffic violation. SB 34 expands this law to cover all motor vehicles that are stopped and displaying required warning or hazard lights, or when a person is indicating distress by using emergency flares or posting emergency signs. It also modifies the existing law to allow an operator to elect to slow down in lieu of changing lanes, without requiring a determination that it is unsafe to make a lane change. Finally, the bill also adds an exemption if the stopped motor vehicle is in a designated parking area.

SB 35 – Accident Reporting Requirement

Effective January 1, 2018 Chapter Law: 189

This bill simply increases, from \$1,500 to \$2,500, the property damage threshold amount that must be met before a person is required to submit a motor vehicle accident report to the Oregon Department of Transportation.

SB 327 – Restoration of Recreational Immunity

Effective date: June 22, 2017 Chapter: 449

SB 327 gives employees, volunteers and other agents who are acting at the direction of a land owner immunity from tort liability for injuries sustained by those recreating on the lands such as a park or trail, if access to that land is free of charge. In Oregon, land owners, including districts, who allow recreation to occur on their property and do not charge a fee are granted immunity from civil liability for injuries that occur during a recreational pursuit. However, in 2016 the Oregon Supreme Court concluded in *Johnson v Gibson* that the statute granting this immunity did not include employees, volunteers and agents.

General Government Bills That Failed

HB 3387 – System Development Task Force

In committee upon adjournment

This bill would have established a Task Force on System Development Charges to review existing law and policy relating to system development charges imposed by local governments in Oregon. The measure specified membership on the Task Force, staff support and state agencies to assist the Task Force. The bill required the Task Force to consider statute changes, affordable housing issues, infrastructure funding, collection methodologies and to review approaches from other states.

Labor Bills That Passed

HB 2005 – Equal Pay

Effective Date: October 6, 2017 Chapter: 119

HB 2005 makes it an unlawful employment practice to discriminate in the payment of wages or other compensation on the basis of an employee's membership in a protected class. However, the bill does not prohibit an employer from paying employees for equivalent work at different rates, if the pay schedule is based on merit, seniority or a bona fide factor such as education, training or experience. The bill makes screening employees based on salary history an unlawful employment practice, and prohibits basing offers of compensation on a candidate's previous rate of pay. However, it does allow for the use of salary history for internal hires and transfers. The bill further expands remedies for pay equity violations and retaliation for wage inquiries and wage claims to include the right to compensatory and punitive damages and a jury trial.

HB 2263 – Employment Relations Board Fees

Effective Date: January 1, 2018 Chapter: 383

Currently the Employment Relations Board may charge a fee for mediation services to resolve labor disputes or controversies. The mediation fee is evenly split by the parties. Maximum fees are currently set in statute: \$1,000 for the first two mediation sessions, \$500 for the third, \$750 for the fourth and \$1,000 for each additional session. HB 2263 sets the maximum fee for the third and fourth sessions at \$625 each.

HB 2265 – 150-Day Mediation Bargaining Timeline

Effective Date: January 1, 2018 Chapter: 119

The Public Employee Collective Bargaining Act (PECBA), enacted in 1973, codifies the laws governing employment relations and public employers and employees in the state, counties, cities, school districts, transportation districts and other local governments, as well as private employers not subject to the jurisdiction of the National Labor Relations Board. Under PECBA, both the public employer and the labor organization are required to collectively bargain in good

faith with respect to the terms of an agreement. After a period of 150 days of good faith negotiations, either or both parties may notify the Employment Relations Board of the need for a mediator to be assigned. The parties may agree at any time during the 150 days to request a mediator. The clock for the 150-day period starts when the parties meet for the first bargaining session and each party has received the other party's initial proposal.

HB 2265 allows the start of the 150-day negotiation period to begin when the parties meet to negotiate for first time and each party has shared initial proposal or at an alternative date that the parties agree to in writing.

HB 3008 – False Time Sheets

Effective Date: January 1, 2018 Chapter: 211

This bill prohibits employers from requiring employees to create, file or sign documents containing information that the employer knows is false, related to hours worked or compensation received by the employee.

SB 257 – Official Misconduct in the Second Degree

Effective Date: January 1, 2018 Chapter: 519

This bill expands the crime of Official Misconduct in the First Degree to include committing Official Misconduct in the Second Degree if the public servant is acting as a supervisory employee and the violation places a vulnerable person at risk of physical injury, commission of a sex crime or the withholding of necessary and adequate food, physical care or medical attention. The bill defines a supervisory employee as “a person having the authority, in the interest of an employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees.”

SB 299 – Sick Leave Modification

Effective Date: July 1, 2017 Chapter: 520

In 2015, the Legislative Assembly passed SB 454, which mandated employers to provide sick time for employees. Whether the employer is required to provide paid or unpaid time depends on the size of the employer. Employers with 10 or more employees must implement a sick time policy that allows employees to use up to 40 hours of paid sick time per year. Employers with fewer than 10 employees must implement a sick time policy that allows employees to use up to 40 hours of unpaid sick time per year. This bill clarifies that an employer may limit an employee to accruing 40 hours of sick time per year. It further defines that an employer may adopt a policy limiting an employee to accruing no more than 80 hours sick time in total and using no more than 40 hours in a year.

SB 398 – Earned Income Tax Benefits

Effective Date: October 6, 2017 Chapter: 333

This bill directs the commissioner of the Oregon Bureau of Labor and Industries (BOLI) to adopt rules requiring employers to provide annual written notice to employees regarding the earned income tax credit. Notices must include website addresses for the Internal Revenue Service and the Oregon Department of Revenue. The bill requires BOLI to include earned income tax credit information on their minimum wage posters.

Labor Bills That Failed

HB 3087 – Paid Family Leave

In committee upon adjournment

HB 3087 would have established a paid family leave benefit for all Oregon employees funded by a payroll tax of up to 0.5 percent on employers and employees. Fiscal and practical concerns prevented the bill from moving forward. It is expected that this issue will be considered in subsequent legislative sessions.

SB 292 – Workplace Bullying

In committee upon adjournment

This bill received one public hearing and would have created an unlawful employment practice for an employer to maintain an “abusive workplace.”

SB 301 – Marijuana in the Workplace

In committee upon adjournment

As originally introduced, this bill intended to make it an unlawful employment practice if an employer conditioned an employee from using an “unlawful substance” during non-working hours. The bill was amended to make it unlawful for an employer to refuse to employ, discharge or penalize an employee, or discriminate against an employee in compensation or employment terms, because the employee is a medical marijuana card holder and tests positive for cannabis with limited exceptions. The bill was approved by the Senate Judiciary Committee, but was never voted in the Senate Chamber due to a lack of support.

Land Use Bills That Passed

HB 2095 – Metro UGB Process

Effective Date: January 1, 2018 Chapter: 199

This bill allows cities within Metro boundaries to apply for additional land to be added to their urban growth boundary (UGB) in between the six-year urban growth report process. The bill

allows up to 1,000 additional acres to be brought into one or more cities' UBG three years after the completion of Metro's buildable land inventory. This process cannot be used until the urban and rural reserves processes are completed for the affected county.

HB 2316 – Housing Needs Analysis

Effective Date: January 1, 2018 Chapter: 102

This bill requires that at periodic or any other legislative review of a comprehensive plan applying the statewide planning goal for housing, a city with a population of less than 25,000 must take steps to determine the 20-year estimated housing needs, inventory the buildable land supply within its urban growth boundary to meet those needs, and adopt measures to accommodate those housing needs.

SB 865 – Plat Map Review Process

Effective Date: January 1, 2018 Chapter: 357

This bill, introduced at the request of the Oregon Water Resources Congress, adds a new notification process for certain special districts (irrigation, drainage, water control or water improvement districts) when a new subdivision plat is being completed. The bill requires cities and counties to notify an irrigation, water control or water improvement district of a tentative plan for a proposed plat for a subdivision or partition located in whole or in part within the boundaries, easement, or right-of-way of a district. It would allow 15 days for a district to submit information or recommended conditions to the local governing body for consideration. In addition, it requires those types of special districts to provide the city with maps or information related to the location of the district's boundary, rights of way, easements and facilities.

Land Use Bills That Failed

HB 2039 – Island Annexation

In committee upon adjournment

This bill would have required a city to hold a vote on an island annexation of 100 acres or more to count the votes of the island separately from those within the city limits. The majority of voters in both the city and the proposed area would have to vote in favor in order for the annexation to move forward.

HB 2040 – Extraterritorial Service to Property

In committee upon adjournment

HB 2040 explicitly stated a district's or city's authority to require consent to eventual annexation of property before providing extraterritorial service. The bill would have prevented a district or city from requiring consent if:

- The extraterritorial service was the result of an intergovernmental agreement with another local government
- Consent was not a requirement of the intergovernmental agreement or a comprehensive plan
- The extraterritorial service was a service other than water service, sewer service, storm water service, construction of first paved access to the property or service provided by a municipal electric utility.

HB 2096 – Urban Service Agreements

In committee upon adjournment

Introduced at the request of the Special Districts Association of Oregon, this bill would have established a new system for cities with populations greater than 5,000 to negotiate urban service agreements with water, park, sewer, and fire special districts in areas under consideration for urban growth boundary expansion. A city would not be able to withdraw territory from a special district unless the district did not respond to notice within 60 days requesting a negotiation of an urban services agreement; both the city and district agree to cease negotiations; or the agreement is finalized. To assist this effort, HB 2096 would have created a process which would have led to mediation and potentially to binding arbitration resulting in an urban services agreement.

Public Contracting Bills That Passed

HB 2162 – State Apprenticeship Utilization Requirements

Effective Date: October 6, 2017 Chapter: 416

HB 2162 requires state agencies to employ apprentices to perform ten percent of the work hours on public improvement contracts greater than \$5 million, however, the Oregon Department of Transportation is exempted. It increases the apprenticeship utilization requirements starting January 1, 2022, to a 12 percent utilization rate for public improvement contracts greater than \$3 million. The requirements also apply to subcontracts if the contract price exceeds the lesser of \$1 million or 25 percent of the total public improvement contract price. Finally, the bill creates an advisory committee through the Oregon Bureau of Labor and Industries that will monitor implementation of and compliance with state apprenticeship utilization requirements. There was an attempt to amend HB 2162 in the Senate to expand the requirements to apply to local government contracting agencies but, those amendments were not adopted.

HB 3060 – State Contractor Prohibition on Sexual Harassment, Assault & Discrimination

Effective Date: October 6, 2017 Chapter: 212

This bill requires state contracting agencies to verify, as a material term of a public contract with an anticipated price of \$150,000 or more, that a prospective contractor has certified they have a written policy and practice against sexual harassment, sexual assault and discrimination

against employees who are part of a protected class. The bill specifies minimum requirements for certifying practices against harassment, assault and discrimination, including a written notice to each employee, a clear process for reporting, and a prohibition against discriminating against employees who experience, witness or report such conduct.

HB 3203 – Least-Cost Requirements for Self-Performance on Public Improvements

Effective Date: October 6, 2017 Chapter: 715

This bill received intense attention by local government interests and a private contracting coalition. The contracting coalition sought to make significant changes to a long-standing public contracting statute that could have resulted in public entities having to contract out nearly all self-performed public improvement contracts. The challenge was that key legislators with substantial influence on the transportation funding package (see HB 2017) were in the contractor's corner and had the ability to include the contractor's language in that bill unless there was a resolution on HB 3203.

Under current law, ORS 279C.305, requires every contracting agency to submit a list of all public improvement projects planned for a coming budget year, at least 30 days prior to budget adoption, to the Oregon Bureau of Labor and Industries (BOLI). If the costs to construct a public improvement exceed \$125,000 and the contracting agency plans to perform the work using their own equipment and personnel, the agency must show that self-performance is the least-cost option when compared to contracting out.

This bill increases the threshold that triggers least-cost demonstration requirements to \$200,000 for all public improvement projects, except for road resurfacing. For road resurfacing at a depth of more than two inches, the threshold remains at \$125,000. HB 3203 maintains existing statute that road resurfacing at a depth of two inches or less is considered maintenance and, therefore, not subject to the least-cost requirements. Importantly, the bill provides an explicit list of what needs to be included in cost estimates when comparing contracting out with self-performance, and specifies that the requirements do not apply if a contracting agency does not receive a responsive bid or proposal.

Under the provisions of HB 3203, BOLI is required to conduct a review every four years, beginning in 2021, of the costs accounted for in a least-cost analysis to determine whether changes should be made. BOLI must also review the thresholds to determine if adjustments are warranted.

Finally, the bill implements a new enforcement process for alleged violations of the statute that will be administered by BOLI. Complaints for violations of the least-cost requirements can be filed by contractors or contractor trade associations, but must be filed within one year after the contractor or association discovered or should have known a violation occurred. A fee of \$250 is required to file a complaint, but is refundable if the BOLI commissioner finds substantial evidence of a violation. The BOLI commissioner must dismiss a complaint if the contractor or association brings an action in court or initiates another proceeding alleging a similar act or

omission. Following an investigation, the commissioner shall notify the contracting agency in writing if there is substantial evidence of a violation. If, in the five years preceding the investigation, the contracting agency had no other violations, BOLI will take no further action. If the contracting agency had violations within the preceding five years, the commissioner will require the agency to negotiate an agreement with the contractor or trade association to remedy the violation and prevent future violations. HB 3203 stipulates additional enforcement provisions for continuing violations or for breaching a negotiated settlement.

HB 3253 – Vending Preferences for Public Buildings

Effective Date: October 6, 2017 Chapter: 717

This bill makes a variety of important changes to an existing program that grants priority to persons who are blind for the operation of vending facilities in public buildings. Existing law states that blind persons, licensed through the Commission for the Blind, shall manage vending facilities in or on any public buildings or properties where such vending facilities may properly and satisfactorily operate. The bill makes changes to the notification requirements for certain public entities. It requires state agencies, departments and local governments to notify the Commission for the Blind when: constructing a new public building or facility; modifying an existing public building or facility; or entering into, or modifying a contract for the procurement or vending products, facilities or services is taking place. Upon notification, the commission will determine whether a vending facility manager, licensed through the commission, is able to provide the product or service. The public agency must offer the first right of refusal to the commission for vending products and services, and must procure the product or service if it is offered and meets quality and quantity requirements for the public contracting entity. The products and services offered through the commission must also be offered in a bid that is equal to any other bids submitted.

SB 336 – Responsible Managing Individual

Effective Date: January 1, 2018 Chapter: 483

Every contractor or business licensed by the Construction Contracting Board (CCB) must have a responsible managing individual (RMI). The RMI can be either an owner or employee of the business who exercises management or supervisory authority, has successfully completed the training, and has passed the examination or has demonstrated the experience required by the CCB. This bill establishes a process for a construction contractor or business to follow when it loses its RMI. SB 336 allows the business to operate with a temporary RMI for up to 14 days after notifying the CCB of the name and address of the temporary RMI.

SB 416 – Prevailing Wage Clarifications

Effective Date: June 14, 2017 Chapter: 334

Current statute prohibits public agencies from dividing public works projects into multiple contracts to avoid compliance with prevailing wage requirements. The bill prohibits anyone, not just public agencies, from dividing public works project into more than one contract in order to

avoid prevailing wage rate laws. It clarifies factors that the Commissioner of Bureau of Labor and Industries may consider in determining whether a project should be divided. SB 416 clarifies the requirement that every public works contract and subcontract must specify that every contractor and subcontractor, unless exempt, must file bond with Construction Contractors Board. The bill requires disadvantaged business enterprise, minority-owned business, woman-owned business, business owned by a service-disabled veteran, and emerging small business to post bond if it fails to pay workers prevailing wage rate. It clarifies actions that violate provisions prohibiting any person other than contractor or subcontractor from paying prevailing wage rate or fringe benefits to workers performing public works contract. Finally, the bill establishes that failure to pay fringe benefits and failure to pay prevailing wage rate are separate violations.

SB 634 – Woody Biomass Alternative for 1.5% Green Energy Technology Requirement

Effective Date: October 6, 2017 Chapter: 735

Current law requires public contracting agencies to set aside 1.5 percent of the total contract price of a construction, reconstruction or major renovation of a public building to include solar or geothermal generation or passive solar design. SB 634 allows a contracting agency to consider woody biomass energy technology as an alternative to green energy technology requirements. The bill also prohibits the use of certain treated wood pieces or municipal solid waste, and sets forth compliance standards through the Oregon Department of Environmental Quality.

Public Contracting Bills That Failed

HB 2148 – Retainage Bonds

In committee upon adjournment

HB 2148 would have allowed a contractor or subcontractor to post a bond in substitution for withholding, as a retainage, for a percentage of the contract price prior to commencing a construction project.

HB 2184 – Responsible Subcontractor Requirements

In committee upon adjournment

HB 2184 would have applied existing “responsible bidder” requirements, under ORS 279C.375, to all subcontractors working on public improvement projects. Currently, those requirements only apply to contractors. The bill would have required public contracting agencies to include, as a material term of a public improvement contract, that a contractor may only award subcontracts to responsible subcontractors. In addition, it would have required the contractor to submit an affidavit from the subcontractor to the contracting agency to demonstrate subcontractor responsibility.

HB 2196 – Contractor Responsibility Based on Health Care Insurance

In committee upon adjournment

This bill would have prohibited a public contracting entity from determining that a contractor is a responsible bidder unless the contractor had been providing its employees' health care insurance 2 years prior to bidding on a public improvement contract. There were similar bills to this including HB 2564 and SB 287.

HB 2670 – Contractor Integrity Disclosure

In committee upon adjournment

This bill required bidders and contractors on public procurements that exceed \$100,000 to disclose violations of labor laws and steps taken to remedy and improve subsequent compliance over the last three years. The contracting agency would have had to determine if the violations disclosed and the description of remedies and improvements in compliance warrant finding the bidder or proposer to have a satisfactory record of integrity. It also required contractors to require prospective subcontractors to disclose their history of violations. Under the bill any violations during the term of the contract would have been required for disclosure. This would have allowed the contracting agency to terminate the contract or demand the contractor remedy the violation.

HB 2914 – Contractor Disclosure of Political Contributions

In committee upon adjournment

This bill required prospective contractors to disclose, as part of a bid for a public contract, the top five individuals or entities that they contributed the most money to in connection with either a ballot measure or election to public office.

SB 288 – Buy American/Buy Oregon

In committee upon adjournment

SB 288 required contracting agencies to develop and implement certain preference policies for procuring goods and services. It required preference for bidders and proposers that were headquartered or doing a majority of business in either the United States or Oregon. Preference would have been given to bidders and proposers that agreed to supply goods and services from sources located within Oregon or the United States, or agreed to substantially perform all the work required in the procurement with personnel or resources obtained within Oregon or the United States. A similar bill was introduced in the House.

SB 382 – Qualification Based Selection for Professional Services Modifications

In committee upon adjournment

Currently, statute does not allow for the consideration of any pricing information until after a service firm has been selected solely on the basis of qualifications. SB 382 would have made

changes to the current statutory mandate for the use of qualification based selection (QBS) of professional services, including architectural, engineering and land surveying. It would have increased the threshold by which a contracting agency may directly appoint a consultant from \$100,000 to \$500,000.

SB 1045 – Least Cost Contracting Requirements

In committee upon adjournment

Current law, ORS 279C.305, requires every contracting agency to submit a list of all public improvement projects planned for a coming budget year, at least 30 days prior to budget adoption, to the Oregon Bureau of Labor and Industries (BOLI). If the costs to construct a public improvement exceed \$125,000 and the contracting agency plans to perform the work using their own equipment and personnel, the agency must show that self-performance is the least-cost option when compared to contracting out. SB 1045 would have required contracting agencies to complete a detailed cost comparison if the agency self-performs a public improvement project greater than \$125,000. It required a cost comparison for any pavement resurfacing project with a depth of more than two inches, regardless of the price. The cost comparison would have required the contracting agency to estimate the cost of self-performing the work and the cost of contracting out for the work. The cost comparison analysis would have been filed with the commissioner of the Oregon Bureau of Labor and Industries (BOLI). SB 1045 required the contracting agency to assume costs, including the cost of warranties that are not required for public agencies. If a contracting agency violated the provisions of SB 1045, they would have had to negotiate an agreement with the contractor or trade association as required by the commissioner of BOLI. Though SB 1045 failed, reform to the least cost requirements were adopted in another bill. (See HB 3203, Public Contracting – Passed Bills)

Public Records & Meetings Bills That Passed

HB 2101 – Public Records Exemption Review

Effective Date: October 6, 2017 Chapter: 654

Currently, there are more than 500 types of public records that are exempt from disclosure. This bill establishes a four-member public records subcommittee of the Legislative Counsel Committee (LCC) and a 15-member Oregon Sunshine Committee (OSC) to work in coordination on a review of public records exemptions by December 31, 2026. The measure requires OSC to submit a biennial report to the public records subcommittee recommending retention, amendment or repeal of recently reviewed public records exemptions. The subcommittee may then accept, modify or reject recommendations contained in the OSC report, prior to submitting it to LCC. In addition, the measure creates an open government impact statement prepared by Legislative Counsel's office for each measure reported out of a legislative committee that impacts the disclosure of public records. The statement must describe how the measure changes existing standards regarding disclosure and its impact on the public interest.

HB 2906 – Geospatial Data Sharing

Effective Date: October 6, 2017 Chapter: 166

This bill creates the Oregon Geographical Information Council and establishes a requirement that public bodies, including districts, will begin sharing geospatial information system (GIS) data by 2020. The Geographical Information Council will:

- Determine what information to share in a state-maintained database that will be accessible to other public bodies
- Establish standards for protecting the data; and
- Decide how to receive data with no cost to the government sharing the data or to the government requesting the data.

The bill also establishes funding to create this data for areas around the state.

HB 3464 – Immigration Data

Effective Date: August 15, 2017 Chapter: 724

HB 3464 prohibits public bodies from asking people about their citizenship or immigration status or from disclosing specific information about persons for the enforcement of federal immigration laws, unless required to by state or federal law. HB 3464 requires the Oregon Attorney General to publish guidance on the release of citizenship and immigration information.

SB 106 – Public Records Advocate

Effective Date: August 15, 2017 Chapter: 728

Introduced at the request of Governor Kate Brown, this bill creates a public records advocate position to resolve conflicts between public records requestors and state agencies. State agencies are required and cities are authorized to use this process provided the city and requestor agree. The position will be housed within the Office of the State Archivist, but will be appointed by the Governor. The advocate will be responsible for providing training to public agencies.

SB 481 – Public Records Timelines

Effective Date: January 1, 2018 Chapter: 456

This bill was introduced at the request of Oregon Attorney General Ellen Rosenblum after nearly a year of deliberations by her Public Records Task Force. The bill requires that a public body receiving a public records request respond within five business days acknowledging the receipt of that request. They then have an additional 10 business days to fulfill the request or issue a written response estimating how long fulfillment will take. Under the bill, the clock stops if the public entity is awaiting a response from the requestor seeking clarification of the inquiry

or if the requestor has not agreed to pay for the records, provided that the cost is \$25 or more. Importantly, the bill provides a “safety valve” for:

- Complicated requests
- Protecting agencies receiving a large volume of requests
- Requests involving documents not readily available, or if the necessary, staff are unavailable to fulfill the request.

SB 769 – Social Security Number Redaction

Effective Date: January 1, 2018 Chapter: 254

SB 769 requires anyone in possession of another person’s social security number to ensure that it is rendered unreadable when a document or other media containing the number is transferred or disposed of.

Public Records Bills That Failed

HB 3399 – Transparency by Design

In committee upon adjournment

This bill required the State Chief Information Officer, by rule, to require contracting agencies that undertake information technology initiatives to provide in the solicitation documents and public contract that the contractor that supplies electronic database or structured collection of electronically stored data must supply the contracting agency with capability to export data in nonproprietary open format and to redact, from the data, information that the contracting agency may not disclose. Under the bill, a contractor would have been required to supply the contracting agency with documentation that described in complete terms all the tables and fields used to construct the database and to assign all rights to document, or execute, irrevocable license to use, allow others to use, and prepare derivative works from the document. Furthermore, the bill provided that the document is not subject to protection as trade secret (or under any claim of confidentiality), is a public record that is subject to disclosure, and may not contain information that personally identifies any individual.

SB 210 – Electronic Public Notices

In committee upon adjournment

This bill, introduced at the request of the Association of Oregon Counties and the Special Districts Association of Oregon, allowed the electronic posting of public notices on a centralized website that is searchable or available by subscription. The intent of the bill was to reduce the costs of public notices and improve transparency. The Oregon Newspaper Publishers Association opposed the bill.

SB 637, SB 638, SB 639 & SB 640 – Transparency Bills

In committee upon adjournment

SB 637 and SB 638 required a public official presiding over a meeting that is being audio recorded to request each participant to say their name before speaking. SB 639 required the posting of documents presented at a public meeting on a website within three business days of the public meeting. And SB 640 would have required that a recording of any public meeting be of sufficient quality as to be understood by an average person.

Wastewater/Water Quality/Invasive Species Bills That Passed

HB 2179 – Onsite Septage Treatment

Effective Date: May 25, 2017 Chapter: 148

Certain nonfarm uses may be allowed on EFU lands. Among these, is the land-based application of reclaimed water, agricultural or industrial process water or bio-solids for farm use. HB 2179 adds the treatment of septage prior to land-based application to the list of nonfarm uses allowed on EFU land. The use is limited to onsite treatment using facilities that are portable, temporary, and transportable by truck trailer.

SB 812 – Onsite Septic Loan Program Technical Changes

Effective Date: June 6, 2017 Chapter: 255

This bill makes a few technical changes to the on-site septic system loan program that was enacted during the 2016 session. It authorizes funds to be used for regional evaluations of community septic systems to determine whether the repair or replacement of a system is needed. It also clarifies that funds can be used if a septic system owner is required to connect to an available sewer system and allows borrowers to request loans that cover less than the complete cost of the repair, replacement, or connection to a sewer system.

SB 5518 – DEQ Budget

Effective Date: July 19, 2017 Chapter: 591

SB 5518 contains the approved 2017-19 budget for the Oregon Department of Environmental Quality. The budget includes total funds of slightly more than \$383 million, with approximately:

- \$45 million from general funds
- \$4.7 from Measure 76 lottery funds
- \$173 million in expenditure limitation from other funds (primarily derived from license and permit fees)
- \$132 million from other funds non-limited (primarily derived from the Clean Water State Revolving Loan Fund, including proceeds from bond sales and loan repayments)
- \$29 million in expenditure limitation from federal funds

The budget supports 743 total positions at the department (722 full-time equivalent employees and 21 non- full-time equivalent) and eliminates 16 long-term vacant positions.

The total funds budgeted for the department include:

- \$67.3 million in total funds (217.75 FTE) for the Water Quality Division. \$343,729 of the total funds come from the Legislature's approval of policy option package 120 which increases and implements new storm water permit fees. The Legislature also approved \$1.5 million in general funds for the Septic Loan Program. Policy Option Package 125 was also approved to implement recommended improvements to the water quality permit program.
- \$116 million total funds budget for the Clean Water State Revolving Loan Fund, including \$30 million from federal capitalization grants and \$10 million in bonds to provide state match.
- \$28.4 million total funds budget for agency management, including approval of \$750,000 in general funds and \$351,685 in other funds to conduct planning and development of an environmental data management system (EDMS). The DEQ anticipates seeking additional funding from the Legislature in 2018 for ongoing EDMS implementation efforts.

Wastewater/Water Quality/Invasive Species Bills That Failed

HB 2321 – Aquatic Invasive Species Prevention

In committee upon adjournment

The Aquatic Invasive Species Prevention Program was passed into law in 2009, and mandatory inspections at designated stations along Oregon's borders were added to the law in 2011. In 2014, the National Sea Grant Law Center published a report containing the recommendation to require draining of all standing or captured water, and to transport boats with plugs and valves open to facilitate drainage to minimize standing water that can support mussel survival. This bill would have required boaters to remove or open all drain plugs, bailers, valves or other devices used to control draining of water before transporting a boat within the state. The bill authorized police officers to require a person transporting a boat to return to a bypassed inspection station if directed to do so provided the station was open and within five miles of the location of the stop. Finally, the bill applied the aquatic invasive species prevention permit to non-motorized boats that are 8 feet or more in length, down from 10 feet. The bill passed the House overwhelmingly but stalled in the Senate.

HB 2386 – Statewide Drug Take-Back Program

In committee upon adjournment

In 2014, a federal rule change by the U.S. Drug Enforcement Agency resulted in expanded opportunities for prescription drug collection sites. Prior to the rule change, drug take-back locations were limited primarily to law enforcement agency facilities and specific hazardous waste collection events. This bill was introduced as an attempt to provide a method of

collection of unused prescription drugs. It directed manufacturers of prescription drugs sold in Oregon to fund and participate in an approved drug take-back program. The system would have supported increased access to prescription drug kiosks, many of which would have been placed in pharmacy locations. HB 2386 directed funds collected from covered drug manufacturers to pay for the transportation and ultimate disposal, via incineration, of discarded medications. The bill required the program to engage in public education and outreach to inform consumers on the safe and secure storage of medications, the inherent risks of improperly storing or disposing of opioids or opiates, and to discourage disposal of covered drugs in the garbage or sewer system. The provisions of HB 2386 were included in a separate bill, HB 2645, however, that bill died in committee as well.

HB 3105 – Household Hazardous Waste Product Stewardship Program

In committee upon adjournment

HB 3105 instituted a product stewardship program for the collection of household hazardous waste products, and directed manufacturers to support the collection and environmentally-sound management of covered products. Covered products excluded batteries, mercury containing lamps, pharmaceuticals, paint, certain agricultural products, electronics and personal care products. Products would have been banned from sale in Oregon unless the product was labeled for, and included in, an approved stewardship program. Finally, the bill would have required manufacturers and retailers to provide consumers with information on available collection for the covered products.

SB 383 – Septic Loan Program Funding

In committee upon adjournment

SB 383 appropriated \$1.5 million in general funds to the state septic loan program. Established by the Legislature in 2016, the program provides loans for the repair and replacement of failing residential or commercial septic systems, or the connection of a system to an available municipal sewer system. While SB 383 did not pass, the funding was included in the approved budget for the Oregon Department of Environmental Quality (see SB 5518, Wastewater/Water Quality/Invasive Species Bills That Passed.)

SB 866 – Stormwater Discharge

In committee upon adjournment

Introduced at the request of the Oregon Water Resources Congress, the bill prohibited state agencies and local governments from discharging storm water into canals or other infrastructure of another local government without first obtaining permission in writing from the affected local government. It would have required any state agency or local government to take reasonable steps to ensure that any discharge into another local government's infrastructure was in compliance with state water quality standards and the federal Clean Water Act. Cities, counties and a few state agencies had significant concerns with the bill largely centered on the cost imposed by the proposed requirements.

Water Bills That Passed

HB 2099 – Municipal Water Right Extensions

Effective Date: August 15, 2017 Chapter: 704

HB 2099 was introduced at the request of the League of Oregon Cities and the Special Districts Association of Oregon as a legislative fix to a 2013 Oregon Court of Appeals decision in which fish persistence conditions, which were adopted into statute in 2005, were applied retroactively to municipal water permits that were issued prior to 1998. Without a legislative fix, the impact of the court's decision would be a retroactive reduction of existing water supply for approximately 10-15 communities. The parties engaged in lengthy discussions with the Governor's Office as well as several legislators. Despite efforts to negotiate a bill that would protect existing drinking water supply for all impacted communities, the bill establishes June 29, 2005, as the date by which fish persistence will apply going forward. This means if a community developed water after June 29, 2005, but before the 2013 court decision, that quantity of water developed would be subject to retroactive permit conditions which could reduce the amount of water available to the community during certain times of the year. The amount of reduction would be determined by the Oregon Department of Fish and Wildlife. Because these communities have demonstrated that they currently rely on this water to support their existing population, it is unclear how each community will address the reduction in water supply. For communities that developed water prior to 2005, HB 2099 protects that portion of water supply up until June 29 of that year.

HB 2295 –OWRD Fee Increase

Effective Date: July 19, 2017 Chapter: 571

This bill increases certain fees, including water right transaction and dam safety fees, for the Oregon Water Resources Department (OWRD). The fee increases represent an approximate 15.88 percent increase on average, but vary based on the specific fee. The department anticipates collecting an additional 5.4 percent in revenue because of the increased fees. The increases will maintain existing service levels for the department through 2021. The bill upholds an agreement between the department and fee payers to fund service levels using 50 percent from general funds and 50 percent from fee revenue. The bill also eliminates language that would have resulted in current fee levels reverting to 2009 fee levels, which was included in a similar fee increase bill that the Legislature passed in 2013.

HB 2296 – Well Construction Fees and Bond Requirement

Effective Date: January 1, 2018 Chapter: 623

Under current law, individual landowners may construct their own wells without assistance from a licensed well-driller. The fees for landowner-facilitated well construction have not increased since 1981. The revenues generated no longer cover the costs to the Oregon Water Resources Department for processing applications, reviewing site design, and ensuring wells are constructed in a manner that protects against waste of water and contamination. This bill

increases the Landowner Permit Application fee from \$25 to \$500. It also increases well construction bond requirements to \$10,000 for landowners and \$20,000 for drillers.

HB 2722 – Irrigation Requirements for Condominiums & Planned Communities

Effective Date: June 22, 2017 Chapter: 423

HB 2722 makes lawn and garden irrigation requirements imposed by planned communities or condominium associations temporarily void and unenforceable if a drought is declared or is determined to likely exist by either the governor or the Oregon Water Resources Commission. The prohibition on enforcement of irrigation requirements would also apply if a local ordinance or association rule is adopted that requires conservation or curtailment of water usage. In addition, the legislation authorizes planned community and condominium associations to adopt rules that permit or require the replacement of turf or other landscaping with xeriscape. The provisions of HB 2722 expand upon similar legislation that passed in 2016 (SB 1529) which applied to homeowner associations.

HB 3051 – Water Measurement Cost-Share Program Expansion

Effective Date: January 1, 2018 Chapter: 170

HB 3051 expands eligible uses for the Water Measurement Cost-Share Program to allow funds to be used for the installation of groundwater use measuring devices. The cost-share program was established to assist water users with the costs of installing or replacing water measurement devices to protect in-stream flow or monitor water rights and streamflow. The fund provides up to 75 percent of the total cost for installing, repairing or replacing a measuring device.

HB 3427 – High Hazard Dam Emergency Action Plan Requirements

Effective Date: January 1, 2018 Chapter: 723

This bill requires the owner or operator of a dam with a high hazard rating to develop an emergency action plan with the Water Resources Department (WRD), the Office of Emergency Management (OEM), and the emergency services agency in the county where the dam is located. A high hazard rating indicates that the department expects loss of human life if a dam fails. HB 3427 directs the WRD, in consultation with OEM and the local emergency services agency, to determine the frequency of emergency response exercises at such dams. The WRD must inspect such dams annually unless it determines that a different inspection schedule is appropriate. Dams regulated under a dam safety program of a federal agency are exempt from requirements for plan adoption. The Oregon Water Resources Department currently determines ratings for dams and encourages, but does not require, dam owners and operators to adopt emergency action plans. Of the 75 high hazard dams in Oregon, 58 already have emergency action plans, and 13 of those have early warning systems.

HB 3470 – Program Change Bill

Effective Date: August 15, 2017 Chapter: 725

HB 3470 contained a number of changes to various programs run by the state. Section 20 of the bill stated that certain unnamed projects would not be subject to application, scoring, or ranking requirements of the Water Project Grants and Loans program (SB839). Those projects were:

- \$2.5 million was allocated for the City of Carlton’s Panther Creek Reservoir
- \$2 million for the City of Carlton’s Water Supply Line, and
- \$1.2 million for Santiam Water Control District’s Mill Creek Corporate Center

SB 1036 – Surface Mining Permit Exemption for Utility Construction

Effective Date: January 1, 2018 Chapter: 743

This bill adds additional exemptions to surface permit requirements. These exemptions include the excavation or movement of materials on site at a landfill for the primary purpose of construction, reconstruction or maintenance of access roads or landfill operations if the activity is covered by a permit issued by the Department of Environmental Quality. It exempts excavation or grading operations necessary for the construction and maintenance of utilities or drainage facilities if the excavated material is used on-site and is not commercially sold as aggregate material.

SB 5542 – Water Resources Department Budget

Effective Date: July 19, 2017 Chapter: 606

SB 5542 is the budget bill for the Oregon Water Resources Department (OWRD). The budget is comprised of \$79.5 million in total funds, supporting 166.59 full-time equivalent positions. The budget includes:

- \$32.23 million in general funds; \$6.03 million in lottery funds
- \$39.36 million of expenditure limitation from other funds; and
- \$1.8 million from federal funds.

The total funds budget is 27.3 percent less than the legislatively-approved budget from 2015-17; however, that difference is largely due to a reduction in anticipated bond proceeds and the removal of debt service for unissued bonds. The OWRD budget supports three additional full-time equivalent positions over 2015-17 levels. It also supports the following programs and services:

- \$14.5 million in total funds for the Field Services Division, which is responsible for processing water rights transfers and permit amendment applications. In addition, the division provides planning assistance, inspection services for wells and dams, and technical information on surface and groundwater availability.

- \$14.83 million for the Technical Services Division, which provides scientific data and technical analysis for processing water rights, managing water resources and distribution, and water resources development activities. The division's programs include dam safety, well construction and compliance, information services, and hydrology services. The Legislature authorized approval of Policy Option Package 102, which funds a permanent, full-time dam safety engineer through a combination of federal funds and dam safety fees.
- \$8.16 million for the Water Rights Services Division. Existing service levels were sustained through the approval of transactional fee increases (see HB 2295, Water Supply Bills That Passed.) Without revenues from the fee increases, the department would have reduced staffing levels by 2.5 full-time equivalent positions. The anticipated revenues from the fee increases in HB 2295 restore those positions and should generate sufficient revenue to support the water rights and dam safety programs until 2021.

In addition, SB 5542 carries forward \$26 million in expenditure limitation from other funds, including the following lottery bond-funded programs:

- Basin studies for the Willamette and Deschutes river basins
- Water supply development grants and loans
- Feasibility study grants and loans
- Place-based integrated water resource strategies grants and technical assistance
- Umatilla Basin water supply projects; and
- Mosier Creek area water-well remediation

A separate bill, SB 5530, included \$15 million in lottery funds for loans and grants through the Water Supply Development Account and \$1.5 million in lottery funds for the water conservation, reuse and storage investment fund. These are commonly referred to as SB 1069 feasibility grants.

HB 5026 – Oregon Health Authority Budget

Effective Date: July 3, 2017

Chapter: 545

The Oregon Health Authority (OHA) administers a number of programs, including the drinking water services division, which administers and enforces drinking water quality standards for public water systems in the state of Oregon. The approved budget for the OHA includes a general fund increase of \$12.1 million, to account for declining medical marijuana fee revenues which previously helped to support the Safe Drinking Water Program. During the upcoming biennium, the general fund increase will fully replace the medical marijuana revenues for a number of programs. The drinking water program will receive \$4.2 million of the general fund increase.

Water Bills That Failed

HB 2027 – Deschutes River Bridge

In committee upon adjournment

As introduced, HB 2027 would have authorized the issuance of lottery bonds to finance water storage and distribution projects. However, the contents of the bill were replaced with an amendment prohibiting a person, public body or local service district from constructing a bridge within certain segments of the Deschutes River. After receiving substantial public testimony in the Senate Environment & Natural Resources Committee, the bill was further amended to authorize construction of a pedestrian or bicycle-bridge over certain river segments while maintaining the construction ban for other segments. The bill eventually died in the Senate Rules Committee.

HB 2206 – Elimination of Landscape Contractor Continuing Education

In committee upon adjournment

This bill eliminated continuing education requirements for licensure as a landscape contractor by the state (see failed bill SB 474.)

HB 2241 & HB 2297 – Drought Taskforce Sunset Extension

In committee upon adjournment

These two bills retroactively extended the sunset of the Task Force on Drought Emergency Response to December 31, 2018. The bills were placeholder bills intended to allow for legislative approval of any recommendations that came from the task force which met during the 2016 interim.

HB 2485 – Point of Diversion Pilot Program

In committee upon adjournment

HB 2485 charged the Oregon Water Resource Department to establish a water right pilot program to encourage and facilitate point of diversion changes requested by the Oregon Department of Fish and Wildlife to benefit fish passage. Water right transfers provide a method to change the point of diversion from the place of use for which the right was originally issued. The water right holder must obtain approval of a water right transfer from the Oregon Water Resources Department before making any of these changes. The bill would have required WRD and ODFW to make a report to the Legislative Assembly.

HB 2705 – Water Use Measurement & Reporting Requirements

In committee upon adjournment

This bill directed water users to install, operate and maintain water measurement devices to measure the quantity, including rate and duty, of ground or surface water used under a claim of

right. It would not have directly impacted municipal water providers, because they are already required to measure and report water use. HB 2705 required:

- Measurement for each point of diversion or point of appropriation
- Reporting of measurement data, including daily maximum rates of diversion or appropriation, collected by a water user
- Necessitated groundwater measurement reports to include any information, as required by the Oregon Water Resources Department, on ground water levels
- In-channel storage reports to include reservoir inflow and outflow data
- Annual reporting, but would have authorized the Water Resources Commission to require more frequent reporting

Under the bill failure to comply with the measurement or reporting requirements could have resulted in a civil penalty of up to \$500 per day.

HB 2706 – Annual Water Right Management Fee

In committee upon adjournment

This bill was similar to a bill introduced during the 2015 Legislative Session. It would have implemented a new annual water right management fee for each primary or supplemental water right held under a water right, certificate, and decree or groundwater registration. As introduced, the fee was \$100 per water right, with an annual cap of \$1,000 per non-municipal water right holder and \$2,500 municipal water right holders. The revenues generated from the fees would have funded field, technical, scientific and administrative activities through the Oregon Water Resources Department, including groundwater investigations in coordination with the U.S. Geological Survey.

HB 2707 – Groundwater Study Funding

In committee upon adjournment

HB 2707 appropriated \$8.2 million in general funds to the Oregon Water Resources Department for conducting ground water studies and investigations, or gathering and analyzing other data needed to assess and manage ground water resources, in priority basins as determined by the department. The bill passed the policy committee but never made it out of the Ways & Means Committee.

HB 3053 – Water Infrastructure Task Force

In committee upon adjournment

This bill appointed a seven-member task force on Water Infrastructure Investment. It directed the task force to identify efficient and practical options to promote private investment in water diversion and delivery infrastructure to be owned or operated by an irrigation district, drainage district, water improvement district, water control district or other public body. The bill required the task force to submit a report to Legislative Assembly by September 15, 2018.

HB 3205 – Revenue Sharing for Commercial Water Bottlers

In committee upon adjournment

This bill mandated a state agency, prior to a transfer of water or issuance of a water right for commercially bottling water, to enter into an agreement with the commercial water bottler. The agreement would have required that the state receive no less than 75 percent of the gross sales of the water that was made available as a result of the water right issuance or transfer. It prohibited a commercial water bottler from using water formerly reserved for an in-stream use. This bill was a legislative attempt to upset the ability of the City and Port of Cascade Locks from attracting a bottler to move into their community and set up a bottling operation.

HB 3337 – Landscape Contracting Limited Licensure

In committee upon adjournment

HB 3337 created a limited license for landscape contractors. The bill exempted individuals from licensure requirements for landscape contracting jobs less than \$8,000 in a calendar year, but prohibited individuals with a limited license from installing backflow devices while still permitting them to install irrigation systems. Under the proposal, limited license holders would have been subject to license fees, certain sanctions and possible civil penalties for certain violations.

HB 3421 – Historic Use Reservoirs

In committee upon adjournment

This bill constructed a definition of “historic use reservoir” and exempted approved historic use reservoirs from requirements to have a water right permit or certificate. Applications to register a reservoir would have been required to be filed with the Oregon Water Resources Department by January 31, 2022. Approved reservoirs would have still been subjected to requirements in statute pertaining to the distribution of water by a water master. In order to be eligible for designation as a historic use reservoir, the applicant would have needed to demonstrate that the reservoir: existed prior to January 1, 2000, was located in an area withdrawn for appropriation, and either stored less than 9.2 acre-feet of water or is less than 10 feet high. The applicant would have also been required to provide information from the Oregon Department of Fish and Wildlife demonstrating that historic use designation would not have a significant detrimental impact on existing fishery resources.

SB 172 & HB 2076 –Fish Screening Device Tax Credit

In committee upon adjournment

Currently, taxpayers are allowed a tax credit for installing a fish screening device to provide for upstream and downstream passage for native migratory fish in Oregon. Most eligible devices are found on agricultural land to keep fish from entering irrigation canals. The tax credit was initially adopted in 1989, and serves as a voluntary cost-share program for the installation of fish screen devices. These two bills would have extended the tax credit until January 1, 2024.

While both of these bills failed the fish screening device tax credit was included in the in-depth tax credit bill that passed (HB 2066).

SB 465 – Fees for Non-applicant Water Right Protests

In committee upon adjournment

SB 465 required non-applicants to pay the Oregon Water Resources Department twice the amount of the fee for submitting protest if they had filed a non-applicant protest within the last twelve months.

SB 474 – Elimination of Landscape Contractor Continuing Education

In committee upon adjournment

Similar to HB 2206, SB 474 eliminated continuing education requirements for licensure as a landscape contractor by the state.

SB 477 – State Cost Recovery for Unsuccessful Water Right Protests

In committee upon adjournment

This bill required protestants, who have filed three or more unsuccessful protests within a year, to pay the Oregon Water Resources Department reasonable costs and attorney fees.

SB 647 – Drought Taskforce Sunset Extension

In committee upon adjournment

SB 647 retroactively extended the sunset of the Task Force on Drought Emergency Response to December 31, 2018. The bill served as a placeholder that would allow for legislative approval of any recommendations that came from the task force which met during the 2016 interim.

SB 878 – Notice of Changes in Fluoridation Practices

In committee upon adjournment

This bill, introduced at the request of the Oregon Dental Association, required water suppliers to give notice to any person served water through a system if that supplier changed its water fluoridation practice.