



2021 Legislative Session Final Report

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2021 LEGISLATIVE SESSION IN REVIEW

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

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

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

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

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

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

Prior to the regular session, the Legislature met in special session three times to address the many challenges that the COVID-19 global pandemic had caused. Because of previous Governor's Executive Orders, the Capitol was closed to the public. Hearings during those special sessions were conducted virtually while floor sessions were conducted in person. This caused a great deal of controversy because Republicans felt that the public was being shut out of the legislative process. During one of these special sessions Rep. Mike Nearman intentionally breached the Capitol's security by allowing demonstrators to enter the Capitol. Those demonstrators were ultimately repelled by the State Police and ultimately Rep. Nearman became the first sitting legislator to be removed from office in Oregon because of those actions. These special sessions addressed among other things, eviction and foreclosure moratoriums, unemployment insurance, law enforcement reforms, education funding, alcohol to go, and public meetings that could no longer be held in person due to the Governor's various Executive Orders that were designed to mitigate the spread of the virus.

To say that the 81st Legislative Session was unprecedented is an understatement. As noted previously, the Capitol was closed to the public and staff support was limited. All hearings were conducted remotely to avoid legislators being near one another. The House had to cancel floor sessions and some committees on two different occasions due to COVID exposures and the need for members to quarantine. On another occasion the business of the Legislature was cancelled due to an ice storm that knocked power out for thousands of Oregonians, including some legislators. Furthermore, House and Senate Republicans utilized stall tactics to slow the business of the assembly. On one occasion Senate Republicans denied a quorum and, in the House, Republicans required the full reading of bills prior to them being debated on the floor. Republicans eventually dropped this requirement when a deal between the majority and minority parties evened out the membership of the House Redistricting Committee. And as previously mentioned, the House removed one of its own members for the first time in the state's history. However, Representative Nearman was nearly the 2nd member to be removed after it was determined that Representative Diego Hernandez had used his position inappropriately and created a hostile working environment. Rep. Hernandez was asked to resign by his own caucus and refused to do so until the day before the House was set to expel him.

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

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

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

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

NOTABLE ACTIONS TAKEN THIS SESSION

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

survivors; \$10 million for programs to incentivize fire-resistant building strategies; and more than \$100 million toward infrastructure,

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

- Passage of a measure to establishing the Oregon Rural Capacity Fund to assist in securing economic development grants for rural communities.
- Passage of multiple bills addressing equity in policing, the courts, and justice reform.
- Passage of a Healthy Homes initiative that invests in home repairs for low-income Oregonians to improve energy efficiency, safety and drive down costs.
- Passage of legislation streamlining Oregon’s response and recovery programs and systems by consolidating them under the new Oregon Department of Emergency Management (ODEM), which will coordinate emergency response year-round.

This session faced several unprecedented challenges and will be remembered for years to come. Those challenges included the prohibition of the public entering the Capitol, hearings conducted by video conferencing, oftentimes resulting in limiting the time for individual testimony before those committees, multiple Covid exposures resulting in members and staff having to quarantine and delaying the business of the body, an ice storm that knocked power out for thousands, including legislators, and the removal of a sitting House member.

LOOKING AHEAD

After the session ended much of the attention was shifted from policy and to redistricting and reapportionment. Due to the delay in receiving data from the US Census, the Oregon Supreme Court granted the Legislative Assembly additional time to complete redistricting and reapportionment by September 27, 2021. The Senate Redistricting Committee has a Democratic majority of three with two members of the Republican Party. On the other hand, the House Redistricting Committee was evenly split 3 to 3 after an agreement was struck in the House by the two-party leaders after Republican delay tactics

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

To qualify a statutory measure for the ballot 112,020 signatures must be collected; constitutional measures will require 149,360 signatures. The deadline to turn in signatures is July 8, 2022. So far there have been than 33 petitions submitted to the Secretary of State with just 4 having been approved for circulation thus far.

Governor Brown is prevented from running for the same office in 2022 and has now presided over her last long legislative session. That leaves the highest profile public elected office open

and there has already been some speculation as to who will mount a credible campaign. Many have speculated Speaker Kotek as a possible candidate. The other statewide elective office that will be up in November of 2022 is State Treasurer. Whether Treasurer Read mounts a defense of his current office or decides to run for Governor could have some cascading impacts in the political musical chairs. Another name that has been mentioned is Attorney General Ellen Rosenblum. Republican perennial candidate Bud Pierce has already announced his candidacy for the top office and Secretary of State Shemia Fagan has stated that she intends to fulfil her current term of office.

Finally, SCR 25, which was passed by the Assembly establishes limits on the number of measures that may be drafted for the 2022 legislative session by each Senator, Representative and interim committee, the Governor, and the Chief Justice of the Supreme Court. Each Senator will be allowed to introduce two bills (an increase from previous short sessions), each Representative will be allowed to introduce two bills, each committee will be permitted to introduce 3 bills and the Governor and Chief Justice will be permitted to introduce three bills each (a decrease of 2 from previous short sessions).

DYNAMICS OF THE 81st LEGISLATIVE ASSEMBLY

Session Length:	159	Bills, Resolutions, etc. Introduced:	2,519
Date Convened:	January 19, 2021	Bills Signed by Governor:	681
Date Adjourned:	June 26, 2021	Bills Vetoed:	2

OREGON SENATE

Democrats: 18
 Republicans: 11
 Independent: 1

Senate Caucus Leadership:

Senate President Peter Courtney (D-Salem)
 Senate Majority Leader Rob Wagner (D-Lake Oswego)
 President Pro Tempore James Manning (D-Eugene)
 Deputy Majority Leader Elizabeth Steiner Hayward (D-Portland)
 Majority Whip Lew Frederick (D-Portland)
 Majority Whip Sara Gelser (D-Corvallis)
 Assistant Majority Leader Michael Dembrow (D-Portland)
 Assistant Majority Leader Kate Lieber (D-Beaverton)

Senate Republican Leader Fred Girod (R-Stayton)
Deputy Leader Chuck Thomsen (R-Hood River)
Assistant Republican Leader Lynn Findley (R-Baker, Grant, Harney)
Republican Whip Dennis Linthicum (R-Klamath Falls)

OREGON HOUSE OF REPRESENTATIVES

Democrats: 37

Republicans: 23

House Caucus Leadership:

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

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

I am grateful to CRSOA for their support and guidance through this latest Legislative Session. Staff has been outstanding. It is an honor represent CRSOA. Mark Landauer – MJL Consulting, LLC.

2021 LEGISLATIVE REPORT

ENVIRONMENTAL BILLS – PASSED

HB 2021 – Decarbonization of Oregon’s Electricity

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

This bill is a product of intensive negotiations between the state’s largest utilities, environmental justice groups, and renewable energy advocates. The bill requires utilities with more than 25,000 customers, PGE, and Pacific Power, to submit plans to reduce emissions by 80% from a baseline amount by 2030, 90% by 2035, and eliminate emissions by 2040. Most states have opted to ratchet down greenhouse gas emissions by requiring utilities to gradually increase the amount of power they get from renewable energy sources like wind and solar. Oregon, which has already had such a “renewable portfolio standard” since 2007 is taking a more straightforward approach: requiring the large electrical utilities to reduce their overall carbon emissions, which are tracked by the Department of Environmental Quality. The bill also bans the expansion or new construction of power plants that burn natural gas or other fossil fuels, sets labor standards for any large-scale renewable energy projects built in the state, includes \$50 million in grants for community renewable energy projects, allows cities in Oregon to create so-called “green tariffs,” where they agree to pay utilities more money for power from a cleaner mix of sources in order to meet their own climate goals and requires power companies to consider input from low-income ratepayers, environmental justice communities, federally recognized tribes and others as they develop strategies for reducing emissions.

HB 2377 – Recovery of Insurance Assets from Dissolved Businesses

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

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

HB 3372 - DEQ Chronic Violator Provisions

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

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

SCR 17 - Environmental Justice Framework

Filed with Secretary of State

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

ENVIRONMENTAL BILLS – FAILED

HB 2386 – Independent Scientific Review Board

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

HB 2479 – Black Carbon

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

HB 2674 – Diesel Engine Taxes

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

HB 2814 - Diesel Emissions

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

HB 3269 – DEQ Emergency Response Program

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

SB 286 – Environmental Justice Task Force Name Change

In 2007, the Legislature enacted SB 420 (ORS 182.535 – 182.550) creating a 12-member Environmental Justice Task Force (EJ Task Force). This bill would have renamed the EJ Task

Force as the Environmental Justice Council (Council) and established the Council within the Department of Environmental Quality. Furthermore, the bill directed the Council to develop an environmental vulnerability assessment and required natural resource agencies to utilize the environmental vulnerability assessment.

GENERAL BILLS – PASSED

HB 2168 – Establishment of Juneteenth as State Holiday

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

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

HB 2180 – EV Charging Equipment for Parking Spaces

Effective: January 1, 2022 Chapter: 152 (2021 Laws)

The Department of Consumer and Business Services (DCBS) adopted Electric Vehicle (EV) Ready Parking standards in 2017. Those standards require newly constructed parking facilities in certain occupancies with 50 or more open parking spaces to have conduit run from the service to at least five percent of the open parking spaces. The conduit must be sized to fit wiring for at least a level 2 charger (40 amp). The EV Ready Parking standards are required in the cities of Portland, Eugene, Salem, and Gresham. This bill requires the Director of DCBS to amend the state building code to require that new construction of certain commercial, residential, and mixed-use buildings include provisions for electrical service capacity for at least 20 percent of parking spaces. It also allows municipalities to adopt a local percentage of parking space requirements higher than state building code requirements.

HB 3115 – Homeless Camping on Public Property

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

In 2019, the Circuit Court of Appeals in *Martin v. Boise* (920 F. 3d 584) held that the government cannot criminalize certain conduct, such as lying, sitting, or sleeping on the streets, that is unavoidable because of homelessness. The Court further concluded that to punish such conduct would be comparable to punishing a person's homeless status and to do so would be unconstitutional under the 8th Amendment of the U.S. Constitution, which prohibits imposing excessive fines, bail, or cruel and unusual punishments. This bill requires that by July 1, 2023, local laws regulating the acts of sitting, lying, sleeping, or keeping warm and dry in outdoor public spaces be objectively reasonable as to the time, place, and manner with regards to persons experiencing homelessness. The bill creates an affirmative defense to an alleged

violation of local law that law is not objectively reasonable. The bill also allows persons experiencing homelessness to file suit for relief to challenge the objective reasonableness of local laws. The bill does not create a right of action for monetary damages but does authorize the court, under certain circumstances, to award attorney fees to prevailing plaintiff. Districts should work with their cities, counties, and local law enforcement to ensure that any ordinances regulating these activities will continue to protect special district interests.

SB 58 – DEQ Credit Card Fees

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

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

HB 5010 - DOGAMI Budget Bill

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

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

LABOR BILLS – Passed

HB 2231 – Military Reemployment

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

Currently, a member of the uniformed services has the right to return to their civilian job without penalty or discrimination if their cumulative voluntary military service does not exceed five years. Being called-up involuntarily does not count. Reservists, however, have reported that their orders characterize their service as voluntary regardless of whether they volunteered or not for deployment overseas or to respond to a domestic emergency or disaster. This bill exempts time spent in voluntary service overseas and domestic voluntary service responding to a declared emergency or disaster from the five-year limit on reemployment rights.

HB 2474 – Family Leave Update for Public Health Emergencies

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

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

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

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

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

HB 3041 – Gender Identity Definition

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

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

HB 3398 – Paid Family Leave Delay

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

HB 2005 (2019) created a new insurance program to provide Oregon employees with a portion of wages while on family, medical, or safety-related leave. The program is administered by the Oregon Employment Department (OED). This bill delays the implementation dates for the program, including changing the start date for employer and employee contributions from January 1, 2022 to January 1, 2023; benefit payments from January 1, 2023 to September 3, 2023; and employer assistance grants (those employers with fewer than 25 employees who provide Family and Medical Leave to their employees) from January 1, 2023 to June 30, 2023. Beginning January 1, 2023, employees will be eligible for 12 weeks of insurance benefits per year, with an additional two weeks of benefits for pregnancy-related leave. An employee can take a total of 16 weeks a year under this program in any combination of paid leave and unpaid OFLA leave (18 weeks if pregnancy-related leave is also taken). Benefits will be based on the worker's average weekly wage with a cap set at 120 percent of the state's average weekly wage (approximately \$1,215). Employees who have worked at least 90 days will have job protection when on leave. An employee may use vacation or sick time to supplement insurance, up to 100 percent of wages, with the employer's consent. An employer, with the Department's approval, may provide leave benefits through an equivalent plan.

SB 483 – Employer Retaliation

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

Oregon law makes it an unlawful employment practice for an employer to retaliate against an employee or prospective employee because that person reported or opposed a workplace health or safety violation, filed a complaint, or testified in a proceeding under the Oregon Safe Employment Act. The elements of retaliation are: (1) the employee engaged in a protected activity; (2) the employee was subjected to an adverse employment action; and (3) there is a causal link between the activity and the adverse employment action. Currently, the burden is on the employee to prove the employer's action was retaliatory. An aggrieved employee or applicant may file a complaint with the Bureau of Labor and Industries (BOLI) and may file a civil action in court. In general, an action relating to an unlawful employment practice must be filed within one year of the occurrence of the practice. This bill creates a rebuttable presumption that prohibited retaliation or discrimination has occurred if an employer bars or discharges an employee or prospective employee from employment or otherwise discriminates against that person within 60 days of an employee or prospective employee engaging in protected activities regarding workplace safety.

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

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

This bill makes it is an unlawful employment practice for an employer to require an employee or prospective employee to possess or present a valid driver license as a condition of employment or continuation of employment unless the ability to drive is an essential job

function or related to a legitimate business purpose. The measure also declares it is unlawful employment practice for an employer to refuse to accept from an employee or prospective employee other forms of identification deemed acceptable for verifying the identity and employment authorization of employees hired in the country.

PORT BILLS – Passed

HB 2564 – Willamette Falls Locks

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

The Willamette Falls Canal was constructed in the 1870s to allow river traffic to navigate around the 40-foot, horseshoe-shaped basalt ridge between Oregon City and West Linn on the Willamette River. In 1915, the U.S. Army Corps of Engineers purchased the locks; the locks were placed on the National Register of Historic Places in 1974. The locks were deemed non-operational in December 2011. Senate Bill 131 (2015) established the Task Force on the Willamette Falls Navigation Canal and Locks to gather information related to the locks, including their current and potential future value. In 2017, Senate Bill 256 created the Willamette Falls Locks Commission.

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

HB 2603 – Territorial Sea and Underground Cables

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

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

HB 3114 – Ocean Acidification and Hypoxia

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

This bill appropriates \$1,060,000 from the General Fund to the Oregon Ocean Science Trust for

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

HB 3375 – Offshore Wind Energy

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

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

HB 5020 – Oregon State Marine Board Budget

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

The OSMB’s mission is to serve the recreational boating public through education, enforcement, access, and environmental stewardship for a safe and enjoyable experience. The Board is responsible for registering and titling all recreational motorized and sailboats, 12 feet and longer, in the state; providing boater education; marine law enforcement; facility access and mitigating the effects of invasive species on native waters. The approved budget for the

OSMB totals \$36,756,677 and 40 positions (39.50 FTE). The total funds budget is an increase of 4.6% from the 2019-21 legislatively approved budget

Two programs of interest to ports:

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

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

HB 5023 – Oregon Business Development Department Budget

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

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

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

Infrastructure The Infrastructure Division assists communities in building and maintaining critical infrastructure through low-cost financing, grants, technical assistance, and capacity building. The Division has dedicated funding sources for municipal infrastructure, water, and wastewater facilities ensuring compliance with federal law, seismic rehabilitation for schools and emergency facilities, port and airport facilities, levee improvements, marine navigation improvements, and other facilities supporting economic and community development. The Legislature provided \$759,010,560, including 34 positions (34.00 FTE) for this program area.

PORT BILLS – Failed

HB 2781 – Cancellation of Port Property Taxes

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

HB 3339 – Railroad Crossing Blockage Penalties

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

HB 3371 – New DSL Authorities for Submerged and Submersible Lands

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

SB 859 – Increased Funding to Remove ADVs

This bill, introduced by Senator Taylor, would have increased the amount of money the Oregon

State Marine Board had to set aside for the removal and disposal of Abandoned Derelict Vessels (ADVs). Currently, the Salvaged Vessel Subaccount within the Boating Safety, Law Enforcement, and Facility Account may be used for the salvage, towing, storage, and disposal of abandoned and derelict vessels that weigh less than 200 gross tons. Existing law limits the funds the State Marine Board may deposit and retain in this subaccount each biennium at \$150,000. SB 859 would have raised that limit to \$1 million each biennium. Other bills that would have sought more funds for this purpose included SB 740 and SB 840.

PUBLIC SAFETY BILLS – Passed

HB 2605 – Tsunami Building Codes

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

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

This bill requires Risk Category III and IV buildings and structures to meet minimum tsunami design criteria based on specified standards of the American Society of Civil Engineers (ASCE). It permits the Department of Consumer and Business Services (DCBS) to require new building sites for certain structures to be evaluated for seismic vulnerability and requires developers of Risk Category III or IV structures to consult with State Department of Geology and Mineral Industries (DOGAMI) on potential tsunami impacts before submitting design plans. DOGAMI is required to notify developers and officials responsible for approving development, of potential tsunami impacts and any changes it recommends to mitigate those impacts within 45 days of receiving development requests. It also requires DOGAMI to report to Legislative Assembly by September 15 each year and applies these new requirements to initial permits issued on or after January 1, 2022.

HB 2927 – Oregon Emergency Management Reorganization and New Name

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

Among many things, this bill renames the Office of Emergency Management to the Oregon

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