



## **2017 Legislative Session Final Report**



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## 2017 LEGISLATIVE SESSION IN REVIEW

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The 79<sup>th</sup> 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 23<sup>rd</sup> 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 8<sup>th</sup> 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 6<sup>th</sup> 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 1/5<sup>th</sup> 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 31<sup>st</sup> 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 Legislatively 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 failure 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 23<sup>rd</sup>, 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, that 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 7<sup>th</sup>. 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 58,789 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 \$24 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.

The 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 79<sup>th</sup> LEGISLATIVE ASSEMBLY**

Session Length:	156	Bills Introduced:	2,647
Date Convened:	February 1, 2017	Bills Signed by Governor (18 <sup>th</sup> 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)

I am grateful to the CRSOA Board of Directors, Kate Mickelson and Hannah Milnes for their support and guidance. I am looking forward to the facing the opportunities and challenges ahead and I am honored to represent the Columbia River Steamship Operators' Association, Inc. Mark Landauer – MJL Consulting, LLC.

# MISCELANEOUS BILLS OF INTEREST TO CRSOA

## Bills that passed

### **HB 2268 – Underground Storage Tank Fee Increase**

*Effective Date: January 1, 2018 Chapter Law: 620*

Federal and state laws regulate underground storage tanks used to store petroleum and other hazardous substances. Compliance with these regulations is intended to prevent leaks that can contaminate air, groundwater and soil. Oregon's Underground Storage Tank Program (UST) handles issues related to tank registration and operating certificates; installation, operation and removal of USTs; cleanup of soil and groundwater contamination from petroleum leaks; training of system operators; financial liability protection for future leaks, licensing of contractors working on USTs and enforcement of state UST rules. The UST per tank fee was last increased in 2007 from \$85 to \$135. This bill increases UST fees from \$135 to \$325 over four years.

### **HB 2695 – Coos Bay Pilotage**

*Effective: January 1, 2018 Chapter Law: 292*

Current law requires that vessels traversing the Columbia River Bar, Coos Bay or Yaquina Bay be piloted by a licensed bar pilot. HB 2695 exempts vessels engaged in the coasting trade between British Columbia and Oregon from this requirement in cases where the towing vessel is piloted by an individual holding the appropriate federal mariner license.

### **HB 2784 – Funding for Various Shellfish Initiatives**

*Effective Date: August 15, 2017 Chapter Law: 711*

HB 2209, passed in 2015, created the Oregon Shellfish Task Force (Task Force), an 11-member group comprised of stakeholders from the Governor's office, the Oregon Department of Agriculture, the shellfish industry, Oregon State University, Oregon Indian Tribes, and others. The Task Force was responsible for developing a draft Oregon Shellfish Initiative, a report which included recommendations to help enhance and expand cultivated shellfish production; conserve, protect and restore wild populations of native shellfish; and improve water quality and the health of aquatic and marine habitats. This bill provides funding for a variety of activities designed to support the stated goals of the Oregon Shellfish Initiative, including studies of recreational and commercial shellfish cultivation and harvesting, restoration, economic and ecological benefits of shellfish populations and regulatory processes. Several other similar bills were introduced including HB 3092 and HB 3234 and HB 3236.

### **HB 2900 - Port Advertising**

*Effective Date: January 1, 2018 Chapter Law: 85*

ORS 777.240 greatly limits what a port can advertise. Essentially the statute limits ports to advertising only their facilities and the commerce taking place at the port. This bill, introduced at the request of the Oregon Public Ports Association expands the ability of ports to be able to advertise including activities of the port or activities of those using a port.

### **HB 2902 - Port Operation of Shipyards**

*Effective Date: January 1, 2018 Chapter Law: 165*

This bill was introduced at the request of the Oregon Public Ports Association. Under ORS 777.210 ports are permitted to undertake a number of port related management activities. However, one of the activities that is not listed is the acquisition and management of “shipyards.” The Port of Toledo recently acquired, with the assistance of the state, a new 660-ton hoist to pull commercial vessels out of the water so that those vessels can be fixed, overhauled and upgraded, among other things. Additionally, there are four other ports that own shipyards. HB 2902 explicitly permits ports to operate a shipyard.

### **SB 256 – Willamette Falls Locks Commission**

*Effective date: August 15, 2017 Chapter Law: 734*

This bill establishes the Willamette Falls Locks Commission as a policy-making and advisory board for issues relating to the repair, reopening, operation, maintenance and future transfer of ownership of the Willamette River navigational channel and locks system. The bill also establishes the Willamette Falls Navigation Infrastructure Program to provide staff support and assistance to the Commission. Finally, the bill establishes the Willamette Falls Navigation Infrastructure Program Account and appropriates \$677,500 from the General Fund into the Account. All three programs are to sunset on December 31, 2023.

### **SB 867 – Maritime Workforce Development**

*Effective Date: October 6, 2017 Chapter Law: 738*

Oregon is home to a system of 23 public ports, including nine on the Columbia River and 14 on the coast which are an integral part of Oregon's multimodal freight transportation system. The term "maritime sector" encompasses more than the movement of freight through this system: the state's maritime workforce includes longshoremen and other workers at ports, crews on tugs and tow vessels, naval architects and marine engineers, and includes shipbuilding and repair, offshore exploration and support, marine manufacturing, the wave energy industry, commercial and recreational fishers, crabbers and processors, and Oregonians who work in these capacities and industries around the world. SB 867 declares Oregon's policy to promote the coordinated facilitation of education, employment, economic development and job training to support the maritime sector. The measure creates a 17-member task force to develop descriptions of the maritime sector and the maritime sector workforce, and to make recommendations to the State Workforce Investment Board for incorporation into the state's workforce investment plan.

### **SB 1039 – Ocean Acidification**

*Effective Date: January 1, 2018 Chapter Law: 744*

This bill makes legislative finding that ocean acidification and hypoxia severely endanger the state's commercially and culturally significant ocean resources, and declares it to be state policy to ensure a coordinated, effective response. The bill creates the Oregon Coordinating Council on Ocean Acidification and Hypoxia that will consist of 13 members. The duties of the council include: identification of research and monitoring activities needed to better understand changing ocean chemistry and the potential impacts of ocean acidification and hypoxia; identification of actions and initiatives to address Oregon's vulnerabilities to ocean acidification and hypoxia; and development of a long-term coordinating strategy among state agencies, academia, the federal government and industry. The bill authorizes the council to develop a report on the socioeconomic vulnerability from ocean acidification and develop recommendations for the Oregon Ocean Science Trust, state agencies and others on strategic research to address gaps in understanding of ocean acidification and hypoxia. Finally, the bill directs the council to submit biennial report to the Legislative Assembly and Ocean Policy Advisory Council by September 15 of each even-numbered year.

### **SB 5530 - Lottery Bond Authorization**

*Effective Date: August 15, 2017 Chapter Law: 748*

The Legislature authorizes \$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:

Department of Transportation: Connect Oregon VII:

\$30 million\* (non-roadway transportation projects) *See further details under HB 2017*

\$3 M Portland Harbor Cleanup (Department of State Lands)

### **SJM 7 – Newport Coast Guard Station**

Filed with the Secretary of State

The United States Coast Guard maintains search and rescue and law enforcement operations out of Yaquina Bay with air support located at the Newport Municipal Airport. The station responds to hundreds of calls for assistance every year, and is a longstanding member of the coastal and regional community. Among the Coast Guard's three facilities on the Oregon coast with air operations, the Newport site is the only one located outside of the tsunami inundation zone. The Coast Guard's air operations have been threatened with closure since 2014. A broad coalition of federal, state and local public officials, citizens, commercial industries and community groups have sustained efforts to preserve the Coast Guard's air facility in Newport. Senate Joint Memorial 7, urging Congress to adequately fund and maintain the United States Coast Guard air facility in Newport in perpetuity, is the product of those efforts.

Bills that failed

**HB 2480 – Fossil Fuel Infrastructure**

In committee upon adjournment

This bill would have preempted cities, counties or other local governments from enacting charter provisions, ordinances, resolutions or other provisions regulating the expansion of infrastructure for the primary purpose of transporting or storing fossil fuels

**SB 7 - Hazardous Materials Transport**

In committee upon adjournment

This bill would have directed the Oregon Department of Environmental Quality to promulgate rules for oil spill prevention and emergency response planning on hazardous train routes. A proposed amendment would have modified the state fire marshal’s response planning by requiring statewide training involving multiple state agencies, local governments, tribes and railroads. The bill was moved to the Senate Rules Committee where it awaited the fate of HB 2131.

**SB 530 – Oregon Shipping Authority – Terminal 6**

In committee upon adjournment

This bill, at the request of the Oregon Shipping Group, would have established the Oregon Shipping Authority as an independent public corporation. County commissioners in each of the 12 regions of the state would appoint a director representing that region on the board of directors. The Port of Portland would have been required to transfer right, title, ownership and interest in Terminal 6 in Portland to the authority. The bill also described the duties of the authority. Other components of the bill would have permitted the authority to sell revenue bonds and enter into financing agreements. Finally, the bill would have directed the authority to establish a grant program to enhance maritime shipping facilities at ports within the state.

**SB 1007 – Fossil Fuel Infrastructure**

In committee upon adjournment

This bill would have directed the State Department of Energy to develop a climate test to conduct reviews for the approval of proposed fossil fuel infrastructure projects. It would have also required the department to adopt rules to establish standards and criteria for developing administering the test.

## **Environment**

Bills that passed

**SB 1008: Clean Diesel Funds**

*Effective Date: August 15, 2017      Chapter Law: 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 also proposed public contracting

requirements for the mandated use of clean diesel equipment on certain public improvement work. However, a coalition of interests opposed the bill as introduced and it was subsequently amended to eliminate the mandate language, clarify 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, which 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 in addition to rules to provide preferences for loan and grant funds. The bill 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 previous version of SB 1008 required the Oregon Department of Environmental Quality to contract with a third-party organization 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.

## 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 2135 – Carbon Cap and Invest**

In committee upon adjournment

This bill would have created a cap-and-invest system covering sources that emit more than 25,000 metric tons of greenhouse gases per year. Such sources would include certain fossil fuel suppliers, natural gas suppliers, electric utilities, landfills, universities, high tech industries and certain other heavy industries. These sources would have been required to obtain allowances and remit a number of allowances equal to their level of emissions for each compliance period. Proceeds would have been invested in various grant program funds, infrastructure projects and bill assistance for low-income utility customers.

### **HB 3312: Baseline Federal Standard Requirements**

In committee upon adjournment

This bill 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 also required state agencies that have been delegated authority to administer federal environmental laws to submit a report to the Legislature identifying: the federal laws administered by the agency; the proposed federal changes to those laws; whether proposed changes would diminish environmental protections; and recommendations for legislation or resources needed to maintain baseline federal standards. This bill was introduced in response to the election of President Trump.

### **HB 3343- Climate Test for Fossil Fuel Projects**

In committee upon adjournment

This bill would have directed the Oregon Department of Energy (ODOE), in consultation with the Environmental Quality Commission and other agencies, to develop a climate test to be used by state permitting agencies for evaluating applications for proposed fossil fuel infrastructure projects in this state. The ODOE would have also been required to adopt rules to establish standards and criteria for administering the test.

### **HB 3344 - Funding Prohibition for Bulk Coal and Oil Terminals**

In committee upon adjournment

HB 3344 would have required rail carriers to show adequate insurance to cover worst-case oil spills. The bill would have required state land leases for the construction of new oil terminals. Finally, the bill would have required an analysis of the public need and risks to public health, safety and the environment for oil terminal projects by the Oregon Department of State Lands.

### **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 would have been 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 required to be completed no later than July 1, 2019. 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.

## **General**

### **Bills that passed**

#### **HB 2403 – Exchange of Insurance After a Motor Vehicle Accident**

Effective Date: January 1, 2018      Chapter Law: 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 2597 - Hands-Free Driving**

*Effective Date: October 1, 2017      Chapter Law: 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: 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.

#### **SB 34 - Move Over Law**

*Effective Date: January 1, 2018      Chapter Law: 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 cities, 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. This decision resulted in the closure of approximately 12 parks or park features by cities due to increased insurance risk. Passage of SB 327 simply gives employees and volunteers the same consideration as the land owner.

### **SB 769 - Social Security Number Redaction**

*Effective Date: January 1, 2018 Chapter Law: 254*

This bill 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.

## **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 would have also 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 would have 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.

## Labor

### Bills that passed

#### **HB 2005 - Equal Pay**

*Effective Date: October 6, 2017 Chapter Law: 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 also 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 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 3008 - False Time Sheets**

*Effective Date: January 1, 2018 Chapter Law: 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 299 – Sick Leave Modification**

*Effective Date: July 1, 2017 Chapter Law: 520*

In 2015, the Legislative Assembly passed SB 454, requiring 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 also clarifies 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 Law: 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 also requires BOLI to include earned income tax credit information on their minimum wage posters.

**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. The benefit would have been 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 the up-coming legislative session.

**SB 292 - Workplace Bullying**

In committee upon adjournment

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

**SB 301 – Marijuana in the Workplace**

In committee upon adjournment

As originally introduced, this bill would have made it an unlawful employment practice if an employer conditioned an employee from using an “lawful substance” during non-working hours. The bill was amended to make it an unlawful employment practice 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.

## **Transportation**

**Bills that passed**

**HB 2017 – Transportation Funding Package**

*Effective Date: October 6, 2017 Chapter Law: 750*

This bill will fund many projects and congestion relief around the state by increasing registration fees by \$20.00 and title fees by \$24.00, phased-in over five (5) years and with a 10-cent tiered statewide fuel tax increase, phased-in over seven (7)-years. Funds from these tax and fee increases will be dedicated to the Oregon Highway Fund for the purposes of modernization, preservation maintenance and seismic upgrades of state and local roads.

The transportation package also includes a Privilege Tax of 0.5 percent of the retail sales price of new vehicles to raise money for electric vehicle “cash on the hood” purchase rebates. The American Automobile Association (AAA) and the Oregon Trucking Association (OTA) plan to file a lawsuit challenging the use of the new vehicle tax for electric vehicles under Article IX of the Oregon Constitution, which provides that all proceeds from the sale of motor vehicles must be used for roads.

The bill imposes a statewide tax of 0.1 percent on employee wages, to be withheld by employers, and remitted to Department of Revenue, and deposited into the Statewide Transportation Improvement Fund generating approximately \$106 million in the first year \$240 million in 2019-2021 for the purposes of transit throughout the state. This new tax is expected to generate over \$1.2 billion for transit services in the next 10 years.

The ConnectOregon program was made permanent and was also split into two parts depending on how much money was made available for the program (details to follow). Transit will no longer be eligible to participate in the program (they now have their own funding source). Approximately \$30 million in lottery funds will be available to the connect program and an additional sum of approximately \$12 to \$18 million from the new vehicle privilege tax that was created under the bill and is expected to be litigated as previously mentioned. However, of this money some \$25 million was dedicated to a trans-load facility in far Eastern Oregon and another \$25 million for a potential trans-load facility in the central Willamette Valley. Furthermore, there were a couple of earmarks including one for the Port of Morrow that will significantly diminish the amount of funding available under the program for the current biennium.

Under the bill approximately \$250,000/year will be dedicated to the dredge for upkeep and maintenance, thereby decreasing the costs of this to the ports that use the dredge. This was accomplished by sequestering some of the new gas tax money that is dedicated to the Oregon State Marine Board. Several other benefits will accrue to ports as a result of the passage of this important bill.

The transportation package also includes an excise tax of \$15.00 on new adult bicycles over \$200.00 in value to raise money for bike and pedestrian pathways. Specific congestion relief projects on Interstate-5 and Interstate-205 in the Portland metropolitan region will be paid for by creating toll roads (called “congestion pricing”), pending federal approval. 217 will also be widened under the bill in a phased approach.

The transportation package also contains “cost containment” provisions for the Low Carbon Fuel Standard (LCFS), a critical component in getting Republican support for the bill.

## Bills that failed

**HB 2131 - Hazardous Material Transportation**

In committee upon adjournment

HB 2131 would have required the Oregon Department of Transportation to work in cooperation with the state fire marshal and the Oregon Department of Environmental Quality to develop plans and procedures for regulation of the transportation of hazardous material. The bill also would have modified existing statutes and rules relating to interagency responsiveness to oil or other materials spills, and created a High Hazard Train Route Oil Spill Prevention Fund.