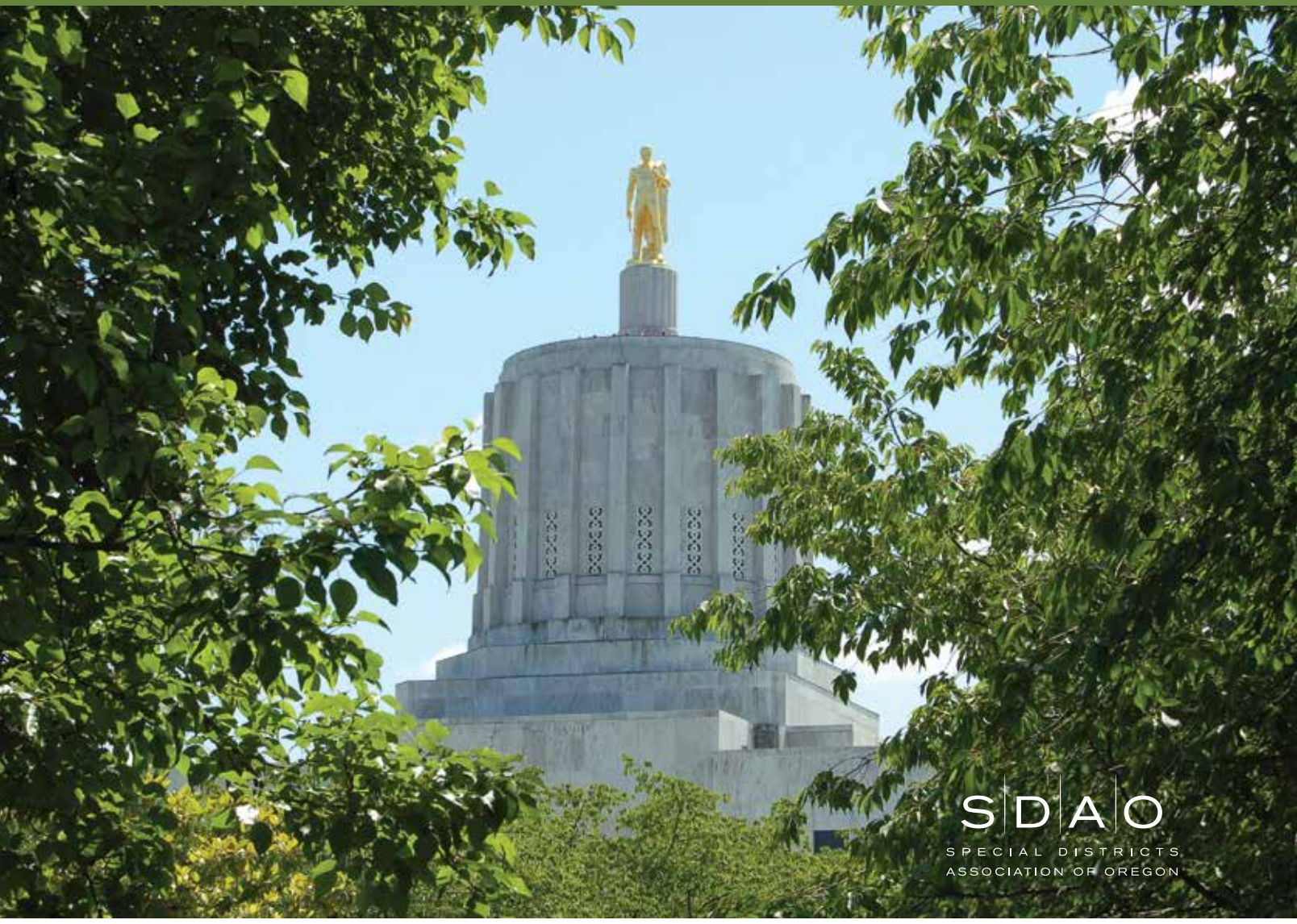

2014 Legislative Session

Final Report

2014 Legislative Session Final Report

Oregon's Second Constitutionally Required Annual Legislative Session

Ballot Measure 71 was overwhelmingly approved by voters statewide in November 2010. The legislative referral mandated that Oregon hold regularly scheduled annual legislative sessions. Previously, Oregon was one of five states to hold legislative sessions every other year. Voters had rejected a similar measure in 1990 but resoundingly supported the Constitutional revision in 2010 with 68% of voters favoring limited annual sessions. Legislative sessions, although now held annually, are now limited to a maximum of 35 days in even numbered years and 160 days in odd numbered years. However, the legislature can extend by five day increments with an affirmative 2/3^{rds} vote of each chamber. This was the second even-numbered year constitutionally mandated legislative session.

State Budget Holds Steady With Revenue Forecasts

At the conclusion of the 2013 legislative session, the legislature approved a spending plan of $16.7 billion in general fund and lottery revenue over the next two years, a $2 billion increase or 13% more than the previous two-year budget. The legislature set aside approximately $355 million in reserves, which turned out to be fortuitous. Since lawmakers approved the budget last year, revenue estimates based on the previous two forecasts coupled with the current forecast provided during the second week of the 2014 session showed that General Fund and Lottery revenues had increased approximately $110 million from the COS forecast. The February 12th forecast set the stage for the budget co-chairs to make the necessary modifications to the budget based on the latest revenue projections and due to the fact that lawmakers withheld 2 percent from the general fund budgets of state agencies. This holdback enabled the Legislature to address funding shortfalls for the Department of Corrections and the Department of Human Services.

2014 Legislative Session Overview

Prior to the 2014 legislative session's opening gavel several controversial and high profile issues received the majority of attention by both the print and broadcast media. Issues such as strengthening the state's background check requirements for the purchase of firearms, loosening the state's monopoly on the sale of distilled spirits, pursuit of an Oregon-only led Columbia River Crossing and asking voters whether they wanted the Legislature to legalize recreational marijuana use received the bulk of attention. In the end, none of these issues moved forward. Nevertheless, the Legislature did end up making a few dramatic policy decisions. Similar to the previous short session, it was abundantly clear from the outset that policy makers were interested in more than simply making budget adjustments and technical

fixes to measures enacted in the previous session. Policy measures were filed to address a number issues including but not limited to Cover Oregon, repealing the education portion of several property tax exemptions, revisions to the state's renewable energy mandates, higher education affordability, labeling requirements for genetically modified food, toxins in children's products, making the investment division in the Treasury an independent state agency with a new governance structure, rewriting the ballot title for the referendum related driver's licenses for undocumented aliens, and pollinator protection to name a several controversial topics. Leadership, as they did in 2012, limited each member's ability to introduce legislation to a maximum of two bills. Committees were prohibited from introducing more than three pieces of legislation, with a few exceptions. In the end 266 pieces of legislation were introduced for consideration.

The 77th Legislative Session began on February 3rd with Democrats controlling the Senate by a 16 to 14 margin. In the House of Representatives Democrats held a 34 to 26 majority over their Republican counterparts. Measures that were not posted for a work session by February 7th were considered dead and those that were posted but had not been moved out of their originating committee by February 13th were also considered dead under the provisions of House Concurrent Resolution 201 (2014). As a result of these deadlines, many of the bills introduced and printed at the beginning of the session saw no further action. Bills that moved to the second chamber had to be posted for a work session by the 20th and moved out of committees by the 25th. These strict timelines did not apply to the Joint Ways & Means Committee, both chamber's Rules Committees as well as the House and Senate Finance and Revenue Committees.

A few high profile measures did ultimately make it to the Governor's desk. A "Grand Bargain" on land use in the tri-county metropolitan area, which initially had very little momentum and broad opposition suddenly found new life and support mid-session after the Oregon Court of Appeals rejected Metro's urban growth boundary decision from 2011. Other controversial issues, such as directing unclaimed proceeds from class-action lawsuits to Legal Aid died dramatically on the Senate floor. Nevertheless, most measures that passed did so with broad bi-partisan support in both chambers.

The final details of the budget remained largely unresolved until the final 24 hours of the session. The Joint Ways & Means committee unveiled their budget adjustments and expenditures the evening before the last day of session. In the end, the final deal set aside approximately $30 million for future adjustments and an additional $24 million set aside for the Department of Human Services in case further caseload fluctuations occur. The Department of Corrections received an additional $51 million (due to the $90 million shortfall created by an influx of 200 additional prisoners) and the Department of Human Services' $100 million budget gap was filled with a variety of general fund and federal dollars. $40 million will be spent to pay for last year's record-setting wildfire season and $86.5 million that was set-aside in a "salary pot" was released to pay for the state's collective bargaining costs. Also, Oregon Health

Sciences University received nearly $200 million in lottery funding to match funds pledged by Nike founder Phil Knight to build a new cancer research institute.

ECONOMIC DEVELOPMENT LEGISLATION THAT PASSED

HB 5201 – Budget Reconciliation/Dredging
HB 5201 was one of the six last bills to be considered by the Full Ways & Means Committee to make spending adjustments to the state budget. This measure made a number of spending additions and changes within the state budget. The budget report accompanying this measure provided the following instructions of interest to ports:

"The Subcommittee also approved a change in the use of $12 million of Other Funds Lottery revenue bond proceeds previously authorized in the 2013 session for transfer to the Special Public Works Fund (SPWF). Of this amount, $3 million of proceeds are redirected to the Marine Navigation Improvement Fund for coastal port dredging; with the remaining $9 million of proceeds to be transferred to the Special Public Works Fund."

Additionally, under HB 5201 for the purposes of Regional Solutions funding (see HB 4015 below) $2 million was authorized to purchase a portable dredge.

Also, the Port of Port Orford received a special appropriation of $400,000 for redevelopment of the Cannery Building owned by the port.

Finally, $2,958,304 Other Funds under the bill were made available for disbursement to the Port of Morrow for a Community Revitalization Revolving Loan Fund that will be available to Malheur, Harney, Grant, Baker, Union, Wallowa, Umatilla, Morrow, Gilliam, Sherman, and Wheeler counties for energy conservation, renewable energy, and general business development projects.

ECONOMIC DEVELOPMENT LEGISLATION THAT FAILED

HB 4141 – Modification to Property Tax Exemptions In Order To Benefit Education
Property taxes are allocated to various districts including schools, educational service districts, counties, special district, cities, and community colleges. All of these taxing districts have a revenue loss when a property tax exemption is given. This measure, introduced by Representative Unger (D – Hillsboro) would have restored the revenues to schools and educational service districts from most major property tax exemptions.

The number and breadth of those property tax exemptions hit nearly every interest group in the capitol. They included property tax emptions for: domestic cargo containers, Enterprise Zones, Rural Renewable Energy Development Zones, Rural Enterprise Zones, property of nonprofit corporations held for public parks or recreation purposes, wastewater and sewage treatment facilities, property of strategic investment program eligible projects, property of volunteer fire departments, irrigation equipment, watercraft and materials of shipyards and ship repair facilities, railroad cars, among several others. The bill was heard in the House and never moved beyond committee.

HB 4142 – Rural Strategic Investment Program Modifications
The strategic investment program exempts property value from taxation if an investment is greater than $100 million in urban areas or greater than $25 million in rural areas. Currently, the definition of a rural area is one that is outside the urban growth boundary of a city of 30,000 people or less as of December 1, 2001. This measure would have required a business to be outside an urban growth boundary of a city of 40,000 people or less at the time of the application for the program to be considered for the rural strategic investment program. The measure would have grandfathered existing projects in existing rural SIPs. This measure passed the House but did not move out of committee in the Senate.

ENVIRONMENTAL REGULATION LEGISLATION THAT FAILED

SB 1510 – State Environmental Protection Act (SEPA)
This measure was introduced by the Senate Environment and Natural Resources Committee. It would have permitted executive department agencies, upon receipt of an application for a discretionary state permit, to nominate a project having statewide environmental impacts to the Economic Recovery and Environmental Review Council for enhanced review as a project of statewide environmental significance. Under the bill, state agencies could have nominated up to a total of 5 projects per biennium. In the provisions of SB 1510, the nominating agency would have been considered the lead agency in conducting the enhanced environmental review. SB 1510 would have required the impact statement to include, among other things: the environmental impact of the project, any adverse environmental effects that could not be avoided if the project moved forward, and alternatives to the project. The bill also authorized the Council to charge fees for the enhanced environmental review. Furthermore, the measure would have allowed associations and organizations to request contested case hearings on the environmental impact statements. This measure received one hearing and it is the intent of the Chair of the Senate Environment and Natural Resources Committee to pull together a work group to discuss this concept over the interim.

GENERAL GOVERNMENT BILLS THAT PASSED

HB 4015 – Regional Solutions

In 2013 the Legislature passed House Bill 2620 which directed the Governor, in coordination with the Director of the Oregon Department of Administrative Services, to develop a plan to align state economic and community development programs with regional priorities and to present that plan to the 2014 Legislature. The Project Steering Team recommended that the initial focus be placed on integrating regional solutions priorities in awarding processes for statewide grants and loans relating to economic and community development. Furthermore, the 2013-15 legislatively adopted budget includes up to $10 million of lottery revenue bond proceeds to fund regional solutions team-identified priority projects.

HB 4015 establishes a Regional Solutions Program within Governor's Office consisting of regional solutions centers, teams and advisory committees. The measure requires certain state agencies responsible for grant, loan or incentive programs to consider regional priorities for community and economic development, as designated by regional solutions advisory committees, in consideration of project funding decisions. The measure requires natural resource agencies to collaborate and deliver a plan to the Governor describing how natural resource agencies will participate in the regional solutions teams by July 1, 2014. The bill also requires regional solutions coordinators to convene stakeholders with the assistance of the Oregon Consensus Program for the purpose of providing alternative dispute resolution services to resolve any disputed issues when implementing projects involving significant environmental issues. Finally, the measure requires the Governor and Director of Department of Administrative Services (DAS) to develop a process for public comment at regional advisory committee meetings before beginning of 2015 legislative session. Declares emergency, takes effect on passage.

Furthermore, under HB 5201 the Joint Ways and means increased the Regional Solutions Other Funds expenditure limitation in the Infrastructure Finance Authority program area by $9,349,999, and increased the general Infrastructure Finance Authority Other Funds expenditure limitation by $240,594, to authorize distribution of lottery revenue bond proceeds to support Regional Solutions projects, and to pay bond-related costs, respectively. The Other Funds expenditure limitation increases are approved on a one-time basis only, and will be phased out in the development of the agency's 2015-17 biennium current service level.

The 2013-15 biennium budget includes authorization of up to $10 million of lottery revenue bond proceeds for Regional Solutions projects. In the 2013 session, the Legislature established a $1 Other Funds limitation on Regional Solutions project expenditures, pending submission of specific projects for review. A total of $9,350,000 of Regional Solutions project expenditures were approved. The approved project names and associated funding levels are listed below:

North Central Region – North Central Oregon Attainable Housing Revolving Loan Fund ($2 million)
South Central Region – Removing Stringent Air Quality Permitting Requirements ($1.5 million)
South Central Region – Innovation and Learning Center ($500,000)
Mid-Valley Region – White's Rail Siding ($300,000)
Mid-Valley Region – Carlton Water Infrastructure ($500,000)
Mid-Valley Region – Job Growers Workforce Investment Board ($550,000)
North Coast Region – Rainier Rail Corridor ($2 million)
South Coast Region – Portable Dredge Purchase ($2 million).

SB 1514 – Increased Funding for County Parks from Recreational Vehicles
Recreational vehicle fees are distributed to state and county parks for the operation and maintenance of campgrounds and related facilities. In 2007 the Legislature increased the distribution to counties to 35% until July 2015; thereafter, the distribution to counties was set to revert back to 30%. SB 1514 increases the county share of recreational vehicle fee funding from 35% to 40% for the remainder of the 2013-15 biennium and from 40% to 45% in 2015-2017. Without this measure, the county rate would have remained at 35% for this biennium but would have dropped to 30% for the 2015-2017 biennium. The impact is an increase in revenue to counties of $1.12 million. Ninety percent of those funds are a direct transfer from State Parks to the counties. The remaining ten percent is awarded as grants. The measure is effective upon passage.

GENERAL GOVERNMENT BILLS THAT FAILED

HB 4017 – Local Improvement District Modifications
Local Improvement Districts (LIDs) are a financing tool for developing infrastructure which provides a specific benefit to the properties included in the district. It can be used to finance water, sewer, storm water, or road/sidewalk improvements that do not provide capacity improvement. LIDs are authorized generally by ORS 223.387-223.401; these statutes allow local governments to create a local procedure for creating and finalizing assessments for benefits from a local improvement.

As originally introduced this measure would have made a number of changes requiring local government to provide greater notification and allowing minority property owners to effectively vote independently of majority property owners on whether to join an LID. In the end, the bill's applicability was limited to case involving the City of Keizer. Eventually, the measure was narrowed in a manner to only impact the Keizer case. In the end, the city and the aggrieved party settled their case and the bill, as a result, was no longer pursued. In committee upon adjournment.

INSURANCE LEGISLATION THAT PASSED

SB 1558 – Self Insurance Regulation
Employers in Oregon are required to provide assurance that their workers will receive compensation for on-the-job injuries. They can do this either by buying coverage through an insurer (carrier-provided) or they can self-insure, either individually or through a self-insured group. SDAO members typically participate in SDAO's self-insured group insurance program.

Entities that self-insure must post financial security sufficient to ensure payment of benefits with the Department of Consumer and Business Services. Group self-insurance provides that if a member-insured employer groups that fail to maintain compliance with the enhanced regulations. The bill allows DCBS to use monies in the Workers Benefit Fund to cover claims of injured workers for those self- insured employer groups who decertify within the timeline established by the measure even if those amounts exceed the amount of transferred funds and forfeited security deposits of the decertified groups. Oregon currently has five self-insured groups, covering a total of 987 employers; two of these groups are comprised solely of public entities (Special Districts Association of Oregon and City County Insurance Services).

SB 1558 authorizes the Director of Department of Consumer and Business Services to pay compensation due to workers of members of certain decertified self-insured employer groups and to set standards by rule for proof of financial viability of self-insured employer and for insurance coverage retention and combined net worth of members of self-insured employer groups. SDAO supported this legislation.

INSURANCE LEGISLATION THAT FAILED

HB 4048 – Wrongful Death
ORS 30.260 to 30.300 sets forth under what circumstances a person may sue the state or local government for damages caused by the negligence of the government entity's employees. ORS 30.265 currently does not allow a person to sue for injury of death if the person injured is covered by workers' compensation at the time of the injury.

Under ORS 656.018 an employer with workers' compensation coverage for the employer's employees is not subject to civil liability for injuries or diseases arising out of the employee's employment. In short, the only remedy an injured worker has is workers' compensation. However, unlike a tort action for negligence, the worker does not have to show that the injury was the result of the employer's negligence. He or she only has to show that he or she was injured. What makes ORS 30.265 different is that exclusive remedies provision of workers' compensation not only applies to the employees of the respective government entity, but any person covered by workers' compensation at the time of injury or death. Consequently, if a

person employed by a private business is killed or injured by the negligence of a government employee, the only action the person has is recovery against their employers' workers' compensation carrier.

Two years ago, a mental health worker in Columbia County, while on a mental health home visit, was brutally murdered by a person under the supervision of the Psychiatric Security Review Board. The victim was not employed by Columbia County or the State of Oregon (she was employed by a nonprofit that provided mental health services to the mentally ill in the county). Her employer provided her with workers' compensation coverage. Under workers' compensation, her family was entitled to approximately $15,000 in death benefits.

HB 4048 would have allowed the family of a deceased person to sue the state or a local government entity or their employees for wrongful death under the Tort Claims Act (retroactively for one year) if: (a) The decedent's death occurred in the course and scope of employment; (b) Was the result of the criminal act of another person; and, (c) The decedent was not an employee of a state or local government entity at the time of death.

There were several amendments that were circulated that would have modified the bill's provisions but they were not adopted. In committee upon adjournment.

LABOR LEGISLATION THAT PASSED

HB 4104 – Interim Medical Benefits

A workers' compensation claim must be accepted or denied within 60 days after the employer has notice or knowledge of the claim. During the time it takes to make the determination, the worker is eligible to receive the following interim medical benefits: diagnostics, pain alleviation, and services to stabilize the worker's condition and prevent further disability. Currently, the interim medical benefits are paid as follows:

- If the claim is accepted, the workers' compensation insurer or self-insured employer pays for the medical services subject to the limitations and conditions of the workers' compensation statutes.
- If the claim is denied, the workers' health benefit plan is the first payer of the expenses according to the terms, conditions and benefits of the plan, and the workers' compensation insurer or self-insured employer pays any balance remaining for services subject to the limitations and conditions of the workers' compensation statutes.
- However, if a claim is denied within 14 days, the workers' compensation insurer or self-insured employer does not make any payments.

HB 4104 includes medical services covered by terms, conditions and benefits of health benefit plan that provides coverage to injured worker in category of interim medical benefits payable prior to acceptance or denial of workers' compensation claim.

SB 1518 – Fire Supervisory Collective Bargaining

The Public Employee Collective Bargaining Act (PECBA), enacted in 1973, codifies laws governing employment relations and public employers, and employees in state, counties, cities, school districts, transportation districts, and other local governments, as well as private employees not subject to the jurisdiction of the National Labor Relations Board. Certain persons, including elected officials, persons appointed to serve on boards or commissions, or confidential, managerial, or supervisory employees are prohibited from organizing.

Senate Bill 1518 modifies the definition of supervisory employees to exclude firefighters who assign, transfer, or direct the work of other employees, but do not have authority to hire, discharge, or impose economic discipline on other employees. The bill specifies that firefighters who assign, transfer, or direct work of other employees, but do not have authority to hire, discharge, or impose economic discipline on those employees, are not supervisory employees and are eligible to organize.

LAND USE LEGISLATION THAT PASSED

HB 4078 – Land Use "Grand Bargain"

State land use laws require Metro to maintain a 20-year supply of buildable land within the urban growth boundary (UGB). On October 20, 2011, after completing public hearings on a proposed expansion, the Metro Council unanimously adopted Ordinance No. 11-1264B (Ordinance), which expanded the UGB to fill a projected unmet need for housing and industrial use. After holding public hearings, the Land Conservation and Development Commission (LCDC) voted unanimously to accept the expansion of the UGB on June 14, 2012. Three appeals of the decision were subsequently filed with the Court of Appeals. On February 20, 2014, the Court of Appeals reversed and remanded the decisions made by LCDC, Metro and the three urban counties of the Portland region designating urban and rural reserves.

HB 4078 designates land in Washington County designated as rural and urban reserve in Metro Resolution No. 11-4245, adopted March 15, 2011, as acknowledged rural and urban reserves except for certain areas specified in measure. The measure stipulates that land in the Metro county planned and zoned for farm, forest or mixed farm and forest use and not designated as urban reserve may not be included within urban growth boundary (UGB) before at least 75 percent of the land in the county has been included in a UGB and planned and zoned for urban uses. The measure establishes a UGB as designated by Metro Ordinance No. 11- 1264B, adopted October 20, 2011, except for certain areas as specified in measure.

Importantly, the measure stipulates an urban service agreement (USA) between the City of Hillsboro and Tualatin Valley Fire and Rescue that was in effect on the effective date of the Act does not apply to a certain area. It further requires those two entities to enter into USA for certain unincorporated communities in Washington County and report back to Legislature on or before January 1, 2015. The bill also sunsets the requirement for establishing a USA on December 31, 2015.

PUBLIC CONTRACTING LEGISLATION THAT PASSED

HB 4111 – Infrastructure Innovation in Oregon

In 2013, the Legislative Assembly enacted House Bill 2345, creating the Oregon Innovation in Infrastructure Task Force to make recommendations regarding innovative practices related to public infrastructure, as well as a recommendation regarding Oregon's participation in the West Coast Exchange. That report made several recommendations that would have impacted public contracting agencies that received large sums of state funds. Among those requirements was a requirement that those public entities that received $20 million or more in state funds for a project valued greater than $50 million to submit their projects to a state Public Infrastructure Commission in Oregon to determine whether the project would be a good candidate for a public/private contracting methodology that is called "construction/management/finance and maintain." Due to objections, largely from the construction industry, the bill was modified substantially.

HB 4111, establishes a Public Infrastructure Commission to identify Oregon's public infrastructure needs, review and examine tools available to provide funding for public infrastructure projects, research innovative financing tools, determine legal impediments, and receive determinations from the State Treasurer. It requires government entities preparing infrastructure projects with total capital expenditure exceeding $50 million, of which at least $20 million is awarded by Legislative Assembly or a state agency, to submit a description of the proposed project to the State Treasurer in the early stage of project planning. The measure requires the State Treasurer or his designee to screen the project to determine whether it would benefit from private capital and innovative procurement methods. The measure sunsets on provisions on January 2, 2016. The measure also directs the Governor and State Treasurer to appoint representatives to the West Coast Infrastructure Exchange. Additionally, HB 5201, the budget reconciliation bill contains $1,080,000 for the Public Infrastructure Commission and West Coast Exchange. The bill became effective on passage.

PUBLIC CONTRACTING LEGISLATION THAT FAILED

HB 4119 – Qualification Based Selection

Under existing law, when a contracting agency is selecting a contractor to provide architectural, engineering, photogrammetric mapping, transportation planning and land surveying services, the selection must be based on qualifications and not price provided the contract price exceeds $100,000. Compensation can only be determined after the contracting agency has selected the candidate. If the two parties are unable to negotiate a contract at a compensation level that is reasonable and fair to the contracting agency, the contracting agency then may negotiate with the next most qualified candidate.

Contracting agencies are allowed to directly appoint contractors if the estimated cost of architectural, engineering, photogrammetric mapping, transportation planning and land surveying services for the project do not exceed $100,000. HB 4119 would have extended the same prohibition to the discussion of cost to projects with a contract price of less than $100,000. Effectively, the discussion of cost would have only been after the candidate had been selected and before the contract was entered into. The measure passed the House Business and Labor Committee. However, the bill did not have the necessary votes to pass on the floor and it was referred to the House Rules Committee where it remained upon adjournment.

SB 1578 – Modifications to Green Energy Requirements in Public Contracting
Oregon law requires public entities to spend 1.5 percent of the total contract price of a public improvement contract for new construction or the major renovation of a public building on green energy technology. Public entities include special districts. This requirement was originally established by the 2007 Legislative Assembly and amended in 2012 to include geothermal energy. In 2013, the Legislature amended the law to allow a contracting agency to meet the green energy technology requirement using off-site energy generation provided it meets certain requirements. The bill also required reporting by contracting agencies and the Oregon Department of Energy regarding actions taken to comply with the requirement.

SB 1578 would have added woody biomass as a fuel for space or water heating, or to provide heat for combined heat and power systems, to the definition of green energy technology for the purpose of the requirement that a public body constructing or renovating a building spend 1.5 percent of the total contract price on green energy technology. This measure overwhelmingly passed the Senate but did not pass the House. In committee upon adjournment.

PUBLIC RECORDS LEGISLATION THAT PASSED

HB 4093 – Public Records Exemption for Sage Grouse Conservation
HB 4093 amends ORS 192.501 so that land management plans required for voluntary stewardship agreements entered into with the Department of Agriculture, the Department of Forestry, as well as written voluntary agreements relating to the conservation of the greater

sage grouse with a soil and water conservation district, are exempt from public records disclosure.

PUBLIC SAFETY LEGISLATION THAT PASSED

HB 4055 – Prepaid 9-1-1 Tax
There is currently a 75 cent per month tax on every subscriber who has telecommunication services with access to the 9-1-1 emergency reporting system. This tax is collected by the service provider from the subscriber. The program collects about $39 million a year and is set to expire on December 31, 2021.

There has been a great deal of debate regarding whether the current law clearly requires prepaid cell phones to collect and remit the 9-1-1 tax. In 2012 the Department of Revenue began a rulemaking process that would have clearly subjected prepaid devices to pay the tax. The Department of Justice subsequently advised the Department of Revenue not to move forward with that rulemaking effort because the current statutory construct did not clearly provide the authority to require prepaid devices to pay the 9-1-1 tax. As a result, legislation clarifying that prepaid devices must remit the tax became a priority for special districts, cities, counties, and the public safety community—this legislation was introduced in the 2011 and 2013 legislative sessions but was not successfully passed.

Two competing proposals were introduced in the 2014 legislative session to require prepaid cell phones to remit the 9-1-1 tax; one measure would have required carriers to remit the 9-1-1 tax in the same manner that other telecommunications providers currently remit while the other measure would have required the 9-1-1 tax to be collected at the "point of sale" by retailers.

HB 4055 as passed and signed by the Governor does the following:

On January 1, 2015 prepaid devices will remit the tax based on one of two methods clearly outlined in statute. This "carrier remit" collection methodology will remain in place for nine months and is projected to generate an additional $400,000 in 2015. In the 2015-2017 biennium the provisions of HB 4055 are expected to generate an additional $1.4 million.

On October 1, 2015 the tax on prepaid devices will be collected at "point of sale". Retailers will be permitted to retain 2% of the tax to offset the administrative costs of this collection methodology.

Adds definitions of VoIP (matched to the FCC definition), prepaid wireless telecommunications services (matched to Washington State's definition which has been litigated through the state's Supreme Court), seller (to include retailers who don't directly provide telecommunications

services), covers out of state online retailers, prevents bundling of charges (each item pays the tax) and prevents preemption of local government's authority to enact local 9-1-1 taxes.

The Department of Revenue's (DOR) current 0.5% allocation for administrative processing of 9-1-1 tax payments is increased to 1% (an additional $400,000 per biennium) under the provision of HB 4055.

> "DOR anticipates adding two new positions and increasing the workload of three existing positions to accommodate the change. The first added position will be a double-filled clerical position beginning 7/1/2014 to prepare forms, answer questions from prepaid wireless carriers, and support an existing position that will be increased to account for the additional workload up to and through the nine month transition period. This position will be carried on to subsequent biennia full time. The second new position will be an auditor position and will be established beginning 7/1/2015. This position will be a full-time permanent position to audit the quarterly returns of retailers. Tax reporting by retailers will be accomplished through a web-based portal that will be included with DOR's current core systems replacement project. Three other existing positions are anticipated by the DOR to be utilized to accomplish the additional workload. This would require an increase in part-time positions hours or a reallocation of time from other activities to this program."

Prior to February 15, 2017 the Department of Revenue will report back to the legislature regarding the following items: collection of point of sale transactions, effectiveness and enforcement by DOR of the provisions of HB 4055, estimate revenue received in the pre and post HB 4055 point of sale collection methodology.

TAXATION LEGISLATION THAT PASSED

HB 4155 – GASB 68

The Governmental Accounting Standards Board (GASB) recently released new standards detailing how Governments should report pensions on their books or income statements, GASB 68. The new reporting standards should improve the transparency, consistency, and comparability of pension information reported by state and local governments and pension plans. After June 2014, state and local governments will need to distinguish several separate pension calculations, derived in different ways for distinct purposes. In order to comply with GASB 68, state and local governments will need information from the Public Employees Retirement System (PERS) Board and if state and local governments do not comply with GASB 68, they will not receive a clean audit opinion from an independent auditor. The PERS Board serves more than 900 employers in the state and in order to comply with GASB 68 reporting requirements, each employer will need comprehensive, audited, and individualized data regarding their participation in the plan. These additional information requests may create substantial actuarial and auditing costs for PERS. The PERS Board currently lacks authority to

collect or expend funds to pay for administrative expenses associated with providing this information to state and local government partners.

House Bill 4155 allows the PERS Board to establish procedures for recovering administrative costs from participating public employers for providing them with information or services required for preparing financial statements in compliance with generally accepted accounting principles, specifically GASB 68.

SB 1534 – Taxation of Bridges Crossing the Columbia River
SB 1534 was introduced to make technical corrections to the "Grand Bargain" that was approved during the special session last year. However, an amendment was added to the bill to assist the Ports of Cascade Locks and Hood River.

In 2007, the legislature updated and modernized the state's tolling statutes. In doing so, however, the Oregon Department of Transportation inadvertently repealed a section of statute that worked in tandem with a similar statute in the State of Washington. The repealed reciprocal language exempted bridges crossing the Columbia River from taxation. Because Oregon repealed this language the two bridges owned by these two ports became subject to taxation at the beginning of 2008. In December of last year both ports received notification from the Washington Department of Revenue informing them that they intended to conduct an audit to determine the two port's tax liability going back to January 1, 2008. With the assistance of the Oregon Department of Transportation, Department of Justice, Department of Revenue and the Governor's office, language was drafted to reinstate the repealed language and make it retroactive back to January 1, 2008. The measure passed both chambers unanimously.

WATER/WASTEWATER LEGISLATION THAT PASSED

HB 4045 – Well Contractors Continuing Education
The Water Resources Department is the licensing agency for persons who construct, alter, convert or abandon water wells in Oregon. In 2001 the Legislative Assembly created the Well Constructor Continuing Education Committee to require well constructors to complete education courses for the renewal of their licenses. The Well Constructors Continuing Education Committee makes recommendations to the Water Resources Commission regarding the process for reviewing and approving continuing education requirements for licensed water well constructors. The continuing education requirement and the Committee were scheduled to sunset on January 2, 2014. HB 4045 revives the Committee and the statutory provisions related to continuing education for well constructors until January 2, 2022, at which time the program would once again sunset.

HB 5201 – Budget Note For Willamette Basin Reallocation and Deschutes Basin Study
In the budget reconciliation bill (HB 5201) the following budget note was adopted for the Water Resources Department:

> "The Water Resources Department will dedicate up to $2.25 million of the $10 million net proceeds from the lottery bond sale as authorized by Senate Bill 5533 (2013) or utilize authority under Package 204 in Senate Bill 5547 (2013) for the purposes of matching federal funds for ongoing studies conducted by the United States Army Corps of Engineers to allocate stored water in the Willamette Basin Project Reservoirs and to conduct a comprehensive basin study by the United States Bureau of Reclamation in the Deschutes River Basin. Of the up to $2.25 million, up to $1.5 million shall be reserved for the Willamette Basin Project Reallocation and $750,000 shall be reserved for the Deschutes Basin Comprehensive Basin Study. Any reserved funds remaining after the completion of these two studies shall be made available for other purposes of the Water Supply Development Account as authorized under Senate Bill 839 (2013)."

WATER/WASTEWATER LEGISLATION THAT FAILED

HB 4044, HB 4064 & SB 1572 – Groundwater Connectivity
These three identical measures were introduced by two Klamath area legislators in response to some upper Klamath Basin Irrigator concerns related to the Klamath Basin Restoration Agreement. The measure would have created, among other things, a standard for measuring the distance between a proposed or existing well and surface water source for the purpose of determining the probability or existence of impairment of, or substantial or undue interference with, existing rights of others to appropriate surface water. Under the measure WRD would have had to provide adversely affected water right holders with a written notice of a planned action before undertaking the action to effectuate water rights established and determined in Water Resources Director's order of determination. Proposed final orders or written notices of planned actions adversely affecting or aggrieving a water right applicant or water right holder would have had to state all facts, grounds or legal theories relied upon to support the proposed final order or planned action. Those proposed final orders or written notices of planned action would have had to provide detailed findings and holdings based on clear and convincing evidence supporting the proposed final order or planned action.

Those proposed final orders or written notices placing restrictions or conditions on the exercise of proposed or existing water rights for purpose of preventing impairment of, preventing interference with or otherwise benefiting a superior water right would have had to include evidence demonstrating that the restriction or condition would accomplish the purpose. The

measure would have placed further requirements and restrictions on the Department. Furthermore, the bill would have made a water right applicant or holder the prevailing party if the department withdrew a proposed final order or if the applicant or holder obtained a substantial modification of the proposed final order and would entitled the applicant or holder to damages, reasonable attorney fees and costs.

SB 1512 – Pre-1909 Adjudicated Klamath Water Right Transfers and Leases
Claims for pre-1909 state water rights and federal reserved water rights are validated, quantified and determined through a process called a water right adjudication. The first phase of an adjudication is administrative, with the Oregon Water Resources Department (OWRD) reviewing claims, hearing contests to claims, reviewing the administrative law judge's proposed orders, and ultimately determining claims in a Findings of Fact and Final Order of Determination (FFOD). The second phase involves court review of the FFOD. After hearing exceptions, the Court will issue a water rights decree affirming or modifying the FFOD.

According to Oregon law, the watermaster can regulate in favor of determined claims upon the Director delivering the FFOD to the court, but unlike certificated or decreed rights, determined water right claims are not eligible for temporary transfers or instream leases until a final court decree is issued.

Temporary transfers allow for a change in the place of use of a water right for up to five years, as well as a change in the point of diversion if necessary to carry out the change in the place of use. Similarly, a lease allows for the temporary use of a water right for an instream purpose for a period of up to five years. In both instances, the change cannot result in injury to existing water rights and the department may revoke a lease or temporary transfer if, at any time, the department determines that the use is causing injury to an existing water right.

Senate Bill 1512 would have allowed the temporary transfer or instream lease of determined water right claims in the Klamath Basin Adjudication. The temporary transfers or instream leases would have be authorized only upon a showing of no injury to other water right holders. Proposed amendments to the original bill would have limited temporary transfers of determined claims to transfers that do not involve moving the point of diversion up the stream; clarified that the referenced judicial review is the pending review of the final order of determination; added an emergency clause; and added a sunset date of 2023 for the temporary transfers and leases of determined claims. This measure remained in committee upon adjournment.

LOOKING FORWARD TO THE 2015 LEGISLATIVE SESSION

The Politics/Numbers Game of the House and Senate

The House of Representatives currently is comprised of 34 Democrats and 26 Republicans. Fifteen current members, or one quarter of the body (9 Republicans and 6 Democrats) are either not running again or are seeking a different office. Of the 60 seats in the House, 24 seats did not draw an opponent from the opposite party (17 Democrats and 7 Republicans) and are guaranteed to hold that seat in the November general election. There are 12 House republican and 7 House democratic primary election challenges. Due to redistricting House democratic members made significant gains in registration numbers in a number of districts which will make it difficult for republicans to gain control of the House in the 2014 election.

Democrats control the Senate by a one vote margin but this could change following the 2014 elections. Some of the most closely watched races will be: Corvallis/Albany where current House member Sara Gelser (D) will take on Senator Betsy Close (R); Ashland where current Senator Alan Bates (D) will face a rematch of his previous opponent Dave Dotterrer (R) and; current Senator Alan Olsen (R) will be challenged by former Clackamas County Commissioner Jamie Damon (D).

Additionally, Governor John Kitzhaber will seek and unprecedented fourth term as Oregon's Chief Executive.

2014 Interim Process

The legislature has designated three separate blocks of "interim committee days" to receive reports and updates on designated issues and to preview legislative concepts for 2014: May 28-30; September 15-17; and December 8-10.

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

- Pre-Session Legislative Requests Due – September 22nd
- Pre-Session Legislative Drafts Returned – December 5th
- Pre-Session Filing Closes – December 19st

State agencies must submit legislative concepts to the Department of Administrative Services (DAS) by May 2, 2014. DAS will approve or deny introduction of agency concepts by June 13, 2014. Legislative counsel will have completed all agency legislative concept drafts by November 14, 2014. The Governor's office will then review approved DAS legislative concepts no later than November 24, 2014. Pre-session filing closes for state agencies on December 12, 2014.

Initiative Petitions

Prior to the 2014 Legislative Session nearly two-dozen initiative petitions had been filed with the Secretary of State's office for potential consideration on the November 2014 ballot. On Monday, March 3, 2014 Governor Kitzhaber announced a deal brokered between the state's

largest public employee unions and business interests to formally withdraw 12 initiative petitions from the 2014 ballot measure process. Initiatives that were withdrawn included several hospital pricing measures and the highly contested issue of “right-to-work”. Petition sponsors of the remaining measures have until July 3, 2014 to submit the required number of valid signatures in order to place a measure on the ballot. Measures that propose to change the Constitution need 116,284 signatures and statutory changes require 87,213 signatures.
Six measures are currently actively gathering signatures for the upcoming ballot. It is likely that at least half of these measures will make it onto the ballot.

- Privatization of Alcohol Sales
- Legalization of Marijuana
- Short Term Drivers Licenses for Illegal Immigrants
- Regulation of Genetically Modified Food Regulation Labeling
- Legalization of Same Sex Marriage

The 2013 legislative assembly referred two measures to the November 2014 ballot. Voters were scheduled to either approve or reject these measures at the statewide general election. However, in the 2014 session the legislature rescinded its referral of SJR 34 leaving only SJR 1 to be voted on in the November election.

- SJR 1
  Amends Constitution: Requires creation of fund of Oregonians pursing post-secondary education, authorizes state indebtedness to finance fund
- SJR 34
  Amends Constitution: Permits employment of state judges by National Guard and by public universities as teachers

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2014 Legislative Session

Final Report