



## 2018 Legislative Session Report

What a strange session....in the months leading up to it, people, policymakers and the press opined about too much being done in a short session. Policy changes from “cap and trade” to paid medical leave to a constitutional change making health care a right, were of a magnitude that vetting and perfecting in 35 days was called unreasonable, irresponsible, and improper.

It turned out to be impossible.

My take away from session came on the last day as legislators who are retiring offered remarks to their colleagues with floor speeches. Every one of them noted the brilliance and productivity of the session when the House was split 30-30 and Democrats and Republicans had equal control, divided responsibilities, shared burdens and jointly celebrated success. As we move into 2019 with a longer session and more capacity for issues, arguments, stalemates and divides, it would be good to remember their words and move Oregon and her citizens onward.

## ORPA Issues 2018

### ***Passed Bills***

#### **SB 1529      PERS Buy Down      Effective Date: May 2, 2018**

A larger federal tax connection bill, SB 1529 is also a component of the funding mechanism to SB 1566, dedicating repatriated corporate tax revenue to the above funds-\$25 million to the Employer Incentive Fund and \$115 million to K-12 school districts. See SB 1566.

#### **SB 1541      Air Toxics Compromise      Effective Date: On Passage**

**DEQ AUTHORITY:** Legislation directs the Environmental Quality Commission to develop rules to reduce the public health risks of air toxics emissions.

**PILOT PROGRAM:** The bill also directs the Commission to develop a pilot program for assessing the potential cumulative impacts from multiple sources of industrial air toxic emissions and, under certain circumstances, limit those emissions.

**REGULATED SOURCES:** Allows Department of Environmental Quality to regulate individual existing air contamination source under program or pilot program based on adjusted benchmark for excess risk. Sunsets January 1, 2029.

**FEES:** The bill directs the Commission to establish a fee applicable to air quality permit holders to cover the direct and indirect costs associated with developing and implementing a program and rules to reduce the public health risks associated with industrial air toxics. Provides that fees first become due and payable no earlier than July 1, 2019. Places temporary limits on fee

increases. Sunsets temporary limits on January 2, 2024. Additionally, requires certain air contamination sources to pay to department one-time supplemental fee to pay expenses of developing and implementing individual air contamination source program or pilot program.

**BUDGET:** The expenditure limitation for DEQ was increased by more than \$2 million for development of rules and a pilot program, and the establishment of 11 limited duration positions (5.00 FTE) for the 2017-19 biennium to develop and implement the new air toxics rules. In addition, DEQ will support expenditures within the Oregon Health Authority to assist with implementing the new air toxics rules through a transfer of revenues from fees authorized by the bill. The bill also increased the expenditure limitation by \$365,000 for OHA.

**SB 1566      Employer Incentive Fund      Effective Date: May 2018**

Establishes the Employer Incentive Fund to help local governments buy down PERS debt, captures windfall revenues and dedicates the proceeds towards buying down PERS debt specifically for K-12 education, and makes other changes to equip PERS employers with additional investment tools.

The Employer Incentive Fund is continuously appropriated to the Public Employees Retirement Board (PERS). The fund is capitalized with 18%, or an estimated \$25 million, in one-time funding from SB 1529. The Fund is abolished January 2, 2025, and any unexpended monies are to be transferred to the General Fund. The measure also establishes the School Districts Unfunded Liability Fund, which also retains interest earnings and is continuously appropriated to the Public Employees Retirement Board. The fund is capitalized with 82%, or an estimated \$115 million, in one-time funding from SB 1529. Additional revenue transfers that may become available include the following:

- Excess proceeds from debt collection (repeals December 31, 2024)
- Excess proceeds from capital gains taxes (limited to calendar years 2019, 2021, 2023)
- Excess proceeds from estate taxes (limited to calendar years 2019, 2021, 2023)
- Excess proceeds from interest on unclaimed property (repeals January 2, 2027)

The revenue impact from these four transfers is indeterminate at this time. These sources of revenue would ordinarily be considered General Fund available for general governmental purposes rather than dedicated to the specific use in the measure.

**HB 4059      Transportation Fix (includes 4060)      Effective Date: May 2018**

Specifies that the executive appointment of the Director of the Oregon Department of Transportation is subject to senate review and confirmation. Also makes clarifications and technical corrections to HB 2017 (Chapter 750, 2017 Oregon Laws).

Amendments were offered to HB 4060 by OPRD that were not approved. In the Transportation Package of 2017, funds were taken from OPRD to be used for ConnectOregon bike/pedestrian path projects. Language in that bill was significantly different in the end from what OPRD expected. A one-time \$2 million ledger transfer became a \$2 million yearly payment from OPRD to ODOT into perpetuity. Amendments to the fix bill offered by OPRD sunsetted the allocation (we would support) but specified funds were to come from “the amounts available in the Parks Subaccount established under ORS 390.135 that are dedicated to local outdoor recreation improvement projects” (which we could not support). Leadership would not allow the sunset provision to go forward, and we could not support the specification of “local” dollars to be advanced. As ConnectOregon projects are not being funded this biennium, we have time to help OPRD remain whole and continue allocation of funds through their current process. We also have a commitment from leadership to make the necessary changes to ConnectOregon to assure this outcome.

### ***Funding of Note...***

- \$60 million more in ongoing funding every biennium for homeless services and prevention, developing and preserving affordable housing, and providing homeownership opportunities for low to moderate income families.
- \$5.2 million for emergency winter housing and shelter.
- \$2.0 million for communities around the state to study their housing needs and develop plans to address the housing crisis locally (HB 4006).
- \$2.2 million to improve reimbursement rates for residential mental health services across the state.
- \$2 million to tackle the opioid crisis and direction to the Alcohol and Drug Policy Commission to create a strategic plan to combat addiction and promote recovery.
- \$1.8 million for the Bradshaw Drop Irrigation Canal Project in the Rogue River Valley.
- \$1.5 million for the Carbon Policy Office (in Governor's office) to study the economic impact of a cap-and-invest program, understand any impacts on traded sector industries, and examine ways to utilize Oregon's forests and fields to sequester and store carbon.
- \$400,000 in budget authority to the Department of Public Safety Standards and Training to train first responders in mental health and crisis intervention.

### ***Failed Bills of Note***

#### **HB 4003 Diesel Emissions**

Required certain public improvement contracts to meet certain requirements related to use of diesel engines in course of performing public improvement contract. Required Environmental Quality Commission to adopt indirect source review program by rule. Required certain non-road diesel engines to be registered with Department of Environmental Quality. Authorized commission to adopt rules and registration fees. Directed commission to adopt by rule diesel engine emission standards for trucks and non-road diesel engines.

#### **HB 4015 Oregon Conservation and Recreation Fund**

In 2015, the Legislature enacted HB 2402 which created the Joint Task Force on Funding for Fish, Wildlife, and Related Outdoor Recreation and Education. The Task Force was charged with developing recommendations to strengthen the State's ability to conserve natural resources and connect Oregonians to nature through outdoor recreation and education opportunities. The Task Force met twelve times from January through November 2016, and convened two subgroups to develop draft recommendations for the full Task Force's consideration. The final Task Force recommendation included the establishment of the Oregon Conservation and Recreation Fund dedicated to conservation, management, research, habitat improvements, administration, enforcement, and other activities that protect, maintain, or enhance the native fish and wildlife of the state.

Acting on the recommendations, HB 4015 attempted to establish the Oregon Conservation and Recreation Fund. It appropriated Fund moneys to the Oregon Department of Fish and Wildlife for carrying out activities serving to protect, maintain, or enhance fish and wildlife resources in Oregon. It also authorized ODFW to expend Fund moneys for the following activities: promoting the health of ecosystems and fish and wildlife species by implementing strategies identified in the Oregon Conservation Strategy; improving public engagement in hunting and fishing opportunities; improving educational outreach and engagement; engaging and funding projects with other agencies; and other conservation, management, research, habitat improvement, enforcement, outdoor recreation, or education activities. The Oregon Conservation and Recreation Advisory Committee was established to advise the State Fish and Wildlife Commission and ODFW and to review ODFW policies regarding the use of Fund moneys and make recommendations. Finally, the bill required ODFW and the Committee to jointly submit a biennial report regarding Fund expenditures to the Legislative Assembly.

The first version of bill appropriated \$13 million to the Fund for the biennium ending June 30, 2019 – the amended version allocated just \$40,000 – but it still could not find its way out of Ways & Means.

### **HB 4029      Bend Parks & Recreation District Bridge**

In 1970, Oregonians voted to establish the Scenic Waterways Program to balance waterway protection and use through cooperation between federal, state, and local agencies as well as individual property owners and those who recreate along a waterway. ORS 390.835 declares that the highest and best uses of the waters within scenic waterways are recreation, fish and wildlife uses, and directs that the free-flowing character of these waters be maintained in quantities necessary for these uses. The program is administered by the Oregon Parks and Recreation Department and currently includes approximately 1,200 miles on 22 waterways.

HB 4029 would have prohibit bridge construction on the Deschutes River within certain segments of the Deschutes Scenic Waterway, and direct the Oregon Parks and Recreation Department to study and make recommendations on recreation trail routes connecting Bend and Sunriver.

#### *ORPA Position:*

Same as when we fought this bill in 2015: The State should not be involved in this local issue. The legislature has established processes, parameters and conditions for land use and development that should be utilized by local agencies. Bringing specific local issues to the legislature for resolution is not the way to resolve.

### **HB 4093      Portland Winterhawks/Amateur Athletes**

Players on the Portland Winterhawks hockey team have traditionally been exempt from workers' compensation requirements, just as K-12 student athletes, college athletes and adult league participants are exempt. The employment status of these hockey players has recently been questioned. The Winterhawks are in the Western Hockey League, which is a member of the Canadian Hockey League. A class action lawsuit has been filed alleging that players in the Canadian Hockey League are employees and subject to employment laws.

Current Oregon statute provides an exemption from workers' compensation insurance requirements for individuals who have been declared an amateur athlete under the rules of the U.S. Olympic Committee or Canadian Olympic Committee, provided they receive no remuneration other than room, board, rent, housing, lodging, or other reasonable incidental subsistence allowance. HB 4093 attempted to exempt amateur athletes from statutory provisions on pay equity, wage claims, minimum wage, minimum employment conditions, employment of minors, workers' compensation insurance, and unemployment insurance.

HB 4093 passed the House 35-23 after much advocacy, but in the Senate, the World Association of Ice Hockey Players' Union, Oregon labor unions, Oregon Working Families Party, AFL-CIO, Oregon Trial Lawyers and other labor interests came out in force against the bill. Their opposition made the bill too controversial for the Senate to advance.

#### *ORPA Position:*

In an era when funding for parks and recreation agencies is in short supply, we supported Tualatin Hills Park and Recreation District in their effort to seek new funding through a public-private partnership that allows enhancement of programs and facilities without charging citizens more. THPRD has a signed operating agreement with the Winterhawks to build and manage a 2-rink facility in Beaverton that would be open to all citizens. The viability of this critically needed facility relied upon the continued stability of the Winterhawks. HB 4093, if passed, would have provided the Winterhawks with the assurances the partnership needed.

**HB 4099/HB 4138 Boating**

Championed by legislators with the Willamette River in their district, these bills addressed ongoing local conflicts between motorboat users, property owners, and other river users.

HB 4099 prohibited a person from operating a motorboat with wake-enhancing device between river mile 30 and river mile 50 on Willamette River (Wilsonville area) and required a person to operate wakeboard boat at slow, no-wake speed between river mile 30 and river mile 50 on Willamette River. HB 4138 took a more general approach to the same local issue by authorizing the State Marine Board to make special regulations relating to operation of motorboats to minimize and prevent erosion at request of Department of State Lands.

At one point HB 4099 was amended to establish a Task Force on Motorboat Water Sports and Recreational Activities. In the end, the bills were tabled and remanded to a local review.

**HB 4127 QBS**

Allowed public contracting agency to consider pricing policies, proposals and other pricing information along with qualifications when procuring architectural, engineering, photogrammetric mapping, transportation planning and land surveying services.

Modernization of QBS needs to happen. However, HB 4127 introduced an entirely new concept (other parts of QBS have been debated in past session, but not this idea) that was unveiled December of 2017. Input, collaboration and compromise did not occur and, as often happens in a short session, a confusing subject could not be fully vetted in the allotted time. In the last days of session, a legislative counsel opinion had to be requested to find out if the bill actually did what proponents thought. This confusion led legislators to demand a bill be negotiated for 2019.

**HB 4128 Disadvantage Business Enterprise – Technical Assistance Fund**

A good idea with a troubling funding source. HB 4128 allowed disadvantaged business enterprise, minority-owned business, woman-owned business, business owned by service-disabled veteran, or emerging small business to retain certifications after exceeding applicable cap on gross receipts if business subcontracts to another certified business at least 20 percent of subcontract, mentors other business, and remains eligible for certification. The bill required a public contracting agency to reimburse certified business for expense related to mentoring.

**HB 4160 Paid Family & Medical Leave**

Created family and medical leave insurance program to provide employee who is eligible for coverage with portion of wages while employee is on family medical leave or military leave. Requires employer and employee contributions to fund program. Required all employers and eligible employees to contribute to the Family and Medical Leave Insurance Fund.

**HJR 203 Right to Health Care**

Proposed amendment to Oregon Constitution establishing obligation of state to ensure every resident of state access to effective, medically appropriate and affordable health care.

**SB 1515 Children’s Districts**

A modified version of SB 123 from 2017, this bill authorized formation of children’s service districts and allowed them to levy property taxes to fund programs that offer children’s services. Defined “children’s services” as services that support children’s total health and well-being provided outside of school hours to individuals not more than 18 years of age.

We continued to argue duplication of services, increased burden to taxpayers, tax compression and local control (the bill results from an on-going refusal by Washington County Commissioners to put the issue on their ballot). We met with partners to strategize, assign legislators for conversation and report on outcomes of those efforts. While we felt poised to defeat the bill again, the sponsor had a medical issue that kept him from promoting his bill.

***Other Failed Bills of Note***

|         |                                      |
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| HB 4001 | House Cap and Trade                  |
| HB 4002 | Air Toxics Fees                      |
| HB 4123 | Public Employee Health Benefit Plans |
| HB 4131 | PERS Benefit Accrual                 |
| SB 1507 | Senate Cap and Trade                 |
| SB 1508 | Air Toxic Fees                       |
| SB 1509 | Diesel Idling                        |