

LEAGUE OF OREGON CITIES

**79th LEGISLATIVE
SESSION
SUMMARY OF BILLS**

MARCH 2016



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2016 OREGON LEGISLATIVE ASSEMBLY

OVERVIEW

The 79th Oregon Legislative Assembly adjourned *sine die* at 1:07 p.m. on March 3, fully three days prior to its constitutionally-mandated March 6 deadline. While a degree of harmony was achieved in the waning hours, it is fair to say that this session was characterized by partisan discord, parliamentary maneuvering and general antipathy among legislators. Despite the “short” session duration (35 days), several major policy issues that are usually reserved for the long session dominated the proceedings, and at times, enflamed the debate.

The following is a summary of the legislation (passed bills and failed bills) of concern to cities that was considered in each of several policy areas.

Click on the bill number to view the full text of the bill.

How to Read the Bill Summaries

[SB 1583](#): Office of Small Business Assistance Expansion

Effective Date: March 8, 2016

Effective Date – indicates the date on which the bill becomes effective

COMMUNITY DEVELOPMENT

Economic Development

OVERVIEW

The 2016 session saw passage of new economic development tools for local governments through two new local option property tax exemptions—one for brownfield property and one for industrial property. (See descriptions of [HB 4084](#) and [SB 1575](#), respectively, in the property tax section.) There was little projected additional money in the state budget since the close of the 2015 session, and thus there was very little funding allocated to the revenue committees for additional income tax credits. Still, SB 1507 resulted in a small increase to the film and video credit, and the sunset for the biomass credit was extended (albeit with lowered rates). The League worked to amend SB 1507 to fix problems with certain energy income tax credits owned by local governments that have become unsaleable due to high rates set at pre-certification of an energy project. However, the continued political woes with the Oregon Department of Energy and a shortage of time on a complicated tax issue resulted in that issue being tabled until next session. Throughout the session, the governor and Legislature continued to profess their desire for job creation and incentivizing businesses to expand and grow in Oregon. While several bills passed to help rural businesses, minimum wage legislation and the pending new gross receipts tax in Initiative Petition 28 loomed heavy over the short session.

ECONOMIC DEVELOPMENT – PASSED BILLS

[SB 1507: Omnibus Tax Credit Bill: Biomass and Film & Video](#)

Effective Date: June 2, 2016

SB 1507 was the omnibus tax bill of the session, containing mostly economic development components. The Joint Tax Credits Committee was not reconstituted this session so the bill was shepherded by the revenue committees of both houses, which continued the joint committee's work from the 2015 session. The bill increases the annual film and video credit from \$10 to \$12 million immediately, and will increase it to \$14 million in 2017. In addition, the bill changes the details of the film and video credit by providing additional incentives for filming outside of the Portland metropolitan area. Further, SB 1507 extends the expiration date of the biomass manure tax (dairy digesters) credit from 2018 to 2022 to encourage continued investment. To mitigate the financial impact, the rate for that tax credit was reduced from \$5 per wet ton to \$3.50 per wet ton beginning this tax year. The bill fixes a problem with the rural medical provider mileage tax credit and addresses a problem with the residential energy tax credit as well. Finally, SB 1507 capped the amount of credit allowed for donation to an individual development account at \$500,000.

[SB 1583: Office of Small Business Assistance Expansion](#)

Effective Date: March 8, 2016

Requested by Governor Kate Brown, SB 1583 expands the authority of the state's Office of Small Business Assistance. Created by the Legislature in 2013 and housed within the secretary of state's office, the Office of Small Business Assistance will now direct small companies to the appropriate local

government entity and facilitate interactions between small businesses and local government. The office's authority had previously been confined to small business interactions with agencies within state government. The League supported the bill's ombudsman-like objective to help small businesses navigate through governmental regulations and processes. The League worked with the governor's office to revise and clarify the bill's intent. Small businesses employ more than one half of Oregon's work force, so SB 1583 will provide a helpful new resource.

SB 1589: Credit Enhancement Fund Expansion

Effective Date: April 4, 2016

SB 1589 increases the number of small businesses eligible for loan or credit guarantees from the Oregon Credit Enhancement Fund (CEF). Existing or proposed businesses qualifying for the program will now include those producing substantial benefits for the state. The CEF is a loan insurance program available to lenders to assist businesses in obtaining access to working capital or fixed-asset financing. The program has an enrollment fee that is a percent of the insured amount. Lenders that most commonly use this program are community banks and credit unions with operations in rural communities across Oregon. The program was previously limited to businesses in limited categories, including: those located in distressed areas; those providing traded sector industry services; or those containing a brownfield, etc. To implement the bill, Business Oregon will need to update its rules, including redefining "substantial benefit." SB 1589 is expected to be especially helpful in rural Oregon.

HB 4072: Tax Credit for University Venture Development Fund (UVDF) Contributions

Effective Date: June 2, 2016

HB 4072 extends the sunset from 2016 to 2022 on the tax credit for university venture development fund (UVDF) contributions. The bill provides that any unused amount of the credit may carry forward for up to three years, but the credits need not be equal yearly credits. This fund is considered an economic development tool, as it encourages donations to university-controlled funds that are aimed at university discoveries innovation, research and incubating start-up companies. This fund creates jobs and stimulates the economy. The UVDF provides that 20 percent of licensing revenue received by universities from firms that receive UVDF funding will be returned to the Oregon Treasury in order to regenerate tax credits and continue the program.

See also: **SB 1565 (industrial property) and **HB 4084 (brownfield property)** in the Property Tax section. Both provide for local option property tax incentives that are new economic development tools.

ECONOMIC DEVELOPMENT – FAILED BILLS

SB 1578: Oregon Production Investment Fund (Film & Video Tax Credit)

SB 1578 would have increased the amount of maximum total tax credits for certified film production development contributions from \$10 million to \$14 million starting in 2016. The Senate Finance and Revenue Committee held a hearing on the bill, but the credit was later revised and reduced in another bill. See description for [SB 1507](#), which passed.

Housing

HOUSING

Because of the increasing urgency over the lack of housing availability across the state, several bills this session focused on creating tools and funds for housing development programs. The majority of attention was on four bills, considered a package to increase the land available for housing development and incentivize the development of housing. These four bills included: SB 1533, SB 1573 (see [Land Use – Passed Bills](#)), HB 4079 (see [Land Use – Passed Bills](#)) and HB 4143.

HOUSING – PASSED BILLS

SB 1533: Inclusionary Zoning and Construction Excise Tax

Effective Date: June 2, 2016

SB 1533 will return two tools to cities to encourage the development of housing. First, the bill partially lifts the preemption on mandatory inclusionary housing requirements. A city may adopt a mandate that multifamily housing projects of more than 20 units must include affordable housing units. However, the city cannot require that more than 20 percent of the units be affordable. In addition, the city must provide financial offsets for the developer as proscribed in the bill. SB 1533 also clarifies that cities can work with developers to provide more units or lower the threshold for affordability through a voluntary inclusionary housing program.

Further, SB 1533 lifts the preemption on construction excise taxes (CET). However, the bill limits the rate of a residential CET to 1 percent of permit valuation, a number set at the state level. Residential CETs must be spent in a specific manner: 15 percent is remitted to the state for the home ownership assistance program; 50 percent must be spent on the same types of financial offsets as can be used for an inclusionary housing program; and the remaining 35 percent must be used for a locally determined affordable housing program. Any CET on industrial or commercial buildings is uncapped, and one-half of these funds must be used on a locally determined affordable housing program. The other half may be spent at the city's discretion, provided it is outlined in the enacting ordinance.

SB 1582: State Housing Development Program

Effective Date: March 15, 2016

SB 1582 creates the Local Innovation and Fast Track Housing Program (the “LIFT Program”), which is directed to use state bond proceeds to develop state-owned low-income housing. During the 2015 session the Legislature obligated these bonds for housing projects, and SB 1582 establishes the program requirements for spending the bond funds. The bill also requires the Oregon Housing and Community Services Department to report to the Legislature on the progress of the LIFT Program for the next three years.

HB 4143: Renter Protection

Effective Date: March 15, 2016

HB 4143 provides protections for renters who are in month-to-month leases, modifies building code provisions for rental units, and increases the fine for a second violation of a smoking prohibition in a lease agreement. The bill prohibits landlords from increasing rent for the first year of a month-to-month lease,

and thereafter the landlord must provide 90 days' notice of an increase in rent. HB 4143 also clarifies that a rental unit must provide a secondary egress if it is required at the time the unit is built or renovated.

HOUSING – FAILED BILLS

SB 1575: Housing Land Use Omnibus Reform

SB 1575 was an omnibus bill that would have resulted in significant changes to a variety of housing policies and was intended to address perceived barriers to the development of more housing across Oregon. The bill included changes to the calculation of some system development charges, statewide land use goals, and buildable land inventories. In addition, it would have required cities to include housing impact statements for any decisions, including infrastructure plans, land use policies, or environmental protections. SB 1575 also allowed a very narrow version of inclusionary zoning and a very restricted construction excise tax, but also put more process restrictions on the use of these tools. Finally, the bill included permission for Metro to divide the region into sub-regions for housing analysis when examining the urban growth boundary.

HB 4001: Omnibus Housing Reform

HB 4001 was a comprehensive housing bill that: included a number of provisions revising landlord-tenant laws; proposed a partial lifting of the ban on mandatory inclusionary housing; and would have allowed cities to waive state and local building and zoning codes for temporary units in the case of a declared housing emergency or if the city had a low vacancy rate.

HB 4043: Tax Exemption for Sale of Low-Income Housing

HB 4043 would have exempted from state income tax any amount earned upon the sale of property below market value to a public housing authority. In addition, the bill would have raised recording fees and dedicated the funds to the state's general housing account, emergency housing account, and the home ownership assistance account.

HB 4064: Housing Mortgage Loan Fund

HB 4064 would have created a new fund within the Oregon Housing and Community Services Department to provide deferred loans to qualifying nonprofits which develop low income housing. The bill intended to provide more capital to Habitat for Humanity to allow each local chapter to increase its home-building capacity.

Land Use

OVERVIEW

Bills impacting land use decisions this session primarily focused on housing development, but a few technical fixes were also approved by the Legislature. Other bills that would relax land use for Eastern Oregon communities or address specific needs also received attention. Most controversial was the decision to override local governance choices by prohibiting a vote on annexation (see [SB 1573](#) below), which was passed as part of a package of bills related to housing.

LAND USE – PASSED BILLS

[SB 1517: Wetland Land Use Process Pilot Project](#)

Effective Date: January 1, 2017

SB 1517 allows Tillamook County to create, as a pilot project, a process for wetland creation on land designated as exclusive farm use (EFU). Wetland restoration is currently a permitted use of EFU lands and is not subject to land use review. As originally written, SB 1517 would have required specific findings about impacts to farming within the county if a wetland project occurred on farm land and shifted liabilities for problems related to these projects. The original language could have caused significant problems for water quality and temperature projects that use offsite wetlands restoration as part of the project. As amended, SB 1517 does not apply outside Tillamook County, nor to any new requirements for wetland creation or restoration in order to comply with a National Pollutant Discharge Elimination System permit.

[SB 1573: Preemption of Voting on Annexation](#)

Effective Date: March 15, 2016

SB 1573 preempts city laws that require a vote on annexations when a petition to annex meets specific requirements. The bill prohibits sending an annexation request to voters if: the petition is agreed to by 100 percent of the land owners to be annexed; at least one parcel is contiguous to the city's limits; the land to be annexed is entirely within the urban growth boundary; the land is part of an acknowledged comprehensive plan; and the petition conforms with all other requirements of the city's ordinances. The city can still hold a public hearing, and the council may approve or not approve the annexation. However, the request cannot be put to a vote of the electors.

[HB 4018: Annexation Preemption for Unincorporated Area](#)

Effective Date: April 7, 2016

HB 4018 prevents the unincorporated area of White City from annexing specific industrial properties if the area incorporates in the future. The bill extends the current prohibition until June 30, 2026. Originally, the bill prevented the city of Medford from annexing other industrial lands, but that portion of the bill was removed as the city had negotiated the issue with the property owners. The current prohibition on Medford annexing the listed properties will sunset on June 30, 2016.

HB 4079: Housing Land Use Pilot Project

Effective Date: March 15, 2016

HB 4079 requires the Oregon Land Conservation and Development Commission (LCDC) to create a pilot program for including lands within an urban growth boundary for affordable housing. Two cities will be allowed to participate in the pilot program, one with a population of less than 25,000 and the other with a population greater than 25,000. Cities seeking to participate in the program will have to show that they are making efforts to increase affordable housing available within their current boundaries using tools such as property tax exemptions and allowing accessory dwelling units. Qualifying projects will need to have the approval of the city and land owner, as well as a plan for the development of affordable housing. HB 4079 requires the city to demonstrate a need for the program, and that the project will provide affordable housing, is adjacent to the city's urban growth boundary, and is near public facilities such as transit corridors. Cities in Clackamas, Marion, Multnomah, Polk and Washington counties may not participate. Lands within the North Unit Irrigation District in Jefferson County are also not eligible for participation. No pilot project may exceed 50 acres in size, and the LCDC will have to create rules for the pilot project before cities may apply to participate.

HB 4126: UGB Land Study Process Fix

Effective Date: March 29, 2016

HB 4126 is a technical fix to the statute that amended the urban growth boundary (UGB) land evaluation process approved by the Legislature in 2013. The issue needing clarification is whether cities that had started a UGB analysis, but had not completed the process when the new rules became operative, could continue using the rules in place in 2013. HB 4126 stipulates cities that provided the Oregon Department of Land Conservation and Development notice of a UGB review prior to January 1, 2016 can proceed either under the rules for land selection that were in place on June 30, 2013 or under the rules adopted and operative as of January 1, 2016. This bill ensures that the few cities currently still trying to finalize a new UGB will avoid litigation which could further delay finalized UGB decisions.

LAND USE – FAILED BILLS

SB 1548: Housing Land Use Pilot Project

This bill did not receive a public hearing. (See [HB 4079, Land Use – Passed Bills](#))

SB 1588: Land Use Exemption for No Growth Counties

SB 1588 would have exempted certain counties, and the cities within them, from developing comprehensive plans in compliance with statewide land use goals. The areas exempted would have been limited to counties with a population less than 50,000 that had not grown in population since the prior census. Upon population growth the county's comprehensive plan would be required to meet statewide land use goals again.

Miscellaneous

MISCELLANEOUS – FAILED BILLS

HB 4041: Seed Preemption Revision

HB 4041 would have amended the preemption approved by the Legislature in 2013 on local government regulating or prohibiting the production or use of agricultural seed. The bill would have removed language from statute that prohibits the regulation of “products of agricultural seed, flower seed, nursery seed or vegetable seed.” It would also have restored the authority for a county to hold an election on an initiative to regulate the production or use of agricultural seed.

HB 4056: GIS Data Sharing

HB 4056 would have established a program for local and state governments to share geospatial framework data (often called “GIS”) with the state’s chief information officer (SCIO). This bill would have tasked the SCIO with creating a standard for shared data and a process for local and state governments to provide the GIS data to the state. HB 4056 required that local governments not bear any additional cost when providing the data to the state. It also clarified some of the liability concerns when city and county data was shared from the state’s database.

ENERGY & ENVIRONMENT

OVERVIEW

The 2016 session was challenging and complex in terms of the number of energy and environment bills considered and the substantive policy changes proposed. One of the most controversial issues of the session was a proposal to increase Oregon’s renewable portfolio standard, while phasing out the import of out-of-state coal-fired electricity generation. Legislation created as an alternative to a proposed ballot measure was initially introduced as HB 4036 (see [HB 4036, Energy & Environment – Failed Bills](#)) but later was amended into and will become law by passage of SB 1547 (see [SB 1547, Energy & Environment – Passed Bills](#)). The League was engaged throughout much of the debate on the merits of both HB 4036 and SB 1547, including specific language proposed by Portland General Electric and Pacific Power that would significantly limit the ability of cities to form municipal electric utilities. While some of that language was addressed through the final amendments to SB 1547, the League remains concerned over potentially significant requirements that would make the formation of municipal electric utilities more challenging and possibly cost-prohibitive.

A separate but significant issue which arose at the beginning of the session was the release of information on several air quality “hot spots” identified within the city of Portland. In response to concerns over health risks from exposure to identified airborne heavy metals, including arsenic, cadmium and chromium, the House Environment & Energy Committee, chaired by Representative Jessica Vega Peterson (D-Portland), held a public hearing on the issue. The Legislature ultimately approved \$2.5 million in general fund appropriations for enhancements to the Oregon Department of Environmental Quality’s Air Toxics Program, including staffing, development of a risk-based approach to air permitting for industrial sources and the purchase of two additional air toxics monitoring stations (see [SB 5701, State Budget](#)).

ENERGY & ENVIRONMENT – PASSED BILLS

[SB 1547: Renewable Energy Package & Public Utility Definition Change](#)

Effective Date: March 8, 2016

SB 1547 was originally introduced to make changes to the definition of a “public utility” in ORS 757.005. The bill was amended in the Senate Business & Transportation Committee, chaired by Senator Lee Beyer (D-Eugene), to clarify that for purposes of ORS Chapter 757, the term “public utility” does not include an electric cooperative or people’s utility district. The statutory definition already includes an exemption for plants owned or operated by a municipality.

Following passage by the Senate, SB 1547 was amended in the House Rules Committee, chaired by House Majority Leader Jennifer Williamson (D-Portland), to add provisions similar to those contained in a separate bill (see [HB 4036, Energy – Failed Bills](#)). The amended bill maintained the “public utility” definition changes but added provisions to increase Oregon’s renewable portfolio standard (RPS) for “large utilities” and phase out investments in coal-fired generation of electricity. SB 1547 increases the “large utility” RPS from the current requirement to acquire 25 percent of electricity from qualifying renewables such as solar or wind by the year 2025 to 50 percent by 2040.

As amended, SB 1547 also requires electric utilities, including consumer-owned utilities (COUs) seeking to acquire service territory, without consent from another electric utility service provider such as an investor-owned utility, to meet the large utility RPS requirement. In addition, current law allows the newly formed COU to phase in the large utility RPS requirements over a 20-year period. SB 1547 requires newly formed COUs, including municipally-owned utilities that acquire service territory from an investor-owned utility without consent, to meet the large utility RPS at the beginning of the calendar year following acquisition. This creates significant logistical and financial challenges for newly formed municipal electric utilities as there is an exemption in current statute that prevents COUs, including municipal electric utilities, from having to reduce available, lowest-priced hydropower from the Bonneville Power Administration (BPA) in order to meet the full RPS requirement. For many existing municipal electric utilities, approximately 95 percent or more of their power comes from BPA hydropower. However, newly formed COUs typically have a three-year wait period for the purchase of hydroelectricity from the BPA. As a result, the requirement to meet the large utility RPS requirement at the beginning of the calendar year following acquisition may still result in a significant reduction in BPA hydroelectricity. In addition to these new requirements, SB 1547 requires the Oregon Public Utility Commission (PUC) to calculate stranded costs, in accordance with federal requirements, that will be payable by a utility that acquires service territory or property from another utility provider.

SB 1547 includes a number of additional provisions including requirements for utilities with more than 25,000 retail customers to have 8 percent of aggregate electrical capacity generated from either small-scale, community-based renewable projects or from biomass facilities that also produce thermal energy. The bill also changes provisions that limit the banking of future renewable energy certificates by private utilities and requires investor-owned utilities to accelerate transportation electrification by offering programs such as rebates for electric vehicle charging stations and infrastructure. Finally, SB 1547 maintains existing cost protections for consumers and grid reliability protections that will be monitored and enforced through the PUC.

HB 4037: Solar Incentivization Fund Pilot Program

Effective Date: March 16, 2016

HB 4037 authorizes the Oregon Business Development Department (OBDD) to establish a five-year program to incentivize investments in solar photovoltaic energy systems. The program will close on January 2, 2017, unless all projects reach a cumulative nameplate capacity of 150 megawatts, which would prompt the program to close to new enrollees immediately. There are a variety of stipulations for enrollees, including a requirement for project location in Oregon, with a minimum nameplate capacity of two megawatts and a maximum of 10 megawatts. HB 4037 authorizes the OBDD to make monthly payments to program enrollees of 0.5 cents per kilowatt hour generated. Investor-owned utilities as well as publicly-owned utilities are authorized to participate in the program, but there is a cumulative nameplate capacity cap of 35 megawatts for any single enrollee. The bill creates a general fund appropriation of \$951,561 for the 2015-17 biennium, with \$821,700 to be expended for incentives under the program and the remaining \$129,861 to be used for administrative costs. It is anticipated that additional funding will be needed in the 2017-19 and 2019-21 biennia, as maximum payments to qualifying participants are expected to total approximately \$8.22 million over the five-year term of the program.

ENERGY & ENVIRONMENT – FAILED BILLS

SB 1572: Community Solar

SB 1572 would have directed the Oregon Public Utility Commission (PUC) to establish a program, by administrative rule, for the generation and procurement of electricity from community solar projects within the territory of an investor-owned utility. The program rules would have prescribed qualification criteria for eligible community solar projects and would determine an application and certification process through the PUC. Projects would be required to have a minimum generating capacity of 25 kilowatts and subscribers would need to enter into a lease for a portion of a qualifying project for a minimum of 10 years. SB 1572 would have required an investor-owned utility to credit a subscriber's electric bill for solar energy generated from the project with any excess value associated with the generation of that energy to be used for procurement of additional community solar projects for low-income customers. Costs of constructing and operating a community solar project would have been borne by project subscribers. The bill failed to pass, but similar provisions were amended into a larger energy package (see [SB 1547, Energy & Environment – Passed Bills](#)).

SB 1574: Cap & Invest

SB 1574 called for adjustments to Oregon's incremental greenhouse reduction goals while maintaining an overall statewide goal of reducing emissions by 75 percent from 1990 levels.

SB 1574 would have required the Oregon Department of Environmental Quality's Environmental Quality Commission (EQC), by administrative rule, to cap carbon dioxide emissions for certain entities that exceed 25,000 metric tons of emissions annually. The bill would have authorized the sale of allowances to entities emitting beyond the cap in addition to the sale of credits from in-state offset projects resulting in the reduction or removal of greenhouse gas emissions. A certain number of allowances would have been set aside for cost-compliance assistance and electric and natural gas utility low-income rate relief. Revenues from the sale of allowances were to support two newly established funds, the Oregon Climate Investment Fund and the Just Transition Fund, administered by the Oregon Department of Transportation and the Oregon Business Development Department respectively. The programs would have supported various climate resilience and adaptation projects, including transportation projects, in addition to supporting disadvantaged communities through job creation, job training, and other employment and mental health services for those impacted by climate change or climate change policies.

HB 4034: Black Carbon

HB 4034 would have required the Oregon Global Warming Commission to include an estimate of annual average emissions of black carbon in Oregon and an evaluation of how black carbon contributes to global warming in their next biennial report. Black carbon is defined as carbon produced through unplanned forest or rangeland fires. The commission would have also been required to recommend ways to coordinate state and local efforts to reduce black carbon, and to identify funding mechanisms to obtain low-cost black carbon reductions, as well as forest and rangeland carbon sequestration efficiency enhancements. HB 4034 also required the Oregon Department of Land Conservation and Development (DLCD) to adopt best practices for local governments to pursue black carbon reductions through mitigation of unplanned forest and rangeland fire risks outside of urban growth boundaries.

HB 4036: “Coal to Clean”

HB 4036 was introduced to increase Oregon’s renewable portfolio standard (RPS) requirements for large utilities and newly formed consumer-owned utilities while phasing out investments in the generation of out-of-state coal-fired electricity generation. The bill, as originally introduced and amended in the House Energy & Environment Committee, chaired by Representative Jessica Vega Pederson (D-Portland), deleted an existing exemption that prevents consumer-owned utilities from having to reduce available, lowest-priced hydroelectricity from the Bonneville Power Administration (BPA). While the exemption was restored through amendments adopted in the Senate, the League remained opposed to another specific provision of the bill which would have required newly formed consumer-owned utilities that have acquired service territory from another “large utility” provider without that provider’s consent to meet the RPS requirement of the large utility by the beginning of the calendar year following acquisition. This provision would make it significantly more challenging for new municipal electric utilities to form as they would be required to invest in a significant amount of qualifying renewable energy generation in a very short period of time while still being required to reduce available BPA hydropower due to the federal three-year wait period prior to acquisition.

HB 4036 passed the House, but was delayed when a minority report was filed in the Senate. In an effort to avoid that delay and pass the bill prior to adjournment, most provisions of the bill were amended into a separate bill that was later passed by both chambers (see [SB 1547, Energy & Environment – Passed Bills](#)).

HB 4101: Assessment of Carbon Reduction Policies & Programs

HB 4101 would have required the Oregon Department of Environmental Quality’s Environmental Quality Commission (EQC) to adopt a program by administrative rule that would assess the net impact of current and proposed policies and programs created to reduce greenhouse gas emissions. The bill would have required the assessment to include: an estimate of the total greenhouse gas emissions avoided as a result of existing and proposed policies and programs; a calculation of the cost to the state per unit of carbon dioxide emissions avoided; the timeline needed to realize anticipated environmental benefits; and a calculated return on investment for greenhouse gas reduction programs and policies. Initial assessments by the EQC would have been required no later than January 1, 2019.

FINANCE AND TAXATION

Financial Administration

FINANCIAL ADMINISTRATION – PASSED BILLS

HB 4020: Oregon Growth Board Fund Investments

Effective Date: upon governor's signature

HB 4020 provides that the Oregon Growth Board (OGB) *may* require a management company or state agency selected to manage the Oregon Growth Fund or Oregon Growth Account (OGA) to invest monies in Oregon. The bill thus eliminates the *requirement* that funds be invested in-state, but permits the OGB to impose the requirement by rule. This is done in practice by fund managers signing a contract (side letter) which states that for every dollar OGA invests in them, they will invest the same amount in Oregon companies. HB 4020 gives the OGB the flexibility to obtain the side letter when they can, but allows investment in the best funds, some of which will not sign a side letter.

HB 4038: Electronic Voting by Cooperative Corporations

Effective Date: February 29, 2016

HB 4038 permits shareholders or members of cooperative corporations (including rural electric cooperatives) to vote by electronic means, provided that the method of voting complies with Oregon's Uniform Electronic Transactions Act. The measure also clarifies the existing statutory ability of members to vote by electronic means, bylaws permitting, if the member consents to receiving an electronic ballot.

Local Taxation: Property Taxes

OVERVIEW

Property tax reform remained one of the League's legislative priorities this session. But rather than have League-sponsored bills introduced during the short session, the League's Board of Directors adopted principles in December 2015 to guide any tax reform discussion that might take place in the Legislature. During the interim leading up to the short session, the Senate Finance and Revenue Committee had indicated willingness to take on tax reform, so the League was flexible and poised to assist with that work. It is becoming apparent that interest in comprehensive reform has started to grow.

The LOC Board's property tax directive included the following principles:

- Stability/predictability
- Fairness/equity
- Simplicity/clarity
- Adequacy/sustainability
- Voter/local option

- Home rule is protected
- Competitive environment to retain/attract business

The Senate Finance and Revenue Committee introduced SJR 201 as a committee bill to refer a revised property tax system to the voters as a referral. The committee acknowledged that the resolution was only a start and needed more work. The resolution would have revised Measure 50 but did not address Measure 5. Several members of the League’s Board of Directors testified along with staff and other city representatives. Several cities also submitted written testimony. The testimony described the problems and inequities Measures 5 and 50 have created and gave suggestions for making improvements to SJR 201. Further hearings are expected during the interim.

In short, while the Legislature was not prepared to advance a referral in the short session, more groundwork was laid for either next session or even a special session should an alternative to IP 28, the business gross receipts tax measure, emerge.

Lastly, a number of bills sought to revise existing property tax exemptions or create new ones. The League was largely successful in limiting the municipal impact of such bills by creating local option exemptions and/or tailoring by the taxing jurisdiction.

PROPERTY TAXES – PASSED BILLS

SB 1506: Food Processing Exemption

Effective Date: June 2, 2016

SB 1506 makes a technical change to HB 3125 (2015) which expanded the five-year food processing property tax exemption to include machinery and equipment used to process grains, eggs, milk and bakery products. This session’s bill simply changes how the value of bakery machinery and equipment is determined for exemption eligibility. It will be based on cost of the equipment rather than its real market value. The League opposed HB 3125 (2015) as it is not a local option exemption, nor does it have economic development qualification criteria.

SB 1513: Homestead Exemption – Surviving Spouse of Fire Service Professional or Police Officer

Effective Date: June 2, 2016

SB 1513 authorizes counties to exempt from property taxes the first \$250,000 of assessed value of the homestead of a surviving spouse of a fire service professional or a police officer killed in the line of duty. The League opposed the bill in the Senate, as the exemption is significantly higher than those for disabled veterans or their surviving spouse (less than \$23,000) and for active duty military residents (less than \$79,000). SB 1513 allows counties to bind cities and all other taxing districts, and has no restriction on the homestead’s location. In addition, there is no financial need requirement for the spouse to qualify for the exemption. However, because the exemption is permissive and the number of spouses who qualify for the exemption is less than 100, the League did not oppose the bill in the House. In a future session, all homestead exemptions will need to be updated with consistent sideboards.

SB 1565: Rural Industrial Property Exemption

Effective Date: June 2, 2016

SB 1565 creates two new alternative programs authorizing a city or county to permit:

- A property tax exemption for newly constructed or installed industrial improvements; and
- A tax deferral program for newly constructed or installed industrial improvements.

Both programs are local option incentives (“opt-in”). Exemptions or deferrals under this program may be granted for up to five years and require an investment of at least \$1 million for eligibility. Cities or counties need to adopt an ordinance or resolution to adopt the program, which does not take effect unless other taxing districts are in agreement (75 percent or more of the total combined tax rate). Cities and counties can tailor the program to their community by imposing additional requirements for eligibility. Eligible property is capped at \$25 million. The new program cannot be stacked with other exemptions, and thus cannot be used in an enterprise zone. Instead, it is a flexible tool that can be used on industrial property when other tools are not available. The intent of SB 1565 is to incentivize the expansion of existing small- or medium-size businesses and grow jobs. Late amendments in the House Revenue Committee added a first-source hiring agreement requirement and a minimum new jobs requirement, similar to those in place for enterprise zones. The committee also narrowed the eligible location for the program to rural areas, as defined in the rural strategic investment program. The League worked to improve the legislative concept during the interim, and with a coalition to kill an amendment in the House that would have added a prevailing wage requirement.

HB 4081: Property Tax Exemption for Property of Nonprofit Corporation Used for Low-Income Housing

Effective Date: June 2, 2016

HB 4081 provides a property tax exemption for certain property of nonprofit corporations used for low-income housing. The property at issue, though owned by a nonprofit, is leased to private individuals and used solely as personal residences. A 2014 Oregon Tax Court opinion found such usage outside the general charitable exemption under ORS 307.130. An interim legislative work group will study and make recommendations to clarify that outdated exemption. The low-income housing exemption had been set to sunset in 2018, and the bill simply extends the sunset to 2022 to allow more time to address the problems with the existing nonprofit exemption.

HB 4084: Brownfield Property Tax Exemption

Effective Date: June 2, 2016

HB 4084 provides a new local option (“opt-in”) brownfield property tax incentive program and permits cities, counties or ports to add requirements to tailor the program. The bill provides an incentive to clean up brownfield property by freezing the value of the assessed land (valued at its “dirty” price) for up to 15 years. In addition, HB 4084 permits an exemption for personal property and the improvements on the property. The incentives are capped at cleanup costs. The bill excludes certain property, has claw-back provisions, and requires the agreement of 75 percent of the taxing jurisdictions for the incentives to apply to property. The League worked as part of a brownfield’s coalition to improve the legislative concept over the interim and advance the bill during session.

HB 4110: Delinquent Property Taxes: Taking Situation

Effective Date: June 2, 2016

HB 4110 has several components due to the bill's broad relating clause. The property tax portion is a clean-up of HB 2127 (2015), addressing the problem of delinquent taxes on real property becoming uncollectable when the property is conveyed to a tax-exempt transferee. That bill required a certificate from the assessor before a conveyance could be recorded when the transferee is a government entity. HB 4110 addresses partial conveyances of property done under condemnation (takings) circumstances such as for a state highway, county road or city street. The effect of the bill is to continue the past practice of the public entity transferee paying the delinquent taxes only on the portion of the property that is the subject of the taking, rather than being responsible for any delinquent taxes on the parcel prior to the conveyance being recorded.

PROPERTY TAXES – FAILED BILLS

SB 1545: Children's Special District

SB 1545 would have authorized the formation of children's special districts to provide children's services. The definition of children's services was very broad and could have covered both the education and local government service categories of Measure 5. The bill gave the new district traditional special district powers, including the power to levy and collect property taxes to pay the costs of services. Thus, such levies would cause or exacerbate compression under Measure 50. Lastly, the bill required counties to provide legal and accounting services to the district. The League opposed the bill.

SJR 201: Comprehensive Property Tax Reform

SJR 201 is a constitutional referral that would have revised Oregon's complex and inequitable property tax law. It would have partially repealed Measure 50 by returning to real market value as the basis for assessing property taxes. The bill also would have provided for a new homestead exemption to make the tax more progressive. Details of the homestead exemption, including the amount, were not worked out in the bill. SJR 201 was a Senate Finance and Revenue committee bill intended to serve as a starting point for comprehensive property tax reform discussions and state tax reform generally. LOC Board members, League staff and other city officials provided written and oral testimony. Issues that need to be addressed in any reform proposal that were not included in this draft were: permanent rates, compression, and the 25-year-old Measure 5 limits. Tax reform discussions are expected to continue in the interim.

HB 4027: Systemic Review of Tax Expenditures

HB 4027 would have directed the state's Legislative Revenue Office to make recommendations for systemic review and sunset of certain tax expenditures. A biennial tax expenditure report accompanies the governor's recommended budget submitted to the Legislature before each session. That report compiles and describes exclusions, credits, deductions and exemptions in expenditures in the areas of income, property, excise and all other miscellaneous taxes. Currently, the Legislature reviews income tax credits on a schedule but does not review other tax expenditures. HB 4027 would have required preparation of a report to the interim revenue committees by December 2016. Discussions on property tax expenditures as well as general state and local tax reform are expected to continue during the interim.

Local Taxation: Excise Taxes

OVERVIEW

A variety of excise tax bills were introduced during the short session. A bill that increased the state lodging tax generated a number of amendments and lengthy debate throughout the session before the Legislature agreed on a bill that could muster the three-fifths majority vote required for tax increases. In addition, the preemption on imposing a construction excise tax was lifted, albeit with restrictions as to how revenues from the tax can be used. The preemption was lifted as a component of the Legislature's housing package because the tax is seen as a tool to provide a new revenue stream for cities and counties trying to address the affordable housing shortage in the state. A bill containing a provision to allow the Oregon Department of Revenue to collect a local government marijuana excise tax on behalf of cities also passed. Rounding out excise taxes, liquor and vaping tax bills did not advance but are expected to return next session.

EXCISE TAXES—PASSED BILLS

SB 1533: Construction Excise Tax

Effective Date: June 2, 2016

SB 1533 lifts the preemption on the imposition of a construction excise tax by cities and counties. The bill continues to grandfather taxing jurisdictions which were imposing the tax when the preemption was imposed in 2007. The bill caps any new tax on residential real property at 1 percent of permit value, but does not cap taxes on commercial and industrial property. Revenues are restricted to addressing the present affordable housing crisis in the state. For further details, see the [SB 1533](#) description in the Housing section of this report.

HB 4014: Local Marijuana Tax Collection

Effective Date: March 3, 2016

HB 4014 is a lengthy marijuana bill that is described in more detail in the [General Government](#) section of this report. The bill has one important tax component. Section 32 permits cities and counties to enter into an intergovernmental agreement with the state to have the Oregon Department of Revenue collect local marijuana taxes imposed under ORS 475B.345. That statute limits cities and counties to a 3 percent retail marijuana excise tax and provides that the tax must be approved by the voters of the city or county. Any local tax is in addition to the state tax, which is 25 percent now and will be reduced to 17 percent on October 1, 2016. For efficiency, security, auditing and other reasons, cities and counties will likely want to take advantage of this authorization for state collection of the local tax.

HB 4146: State Transient Lodging Tax Increase and Revision of Distributions

Effective Date: June 2, 2016

HB 4146 increases the state lodging tax by 0.8 percent for four years and by 0.5 percent thereafter. The tax increase changes are effective July 1 and are on top of the existing 1 percent state lodging tax established in 2003. As amended, HB 4146 also distributes more revenues to local communities, specifically 20 percent to regional cooperative tourism programs and 10 percent to fund a competitive

matching grant program for tourism-related projects, including facilities and events. The remaining revenue goes to the Oregon Tourism Commission (Travel Oregon).

The League did not take a position on the state lodging tax increase due to a lack of municipal consensus on the proposal. However, the League did support provisions of HB 4146 that provided for increased local allocations and the relaxation of restrictions on how state lodging tax revenues are spent. The bill also requires an interim work group, to be staffed by the Legislative Revenue Office, to address a variety of important lodging tax administration issues, including revenue distribution, payment timelines and the sharing of state and local lodging tax information to improve enforcement and collection.

EXCISE TAXES—FAILED BILLS

HB 4026: Imposition of Liquor Store License System and Liquor Tax

HB 4026 would have created a liquor store-type licensing system and imposed a privilege tax of 71.7 percent on the price paid by a wholesaler for distilled liquor. The bill would only have become operational if a ballot measure terminating the authority of the Oregon Liquor Control Commission (or subsequent state agency) to sell distilled liquor and set retail prices of liquor had been enacted. Currently, liquor is not taxed by the state, which is the exclusive seller of all distilled liquor beverages. Profits, rather than taxes, generate the revenues from liquor, which are shared with cities. HB 4026 was introduced because of a pending initiative petition that proposed to privatize liquor sales without imposing taxes on liquor. That petition has not been polling well, and the bill did not advance.

HB 4062: Tax on Inhalant Delivery Systems and Nicotine Solutions (Vaping)

HB 4062 would have taxed inhalant delivery systems (electronic cigarettes) and inhalants from nicotine solutions at 50 percent of the retail sales price. Other tobacco products are presently taxed at 65 percent. The vaping tax would have been collected at the point of sale, with the Oregon Department of Revenue administering and enforcing the law. The tax would not apply to batteries, chargers or other accessories sold separately from an inhalant delivery system. Revenues would have been distributed as follows: 90 percent to the state's general fund, and 10 percent to its tobacco use reduction account. The League expressed concern that cities would receive no revenue share as the bill was introduced, even though cities are tasked with policing new vaping crimes and clean air regulations (see [HB 2546 \(2015\)](#)). The vaping tax issue was heard this session during a joint information meeting of the House Revenue Committee and the House Health Care Committee as well. Particularly concerned with increased youth vaping, the Legislature expressed a desire to address health and revenue implications of vaping next session.

GENERAL GOVERNMENT

Drones

DRONES – PASSED BILLS

HB 4066: Drone Regulation

Effective Date: Upon governor's signature

HB 4066 requires public bodies that utilize uncrewed aerial vehicles, commonly known as “drones,” to establish policies and procedures for the use, storage, accessing, sharing and retention of data collected through drone operation by January 1, 2017. The bill also prohibits weaponizing a drone and creates criminal offenses for operating one in a dangerous manner.

Marijuana

MARIJUANA – PASSED BILLS

SB 1511: Patient Access

Effective Date: Upon governor's signature

SB 1511 is voluminous legislation that impacts the manner in which the Oregon Health Authority (OHA) and the Oregon Liquor Control Commission (OLCC) regulate marijuana but leaves the options and authorities available to cities largely unchanged. The bill protects medicinal access for marijuana patients and allows medical growers, processors, wholesalers and retailers access to the medical market. Key aspects of the bill are:

- **Expanded Access:** OLCC licensed growers, processors and retailers will be able to participate in both the recreational and medical markets. A recreational shop will be able to sell medical grade products to medical marijuana patients, and medical dispensaries will likewise be able to sell the lower potency recreational products to adult users. Processors and growers will also have access to both markets, and all recreational marijuana will be subject to the stricter “seed-to-sale” tracking requirement.
- **Expanded Early Start:** Adult-use customers will be able to purchase single serving, low-dose processed marijuana products that have passed appropriate purity and potency tests from Oregon Health Authority dispensaries until December 31, 2016.
- **Delay in Effective Date of Plant Limits:** A medical grower who is in the process of applying to become an OLCC licensee and has filed appropriate paperwork will be granted a stay on the reduction in plant limits that would otherwise apply starting March 1. This stay expires no later than January 1, 2017. The bill also allows a stay for medical growers seeking to qualify for grandfathered plant limits until the OHA has ruled on the merits of the grandfathering application.
- **Potency for Debilitating Conditions:** The OHA is directed to consider higher allowable dosages for patients with serious medical conditions when the current 100 mg of THC, the intoxicating and analgesic chemical in marijuana, is found to be insufficient to provide relief.

SB 1598: Marijuana Land Use Changes

Effective Date: Upon governor's signature

SB 1598 allows existing medical marijuana growers operating outside of cities to sell into the recreational market without completing a “land use compatibility statement” (LUCS) and treats medical marijuana grown on agricultural lands as a farm crop. However, cities and counties are able to impose reasonable regulations on marijuana production, unlike other agricultural crops. Medical marijuana growers operating on land zoned for agricultural use in a city still need to obtain a LUCS.

SB 1601: Marijuana Taxation Adjustment

Effective Date: Upon governor's signature

SB 1601 was introduced late in the session to correct an overlooked flaw in other marijuana legislation passed earlier in February. SB 1511 and HB 4014 both contained emergency clauses and tax provisions. Oregon's Constitution does not allow that combination, and SB 1601 was introduced and passed with the necessary corrective language.

HB 4014: Marijuana Policy Changes

Effective Date: Upon governor's signature

HB 4014 was dubbed the “technical fix” bill and contains two provisions important to cities. The first allows, but does not mandate, cities to enter into intergovernmental agreements with the Oregon Department of Revenue to collect locally-imposed marijuana taxes. The second fix ensures that a decision on a “land use compatibility” is not a land use decision and therefore not subject to review by the Oregon Land Use Board of Appeals. Other provisions of the bill establish a youth marijuana use prevention program, adjust criminal penalties, and allow veterans a more affordable medical marijuana card.

Public Contracting

PUBLIC CONTRACTING – FAILED BILLS

HB 4065: Collection on Delinquent State Accounts

HB 4065 would have required state and local public contracting agencies, prior to entering into a contract, to consult with the state's Legislative Fiscal Office to determine whether the contractor appears on a list of delinquent or liquidated accounts that have either been assigned or not yet assigned for collection by a state agency. If on the list, the contracting agency would be required to notify the contractor of their failure to make payment to the state and would not be allowed to enter into the contract until full payment is made. The League and other representatives of local public contracting agencies worked to limit the requirements and application of the bill to state contracting agencies only. Those amendments were adopted, however, the bill failed to pass out of the Joint Ways & Means Committee prior to adjournment.

Public Records

PUBLIC RECORDS – FAILED BILLS

HB 4130: Timelines and Acknowledgements

HB 4130 would have required public bodies to acknowledge the receipt of a public records request within five days, and either fulfill the request within 30 days, or offer an estimate of when the request would be filled if longer than the 30 days. A person who believed that an agency was being unreasonable could have appealed to the local district attorney.

The League and other local government associations dropped their opposition to the bill when stricter timelines and caps on fees were stripped from the bill. It passed the House but was never reported out of the Joint Committee on Ways and Means.

HUMAN RESOURCES

HUMAN RESOURCES – PASSED BILLS

SB 1532: Minimum Wage

Effective Date: Upon governor’s signature (first wage increase will be July 1, 2016)

SB 1532 imposes a three-tiered, phased-in minimum wage requirement on all Oregon employers. The top tier will be paid by employers within the Portland metropolitan urban growth boundary, and the lowest tier will apply in the rural portions of the state. The wage increases will be phased in beginning July 1, 2016, with additional increases occurring annually. The table below shows the scheduled increases for each of the three tiers. Please note there was some discussion during public testimony on this bill that it may constitute an unfunded mandate under Article XI §15 of the Oregon Constitution. Cities wishing to pursue an unfunded mandate claim are encouraged to consult their city attorney.

Tier 1 (the Portland urban growth boundary)	Tier 2 (Benton, Clackamas, Clatsop, Columbia, Deschutes, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Wasco, Washington and Yamhill counties)	Tier 3 (Malheur, Lake, Harney, Wheeler, Sherman, Gilliam, Wallowa, Grant, Jefferson, Baker, Union, Crook, Klamath, Douglas, Coos, Curry, Umatilla and Morrow counties)
July 1, 2016: \$9.75	July 1, 2016: \$9.75	July 1, 2016: \$9.50
July 1, 2017: \$11.25	July 1, 2017: \$10.25	July 1, 2017: \$10.00
July 1, 2018: \$12.00	July 1, 2018: \$10.75.	July 1, 2018: \$10.50
July 1, 2019: \$12.50	July 1, 2019: \$11.25	July 1, 2019: \$11.00
July 1, 2020: \$13.25	July 1, 2020: \$12.00	July 1, 2020: \$11.50
July 1, 2021: \$14.00	July 1, 2021: \$12.75	July 1, 2021: \$12.00
July 1, 2022: \$14.75	July 1, 2022: \$13.50	July 1, 2022: \$12.50

SB 1587: Paystub Itemization & Wage Theft Compliance Provisions

Effective Date: Upon governor’s signature

Current law requires employers that withhold any sum of money from the wages, salaries or commissions earned by an employee to provide an itemized statement to the employee on regular paydays. The itemized statement must show the amount and purpose of the deductions made during the respective pay period. SB 1587 clarifies that itemized paystubs must be provided to employees any time payment of wages, salaries or commissions is made, in addition to regular paydays. The bill specifies that the itemized statement must include: the date of payment; dates of work covered by the payment; the name of the employer; gross wages; net wages; the amount and purpose of each deduction; allowances claimed as part of minimum wage; the employer’s name and business registry number or business identification

number; the address and telephone number of the employer; the rate or rates of pay; and whether the employee is on salary or is paid by the hour, shift, day, week, piece or commission basis. Unless the employee is paid on a salary basis and is exempt from overtime, the statement must also include regular hourly rates of pay, overtime rates of pay, number of regular hours and overtime worked and the respective pay for those hours. If the employee is paid a piece rate, the statement must include the applicable piece rates of pay, the number of pieces completed, and the total pay.

SB 1587 authorizes the Oregon Bureau of Labor & Industries (BOLI) to determine, by administrative rule, what records and data are to be considered as “time and pay” records. The bill also clarifies that an employer must retain time and pay records, and that an employee may inspect those records for the period of time that is required by federal law (Fair Labor Standards Act, 29 U.S.C. 211(c)).

Additionally, SB 1587 authorizes BOLI to utilize money in its Wage Security Fund to enforce wage and hour laws and investigate claims of unpaid or underpaid wages.

Finally, SB 1587 prohibits a contractor or subcontractor from intentionally failing to pay an employee the prevailing rate of wage or reducing the rate of wage for work done on a prevailing wage project. The bill also prohibits a contractor or subcontractor from depriving an employee of prevailing wages due to that employee in an amount that equals or exceeds 25 percent of wages due or \$1,000 in a single pay period. BOLI is authorized to refer any violations for failure to pay employees prevailing wages owed to a district attorney or the attorney general. Under the bill, such violations would be a Class C felony.

HB 4067: Whistle Blower

Effective Date: January 1, 2017

HB 4067 provides an affirmative defense for public employees who release information exempted from disclosure under ORS 192, if they are engaged in “objectively good faith” effort to report malfeasance. A person who has legal access to the exempted data may provide it to a superior, a law enforcement agency, a regulatory agency, or an attorney when a client relationship exists. Employers will be required to inform their employees of their rights under this act and develop policies to protect “whistle blowing” employees. The protections of this bill do not extend to an agency’s legal counsel or personnel directed by the legal counsel. HB 4067 is designed to allow employees to report illegal activity to an appropriate authority while protecting a public agency’s attorney-client privilege.

HUMAN RESOURCES – FAILED BILLS

SB 1515: Polygraph Exams for Police Applicants

SB 1515 would have allowed police agencies, subject to collective bargaining agreements, to use polygraphs in the background investigation of police applicants. Oregon is the only state on the West Coast that does not use polygraph examinations in police hiring. The bill passed the Senate, but House members, wary of the accuracy of the devices, elected not to move the bill.

HB 4029: “Cadillac Tax” Fix

HB 4029 would have required the enrollment of all public employees in one of the state-sponsored health insurance programs and would have capped employer premium contributions. The objective of this bill was to allow public employers to avoid the 40 percent federal excise tax, commonly referred to as the “Cadillac Tax,” on health insurance benefits in excess of \$10,200 for individuals and \$27,500 for families, as established by the Patient Protection and Affordable Care Act.

Although the bill received a public hearing but not a work session, there are indications that an interim workgroup will be formed to analyze the issue for future consideration.

TRANSPORTATION

OVERVIEW

Following failed efforts to pass a comprehensive transportation package during the 2015 session, legislators dealt only with minor and technical transportation issues during the 2016 session.

TRANSPORTATION – PASSED BILLS

SB 1543: License Plates

Effective Date: April 7, 2016

SB 1543 requires the Oregon Tourism Commission to dedicate one-half of the wine country license plate (initially authorized in 2011) to wine and culinary promotion.

HB 4039: Airports

Effective Date: March 14, 2016

HB 4039 removes the restriction which prohibits rural airports with control towers from participating in “through the fence” operations, which provide direct aviation access to private industrial and commercial properties adjacent to the airport. The bill also eliminates the requirement that pilots already registered in other states must first obtain an Oregon registration prior to flying into Oregon.

HB 4047: Speed Limits

Effective Date: March 1, 2016

HB 4047 corrects two oversights in legislation passed by the 2015 Legislature (HB 3402). The bill extends the increase in speed limits to 65 miles per hour (mph) for passenger vehicles and 60 mph for trucks and buses on US 197 and US 97 from Klamath Falls to the California state line. The prior legislation did not include that stretch of highway.

In addition, HB 4047 extends the speed limit increase on Interstate 82 (70 mph for passenger vehicles and 65 mph for trucks and buses) from its intersection with Interstate 84 to the Washington state line.

HB 4048: Jobs and Transportation Act Funding Reallocation

Effective Date: March 14, 2016

HB 4048 is another in a series of bills enacted since passage of the Jobs and Transportation Act (HB 2001, 2009) that reallocates unused funds from projects that have been completed under budget.

HB 4048 transfers \$3.5 million from the Interstate 5 (I-5)/Woodburn project to the I-5 Kuebler Interchange Project. The bill also authorizes the Oregon Transportation Commission to transfer any other unused funds from the I-5/Woodburn Interchange project to the State Highway 6/US 101 project in Tillamook. The value of that reallocation is expected to be about \$3.5 million as well.

TRANSPORTATION – FAILED BILLS

SB 1510: Transit

SB 1510 went through several iterations during the 2016 session. The final version of the bill, which did not pass, would have expanded TriMet’s ability to invest bond proceeds in secondary transit systems, thus assisting the agency in participating in the regional transportation system. The bill also contained language allowing commercial vehicles using natural gas to exceed weight limits on highways by 2,000 pounds.

SB 1521: Payroll Tax for Transit Districts and Cities

SB 1521 would have authorized transit districts and cities that levy employer-paid payroll taxes to levy an employee-paid payroll tax.

HB 4055: Transportation Funding

HB 4055 contained many of the provisions put forth during the 2015 session as part of a comprehensive transportation funding package. As such a package will likely be considered in 2017, no action was taken on this bill.

Among its provisions, HB 4055 would have: modified the state’s approach to limiting carbon emission from vehicle fuels; increased the tax on motor vehicle and aircraft fuel; and increased registration fees. Additionally, the bill would have required the adoption of rules by the Oregon Bureau of Labor and Industries for circumstances in which a public contracting agency such as a city could undertake a project using the agency’s own personnel and equipment instead of using a private contractor.

HB 4078: Transit Expansion Fund

HB 4048 would have created a state-level “transit expansion fund” for the expansion of transit services in rural and smaller urban communities. Criteria for a grant program administered by the Oregon Department of Transportation was contained in the bill.

WATER & WASTEWATER

OVERVIEW

In light of substantial water supply challenges during the summer of 2015, there were a number of bills introduced during the 2016 legislative session to better prepare water users for drought conditions in the future. While there was less legislative focus on water quality issues this session, efforts to pass a new septic loan program in Oregon, which failed in 2015, were successful with passage of SB 1563 ([see SB 1563, Water & Wastewater – Passed Bills](#)).

WATER & WASTEWATER – PASSED BILLS

SB 1529: Prohibition of HOA Lawn Watering Requirements

Effective Date: Upon governor's signature

SB 1529 would make lawn irrigation requirements imposed by homeowners associations temporarily void and unenforceable if a drought is declared or is determined to likely exist by either the governor or the Oregon Water Resources Commission. The prohibition on enforcement of irrigation requirements would also apply if a local ordinance is adopted that requires conservation or curtailment of water usage. The bill was introduced in response to complaints received during the 2015 drought in which homeowners faced threats of fines for not having maintained a green lawn.

SB 1563: Septic Loan Program

Effective Date: Upon governor's signature

SB 1563 directs the Oregon Department of Environmental Quality (DEQ) to solicit a request for proposals and to award a subsequent grant of \$250,000 to a contractor for administering a statewide septic loan program. As administrator, the contractor would offer low-interest loans to low- and moderate-income homeowners and small businesses with failing septic systems. Of the funds appropriated, \$200,000 would be made available for loans, with \$50,000 available to cover administrative expenses for administration of the loan program. The loans could be used to repair or replace septic systems or to cover the cost of decommissioning a failing septic system and connecting a homeowner to a public sewer system. In addition, funds could be offered for the evaluation of residential and small business septic systems in order to determine whether they are failing. The bill requires eligible loan recipients to use loan funds for connecting to an available public sewer system if they are within the existing territory of a public sewer service provider, and if connection to the sewer is a cost-effective option.

HB 4113: Taskforce on Drought Emergency Response

Effective Date: Upon governor's signature

HB 4113 creates a legislatively-appointed Task Force on Drought Emergency Response that will be staffed by the Oregon Water Resources Department. The task force will consist of 11 to 15 members, representing agricultural interests, counties, tribal governments, conservation interests, industrial water users and municipal water suppliers. The task force will be required to evaluate potential tools to

minimize drought impacts and better prepare for or deal with drought emergencies, including tools for small water providers in developing water management, conservation and efficiency plans. The task force will be required to report its findings back to the Legislature by November 1, 2016.

HB 4117: Changes to Landscape Contractor Examination Requirements

Effective Date: March 14, 2016

HB 4117 makes changes to a law that was passed during the 2015 legislative session (HB 3304), which requires the state's Landscape Contractors Board (LCB) to offer a practical skills test to applicants to obtain a professional landscape construction license or a limited or specialty license. The League and municipal water providers were involved in the legislation due to the impact that the landscape contracting profession has on water supply and water quality. Under the new law, which took effect January 1, 2016, the practical skills test is offered as an alternative to a written examination. The new law also requires the LCB to offer the practical skills testing three times per year. HB 4117 limits the applicability of the law by requiring the LCB to offer the practical skills test to obtain at least two of the types of limited or specialty licenses, and requires that the test be made available at least once every 12 months. The bill also allows for the practical skills test to include the use of written, multiple-choice questions. Finally, HB 4117 requires the LCB to offer a landscape contracting business practices class in conjunction with the practical skills test.

WATER & WASTEWATER – FAILED BILLS

SB 1584: Municipal Water Right Extension

SB 1584 was introduced by Senator Brian Boquist (R-Dallas) as a legislative fix to a 2013 Oregon Court of Appeals decision (*WaterWatch v. Cottage Grove*) which retroactively applies what are known as “fish persistence conditions” to the undeveloped portion of pre-1998 municipal water right permits. These conditions were not adopted in statute until 2005 through passage of HB 3038. Following passage of that bill, the Oregon Water Resources Department (OWRD) adopted rules and provided communication to impacted municipalities that the application of “fish persistence” conditions to the undeveloped portion of municipal permits would occur “to date” or at the time of processing an application for an extension of time. Administrative rules were adopted by OWRD and reflected the prospective interpretation of the statute. Many applications were subsequently processed and approved accordingly. However, due to a backlog of extension requests, many applications had yet to be approved by OWRD as of the date of the court's decision. As a result, those applications are subject to the court's retroactive interpretation.

SB 1584 would have established that fish persistence conditions would apply to any water under a pre-1998 water permit that had not been put to use as of the date of the court's decision (December 11, 2013). The Senate adopted amendments to the bill which would have changed the date to December 11, 2010. SB 1584 passed the Senate one day prior to adjournment but the bill was unable to make its way through the House prior to *sine die*.

HB 4012: Dry Day Account & Dam Removal Testing

HB 4012 was initially introduced in an effort to address water supply concerns by creation of a water storage fund. The bill authorized the issuance of lottery bonds to fund water storage and distribution projects, with 10 percent of the funds to be set aside in a separate dry day account. This account would provide funding for the planning, development, construction and operation of water supply projects to mitigate the effects of drought. HB 4012 was amended to instead establish a water quality monitoring

fund, which would have been administered by the Oregon Watershed Enhancement Board to finance water quality monitoring or analysis related to the removal of dams, or to reimburse local governments for similar efforts. A public hearing was held on the amended version of the bill, but it failed to pass out of committee prior to adjournment.

HB 4090: HOA Lawn Irrigation Requirements

HB 4090 would have prohibited a homeowners association from enforcing lawn irrigation requirements regardless of whether a drought was declared to exist or likely to exist. The bill declared requirements to irrigate a lawn, garden or other landscaped area void and unenforceable as a violation of the public policy to protect the health, safety and welfare of the people of Oregon. The bill failed to pass out of committee due to concerns expressed over its broad provisions and a preference by homeowner's association groups for a similar, but narrower, bill that had been proposed and was ultimately passed (see [SB 1529, Water & Wastewater – Passed Bills](#)).

HB 4125: Ground Water Testing

HB 4125 would have required the Oregon Health Authority (OHA) to analyze ground water contaminant data and provide education in areas identified to have contaminate problems. The bill would have also established a safe ground water fund to provide loans or grants to property owners installing treatment systems to address contaminant issues. Grants would also have been made available to nonprofit organizations, local health authorities, soil and water conservation districts and Oregon State University's Extension Service program for education and well testing services for low-income individuals. HB 4125 additionally would have required landlords with domestic wells to test them for arsenic, total coliform bacteria and nitrates, report test results to OHA and to treat water to address contamination issues.

HB 4137: Ground & Surface Water Connectivity

HB 4137 would have established new standards and requirements for the Oregon Water Resources Department (OWRD) for the issuance of any proposed final order adversely impacting a proposed or existing ground water right. The bill would have required OWRD, prior to issuing such a proposed final order, to state all facts, grounds and legal theories that were relied upon, and to include detailed findings based on clear and convincing evidence supporting the proposed final order. In order to be deemed "clear and convincing evidence," the findings would need to include a report from a qualified geologist or hydrologist. Finally, HB 4137 would have established requirements for OWRD to demonstrate a substantial and quantifiable effect on senior water rights when either a proposed or existing groundwater right is conditioned for the purpose of preventing impairment or interference with the senior water right.

STATE BUDGET

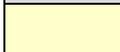
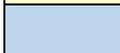
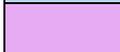
OVERVIEW

Six bills were passed in order to adjust the 2015-2017 biennial state budget. The following bills provided bonding authority, allocated additional funding, and adjusted various agencies' expenditure limitations for their respective base budget bills:

- **SB 1512:** Bond Bill for Seismic Rehabilitation Grant Program
- **SB 1597:** Program Change Budget Bill
- **SB 5701:** Final Budget Reconciliation (Christmas Tree Bill)
- **HB 5201:** Lottery Fund Allocations and Criminal Fine Account Revenue Allocations
- **HB 5202:** Revisions to Bonding Limits/Authority for 2015-17 Budget
- **HB 5203:** Budget Bill for Capital Construction Projects

A summary chart of the budget items important to cities is below. After all budget adjustments, the Legislature left a General Fund ending balancing that is projected to be about \$225 million. The final budget allocation also increased the general purpose Emergency Fund to \$32 million.

Budget Allocation Purpose Color Key:

	Economic Development
	Housing
	Mental Health
	Miscellaneous
	Transportation
	Water
	Public Safety

SB 1512: Bond Bill for Seismic Rehabilitation Grant Program

This bill revises general obligation bond programs created last session in HB 5005 for financing seismic rehabilitation of public education buildings and seismic rehabilitation of emergency service buildings. The revisions specify that proceeds from the bonds may be used to pay for surveying and engineering evaluation as well as pay for agency administrative costs. The program is administered by the Oregon Business Development Department (Business Oregon).

SB 1597: Program Change Budget Bill

This bill implements and clarifies statutory changes necessary to support the 2015-17 legislatively adopted budget. The fiscal or budgetary impacts of this bill are contained in SB 5701 (budget reconciliation bill) and HB 5201 (lottery fund allocation bill). The bill does not include the appropriation of funds. The bill contains several adjustments, primarily regarding the judicial department.

Bill Section	Recipient/ Department at Issue	Program/Purpose Description	Amount	Type of Funding
Sec. 17 (See also SB 5701, sec. 105 for expenditure limitation increase)	Oregon Liquor Control Commission, Oregon Health Authority, Department of Revenue	Transfers liquor fund revenue to the Health Authority to fund a youth marijuana-use prevention pilot program. Money is to be repaid with 2% interest by September 30, 2017 from funds in Oregon Marijuana Account.	\$3,974,842	Other Funds

SB 5701: Final Budget Reconciliation (Christmas Tree Bill)

This bill makes various appropriations and adjusts expenditure limitations in a variety of areas. The summary below highlights key provisions for cities:

Bill Section	Recipient/ Department at Issue	Program/Purpose Description	Amount	Type of Funding		
Sec. 1	Business Oregon (including Infrastructure Finance Authority)	Sets or adjusted expenditure limitations for a variety of projects.	Increase of \$443,641 for business, innovation and trade; \$400,000 for redevelopment of Port of Port Orford Cannery Building	\$100,000 for Willamette Valley Intermodal Hub Feasibility Study	\$200,000 for Oregon Wave Energy Trust	
Sec. 7, 33.	Department of Public Safety Standards and Training`	Increases expenditure limitations for policing programs, drug trafficking area program, and training courses.				
Sec. 8-10, 12(1), 32	State Forestry Department, etc.	Increases appropriation to cover the state's share of the costs for the 2015 fire season.	Approximately \$24 million			General Fund

Sec. 12-15	Oregon Department of Transportation	Adjusted expenditure limitations for a variety of projects.		
Sec. 20	Department of Justice	Adjusted various expenditure limitations and appropriated money for a new elder abuse prevention program in the Criminal Justice Division. Increased expenditure limitations to hire a marijuana attorney for the General Counsel Division.	\$676,971	General Fund
Sec. 22, 90	Department of Revenue	Adjusts various expenditure limitations and appropriations in various programs including property tax division and recreational marijuana program.		
Sec. 25	Housing and Community Services Department	Appropriation increase for counseling services associated with the Oregon Foreclosure Avoidance Program.	\$2.7 million	General Fund
Sec. 30, 79-80	Department of Education	Provides additional funding for P-12 education programs.	\$5.3 million for P-12 programs; \$5.4 million for early intervention and early childhood special education; \$17.5 million for mixed delivery pre-school program.	General Fund
Sec. 32, 81-82	Higher Education Coordinating Commission	Provides additional appropriations for higher education.	Highlights: \$2 million for STEM programs; \$6.05 million for Umpqua Community College (site of shooting)	
Sec. 58	Water Resources Department	Appropriates money for facilitating the Greater Harney Valley Groundwater Study.	\$705,288	General Fund

Sec. 64	Housing and Community Services Department	Appropriation increase for homeless prevention and assistance services.	\$10 million			General Fund
Sec. 72	Department of Administrative Services	Provides appropriations for miscellaneous expenditures.	\$650,000 for free bus passes for state employees working in the capitol mall area and operation of a park and ride shuttle; \$250,000 for commercial driver license loans	\$500,000 for Willamette Falls Locks and Canal repairs; \$300,000 for Cully Park \$200,000 for Douglas County public safety reimbursement	\$500,000 for Cornelius Place Project; \$1 million for Medford Holly Theater restoration; \$200,000 for Portland Playhouse renovation and restoration	General Fund
Sec. 75	Department of Environmental Quality	Appropriation increase to study a market-based approach to controlling greenhouse gas emissions by providing economic incentives.	\$230,000			General Fund
Sec. 86	Watershed Conservation Operating Fund	Various allocations increased.				
Sec. 88	Housing and Community Services Department	Expenditure limitation increased for preservation of existing affordable housing and cost of issuance.				
Sec. 109	Emergency Board	Appropriation allocated to state agencies or to state agencies for transfer to local government entities for costs related to the armed occupation of the Malheur	\$2 million			General Fund

		National Wildlife Refuge.		
Sec. 111	Department of Administrative Services	Expenditure directed from bond proceeds or other revenues for Warrenton dock rebuilding project.	\$3.1 million	
Sec. 113	Department of State Police	Appropriation for increased capacity in the Firearms Instant Check System program.	\$1 million	General Fund
Sec. 115	Department of Environmental Quality	Appropriation for activities related to industrial emissions of air toxics.	\$2.5 million	General Fund

HB 5201: Lottery Fund Allocations and Criminal Fine Account Revenue Allocations

At the March 2016 forecast, lottery revenues were up \$40.3 million over the allocations approved in the 2015-17 legislatively adopted budget. The state constitution provides that the Education Stability fund receives 18 percent of net lottery proceeds, and the Parks and Natural Resources Fund receives 15 percent of net lottery proceeds. HB 5201 makes seven existing allocation adjustments and establishes one new allocation. The adjustments increase total lottery allocations by \$41.3 million. The State School Fund was increased by \$39.5 million and thus took up the bulk of the lottery fund allocations. Allocations for the Port of Port Orford Cannery Building (the new allocation), the Oregon Wave Energy Trust, and the Willamette Valley Intermodal Hub feasibility study are also made in this bill, but they are detailed above in SB 5701 under their expenditure limitation bill provisions. The bill also approves a \$3.85 million increase in allocations from the Criminal Fine Account that are distributed primarily to the Oregon Department of Public Safety Standards and Training.

HB 5202: Revisions to Bonding Limits/Authority for 2015-17 Budget

This bill makes adjustments to the 2015-17 legislatively approved bonding authority by adjusting general obligation bonds, revenue bonds, lottery bonds, and other financing agreements. The bill decreases the Oregon Department of Energy's direct revenue bond authority by \$20 million to \$0, as the department has no plans to issue revenue bonds during the biennium. The bill increases the Oregon Department of Administrative Services (DAS) general obligation bond authority by more than \$81 million for a biennial total of \$450.7 million. The bill also increases DAS's lottery revenue bond limit by \$11.3 million for a total of \$213.1 million for the biennium. DAS serves as a pass-through for other entities. Because the bonds will not issue until the spring of 2017, there are no debt service payments due in the 2015-17 biennium. Highlights of the bill are listed below:

Bill Section	Recipient/ Department at Issue	Program/Purpose Description	Amount	Type of Funding
Sec. 1(2)(i), 7, 7a	Higher Education Coordinating Commission	Bond authorization increase for Portland Community College to finance	\$5 million (general obligation bonds) + \$2.5 million (lottery bonds)	General Obligation Bonds and Lottery Bonds

	(DAS to transfer to Oregon Business Development Department)	the acquisition, construction and furnishing of the American Manufacturing Innovation District Building to enable and encourage the development of a robust manufacturing sector and allow for collaborative efforts between government, industry and academic organizations.				
Sec. 1(6) (see budget report for details of appropriations)	Department of Administrative Services	Funding increases for a variety of projects owned or operated by the state.	\$2.55 million for Oregon State Fair facilities	\$30.46 million for repairs and improvements to the Oregon Capitol building	\$20.3 million for complete implementation of the DOT State Radio Project	General Obligation Bonds
Sec. 4	Department of Administrative Services (for Housing and Community Services Department)	Provides additional funds for grants to preserve existing affordable housing with expiring federal subsidies	\$2.5 million (total of \$5 million when combined with bond authorization from 2015 session)			Lottery Bonds
Sec. 5	Department of Administrative Services (deposit in ODAS Economic Development Distributions Fund)	Financing the rebuilding of a dock destroyed by fire in Warrenton. Dock will create jobs and further economic development.	\$3 million			Lottery Bonds
Sec. 6	Department of Administrative Services (deposit in DOT Economic Development Distributions Fund)	Improving Juntura Road in Harney and Malheur counties to create jobs and further economic development.	\$2 million			Lottery Bonds

HB 5203: Budget Bill for Capital Construction Projects

This bill increases other funds capital construction expenditure limitations. (See also funding authorizations in HB 5202 above.) HB 5203 approves a \$10.1 million increase for the Higher Education Coordinating Commission for distribution of general obligation bonds to public universities. The bill authorizes expenditures for the Oregon Military Museum, the Medford Armory and the Regional Training Institute. The expenditure limitation for State Capitol capital repairs and improvements, as well as Oregon State Fair repairs and deferred maintenance is also in the bill. Finally, the following water provisions are in this bill:

Sec. 1(9)(a)	Department of Fish and Wildlife	Cedar Creek Hatchery and Fish Passage improvements	\$2 million	Other Funds
Sec. 1(9)(b)	Department of Fish and Wildlife	Lower Deschutes River Ranch acquisition to incorporate into current Lower Deschutes Wildlife Area	\$227,269	Other Funds
Sec. 2(2)(c)	Department of Fish and Wildlife	Clackamas Hatchery Intake System	\$450,000	Federal Funds