



## Memorandum

**To:** LOC Board of Directors  
**From:** Mike Cully, Executive Director  
**Date:** April 23, 2020  
**Subject:** Executive Directors Report

---

Good Afternoon Directors,

It's been a busy several weeks, and while you haven't heard from me directly, please know that we have been working full-tilt and cohesively to lead during this crisis. This is an opportunity we seized to further position the LOC as THE go-to source in the state – and we are succeeding. Our levels of engagement are at record highs right now. Our calls are attended by an average of 480 participants every Friday, and our involvement at the state level has never been at this level.

I am in ongoing communication with the Governor's office daily. I sit on her Coronavirus Economic Recovery Advisory Council and part of the strategy sessions that are constantly happening. I am also on subcommittees for retail and transportation.

Legislatively we have had a LOUD voice on both the national and state level. We will not be overlooked or sidelined, thanks to Jim McCauley and his team. Mark, Tracy, Jenna, Scott and Ariel are critical during this time. The legal team has been amazing during this time as well – Patty, Colton and Jayme are reporting member inquires being way up. Questions about budgets and public meeting laws abound. On the Admin side – Jon Steiner has been working with the team on the budget; planning parallel paths for two different-looking annual conferences and making sure all meetings are still happening for LOC and our affiliates, OMA and OCCMA. Jaime – our accountant – has been a bright light keeping the business flowing, and Debi, Kelly and Janine have been rock stars. Lisa Trevino: superstar. She has taken our technology and leveraged it so we are getting all these external things done – and done flawlessly. Kevin, Julie and Denise have never been under this much pressure and they have performed amazingly. Just look at our websites, emails, communications – 1<sup>st</sup> rate. Award-winning stuff. Unparalleled effort. Though it all Pierre has been holding LGPI together for the impending move, crushing it with labor negotiations, because the world continues to turn.

I hope I got everyone here, because everyone needs to be acknowledged. I can't wait for the day I get to do it in person.

As a group we are performing unbelievably well. We have completely galvanized as a team and we are getting it done.

We will have our weekly statewide conference call this Friday at 10 a.m. as usual, but I hope you are all aware of the call with the Governor we are facilitating tomorrow afternoon. The information is below. I hope you're able to make it. We'll have a walkthrough of the reopening plan from 3 – 3:30, at which time the Governor will join us for questions. If you have something you'd like addressed, please shoot either myself or Kevin Toon ([ktoon@orcities.org](mailto:ktoon@orcities.org)) an email and we'll make sure it gets to her.



## Memorandum

**To:** LOC Board of Directors  
**From:** Jon Steiner, Member Services Director  
**Date:** April 22, 2020  
**Subject:** Member Services Report

---

The Member and Administrative Services Department (MASD) has been shifting gears and rapidly adapting to change in an effort to serve the membership and keep internal operations and processes running remotely for the whole of LOC.

Kelly Richardson and Lisa Trevino have ramped up our technology for Zoom, Microsoft Teams and the conference lines for the Friday LOC Covid-19 calls. Jamie Johnson-Davis, Jeanine Hussak and Debi Higgins have been handling finances and operations, with some occasional separate office visits for processing mail and checks. In IT we have prepared for the implementation of the new server upgrades, as LOC's configuration was outdated and inefficient. The new servers are racked and most of the configuration is complete. Licensing for the VMware is progressing, and we are 85% complete. The plan is to "flip the switch" by the end of May, which puts us ahead of schedule.

We have also had to cancel conferences and board meetings for the LOC and affiliates. We canceled the Hermiston spring conference, which meant undoing all of the work of reserving meeting space, catering, hotels and also processing refunds. It's been an MASD team effort. In fact, it's almost as much work as planning the conference. The same is true for the June board meeting, which was moved from John Day to Salem and then to virtual. Again, we spent a fair amount of staff time in unraveling and re planning--but that's the world we live in right now and I'm sure all of us have had to do the same in our city, work and personal worlds.

I have been working on new programs and ideas for cities, including a potential new pooled loan program that can provide low interest loans to cities of all sizes through tax anticipation and revenue anticipation notes. I have had virtual meetings with bond counsel, financial advisors and have also involved BAM (municipal insurance) and S&P. I am tentatively calling it LOCAL: League of Oregon Cities Anticipation Loans. Much depends on how the federal government and the state of Oregon respond to the needs of Oregon's cities for revenue and cash flow. We are developing a needs survey for the membership as well. The landscape on this is rapidly changing.

I have also been working with Mike Cully to make sure LOC is involved and represented at a myriad of meetings both virtually and in person. Whether it be CIS board meetings, calls with local, regional or national groups or seeking information from our sister state leagues I am

making sure that LOC is covering more ground and taking a leadership role as we position for the other side of COVID-19

The LOC budget has been a major focus as we try to plan for contingencies and unknowns from the COVID-19 shutdown. Questions such as: what are the core services LOC needs to provide if dues/sponsorships are reduced? How will our future training programs be delivered? What will the annual conference look like? How can we best position LOC to help our cities through the difficulties that lie ahead? To that end we are carefully budgeting our resources to keep LOC robust but curtail or postpone spending where we are able. Modernize and Prioritize are the two key drivers.

The question of just what the LOC's 95th annual Fall Conference will be is in flux. We are currently running parallel tracks by planning for it to be held as usual versus some hybrid model involving virtual sessions and fewer people. Both our internal and external conference planning committees have a slate of meetings scheduled. We sent a survey out to gauge members' interest in attending. That will help in our decision making. Additionally, we have spoken with the Georgia Municipal League who is holding a completely virtual conference, including a virtual exhibit hall, in June. We will be attending (virtually) to evaluate and learn. Through NLC we are monitoring every other league and the status of their conferences as we move through summer and into the fall.

Following are some highlights by area:

Finance/ Accounting:

Revenue/Expenses – Developed and initiated an electronic deposit and expense submitting process for staff and affiliate partners to continue business during the stay at home order. We will continue the electronic process upon our return to the office as it is more efficient. Also, in development is an electronic credit card system to upload receipts and apply coding.

Budgeting is on track and a draft will be finalized at the end of the month for distribution. The Budget Committee meeting is scheduled for May 12th, 2020.

Insurance – CIS General Liability and Workers comp enrollment have been requested and will be completed this month.

Procurement Program has completed 35 RFP processes for Round 3 and those have been forwarded to NPPGov to review and award. Total RFP's processed year-to-date: 94.

**Affiliate Group Programs:**

In addition to regular work of supporting OMA, OCCMA and all of their sub committees, the OMA and OCCMA websites have been updated and the OMA directory is updated as well. While OCCMA has canceled their summer conference, OMA is still in the planning process, with a hard date of June 1 to make a final decision.

Newsletters are being pulled together for the spring and summer and the Mayor's Leadership Award program is in process, as is the "If I Were Mayor" contest.

Lastly, we are still getting our bulk citations orders submitted and updating the LOC Municipal Directory, in addition to all of the day-to-day tasks required to keep LOC operating smoothly and effectively.



To: LOC Board of Directors  
Fr: LOC Communications Department  
Dt: April 23, 2020  
Re: Update for LOC Board

---

The following is an overview of the current work projects for the Communications Team:

### **Statewide COVID-19 Conference Calls**

On March 13, the LOC conducted its first conference call with city leaders from across the state to provide information and resources related to the coronavirus outbreak. The basic format includes 3-5 speakers, followed by Q&A. Participation has been consistently strong, with an average of 382 city officials dialing in each week, and a high of 430 on April 3. In addition, the audio of each call is posted on the LOC website and sent out in the *LOC Bulletin*, averaging 265 downloads per week.

Among the weekly presenters are staff from the governor's office, the OHA, OEM and the National League of Cities. Guest appearances have included Senators Ron Wyden and Jeff Merkley, White House Deputy Director of Intergovernmental Affairs William Crozer, representatives from the Small Business Administration and USDA Rural Development, and LOC Legislative Director Jim McCauley. Each call also allows time for Q&A with LOC members.

Overall, the feedback has been unanimously positive, and we are exploring future utilization of this tool to enhance member communications statewide. The following is an overview of conference call participation levels:

| <b>Conf. Call Date</b> | <b>Callers</b> | <b>Downloads</b> |
|------------------------|----------------|------------------|
| 3/13/2020              | 341            | 277              |
| 3/20/2020              | 405            | 340              |
| 3/27/2020              | 379            | 286              |
| 4/3/2020               | 430            | 167              |
| 4/16/2020              | 387            | 142              |
| 4/22/2020              | 353            | 140              |

### **COVID-19 Resources Webpages**

In response to the COVID-19 pandemic and interest from members to have timely, accurate and important information, resources and guidance during this time, the [Coronavirus Resources for Cities](#) webpage was created the week of March 9 on the LOC website. This page includes: the latest news from the governor, OHA, NLC, LOC advocacy team and more; links to OHA and the CDC; and information about the statewide conference calls. In addition, we've also created the [Coronavirus City Resource Center](#), a hub of resources and information sorted into 16 different topics (i.e. business and economic development; employment; financial resources; public meetings; sample policies and documents). The Resource Center page also contains links to information from Governor Brown, the federal government, NLC, CIS, state agencies and other national organizations. Both webpages are updated daily as information is released.

Website traffic has increased substantially since these pages have been created, especially during the first few weeks after launch. See below for a website analytics report.

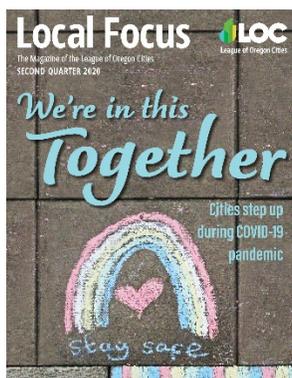
### LOC Website Analytics - COVID-19 Content As of 4/22/2020

| Week      | COVID page | COVID Resource Center | BEH Legal Guidance | Homepage |
|-----------|------------|-----------------------|--------------------|----------|
| 3/8-3/15  | 1,069      | N/A                   | N/A                | 1,115    |
| 3/16-3/23 | 1,384      | 150                   | 705                | 1,270    |
| 3/24-3/30 | 812        | 632                   | 381                | 927      |
| 3/31-4/6  | 789        | 414                   | 210                | 879      |
| 4/7-4/13  | 576        | 227                   | 188                | 782      |
| 4/14-4/20 | 420        | 140                   | 48                 | 772      |

### Pageviews Since March 9 (as of 4/22/20)

| Page  | Pageviews                              | Pageviews                              |
|---|--|--|
|   | 39,635<br>% of Total: 100.00% (39,635) | 39,635<br>% of Total: 100.00% (39,635) |
| 1. /  | 5,708                                  | 14.40%                                 |
| 2. /resources/reference/coronavirus-resources   | 5,023                                  | 12.67%                                 |
| 3. /resources/programs-and-services/government-jobs   | 4,983                                  | 12.57%                                 |
| 4. /resources/reference/map-oregon-cities   | 1,662                                  | 4.19%                                  |
| 5. /resources/reference/coronavirus-resources/covid-19-city-leaders                                     | 1,562                                  | 3.94%                                  |
| 6. /resources/reference/coronavirus-resources/covid-19-guidance-beh                                     | 1,532                                  | 3.87%                                  |
| 7. /about/news  | 1,200                                  | 3.03%                                  |
| 8. /resources/reference/city-directory  | 1,075                                  | 2.71%                                  |
| 9. /about/who-we-are/staff-directory  | 585                                    | 1.48%                                  |
| 10. /resources/communications/bulletin/loc-joins-other-local-governments-unified-request-governor-brown | 549                                    | 1.39%                                  |
| 11. /resources/communications/bulletin/governors-order-provides-relief-budget-public-meeting-laws       | 433                                    | 1.09%                                  |
| 12. /resources/reference/topics-z   | 393                                    | 0.99%                                  |
| 13. /resources/reference/coronavirus-resources/faq-executive-order-no-20-16                             | 387                                    | 0.98%                                  |

### Local Focus Magazine



For our 2<sup>nd</sup> Quarter edition, we will be publishing digital-only for the first time. The decision not to produce a printed magazine was driven by the current pandemic and the governor’s “Stay Home, Save Lives” order. The cover story in the Q2 edition is “We’re All in This Together: Stories of Hope and Help,” a look at how our cities across the state are stepping up to make a difference during this current health crisis. The new magazine is expected to be available May 1 and will be emailed to all current subscribers, posted on the LOC website and shared on social media.

## City Focus Podcast

Due to the Coronavirus crisis and the closure of our offices, we have put the creation and publication of regular podcast episodes on hiatus until further notice. However, by utilizing technology, we have published a [special episode of City Focus](#) featuring LOC Executive Director Mike Cully discussing the unique and important role the LOC has played on a state and national level. Mike shares what LOC staff have been doing behind the scenes to make sure that our member cities have the information they need to make informed decisions as we move through this challenging time.

## Business Partners

The formal enrollment period for 2020 closed on February 7. The complete list of the LOC's 60 Business Partners is provided below. Projected revenue for 2020 is \$44,000 – the highest revenue mark achieved by this program. Since a pricing increase in 2015, revenue has steadily increased for this program. Revenue history since 2015 is provided below.

### PLATINUM



### GOLD

Aljets Consulting  
 American Leak Detection  
 American Legal Publishing  
 Anderson Perry & Associates, Inc.  
 AssetWorks, LLC  
 Avista Utilities  
 Beery, Elsner and Hammond, LLP  
 Bullard Law  
 CenturyLink  
 Chinook Institute for Civic Leadership  
 Comcast  
 Davis Wright Tremaine LLP  
 Dig Deep  
 Energy Trust of Oregon  
 Executech  
 FFA Architecture + Interiors, Inc

Fidelity Collection Service  
 Green Hat Energy  
 Hawkins Delafield & Wood LLP  
 Jacobs  
 Jensen Strategies, LLC  
 Jordan Ramis PC  
 JUB Engineers, Inc.  
 Kaiser Permanente  
 Link Source IT  
 Merina+Co  
 Mersereau Shannon LLP  
 MRC/Gametime Park & Playground Equipment  
 Northwest Code Professionals  
 Northwest Playground Equipment  
 Oregon Association of Water Utilities

Oregon Dept. of Environmental Quality - Clean Water State Revolving Fund  
 Oregon Transportation and Growth Management Program  
 PACE Engineers  
 Pacific Power  
 Peck Rubanoff & Hatfield PC  
 PlanB Consultancy, Inc.  
 Radarsign  
 Regence  
 Republic Services  
 Rural Development Initiative  
 Union Pacific  
 US Cellular

**Business Partner Revenue**  
**2015 - 2020**

| <b>Year</b>                         | <b>Revenue</b>  |
|-------------------------------------|-----------------|
| <b>2020</b>                         | \$44,000        |
| <b>2019</b>                         | \$40,150        |
| <b>2018</b>                         | \$38,750        |
| <b>2017</b>                         | \$36,950        |
| <b>2016</b>                         | \$34,725        |
| <b>2015</b>                         | \$35,000        |
| <b>2015-2020<br/>5-year average</b> | <b>\$38,263</b> |



## Memorandum

**To:** LOC Board of Directors  
**From:** Jim McCauley, Legislative Director  
**Date:** April 22, 2020  
**Subject:** Legislative Report

---

### Intergovernmental Relations Report – Jim McCauley

Like much of the LOC staff the six IGR team members have been consumed by Covid-19 as an overlay to virtually every policy issue we collectively work on. The team's focus has been a combination of a post session summary, which is included in this report, work with LOC's 7 policy committees that are in the middle of evaluating our focus for 2021. We have also been working with our local government partners in preparation for a special session, emergency board meeting, and work related to finding relief to local governments.

#### Post 2020 Session Legislative Work

The IGR team has been in constant contact with the Governor's office, legislative leadership, the Joint Special Committee on Coronavirus Response (JSCCR), and work with many of our local government partners. The JSCCR met four times during the month of March to identify the key issues and needs to address during the special session given the pandemic crisis. Their work [focused on assistance](#) for workers and small business, but little interest in [local government needs](#) despite repeated contact from a mix of local government partners.

LOC worked with our local government partners that included the Association of Oregon Counties, Special Districts Association of Oregon, Oregon School Boards Association, and Metro. This alliance was a critical component of our local government advocacy for needs with an upcoming session. Talk of holding a special session was a weekly conversation once Governor Brown declared a state of emergency on March 8, 2020. It picked up steam as the Governor issued [Executive Order 20-12](#) "Stay Home, Save Lives." No special session has since been scheduled and it appears a physical date may be scheduled until the end of May.

LOC's IGR team worked with leadership, primarily the Speaker's office and Governor's staff to craft legislative concepts that could provide relief for all local governments. This administrative and statutory relief was focused on public safety, public records, public meetings, state budget law and the 120-day shot clock for land use decisions. It became clear after communication with the JSCCR and lack of urgency in scheduling a special session that local government partners would need explore the Governor's authority to issue an Executive Order to provide relief. [Executive Order 20-16](#) was issued on April 15 and captured roughly 80-percent of what LOC and others identified as important to local governments providing some relief from public meetings, and state budget law.

Just this week LOC, AOC, and OMA jointly released a letter to Governor Brown requesting local government financial assistance. This request was timely because additional information was released regarding direct funding support for municipalities under the CARES Act.

Multnomah County is expected to receive \$28 million; Washington County will be allocated \$105 million and the City of Portland will get \$114 million from the \$1.6 billion allocated to the state of Oregon. The remaining 240 cities and 34 counties don't receive a direct allocation under the CARES Act, but with the passage of Covid3.5 stimulus this week congressional leadership and the White House issued statements advocating for a share of state funding to be distributed to local government who have lost revenue due to the Covid-19 pandemic.

Our work on behalf of LOC members has many layers and includes state and federal efforts. The IGR team stepped up our work with NLC legislative staff going back to the development of the initial CARES Act that was signed by President Trump on March 27. Our effort along with NLC focused on federal stimulus funding for local governments. It's been beyond frustrating to come up short on this effort with multiple stimulus programs moving forward, but it has not slowed our effort to provide member communications and increase our footprint with Oregon's federal delegation.

The following represent the range of other issues that are part of the weekly IGR's work.

#### Water and Electric Utilities

LOC has been working closely with water utility and municipal electric utility associations to convey concerns, including revenue impacts, for water and electric utility services due to COVID-19. Some water and wastewater systems are estimating revenue decreases of up to 30% due to commercial/industrial ratepayers that have suspended or ceased business operations; combined with residential bills that are not being paid due to economic hardships associated with COVID-19. Most cities have ceased disconnects of water services for failure to pay water bills, and many cities proactively turned previously-disconnected water back on last month to ensure access to clean water during this time.

LOC has been in communication with key legislators, the Joint Special Committee on Coronavirus Response, Business Oregon, USDA Rural Development and the governor's office to highlight challenges for utility systems including staffing, implementation of continuity of operations plans, wastewater-specific challenges associated with increased flushing of non-flushable products (including wipes), regulatory compliance timelines and revenue impacts. LOC is particularly concerned over impacts that decreased revenue may have on the ability for water systems to pay on existing infrastructure debt as it can have long-term impacts on bond ratings. We will continue to coordinate on efforts with other organizations to communicate the need for debt repayment flexibility and revenue relief.

#### Housing Assistance for Coastal Communities Pilot and IGA

LOC continues to work with AOC, DLCD and OHCS on an IGA and workplan to pilot housing technical assistance to communities on the Oregon Coast. Under the draft IGA, OHCS would disburse \$135,000 to LOC to solicit contracts for technical assistance to 1) facilitate workforce housing developments on the central and north coast, 2) support a housing coordinator position for the south coast, and 3) fund a code update. LOC staff are on track to present the IGA to the LOC Board for approval at the June 12<sup>th</sup> meeting. If approved, the pilot would launch in June.

### Community Development Block Grant (CDBG) Program

Oregon is receiving \$20.9M in additional CDBG funds through the CARES Act. About \$12.9M of this goes to entitlement jurisdictions and \$8M goes to Business Oregon, which awards funds competitively to non-entitlement jurisdictions. LOC recently submitted public comment to Business Oregon on how the Department prioritize CDBG CARES funding, based on a recent LOC survey sent to city managers and discussion with Community Development Policy Committee members.

### PSU Housing Survey

LOC is contracting with PSU for our research/survey work this year. The first survey will be a housing survey that will go out to cities in June.



April 2, 2020

Governor Kate Brown,

Oregon's local government organizations represented by AOC, LOC, OSBA, SDAO, and Metro have been communicating our unified concerns with legislative leadership in both chambers, as well as the Special Joint Committee on Coronavirus Response (SJCCR).

Our message to you and to others is simple: local governments are extremely concerned that without statutory relief related to public meetings, budget procedures and legal deadlines, we risk a future where local governments will not be able to deliver critical services in their communities. **It is highly likely that, without an executive order or legislative action, many local governments will have to cease all operations on July 1 of this year.**

There are public notice requirements for the local budget process that start in a matter of weeks—if a local jurisdiction cannot meet those April requirements, the *entire* budget process may be deemed in violation of state law and not a dime of local money can be spent after June 30. This is clearly not the outcome our collective local governments want as we respond to the enormous health and economic crisis that faces our communities. If local governments cannot legally operate after June 30, all of their obligations become the State's problems. There are cities, special districts and schools without internet, let alone high-speed internet, and many have closed their offices to foot traffic and are currently operating remotely.

Some state statutes have strict processes in place with set timelines and public hearing/testimony requirements, which are simply not possible to meet under our current COVID-19 "Stay home, Stay Healthy" standards. Examples beyond budget law include statutes governing public hearing requirements, quorum and land use decisions.

To address these concerns, we urge that swift action be taken in two areas—*action that will not cost the State a dime:*

1. Extend your use of executive power to provide local governments flexibility on these requirements during the declared emergency; and
2. Call a special session by May 1 to confirm in statute the issues covered in the Executive Order, which are embodied in Section 16 of LC 26.

This is a unified request from the organizations representing cities, counties, special districts, school districts and Metro.

We realize that you and your colleagues are under enormous pressure right now, but we fear that if this matter falls through the cracks, very bad things may soon happen as a result.

Contact:

Rob Bovett, Association of Oregon Counties  
Mark Landauer, Special Districts Association of Oregon  
Jim McCauley, League of Oregon Cities  
Lori Sattenspiel, Oregon School Boards Association  
Randy Tucker, Metro



April 21, 2020

Governor Brown,

The Association of Oregon Counties (AOC), League of Oregon Cities (LOC), and Oregon Mayors Association (OMA) are combining our efforts with a unified message for state assistance in funding local government given the current loss of revenues due to COVID-19 and the subsequent “Stay Home, Stay Healthy” order. Your state-wide local government partners remain supportive of your effort and need to curtail non-essential services in order to flatten the pandemic curve.

We collectively appreciate your support and Executive Order that provides local governments relief from regulations covering public meetings and state budget law. The combination of this relief allows local governments across Oregon to focus on public health and safety, and yet still complete a budget process.

The focus of our current advocacy is federal relief for local governments across Oregon. The passage of the CARES Act at the end of March created a \$2 trillion package of financial relief with 45 different programs. An important component of that relief was direct relief to states, as well as local governments in excess of 500,000 population. For Oregon that means the City of Portland, Multnomah County, and Washington County will share a portion of the \$1.6 billion targeted for our state. Although we don’t know the distribution formula, we estimate the three local governments will receive in excess of \$200 million for a population of approximately 1.4 million citizens. This leaves roughly 2.8 million citizens spread across more than 240 cities and 34 counties without any direct allocation of federal funding for local government.

Your local government partners have maintained support for federal assistance to local governments during the development of the CARES Act as well as the recent COVID-3.5 stimulus discussion. Unfortunately, each door has been closed and the conversation has shifted to the next stimulus package development. We learned earlier this morning that while COVID-3.5 will not include direct aid to local governments under 500,000, Senator Schumer, Speaker Pelosi, and the White House are [recommending](#) that states share a portion of their CARES Act funding with local governments to help offset lost revenue.

This is a key message that should provide you with direction to provide direct assistance to the remaining 2.8 million citizens who live and work in 240 cities and 34 counties and face dramatic budget reductions due to lost revenues associated with the COVID-19 shutdown. These local governments represent the smallest of the small communities, with very little ability to find matching dollars for FEMA grants, limited budget surpluses, and at best have little or no ability to increase fees, taxes to compensate for the lost revenue.

Cities and counties are your government partners who are on the front lines of a COVID-19 response and the daily delivery of core services. We collectively face billions in revenue losses as the economic impacts' spiral with lost revenue from the business community who are no longer able to operate. AOC, LOC and OMA are asking for consideration to share a portion of the CARES Act federal stimulus so we can have a fighting chance to balance our budgets. We also ask for your support of our continued efforts to identify additional direct federal funding for local governments in this very challenging time.



Jim Doherty  
President  
Association of Oregon Counties



Jake Boone  
President  
League of Oregon Cities



Mayor Steve Callaway, President  
Oregon Mayors Association



2020 Legislative  
Session

# Summary of Bills

APRIL 2020

# Table of Contents

|  |           |
|--|-----------|
| <b>2020 LEGISLATIVE SESSION OVERVIEW .....</b> | <b>1</b>  |
| <b>COMMUNITY DEVELOPMENT.....</b>              | <b>2</b>  |
| <b>ENERGY &amp; ENVIRONMENT .....</b>          | <b>5</b>  |
| <b>FINANCE &amp; TAXATION .....</b>            | <b>8</b>  |
| Property Taxes.....                            | 9         |
| State Shared Revenues.....                     | 10        |
| Lodging Taxes .....                            | 10        |
| Miscellaneous State Taxes .....                | 11        |
| <b>GENERAL GOVERNMENT .....</b>                | <b>11</b> |
| Mental Health .....                            | 11        |
| Public Contracting .....                       | 11        |
| Public Records .....                           | 13        |
| <b>HUMAN RESOURCES .....</b>                   | <b>13</b> |
| <b>TELECOMMUNICATIONS .....</b>                | <b>13</b> |
| <b>TRANSPORTATION .....</b>                    | <b>14</b> |
| <b>WATER &amp; WASTEWATER.....</b>             | <b>14</b> |
| <b>WILDFIRES.....</b>                          | <b>17</b> |

# 2020 LEGISLATIVE SESSION

## OVERVIEW

Oregon's 2020 short legislative session came to an abrupt close February 27, 2020 with both Chambers gaveling down. Democratic leadership was unwilling to return to a legislative schedule on the final day of session under conditions offered by Republican leadership. Earlier in the session, Republicans from both chambers had walked out due to their objections over SB 1530, cap and trade legislation advanced by Governor Brown and Democratic leadership.

With only a couple of weeks of a functional session, the Legislature only had three bills for the governor's signature. These included: [HB 4061](#) (cultural registration plates), [HB 4106](#) (Happy Valley annexation from county service district), and [HB 4140](#) (Oregon Department of Education program for students in concussion protocol).

The LOC entered the session with an extension of legislative priorities from the 2019 session. This included support for additional revenue to fund the expansion of broadband in underserved areas of Oregon with [HB 4079](#). The LOC also found itself active in a package of wildland fire response legislation that included related land use issues. Other high priority issues the LOC was involved were related to homeless shelter citing, economic development, liquor revenue and public records.

The early closure of the session due to a Republican walkout has left lingering relationship issues among the Republican and Democratic caucuses. When the session concluded, it was clear there would need to be a cooling off period, but with the global outbreak of COVID-19, Oregon's response has forced the entire legislative body to work with Governor Brown and focus energy on responding to the pandemic.

## How to Read the Bill Summaries

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

### [HB 4106](#): Happy Valley Annexation from County Service District

*Effective Date: February 27, 2020*

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

# COMMUNITY DEVELOPMENT

## Housing

---

### FAILED BILLS

#### **[HB 4001: Emergency Shelter](#)**

HB 4001 recognized Oregon's highest-in-the-nation rate of unsheltered homelessness and would have dedicated \$45 million to create additional shelters and navigation centers statewide. The bill also aimed to waive, for a one-year period, all local siting and zoning regulations and the land use appeals process, for approving the siting of emergency shelters for a one-year period.

The LOC worked closely with local government partners to gain improvements to HB 4001 during the session, particularly to ensure that new shelters would not be sited on environmentally sensitive land or on sites that posed a risk to public health or safety. The bill was also amended to require shelters accessing the siting provision be operated by experienced providers.

#### **[HB 4002: Statewide Rent Assistance Program Study](#)**

HB 4002 would have directed Oregon Housing and Community Services (OHCS) to contract with the Portland State University Homelessness Research and Action Collaborative to study the potential costs of standing up a state long-term rent assistance program. The bill required OHCS to report to the interim committee of the Legislature by December 1, 2020.

#### **[HB 4003: Addressing Racial Disparities in Homeownership](#)**

In 2018, the Legislature created a Task Force to Address Racial Disparities in Homeownership. HB 4003 was introduced in 2020 to implement the recommendations of the task force and included:

- 1) Grants and technical assistance to organizations to increase access to homeownership for communities of color, including education and training;
- 2) An update to the definition of people of color;
- 3) Additional resources to the Oregon Individual Development Account (IDA) Initiative, specifically to support access by people saving for homeownership;
- 4) Training for real estate professionals on implicit bias; and
- 5) A continuation of the task force for an additional year.

#### **[HB 4012: Stevens Road Tract Transferrable Development Opportunity](#)**

HB 4012 intended to shift a development of small-scale recreational communities in the Metolious River basin, often referred to as "the Stevens Road tract," located on the southeast corner of the city of Bend's urban growth boundary (UGB). The bill would have included the Stevens Road tract within the city's UGB under certain circumstances. HB 4012 also created an expedited process for the

Oregon Department of Land Conservation and Development to review and approve the related comprehensive plan amendments and land development regulations using specified statutory criteria rather than statewide planning goals and department rules.

### **HB 4014: Dog Training Facilities / Court Judgments Relating to Property Line Disputes / Radioactive Waste Disposal / Rural ADUs**

As introduced, HB 4014 included two unrelated concepts relating to land use. The first would have allowed dog training facilities on exclusive farm use zones and exempted such facilities from state structural specialty codes as provided in ORS 455.315. Second, the bill would have provided that a lawfully created unit of land remains lawful following a circuit court judgment relocating any related property lines. HB 4014 was later amended to add two additional unrelated concepts; to clarify the definition of radioactive waste and provide additional enforcement authority to the Oregon Department of Energy and the Energy Facility Siting Council. Finally, the bill would have authorized counties to allow the development of accessory dwelling units (ADUs) on rural residential lands under specified conditions.

### **HB 4015: Technical Fixes to 2019 Housing Legislation (HB 2003)**

HB 4015 would have expanded the scope of \$1 million appropriated in HB 2003 (2019), allowing the Oregon Department of Land Conservation and Development (DLCD) to provide “technical assistance to local governments to increase the affordability and availability of housing within their jurisdictions.” HB 4015 would have also clarified the requirement that cities within Metro complete Housing Need Analyses (HNAs) on a schedule directed by Oregon’s Land Conservation and Development Commission and included an extension of the adoption of that schedule. Additionally, the bill would have provided some clarification between the roles of Metro and cities located within Metro related to Housing Needs Analyses, allocating needed buildable lands, and zoning capacity for unmet housing.

As amended later in the session, HB 4015 would have provided \$960,000 to Oregon Housing and Community Services (OCHS) to award a grant to a nonprofit organization to implement an accessory dwelling unit (ADU) community pilot program.

### **HB 4039: Funding for Runaway and Homeless Youth**

HB 4039 would have directed funding to the Oregon Department of Human Services to address the needs of runaway and homeless youth in three program areas:

- 1) \$300,000 to conduct a needs assessment, and begin planning for a continuum of services;
- 2) \$1.2 million to expand the host home network, which provides a home for unaccompanied homeless youth while they finish high school; and
- 3) \$1 million to expand existing shelter, mental health, transitional housing, and other services for runaway and homeless youth.

### **HB 4050: Yaquina Hall Property Transfer to City of Salem**

HB 4050 would have directed the Oregon Department of Administrative Services to transfer a property known as Yaquina Hall to the city of Salem.

## **[HB 4055](#): Higher Education Food and Housing Insecurity Study**

HB 4055 would have required the state's Higher Education Coordinating Commission to conduct a study and develop recommendations on how Oregon's community colleges and public universities can best combat food and housing insecurity among their students.

## **[HB 4084](#): Rural System Development Charges**

HB 4084 would have established the Rural System Development Charges (SDCs) Program within Oregon Housing and Community Services (OHCS) and allocated \$750,000 to subsidize the cost of SDCs for new affordable, multifamily housing in rural communities. The bill included a sunset on June 30, 2027.

## **[HB 4090](#): UGB Expansion for Affordable Housing Pendleton Pilot**

HB 4090 would have modified 2016 legislation (HB 4079) so that the city of Pendleton qualified as a small city under a pilot program allowing for a 50-acre expansion of urban growth boundaries (UGBs) under certain circumstances. The bill required the project to be submitted to the Oregon Land Conservation and Development Commission on or before June 30, 2020 and included a sunset for the pilot program on January 2, 2023.

## **[HB 4095](#): 2016 UGB Expansion for Affordable Housing Pilot Program Reporting**

As introduced, HB 4095 would have expanded 2016 legislation (HB 4079), from allowing selected cities to expand their UGBs to include 50 acres under certain circumstances, to apply statewide. Instead, the bill was amended to direct the Oregon Department of Land Conservation and Development (DLCD) to continue legislative reporting during each regular session until 2024 on the implementation of the 2016 legislation (HB 4079). The amended bill also directed the DLCD to report on the experience of the selected cities and suggest how the pilot program could be implemented statewide. The bill repealed the pilot program on January 2, 2028.

## **[SB 1532](#): Homeownership Repair and Rehabilitation Pilot Program**

SB 1532 would have created a new program and dedicated \$4 million within Oregon Housing and Community Services to provide grants to eligible entities for providing financial assistance to persons in low-income households for repair and rehabilitation of residences.

## **[SB 1533](#): Eviction Relief / Rent Guarantee Program Updates**

As introduced, HB 1533 would have directed Oregon Housing and Community Services (OHCS) to provide grants and technical assistance to organizations assisting tenants in eviction proceedings. Instead, the bill was amended to update the Rent Guarantee Program at OHCS, which was enacted in 2017 (HB 2724) to increase rental opportunities for tenants experiencing barriers to renting, such as poor credit history or a previous eviction. Tenants receive rental education classes through the program and landlords may access program funds to recover losses associated with renting to participating tenants. SB 1533 would have changed the limit for the amount landlords may recover from the program fund from a lifetime limit of \$5,000 to a per-tenant limit of \$5,000.

## **[SB 1555: Parsonages](#)**

SB 1555 would have required local governments to allow the development of residential dwellings for the exclusive use of religious officials and their households on a lot or parcel that currently allows for the use as a place of worship if the dwelling was no more than 2,500 square feet, located no more than 300 feet from the place of worship, and was not sited on high-value farmland to the extent possible.

# **ENERGY & ENVIRONMENT**

---

## **FAILED BILLS**

### **[HB 4066: Electric Rates for Transportation Electrification](#)**

HB 4066 would have authorized the Oregon Public Utility Commission (PUC) to allow electric companies to recover costs from retail electricity consumers for prudent infrastructure measures to support transportation electrification. The bill would have also required electric companies to use revenues from the sale of clean fuels program credits to accelerate transportation electrification. HB 4066 also had several requirements that would have impacted consumer-owned electric utilities, including a requirement for each consumer-owned utility to register as a credit aggregator and credit generator under the clean fuels program, and to use revenues received from the sale of clean fuels program credits to support transportation electrification as approved by the governing body of the utility. The bill would have also required consumer-owned utilities and electric companies to adopt risk-based wildfire mitigation plans. Finally, HB 4066 included specific requirements for wildfire plans for electric companies, including requirements for PUC approval, and less prescriptive requirements for consumer-owned utilities. The bill passed the House and was subsequently passed out of the Senate Environment & Natural Resources. However, it died on the Senate floor without a vote.

### **[HB 4067: Differential Energy Burdens for Low-Income Customers](#)**

HB 4067 would have required the Public Utility Commission, when considering rates for electric companies (i.e. investor-owned electric utilities), to consider differential energy burdens on low-income customers and other economic, social equity or environmental justice factors that affect affordability for certain classes of utility customers. The bill would also allow the PUC to provide financial assistance for organizations that represent interests of certain low-income residential customers in regulatory proceedings before the PUC. HB 4067 passed the House and out of the Senate Environment & Natural Resources. The bill failed on the Senate floor without a vote.

### **[HB 4068: State Building Code for Electric Vehicle Readiness](#)**

HB 4068 would have required the director of the Oregon Department of Consumer and Business Services to amend the state building code to require that certain newly constructed buildings include provisions for electrical service capacity (i.e. wired for electric-vehicle charging) for at least 20% of available parking spaces. The bill would have applied to newly constructed commercial

buildings under private ownership, multifamily residential buildings with five or more residential units, and mixed-use buildings consisting of five or more residential units. HB 4068 would have allowed a municipality to adopt local percentage of parking space requirements higher than state building code requirements. The bill passed the House and out of a Senate policy committee, but failed to receive a vote on the Senate floor.

### **[HB 4093](#): Exempting Wood Residue from Definition of Solid Waste**

Oregon law currently exempts uncontaminated wood residue (typically created during the processing of lumber products) from solid waste disposal regulation. However, the exemption only applies if the wood residue is combusted as fuel. HB 4093 would have broadened the exemption for wood residue to include any wood residue that has a value to either the generator of the wood residue or to a person who has acquired the wood residue from the generator by purchase or exchange for fair market value. A public hearing was held on HB 4093, but the bill failed to pass out of committee.

### **[HB 4159](#): Carbon Cap & Trade Program**

HB 4159 would have updated greenhouse gas reduction goals for the state and would have established a cap on certain emissions that would be reduced over time. Covered entities with certain regulated emissions would be required to obtain allowances for those emissions. These would either be distributed for free, or available for purchase. Revenues generated from the sale of allowances would be invested in specified programs. The bill died after being referred to the House Committee on Rules.

### **[HB 4167](#): Carbon Cap & Trade Program**

HB 4167 would have updated greenhouse gas reduction goals for the state and would have also established a cap on certain emissions that would be reduced over time. Covered entities with certain regulated emissions would be required to obtain allowances for those emissions. These would either be distributed for free, or available for purchase. Revenues generated from the sale of allowances would be invested in specified programs. The bill passed out of the House Committee on Rules but died after being sent to the Joint Committee on Ways & Means.

### **[HB 4169 \(LC 312\)](#): Cleaner Air Oregon Ballot Referral**

HB 4169 would have referred a measure to voters to make changes to the state's Cleaner Air Oregon statutes, which regulate toxic air emissions from new and existing sources. The bill set more stringent benchmark limits than those established through the program's originating legislation in 2018 (SB 1541). That bill set both noncancer risk benchmarks through a health hazard index and cancer risk benchmarks. These benchmarks dictate when a permitted facility must either reduce emissions or demonstrate that the best available controls are in place. HB 4169 also would have repealed [ORS 453.370](#), which sets statutory limitations on local Community Right to Know programs. The bill was introduced as a committee bill in the House Committee on Rules, but failed to have a first reading on the House floor.

## **[HB 4170 \(LC 313\): Carbon-Free Energy Ballot Referral](#)**

HB 4170 would have referred a statewide ballot measure to voters that would require that 100% of electricity sold to retail consumers in Oregon be generated through eligible renewable and carbon-free energy resources, including hydropower. The bill would also have implemented labor standards, including payment of prevailing wage rates, for the construction of renewable and carbon-free projects used by electric utilities.

## **[HB 4171 \(LC 314\): DEQ Greenhouse Gas Reduction Program](#)**

HB 4171 would have referred a measure to voters to set greenhouse gas reduction limits in statute and allow the Oregon Department of Environmental Quality to adopt a program to meet those limits. Current statute contains goals for reducing greenhouse gas emissions to 10% of 1990 levels by 2020, and to 75% of 1990 levels by 2050. The bill would set limits of 50% below 1990 levels by 2035 and 90% below 1990 levels by 2050. HB 4171 was introduced as a committee bill in the House Committee on Rules but failed to have a first reading on the House floor.

## **[HB 4172 \(LC 315\): Joint Legislative Committee for Proposed Ballot Referrals](#)**

HB 4172 would have established a joint legislative committee for drafting a ballot title and explanatory statement had HB 4169, HB 4170, HB 4171, HB 4173 or HJR 202 been successfully referred to the voters. The committee would consist of two senators from the majority party; two representatives from the majority party; one senator from the minority party; and one representative from the minority party. Other provisions in the bill included how a party could seek judicial review of the ballot title or explanatory statement. HB 4172 was introduced as a committee bill in the House Committee on Rules but failed to have a first reading on the House floor.

## **[HB 4173 \(LC 317\): Environmental Quality Commission Carbon Program](#)**

HB 4173 would have established greenhouse gas reduction limits and authorized the state's Environmental Quality Commission to adopt programs and rules to meet those limits. The bill included an emergency clause and would have been effective upon passage. HB 4173 was introduced as a committee bill in the House Committee on Rules but failed to have a first reading on the House floor.

## **[HJR 204 \(LC 316\): Constitutional Referral – Use of Fuel Tax Revenue](#)**

HJR 204 would have referred a measure to voters that would amend the Oregon Constitution as it pertains to the use of fuel tax revenue and other revenues generated through taxes or excises levied for the ownership, operation or use of motor vehicles. Currently, the Oregon Constitution limits the use of such revenues exclusively for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in this state. HJR 204 would have allowed 50% of the revenues to be used by the legislature for any purpose provided by law. The bill was introduced as a committee bill in the House Committee on Rules but failed to have a first reading on the House floor.

## **[SB 1530: Carbon Cap & Trade Program](#)**

SB 1530 was the main legislative vehicle to implement a statewide carbon cap and trade program. The bill passed out of the Joint Ways and Means Committee and was headed to the Senate floor for a vote, triggering Republicans to deny quorum for the remainder of the 2020 short session. The bill would have updated greenhouse gas reduction goals for the state and would have established a cap on certain emissions that would be reduced over time. Covered entities with certain regulated emissions would have been required to obtain allowances for those emissions. Allowances would either be distributed for free or available for purchase. Revenues generated from the sale of allowances would be invested in programs specified in the bill. The bill passed out of both the Senate Environment & Natural Resources Committee and the Joint Ways & Means Committee, but died on the Senate floor without a vote.

## **[SB 1574: Carbon Cap & Trade Program](#)**

SB 1574 would have updated greenhouse gas reduction goals for the state and would have also established a cap on certain emissions that would be reduced over time. Covered entities with certain regulated emissions would be required to obtain allowances for those emissions. These would either be distributed for free, or available for purchase. Revenues generated from the sale of allowances would be invested in specified programs. The bill died in committee after being referred to the Senate Committee on Rules.

## **[SB 1578: Carbon Cap & Trade – Low-Income Transportation Fuel Credit](#)**

SB 1578 would have established a program to provide a credit back to lower-income Oregonians for increased costs associated with the transportation fuel provisions of SB 1530. The bill died in the Joint Committee on Ways & Means after passing out of the Senate Finance & Revenue Committee.

# FINANCE & TAXATION

## Property Taxes

---

### PASSED BILLS

#### **[HB 4106: City of Happy Valley / North Clackamas Parks and Recreation District Agreement](#)**

*Effective Date: February 27, 2020*

HB 4106, one of only three bills to pass the 2020 legislative session, reflected an agreement between the North Clackamas Parks and Recreation District (NCPRD) and the city of Happy Valley. The bill withdraws the city from the NCPRD, thereby allowing the city to become its own parks and recreation provider. The legislation does not create a new pathway for cities to withdraw from special districts or county service districts in Oregon.

---

## FAILED BILLS

### **SB 1541: Property Tax Freeze for Certain Seniors**

SB 1541 would have frozen the assessed value for property taxes of certain homeowners, 68 and older or disabled, who are not eligible for the Oregon property tax deferral program due to having a reverse mortgage. HB 2587 from 2019 had already allowed most reverse mortgages into the deferral program, greatly limiting the applicability of the proposal. The LOC opposed SB 1541 as it would have reduced local revenues without addressing the larger need for property tax reform and proposed allowing these homeowners into the deferral program as an alternative. The Senate Finance and Revenue committee passed the bill out unanimously and it died in the Ways and Means Committee.

## State Shared Revenues

---

## FAILED BILLS

### **HB 4149: Alcohol and Drug Policy Commission Funding**

HB 4149 would have directed the state's Alcohol and Drug Policy Commission (ADPC) to develop an early intervention strategy to address substance use and inventory current resources available to address substance use disorders. As amended, the bill appropriated \$200,000 to the state's General Fund for the effort. Earlier versions of HB 4149 would have taken up to \$10 million monthly from funds that would have otherwise gone into the shared revenue distribution schedule (cities receive 34%). The LOC opposed the earlier versions of the bill. Advocates indicated it was not their intention to reduce local revenues but were told by the Oregon Liquor Control Commission (OLCC) that this was "new monies not accounted for." HB 4149 made it through the Behavioral Health and Ways and Means committees but did not receive a vote on the floor.

### **SB 1565: Distillery Tasting Room Agent Compensation**

SB 1565 would have decreased liquor revenue distributions by 28% on the first \$250,000 in retail sales sold by a distillery out of a tasting room, by increasing agent compensation from 17% of retail to 45%. The reduced revenue from the change was estimated at \$4 million per biennium, with 34% of the cost being borne by cities. Had this been the only threat to liquor revenues, the LOC may have not taken a position on the bill.

Liquor store owners were also working with the Oregon Liquor Control Commission (OLCC) to increase agent compensation at their stores, especially in urban areas with higher business costs. There was no bill or administrative rule change, just a policy change at OLCC and a budget modification. Proponents indicated the revenue loss would be \$13.4 million per biennium.

LOC did not oppose the policy behind either of these concepts. Our concern was strictly related to the loss in revenue to local governments. We proposed an amendment to SB 1565 that would have changed the distribution formula to keep cities whole. Ultimately, the distillers' concept was moved out of Ways and Means without amendment, and the liquor store concept was tabled. SB 1565 did not receive a vote on the Senate floor.

# Lodging Taxes

---

## FAILED BILLS

### [HB 4047](#): State Lodging Tax Rate

The 2016 session (HB 4146) increased the state lodging tax rate from 1% to 1.8% for the period extending from July 1, 2016 to July 1, 2020. On July 1, 2020, the rate is scheduled to go down to 1.5%. HB 4047 would have simply made the 1.8% rate permanent. The bill was controversial, with disagreements about whether the additional revenue should be spent on tourism (specifically the planned 2021 World Track & Field Championships in Eugene) or on housing. The bill passed out of the House and died in the Senate.

# Miscellaneous State Taxes

---

## FAILED BILLS

### [HB 4010](#): Opportunity Zone Disconnect

As introduced, HB 4010 would have completely disconnected Oregon from the opportunity zone program created in the 2017 Tax Cut and Jobs Act. Oregon taxpayers would have still qualified for the favorable treatment of capital gains on their federal returns, but those benefits would not have flowed through to the Oregon return. The bill was amended in the House Revenue committee to keep the federal treatment on capital gains invested into qualified opportunity zone funds, but simultaneously would have reduced the benefit on sales of assets out of those funds by 50%. The amendment also required enhanced reporting and a study. The bill was opposed by a number of economic development organizations and many cities, but the LOC did not take a position as a good number of elected officials supported the policy. The bill passed out of House Revenue but died on the floor without a vote.

### [HJR 203](#): Real Property Transfer Charge

HJR 203 was a governor's concept that would have referred to voters an amendment to the Oregon Constitution authorizing a new state real property transfer charge as long as it exempted the first \$500,000 of a sale from taxation, and the revenue was used exclusively to fund or finance affordable housing. The bill died in committee.

### [SB 1504](#): Cap and Trade Tax Policy

SB 1504 was a companion bill that addressed issues of taxation related to the broader cap and trade conversation. The bill was amended in the Senate Finance and Revenue committee, with language indicating that emission allowances and credits were "exempt from ad valorem property taxation." The LOC's concern was that the language could lead a taxpayer to argue that while any negative effects of the government restriction on emissions must be considered for property tax purposes, an allowance for credit that mitigates that same restriction must be disregarded as it is

exempt. Certain companies could see a large drop in their property taxes, even though the Legislature has worked very hard to accommodate them through allowances.

Ultimately, we were able to get a statement on the record in the Ways and Means Committee that the intent of the language was to prevent taxpayers from seeing an increase in their property taxes as a result of the state granting them allowances or credits, but the intent was not to grant them a property tax reduction if the allowances held them harmless from a government restriction on the use of their property. The bill died on the Senate floor without a vote.

# GENERAL GOVERNMENT

## Mental Health

---

### FAILED BILLS

#### **[HB 5204](#): Program Change Bill**

HB 5204 was a large omnibus spending bill that made several adjustments to the state budget, including \$9 million for mental health funding. Services this money would have provided included jail diversion and reducing the number of persons sent to the Oregon State Hospital. Improving mental health services was a priority for the LOC in 2020 and during previous sessions. HB 5204 died due to a lack of quorum.

## Public Contracting

---

### FAILED BILLS

#### **[HB 4042](#): Contracting Preference for Emergency Preparedness Partners**

HB 4042 would have required public contracting agencies, including cities, to provide a contracting preference to a bidder or proposer that is certified as an emergency preparedness partner. The bill, as introduced, would apply to all public contracts, including goods, services and construction. HB 4042 would have required the state Office of Emergency Management to create a program to train and certify business organizations as emergency preparedness partners. Proposed amendments to the bill would have limited the provisions of the bill to certain state contracts only. A public hearing was held on the bill, but the bill failed to pass out of the House Veterans and Emergency Preparedness Committee prior to the deadline.

#### **[HB 4045](#): Prevailing Wage in Enterprise Zones**

HB 4045 would have required the payment of prevailing wage rates for private construction projects if the project received a tax abatement through an enterprise zone (as defined under [ORS 285C.050](#)) and the total project cost exceeded \$25 million. The LOC opposed similar legislation, HB

2408, during the 2019 legislative session. HB 4045 did not receive a public hearing, in part due to compromise legislation that was a result of a 2019 interim workgroup. That bill, SB 1525, would have required local governments to report additional data related to enterprise zone incentives and would have required business owners to publish opportunities to bid on construction projects if the project is located in an enterprise zone and receiving a property tax abatement.

### **SB 1525: Enterprise Zone Wage Reporting Requirements**

SB 1525 was the result of a workgroup that was convened starting in the fall of 2019 and continued in the weeks leading up to the 2020 legislative session. The workgroup was created following the 2019 legislative session in response to HB 2408, a bill that the LOC has strongly opposed, which would have required the payment of prevailing wage rates for private companies receiving property tax abatements through certain enterprise zone programs. The LOC has expressed concerns that attaching significant administrative requirements (and associated cost increases) to a local economic development tool would have the likely effect of negating the effectiveness of the tool and would have negatively impacted investment in economically distressed areas.

SB 1525 represented compromise legislation resulting from the interim workgroup process. The bill would have required businesses, participating in an enterprise zone program (including rural enterprise zones) or strategic investment program, to publish opportunities to bid on construction projects within the enterprise zone. In addition, the bill would require zone sponsors to annually report to the state any information on project labor agreements associated with enterprise zone projects. In addition to zone sponsor reporting requirements, SB 1525 would have required Business Oregon to submit a summary report to the Legislature annually. The report would include information on each property tax exemption program, including: the estimated assessed value of exempt property in each zone, and the estimated amount of ad valorem property taxes that would have been imposed on the property but for the exemption; the total amount of fees and other payments made by business firms receiving abatements to zone sponsors or other payees as a condition of the incentives; the number of new and existing employees for the business firm; and the average annual wages paid to employees (with or without benefits). SB 1525 also required some new employee and wage reporting in rural zones and allowed for rural zones to optionally add additional requirements and conditions for business firms to receive incentives through the rural enterprise zone program. Current law only allows urban enterprise zone sponsors to opt to add additional criteria.

Finally, the bill would have expanded records retention timelines for certified payroll reports from three years to six years.

SB 1525 passed the Senate and had also passed out of the House Business & Labor Committee. It died on the House floor because a quorum of members was not present to vote.

# Public Records

---

## FAILED BILLS

### [SB 1506: Public Records Advocate Changes](#)

SB 1506 would have changed the oversight and hiring structure of the state's public records advocate. The bill was opposed by the LOC as it altered agreements that were made to create the Office of Public Records Advocate. SB 1506 passed the Senate but died due to a lack of quorum.

# HUMAN RESOURCES

---

## FAILED BILLS

### [HB 4007: Unemployment for Striking Employees](#)

HB 4007 would have allowed the Oregon Employment Department to grant unemployment benefits for workers involved in a labor dispute. The bill was introduced as a "conversation starter" and received a committee hearing but was never voted on. It's likely that this concept will be revisited in subsequent sessions.

### [SB 1567: Police Accountability](#)

SB 1567 would have prevented an arbitrator from overriding the disciplinary decisions of police chiefs when that discipline is based on a guide or matrix contained in a collective bargaining contract. The bill passed the Senate and out of its House committee but died due to a lack of quorum.

# TELECOMMUNICATIONS

---

## FAILED BILLS

### [HB 4079: The Rural Telecommunications Investment Act](#)

HB 4079 was a similar bill to HB 2184 from the 2019 session. This bill would have expanded the Oregon Universal Service Fund (OUSF) to include cell phone users in the fee pool. The additional funds generated would have been used to establish a sustainably funded broadband grant program for broadband planning and infrastructure in smaller and rural communities. The broadband fund would have prioritized communities that fit the definition of "unserved" or

“underserved.” Additionally, some of the new funds would have been transferred to the Connecting Oregon Schools Fund which provides the state match for schools applying for grants through the U.S. Department of Agriculture’s E-Rate Program. The OUSF was established in 1999 and has never included cell phone users. Cell phones currently dominate the provision of telecommunications services, but unlike landlines, have not been required to share in the fiscal responsibility for infrastructure that ultimately benefits their industry.

### **[HB 4101: Telemedicine Coverage](#)**

HB 4101 would have required the Oregon Health Authority to reimburse health services delivered using telemedicine.

## **TRANSPORTATION**

---

### **FAILED BILLS**

#### **[HB 4103: Local Speed Setting Authority](#)**

HB 4103 was brought back after the 2019 session to establish authority for local authorities to set their own speeds for neighborhoods using a deliberative process outlined by Oregon Department of Transportation. The bill extended this authority to Lane and Multnomah counties. The bill passed the House with a 51-6-1-2 vote. The bill never advanced to the Senate floor due to adjournment.

#### **[HB 4151: Increasing Vehicle Privilege Tax](#)**

HB 4151 would have increased the current vehicle privilege tax by \$0.50 to generate revenue for use in expanding Oregon’s electrified network. This new tax would only have applied to vehicles purchased in the Portland metro region. The bill also instructed electronic companies to invest not less than one-half of 1% of the total rate revenue collected. A hearing was held, and bill was advanced to the Ways and Means Committee, but no further action occurred.

## **WATER & WASTEWATER**

---

### **FAILED BILLS**

#### **[HB 4043: Water/Wastewater Piping Material Mandate](#)**

HB 4043 would have preempted local governments, including cities, from adopting any ordinance, resolution, rule or other law to prohibit, restrict or limit an evaluation, comparison or use of pipe or piping materials for a water project. The mandate would have applied to projects receiving either direct or indirect state funds. Many water utilities limit the types of piping materials they will consider for a project based on past performance, safety concerns, soil conditions and other unique aspects of specific water systems. The LOC was strongly opposed to the legislation, and

proposed amendments which would have prohibited upfront specifications at the project design level and would likely result in additional cost, administrative burden and ultimately make it more difficult for a local government to select the most appropriate pipe for its specific water or wastewater system. A public hearing was held on HB 4043 but the bill was not scheduled for a work session and died in committee.

### **HB 4069: Water Use Measurement & Reporting**

HB 4069 would have authorized the Oregon Water Resources Department to require certain water users to report water measurement data to the department if the water users' permit, certificate, limited license, decree, ground water registration, or order of determination required the user to measure water use. The bill would have required the Oregon Water Resources Commission to adopt rules to implement the legislation. The LOC was neutral on the bill, as cities are already required to measure and report water use. The chair of the House Water Committee, Representative Ken Helm, opted to not move the bill forward this session but indicated to various organizations that the issue would be further discussed during the interim with legislation likely during the 2021 legislative session.

### **HB 4070: Septic Loan Program Funding**

HB 4070 would have provided an additional \$2 million in general funds to provide loans to Oregonians to repair or replace failing residential or commercial septic systems. Loan funds would also have been available to allow residential homeowners with failing septic systems to connect to available public sewer systems. The septic loan program was initially established as a result of legislation passed during the 2016 session (SB 1563). The bill passed out of the House Water Committee but died in the Ways & Means Committee.

### **HB 4071: Harmful Algal Blooms Resources**

HB 4071 would have provided for additional staffing and resources related to harmful algal bloom monitoring and response for drinking water systems. The bill would have provided funding for the Oregon Department of Environmental Quality (DEQ) to purchase additional lab equipment to process water samples received from drinking water providers. HB 4071 also included funding for additional staffing for the DEQ and the Oregon Health Authority Drinking Water Services program. The bill was the result of a 2019 interim workgroup effort to better position the state and local governments to protect public drinking water systems from harmful algal blooms. The bill passed out of the House Water Committee but died in the Ways & Means Committee.

### **HB 4086: Automatic Stay Provisions for Water Right Enforcement**

HB 4086 would have made changes to current statutes that allow for parties to appeal final orders issued by the Oregon Water Resources Department or the Oregon Water Resources Commission. Under current law, any party that is affected by a final order, such as enforcing water use during times of shortage, may legally appeal the order in circuit court. Upon filing such an appeal, the final order is stayed. Some stakeholders have expressed concerns that this legal process, and the automatic stay provisions, prevent the department and commission from enforcing water rights based on Oregon's system of prior appropriation (i.e. water rights that were issued first are the last to be shut off during shortages). HB 4086 would have eliminated the automatic stay provisions if a final order was issued to enforce the terms and conditions of water use or the priority of water use. A court could still issue a stay of the final determination if the court makes certain findings,

including a finding that the petition is likely to prevail. A public hearing was held on HB 4086, but the bill did not get scheduled for a work session as a result of concerns expressed by several organizations and legislators.

### **HB 4092: Historic Reservoir Registration**

HB 4092 would have allowed for the retroactive registration of a previously illegal pond located in Jackson County. Similar legislation was introduced during previous legislative sessions but would have had broader impacts. Concerns were expressed that the bill would have established a precedent for additional illegal ponds to become legislatively registered. However, it was noted on the record that the Legislature intended to limit this type of legislative exception to one specific property owner. The bill passed the House and passed out of the Senate Environment & Natural Resources Committee. The bill was scheduled for a vote of the Senate but died without a vote on the Senate floor.

### **SB 1511: Artificial Beaver Dams**

SB 1511 would have required the Oregon Department of Fish & Wildlife (ODFW) to adopt rules to allow for the authorization of voluntary projects for stream restoration and habitat improvement through the construction of environmental restoration weirs. Similar legislation has been introduced during previous legislative sessions. The concept has been to allow for the construction of environmental restoration weirs, sometimes referred to as artificial beaver dams, for environmental and economic benefit. Construction of such weirs would be exempt from certain regulatory requirements, including those for removal-fill permits and fish passage. SB 1511 was limited to specific streams in certain water basins. The bill also required the ODFW to coordinate with the Oregon Department of Transportation prior to authorizing such projects to consider potential impacts that the project might have on transportation infrastructure including roads, culverts and bridges. The bill passed the Senate and also passed out of the House Rules Committee. The bill, however, died on the House floor without a vote.

### **SB 1513: Livestock Operations**

SB 1513 would have set forth additional requirements for large confined animal feeding operations or large concentrated feeding operations that land apply animal waste and are located in groundwater management areas. The bill set forth permit requirements and specified remedies for certain environmental violations. The bill passed of the Senate Environment & Natural Resources Committee, as well as the Joint Ways & Means Committee, but failed on the Senate floor without a vote.

### **SB 1537: Emergency Resiliency & Dam Safety**

SB 1537 would have directed the state's Office of Emergency Management to implement a program to ensure that 250,000 households in Oregon have the necessary supplies and expertise to be self-sufficient for at least two weeks after a natural disaster or other emergency. The bill would have established a taskforce to help implement the two-week ready program. In addition, SB 1537 would have provided funding for the purpose of constructing seismic stations, to be completed on or before June 30, 2023, as part of the "ShakeAlert" earthquake early warning system, and would establish a taskforce to provide recommendations for educating the public on earthquake early warning. Finally, the bill would have established a Dam Safety Taskforce to identify approaches to prioritizing the repair of dams and other dam safety-related projects, and to evaluate and

recommend funding mechanisms for dam repair and other dam safety projects. The bill passed out of the Senate General Government & Emergency Preparedness but died in the Joint Ways & Means Committee without further action taken.

### **[SB 1562: Umatilla Groundwater Program & Funding](#)**

SB 1562 would have required the Oregon Department of Agriculture to develop a program to gather data and research groundwater nitrates and connectivity in the Umatilla Basin. The bill would have also required the department to create a long-term implementation plan to improve groundwater conditions in the Lower Umatilla Basin Groundwater Management Area to the extent that the area might have been removed from designation. SB 1562 also would have established an inter-agency task force that would develop guidance, milestones, timelines and other components of a strategy to improve ground water conditions in the area. The bill would have provided \$250,000 in general funds to support the work outlined in the bill. The bill passed out of the Senate General Government & Emergency Preparedness Committee but failed to pass out of Ways & Means prior to the session coming to an end.

## **WILDFIRES**

---

### **OVERVIEW**

Governor Brown came into the 2020 session with a critical package of wildfire bills in response to 47 recommendations from the wildfire task forces named in 2019. The bills listed were intended to provide components of the recommendations advanced by the task force. In the end, parts of each bill were added to SB 1536 as an omnibus package to move during session.

---

### **FAILED BILLS**

#### **[SB 1514: ODF Package](#)**

SB 1514 required the Oregon Department of Forestry (ODF) to establish up to 15 projects for reducing wildfire risk on forestlands and rangelands. A hearing was held, and bill was advanced to the Ways and Means Committee, but no further action occurred.

#### **[SB 1515: Wildfire Workforce Foundation](#)**

SB 1515 directed the Higher Education Coordinating Commission to research creation of a wildfire workforce foundation and report to the Senate Wildfire Prevention and Recovery committee no later than December 1, 2020. The purpose of the foundation would have been to research the feasibility of workforce development programs. A hearing was held, and bill was advanced to the Ways and Means Committee, but no further action occurred.

#### **[SB 1516: Oregon Department of Forestry Modernization](#)**

SB 1516 would have established a periodic, programmatic review of ODF operations to develop modernization recommendations for legislative review by June 2021. A hearing was held, and bill was advanced to the Ways and Means Committee, but no further action occurred.

## **[SB 1536](#): Omnibus Package**

SB 1536 would have required utilities to have risk-based wildfire protection plans approved by the Oregon Public Utility Commission (PUC). The bill required the creation of a wildfire risk map and minimum defensible space requirements. In the original draft, cities and local governments would have been responsible for carrying many of the land-use related requirements at the local level without resources. Hearings were held, and bill was advanced to the Ways and Means Committee, but no further action occurred.



## MEMORANDUM

**To: LOC Board of Directors**

**From: Patty Mulvihill, General Counsel**

**Date: April 20, 2020**

**Re: Legal Research Division Report – Litigation Update Attached**

---

This Memo provides a brief overview of what has transpired in the Legal Research Division (LRD) since the Board's February meeting. The Memo is not meant to be an exhaustive analysis of the Division's activities, but rather a highlight of major accomplishments and/or projects. Due to the COVID-19 pandemic, LOC's attorneys have spent considerable time since February assisting members identify ways to comply with the various state and federal directives as they relate to statutory mandates associated with Public Meetings Law, Local Budget Law and land use laws.

### Litigation

Since the February Board meeting, there has been one development in LOC's litigation efforts.

In early March, LOC was approached by the city of Eugene asking for amicus assistance regarding a challenge to a recent LUBA decision. The case involves LUBA's interpretation of some key terms used in ORS 197.312(5), which was adopted by the Oregon legislature during the 2017 session as Senate Bill 1051. The statute requires cities with populations greater than 2,500 to allow for the development of at least one accessory dwelling unit (ADU) in areas that are zoned for single-family detached dwelling units.

At issue is how LUBA chose to interpret/define the terms "accessory dwelling unit" and "subject to reasonable regulations relating to siting and design." LUBA's interpretation of "accessory dwelling unit" does not require the ADU to be an actual accessory use of the single-family dwelling unit or connected to it – rather LUBA's interpretation essentially allows two dwelling units to be sited on the same property. As for "reasonable local regulations related to siting and design," LUBA never defined the word "reasonable" which LOC and Eugene will inherently narrow the interpretation of the words "siting" and "design." And perhaps most egregiously, is LUBA's incredibly narrow interpretation of the word "siting." LUBA chose to use a standard dictionary definition of the word, ignoring the fact that the word "siting" has a technical meaning in the land use arena that is not recognized in Webster's Dictionary. In essence, LUBA defines "siting" to mean where, on a particular parcel, an ADU can be built – which is far different than a historical and technical understanding of that term in the land use context.

This decision by LUBA has the potential to not just impact how ADU's are sited, but also how cities can regulate the development of middle housing under House Bill 2001. During the 2019 legislative session, House Bill 2001 was enacted, wherein it defined middle housing to mean duplexes, triplexes, quadplexes, cottage clusters and townhouses. Under the bill, each city with a population of 25, 000 or more, or each city within a metropolitan service district, is required to allow for the development of middle housing types in areas zoned for residential use if single-

family dwellings are permitted to be constructed. The same terms at issue in the current LUBA appeal, “reasonable local regulations related to siting and design,” are also included in House Bill 2001.

LUBA appeals are fast-tracked by statute. While there is no hard date upon which the Court of Appeals must issue its ruling, the statutes do require a decision to be made quickly. All briefs will be submitted by April 24, 2020 – LOC’s amicus brief has already been submitted – and oral argument has been declined.

A full update of all litigation activities is provided in the attached Litigation Update.

### Trainings

Due to the COVID-19 pandemic, all in-person scheduled trainings were cancelled.

LOC’s General Counsel did provide a brief virtual training to the city of McMinnville on transient lodging taxes. That training occurred during the McMinnville City Council meeting on the evening of April 14, 2020.

In each of the last two years, LOC’s General Counsel has participated as a guest lecturer for the Chemeketa Community College (Dallas branch) course for building instructors. The General Counsel provides training on home rule, the interplay between state and local officials in this context and covers general constitutional and statutory legal principles impacting the work of building inspectors. This year, the General Counsel will once again participate as a guest lecturer in the program, although the class will be taught virtually over the course of two evenings in late May and early June.

LRD and the Member Services Division have secured locations for 13 different Elected Essential events, one for each Small City region and a final one to occur near the LOC offices in Salem. While the program will look very similar to the last round of Elected Essentials training, some elements are being modified in an attempt to keep the program fresh and in response to specific comments from attendees. As the Executive Director finalizes his proposed budget, more details about the actual content and delivery of Elected Essentials will be known and can be shared with the Board during the June meeting.

### Pilot Legal Program

Multiple cities participating in this program have heavily relied upon LOC attorneys during the COVID-19 pandemic. A significant amount of legal advice regarding a city’s ability to comply with the Public Meetings Law and Local Budget Law have occurred. Attorneys have also assisted cities in crafting local declarations of emergencies.

### Member Inquiries

Between January 1 and April 20, LRD attorneys fielded 91 member inquiries which required 46 hours of staff time. The actual number of member inquiries fielded by LRD attorneys has decreased by about 40% from the same time period last year. That said, the level of complexity for these inquiries has presumably increased given that the overall number of hours spent by LRD attorney during the time same time period has only decreased by about 23%.

|   | <b>2017</b> | <b>2018</b> | <b>2019</b> | <b>2020</b> |
|---|-------------|-------------|-------------|-------------|
| <b>Number of Inquiries Received</b>                 | 94          | 55          | 150         | 91          |
| <b>Length of Time Spent Responding to Inquiries</b> | 30 Hours    | 18 Hours    | 53 Hours    | 46 Hours    |



## MEMORANDUM

**To:** LOC Board of Directors  
**From:** Patty Mulvihill, General Counsel  
**Date:** April 20, 2020  
**Re:** Litigation Update

---

This is an informational staff report to inform the Board of the status of the League's legal advocacy efforts. The last report provided to the Board was February 21, 2020.

City of Seattle, City of Tacoma, King County, League of Oregon Cities, League of California Cities and League of Arizona Cities & Towns v. U.S. Government and the Federal Communications Commission

**League's Status:** Plaintiff  
**Current Venue:** U.S. 9<sup>th</sup> Circuit Court of Appeals  
**Attorney:** The Telecomm Law Firm (California)  
**General Topic:** The lawsuit asks the court to review the FCC's order captioned *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order released September 27, 2018. While the FCC's order purports to further the FCC's goal of accelerating the deployment of 5G small cell technology, it will limit or eliminate municipalities' traditional local regulatory authority over zoning and right-of-way management and municipalities' proprietary rights over whether and on what terms they may allow communications providers rights to access, occupy and use government-owned real and personal property.  
**Current Status:** Oral argument occurred on February 10, 2020 – awaiting a decision.

On September 27, 2018, the Federal Communications Commission (FCC) released its Third report and Order which: clarified the scope and meaning of the effective prohibition standard set forth in Sections 253 and 332(c)(7) of the Communications Act as they apply to state and local regulation of wireless infrastructure deployment; limited state and local governments to charging fees that are no greater than a reasonable approximation of their costs for processing applications and for managing deployments in the rights-of-way; identified specific fee levels for small wireless facility deployments that presumably comply with the relevant standard; provided guidance on certain state and local non-fee requirements, including aesthetic and undergrounding requirements; established two new shot clocks for small wireless facilities (60 days for collocation on preexisting structures and 90 days for new builds) and codified the existing 90 and 150 day shot clocks for non-small wireless facility deployments that were established in the 2009 Declaratory Ruling; made clear that all state and local government authorizations necessary for the deployment of personal wireless service infrastructure are subject to those shot clocks; and concluded that a failure to act within the new small wireless facility shot clock constitutes a presumptive prohibition on the provision of services. This Order was published in the Federal Register on October 15, 2018.

During the September 26, 2018, Board meeting, the Board directed LOC staff to participate in any joint actions being taken against the FCC and the implementation of this Order, up to and including initiating suit against the FCC.

On October 25, 2018, LOC joined the city of Seattle, city of Tacoma, King County, Washington, the League of California Cities and the League of Arizona Cities and Towns in filing suit against the FCC in the U.S. 9<sup>th</sup> Circuit Court of Appeals, challenging the legality of the FCC's Order. In challenging the FCC's order, LOC and its partners assert that the order: is arbitrary, capricious, and an abuse of discretion within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*; violates federal law, including, but not limited to, the Constitution of the United States, the Communications Act of 1934, as amended, and the Commission's regulations promulgated thereunder; and is otherwise contrary to law.

All cases filed regarding the FCC Order have been consolidated into once case being heard by the 9<sup>th</sup> Circuit Court of Appeals. The Court ordered its special master to schedule a case management conference wherein the briefing schedule and oral argument were set.

Our attorneys believe the argument went well, noted the judges asked a lot of questions, but also cautioned that they do not believe the judges tipped their hands as to how they would ultimately rule. We should expect a decision in the next three to 12 months.

#### Blake v. City of Grants Pass

**League's Status:** Amicus  
**Current Venue:** United States District Court, District of Oregon, Medford Division  
**Attorney:** Markowitz Herbold (Portland)  
**General Topic:** Grants Pass has a series of ordinances that prohibit sleeping and camping in public places, particularly their parks. In light of the recent *Martin v. Boise* decision from the 9<sup>th</sup> Circuit Court of Appeals, a class action lawsuit was filed against the city by several unhoused persons alleging the ordinances are unconstitutional.  
**Current Status:** Amicus brief submitted. Awaiting further direction/action from court.

With the 9<sup>th</sup> Circuit's decision in *Martin v. Boise*, several cities have been sued by unhoused person who allege such ordinances are unconstitutional, Grants Pass is one such city. Several legal experts, including the International Municipal Lawyers Association, believe the Grants Pass case will allow for an opportunity to clarify or rectify the damaging impacts of the 9<sup>th</sup> Circuit's decision in *Martin*. To that end, LOC has retained the same firm it used in the *Martin* case to file a short amicus brief in support of Grants Pass.

Grants Pass has one shelter option in its community – the shelter has a limited number of beds, has a limited stay duration, and has conditions for entry that include religious participation, abstinence from certain substances, etc. In addition, the city has a series of ordinances which prohibit people from sleeping and camping in public places, including the cities parks. Several unhoused person filed a class action lawsuit against the city when the 9<sup>th</sup> Circuit Court of Appeals released its decision in *Martin v. Boise* alleging that Grants Pass's ordinances and policies violate the U.S. Constitution. Several depositions and other discovery actions have occurred, resulting in motions for summary judgment being filed. LOC's amicus brief was filed in late March. All parties await direction/action from the court.

## James v. State of Oregon

**League's Status:** Amicus  
**Current Venue:** Oregon Supreme Court  
**Attorney:** Beery, Elsner & Hammond (Portland)  
**General Topic:** During this past legislative session, SB 1049 was passed. SB 1049 makes several changes to PERS. Nine governmental employees have filed suit against the State, several counties, some school districts, the city of Portland and the city of Salem claiming that SB 1049 violates the State and Federal Constitutions, while also breaching the contract PERS recipients have with their employers.  
**Current Status:** A briefing schedule has been ordered and all parties must file briefs in accordance therewith – LOC's brief is due in April of 2020.

SB 1049 makes various changes to PERS. The portions specifically being challenged include those where employee contributions are being reallocated and the one which caps the amount of salary to be used to calculate a retiree's final average salary (the cap is set at \$195,000). The lawsuit claims that the PERS statutes create contracts between the employees and their employers – the public employers, acting through PERB, agree to provide certain pension benefits upon retirement. SB 1049, according to the lawsuit, alters, amends, or repeals these PERS contracts.

The employees have raised eight claims for relief:

- Claims 1 & 2: Unconstitutional Impairment of contract under the Oregon and Federal Constitutions regarding the redistribution of employee contributions.
- Claim 3: Unconstitutional Takings without Compensation of the employee protected property interests of their full 6% IAP contribution under the Oregon Constitution.
- Claim 4: Breach of Contract for IAP benefits/wages due and owing.
- Claims 5 & 6: Unconstitutional Impairment of Contract under the Oregon and Federal Constitutions regarding the salary cap.
- Claim 7: Unconstitutional Taking without Compensation under the Oregon Constitution regarding the salary cap because it is a taking of the employee's protected property interests.
- Claim 8: Breach of Contract regarding the salary cap for benefits based on the prior definition of salary/wages due and owing.

LOC was approached by the cities of Portland and Salem asking if LOC would either intervene in the case or participate as amicus. A special meeting of the LOC Board was called to discuss which option, if either, the Board preferred to take. After careful discussion and analysis, the Board voted not to intervene in the case, and instead authorized LOC staff to participate as amicus. LOC has retained the services of Beery, Elsner & Hammond (Portland law firm) who will work with the cities directly impacted by this litigation to file a supporting amicus brief.

As this case is complicated with several parties and many moving parts, the court has appointed a special master. On October 24, 2019, the Special Master set a briefing date, with LOC's brief being due on April 8, 2020.

Ortega v. Martin; McCormick v. State of Oregon

**League's Status:** Amicus  
**Current Venue:** Oregon Supreme Court  
**Attorney:** Washington County Counsel  
**General Topic:** Whether recreational immunity under ORS 105.682 is available to a public body that owns land but lacks the authority to make a volitional decision whether or not to allow recreational use on the land.  
**Current Status:** All briefs have been filed. Awaiting further action from the Court.

*Ortega* and *McCormick* each raise an identical issue regarding the scope of the recreational immunity statute, ORS 105.682. Under that statute, an owner of land (whether public or private) is entitled to immunity from liability for injuries arising out of the recreational use of the land “when the owner of land either directly or indirectly *permits* any person to use the land for recreational purposes, woodcutting or the harvest of special forest products.” ORS 105.682(1) (emphasis added). The question in *Ortega* and *McCormick* is what the legislature meant when it used the word “permits.” In each case, the plaintiff argued that the owner of land (in each case, the state) was *not* entitled to recreational immunity because the land on which the plaintiff was injured was held in trust for the public, meaning that the state lacked the authority to restrict the public from using the land for recreation. Thus, lacking the authority to restrict recreational use of the land, the state did not “permit” recreational uses of the land and is not entitled to recreational immunity.

In each case, the Court of Appeals agreed with the plaintiff and held that “to be entitled to recreational immunity, an owner of an interest in land must have made a volitional decision to open the land to the public for recreational use. That means, necessarily, that, to be entitled to recreational immunity, an owner must have the authority to make a volitional decision whether or not to allow recreational use on the land in question.” *Ortega*, 293 Or App at 193.

The state sought review of the *McCormick* decision in the Oregon Supreme Court and asked a number of other public entities to file an amicus brief in support of the state’s petition for review. The Washington County Counsel’s Office took the lead on drafting the brief for LOC, the Association of Oregon Counties, and the Special Districts Association of Oregon. The city of Portland and the Bend Parks and Recreation District also filed amicus briefs. All parties await action from the court.

City of Portland v. Bartlett

**League's Status:** Amicus  
**Current Venue:** Oregon Court of Appeals  
**Attorney:** LOC’s Legal Research Division  
**General Topic:** Are documents protected by the attorney-client privilege permanently exempt from public disclosure or are they subject to disclosure under Oregon law after the expiration of 25 years?  
**Current Status:** Awaiting court’s decision.

This case involves a declaratory judgment action filed by the city of Portland in response to a request for production of documents covered by the attorney-client privilege under ORS 192.502(9) and ORS 40.225. The requested documents are more than 25 years old. The

individual seeking the documents asserted that because the documents at issue are more than 25 years old, ORS 192.495 requires their disclosure notwithstanding any exemption that may have previously applied.

The city argued that legal opinions from the city attorney are protected by the attorney-client privilege, and the Legislature could not unilaterally remove that legal protection. LOC further argued that because home rule cities are not created by the Legislature, the Legislature cannot waive privilege for home rule entities, and any attempt to do so is invalid under Article XI, section 2, of the Oregon Constitution. The trial court issued a ruling in favor of Portland, ultimately concluding that the Legislature did not intend to remove the city's attorney-client privilege, and thus did not decide whether the city's attorney-client privilege was protected by the city's home rule authority.

All briefs have been filed, and oral argument has concluded. All parties await a decision from the court.

### Galina Burley v. Clackamas County

**League's Status:** Amicus  
**Current Venue:** Oregon Court of Appeals  
**Attorney:** LOC's Legal Research Department  
**General Topic:** Applicability of damages limits under ORS 30.272 to certain types of claims.  
**Current Status:** Awaiting court decision.

The plaintiff brought claims for damages against defendant Clackamas County under whistleblower and anti-retaliation statutes. The case went to a trial and the jury found that defendant was liable to plaintiff for approximately \$390,000 in damages. Plaintiff moved for attorney fees and the trial court found that plaintiff incurred approximately \$700,000 in attorney fees. Defendant then moved to reduce the amount of plaintiff's total award (damages, attorney fees, and statutory interest) to the cap set out in ORS 30.272.<sup>1</sup> That statute limits the liability of

---

<sup>1</sup> ORS 30.272(2) The liability of a local public body, and the liability of the public body's officers, employees and agents acting within the scope of their employment or duties, to any single claimant for claims described in subsection (1) of this section may not exceed:

- \$500,000, for causes of action arising on or after July 1, 2009, and before July 1, 2010.
- \$533,300, for causes of action arising on or after July 1, 2010, and before July 1, 2011.
- \$566,700, for causes of action arising on or after July 1, 2011, and before July 1, 2012.
- \$600,000, for causes of action arising on or after July 1, 2012, and before July 1, 2013.
- \$633,300, for causes of action arising on or after July 1, 2013, and before July 1, 2014.
- \$666,700, for causes of action arising on or after July 1, 2014, and before July 1, 2015.
- The adjusted limitation provided by subsection (4) of this section, for causes of action arising on or after July 1, 2015. Subsection 4 requires that beginning "in 2015, and every year thereafter, the State Court Administrator shall determine the percentage increase or decrease in the cost of living for the previous calendar year, based on changes in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor ... The adjustment may not exceed three percent for any year. The State Court Administrator shall round the adjusted limitation amount to the nearest \$100, but the unrounded amount

public bodies when, among other things, the claim for damages “[a]rise[s] out of a single accident or occurrence.” ORS 30.272(1)(c). The trial court agreed with the county that the limit on liability (commonly called the “tort cap”) applied and thus reduced the award of plaintiff’s attorney fees.

Plaintiff now appeals the trial court’s decision to reduce her award of attorney fees to the difference between the damages found by the jury and the statutory limit on liability. She argues that because her claims involved whistleblowing and retaliation that took place at distinct and successive times, the trial court erred in applying the damages cap at all. In other words, plaintiff argues that her claims against the county involved distinct factual events that happened at different times, and thus her claims did not arise out of a single accident or occurrence, meaning that the limit on liability should not apply at all. Plaintiff is arguing that only some causes of action are subject to the tort limit, while others are not.

All parties have filed briefs and are awaiting a decision from the court.

City of Corvallis v. State of Oregon

**League’s Status:** Originally an intervenor in the circuit court, now participating as an amicus  
**Current Venue:** Oregon Court of Appeals  
**Attorney:** LOC’s Legal Research Division  
**General Topic:** Can the state preempt voter approved annexations required by a city’s charter?  
**Current Status:** Awaiting court’s decision.

This case involves a challenge to Senate Bill 1573 (2016), originally filed by the city of Corvallis. SB 1573 attempts to preempt city charters that require a vote on annexations when a petition to annex meets specific requirements. Pursuant to Board direction, LOC intervened at the circuit court level in this case as a plaintiff-intervenor to challenge SB 1573 on the basis that the legislation is contrary to the people’s initiative power under Article IV, Section 1(2)(a) of the Oregon Constitution and the home rule authority of cities as guaranteed by Article XI, Section 2 of the Oregon Constitution. The city of Philomath also intervened as plaintiff.

On February 24, 2017, the circuit court judge issued his opinion, and disagreed with both cities and LOC, basing his decision on two rationales. The court first determined that the Philomath and Corvallis city charters provide that annexations are not subject to a vote when the annexation is “mandated by state law.” Second, even though not all cities in Oregon with voter-approved annexations have charter provisions like Corvallis and Philomath, the judge reasoned that the state could still force annexation on a city because state law requires cities to establish an urban growth boundary, thereby giving both the property owners within that boundary and the city a legal expectation of future annexation.

---

shall be used to calculate the adjustments to the limitations in subsequent calendar years. The adjusted limitation becomes effective on July 1 of the year in which the adjustment is made and applies to all causes of action arising on or after July 1 of that year and before July 1 of the subsequent year.

The trial court reasoned that because annexations under SB 1573 would only involve territory that is already within a city's UGB, the city had already made the decision to act in an extramural fashion by designating land within a UGB and anticipating future growth in that territory.

LOC staff mistakenly believed it did not have to file its own Notice of Appeal to continue as an intervenor at the appellate level. By not filing its own Notice of Appeal, LOC is prohibited from participating as an intervenor before the Oregon Court of Appeals. The mistake is unfortunate and one that LOC staff regrets as it prohibits the arguments related to those cities with charter provisions that do not include the language "mandated by state law" from being raised and further discussed at the appellate level. After consulting with respected appellate attorneys and the appellate clerks, LOC staff determined that it can still be of use to its member cities by seeking the Court's permission to file an amicus brief in support of Corvallis and Philomath, focusing exclusively on the constitutional home-rule issue.

All briefing has been completed, and oral arguments occurred. All parties await a decision from the court.

### Nicholas Kamps-Hughes

**League's Status:** Amicus  
**Current Venue:** Oregon Court of Appeals  
**Attorney:** Beery, Elsner & Hammond (Portland)  
**General Topic:** Was LUBA's interpretation of the terms "accessory dwelling unit" and "subject to reasonable local regulations relating to siting and design," as used in ORS 197.312(5) incorrect?  
**Current Status:** All briefs will be filed by April 24, 2020. The parties have waived oral argument – the Court will make its decision based on the written materials that it receives.

This case involves LUBA's interpretation of some key terms used in ORS 197.312(5), which was adopted by the Oregon legislature during the 2017 session as Senate Bill 1051. The statute requires cities with populations greater than 2,500 to allow for the development of at least one accessory dwelling unit (ADU) in areas that are zoned for single-family detached dwelling units.

At issue is how LUBA chose to interpret/define the terms "accessory dwelling unit" and "subject to reasonable regulations relating to siting and design." LUBA's interpretation of "accessory dwelling unit" does not require the ADU to be an actual accessory use of the single-family dwelling unit or connected to it – rather LUBA's interpretation essentially allows two dwelling units to be sited on the same property. As for "reasonable local regulations related to siting and design," LUBA never defined the word "reasonable" which inherently narrows the interpretation of the words "siting" and "design." And perhaps most egregiously, is LUBA's incredibly narrow interpretation of the word "siting." LUBA chose to use a standard dictionary definition of the word, ignoring the fact that the word "siting" has a technical meaning in the land use arena that is not recognized in Webster's Dictionary. In essence, LUBA defines "siting" to mean where, on a particular parcel, an ADU can be built – which is far different than a historical and technical understanding of that term in the land use context.

This decision by LUBA has the potential to not just impact how ADU's are sited, but also how cities can regulate the development of middle housing under House Bill 2001. During the 2019 legislative session, House Bill 2001 was enacted, wherein it defined middle housing to mean duplexes, triplexes, quadplexes, cottage clusters and townhouses. Under the bill, each city with a population of 25, 000 or more, or each city within a metropolitan service district, is required to allow for the development of middle housing types in areas zoned for residential use if single-family dwellings are permitted to be constructed. The same terms at issue in the current LUBA appeal, "reasonable local regulations related to siting and design," are also included in House Bill 2001.

LUBA appeals are fast-tracked by statute. While there is no hard date upon which the Court of Appeals must issue its ruling, the statutes do require a decision to be made quickly. All briefs will be submitted by April 24, 2020 – LOC's amicus brief has already been submitted – and oral argument has been declined.



## MEMORANDUM

**To: Board of Directors**  
**From: Patty Mulvihill, General Counsel**  
**Date: April 20, 2020**  
**Re: Update on Bylaws Review Committee**

---

The Bylaws Committee last provided a substantive update on its work to the LOC Board of Directors at the September 25, 2019 meeting. During that update, the Bylaws Committee noted that it had convened several meetings, thoroughly reviewed the existing Bylaws, and had one outstanding issue upon which it had not reached consensus.

That one outstanding issue involved the current leadership structure of the Board of Directors. Some members noted that a four-year commitment to be President may unnecessarily limit otherwise worthy candidates from seeking a leadership role in the organization. In discussing this concern, some Committee members also noted that there could be individuals interested in finance and budgeting, making them a logical choice for Treasurer, but who have no interest in being the Vice-President or President, thereby precluding the Treasurer position from turning into one that plays a more active role in LOC finances. Not all members of the committee found the current leadership structure concerning.

The Committee universally agreed that any change in the governing structure of the Board of Directors should not be suggested, much less made, without getting the thoughts and opinions of the membership as a whole. To that end, the Committee directed LOC staff to prepare a survey about the leadership structure of the Board of Directors, providing different potential structures for the members to consider, and distribute it to all LOC members. The survey was conducted from March 2 to April 5, 2020, and responses were received from 116 people. This survey was sent to city elected officials as well as city staff. The LOC created the survey with Qualtrics and distributed it to elected officials, city managers, city recorders, and other individuals with positions equal to a city's chief executive officer. A copy of the survey report and results is attached herein.

On April 10, 2020, the Bylaws Committee held its most recent meeting. While a quorum of the Committee was present, not all members were able to attend. During this meeting, the Committee made some significant decisions.

1. Two Proposals. Given the COVID-19 pandemic, the Committee believes that 2020 is not an appropriate year to put forward major substantive changes to the LOC governing structure or to modify the LOC Constitution. Given that the membership is focused on its response to the pandemic and that many members may not be able to attend the Annual Business Meeting in 2020, it was decided that the work of the Committee would be broken down into two packages. Package A will be more minor changes that only impact the Bylaws; it was decided that this package will be brought before the Board of Directors in 2020. Package B will focus on major substantive changes and those changes that implicate the LOC Constitution; it was decided that this package will be brought before the Board of Directors

and the full membership in calendar year 2021. It is the Committee's current intent to bring Package A before the Board of Directors during the Board's June 2020 meeting.

2. City Manager Position on Board of Directors. When the Oregon City County Management Association (OCCMA) learned that the Bylaws Review Committee was comprehensively reviewing and potentially updating LOC's Bylaws, they filed a request with the Committee, asking the Committee to reconsider the OCCMA's role in the nominating process related to the open city manager position each year. Presently, the Bylaws provide OCCMA the opportunity to make a recommendation for the open city manager position; the LOC Nominating Committee is under no obligation to take that recommendation. OCCMA advised that the Nominating Committee's discretion to accept or not accept its recommendation has resulted in conflict within the OCCMA community. As such, OCCMA requested that either the Nominating Committee be required to accept OCCMA's recommendation or that the OCCMA not be required to make a recommendation. The Bylaws Review Committee proposes the Nominating Committee be required to take the OCCMA's recommendation (provided the OCCMA consider the same type of criteria the Nominating Committee itself considers) – noting that the Nominating Committee is simply proposing a slate to the entire membership. That slate of candidates does not have to be accepted by the full membership and nominations from the floor of the annual membership meeting are still permitted.
  
3. Governing Structure. Based on the results of the governing structure survey, the Committee directed LOC staff to prepare amendments to the Bylaws and the Constitution, to be included in Package B (scheduled for release in 2021) that changes the leadership structure of the LOC Board of Directors as follows:
  - Vice-President elected by membership during annual business meeting and serves one-year term. Vice-President automatically assumes the position of President, serving a one-year term. President automatically becomes Immediate Past-President, serving a one-year term. Vice-President, President, and Immediate Past-President must hold elected office with a member city.
  
  - Treasurer elected by membership during annual business meeting and serves two-year term. Treasurer must hold either an elected or appointed position with a member city.

The Bylaws Review Committee will next meet, via teleconference, on Monday, May 11, 2020 at 3:00 p.m.

# LOC Board Governance Structure Survey Report

*April 2020*

*Paul Aljets*

*The League of Oregon Cities conducted a survey of its members about potential changes to the governance structure of LOC's Board of Directors. The study found that most respondents favor a system in which the Treasurer is opened to non-elected members of the board and the office will no longer be included in the chain of office positions. Further questions show that while the majority favor more options for city staff involvement, the specifics of those expanded options is up for debate.*

**Introduction**

In 2019, the LOC Board of Directors created a Bylaws Committee to review and, if necessary, update LOC’s Bylaws. As the Committee reviewed the LOC Bylaws, it also reviewed the Constitution, and had significant discussions surrounding LOC’s leadership structure. As such, the Bylaws Committee, as part of its review of the LOC governing documents, wanted to ensure the structure surrounding LOC’s leadership meets the needs and expectations of the membership. As a result, LOC staff worked with a research consultant to develop and release a survey that gathered information about the opinions of city staff and elected officials on the options for governance changes discussed by the Committee. This survey was conducted for four weeks and received responses from 116 individuals from 94 cities.

**General Results**

Among respondents, 61% were elected officials and 39% were city staff. Elected officials were significantly more likely to respond in Metro and in the South Willamette Valley. South-Central Oregon and Eastern Oregon were regions in which staff were more likely to respond to this survey. Table 1 shows the breakdown of these respondents by type of respondent as well as by population category and small cities region.<sup>1</sup>

| <b>City Position Type</b> |                 |              |              |              |
|---------------------------|-----------------|--------------|--------------|--------------|
|                           | #               | %            | #            | %            |
| <b>Quintile</b>           | <b>Electeds</b> |              | <b>Staff</b> |              |
| 1st Quintile              | 4               | 5.6%         | 9            | 20.0%        |
| 2nd Quintile              | 7               | 9.9%         | 8            | 17.8%        |
| 3rd Quintile              | 11              | 15.5%        | 9            | 20.0%        |
| 4th Quintile              | 17              | 23.9%        | 11           | 24.4%        |
| 5th Quintile              | 32              | 45.1%        | 8            | 17.8%        |
| <b>TOTAL</b>              | <b>71</b>       | <b>61.2%</b> | <b>45</b>    | <b>38.8%</b> |
| <b>Region</b>             | <b>Electeds</b> |              | <b>Staff</b> |              |
| N. Coast                  | 4               | 5.6%         | 3            | 6.7%         |
| Metro                     | 15              | 21.1%        | 3            | 6.7%         |
| N. Willamette             | 14              | 19.7%        | 9            | 20.0%        |
| S. Willamette             | 7               | 9.9%         | 3            | 6.7%         |
| C. Coast                  | 5               | 7.0%         | 2            | 4.4%         |
| S. Coast                  | 3               | 4.2%         | 1            | 2.2%         |
| S. Oregon                 | 6               | 8.5%         | 5            | 11.1%        |
| Gorge                     | 1               | 1.4%         | 2            | 4.4%         |
| C. Oregon                 | 3               | 4.2%         | 2            | 4.4%         |
| SC Oregon                 | 1               | 1.4%         | 2            | 4.4%         |
| NE Oregon                 | 12              | 16.9%        | 9            | 20.0%        |
| E. Oregon                 | 0               | 0.0%         | 4            | 8.9%         |
| <b>TOTAL</b>              | <b>71</b>       | <b>61.2%</b> | <b>45</b>    | <b>38.8%</b> |

Table 1: Respondents by City Position Type

The primary question of this survey centered on the potential options available for LOC governance structure changes. These options were:

- Option A (The Current System): The current system includes a succession chain in which the Treasurer is elected and then becomes the Vice President the following year. After another year, the Vice President serves for one

<sup>1</sup> Breakdown of population quintile categories is available on pg.5.

year as LOC President. After a one-year tenure as President, the person holding that position then becomes the Immediate Past-President for a one-year tenure. There is a four-year commitment when a person is elected to the position of Treasurer.

- Option B: The Office of Treasurer is eliminated, and the chain of elected officer positions begins with the Vice President. Vice President will serve for one year and then succeed to the office of President. The President will then assume the role of Immediate Past-President for a one-year term.
- Option C: The office of the Treasurer is opened to non-elected members of the board (i.e. City Managers) and the position will remain an elected office on the board. However, the office will not be included in the chain of office positions. In this case the Vice President will serve for one year and then succeed the office of President.

Overall, Option C was most preferred by respondents with 42.6% of those surveyed choosing this option. Further, Option C was significantly more preferred by cities under 470 in population as well as cities between 1,301 and 3,250 (or 3<sup>rd</sup> quintile) in population. Option C was also significantly more likely to be chosen in six of the 12 regions (all 3 Coast regions, Southern Oregon, Gorge, and Northeastern Oregon regions).

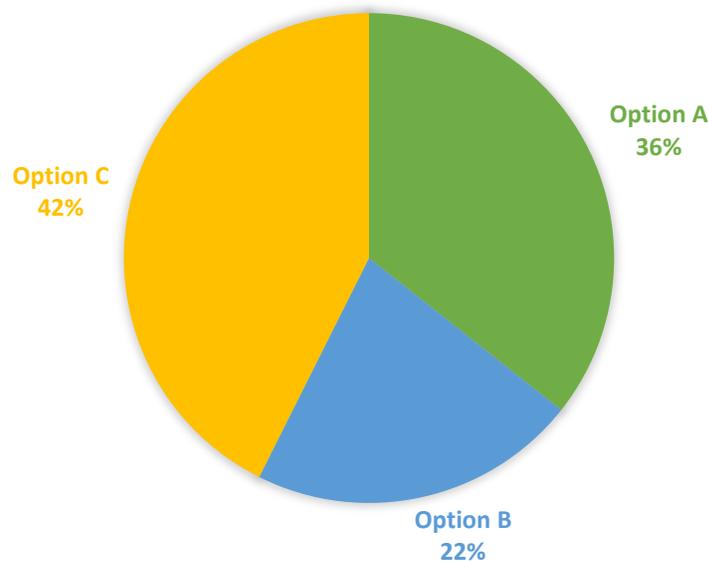


Figure 1: Overall Survey Respondents

This data was also subdivided by staff and elected officials. Figure 2 and 3 below show side-by-side comparison of the opinions of these two different groups.

## ELECTED OFFICIALS

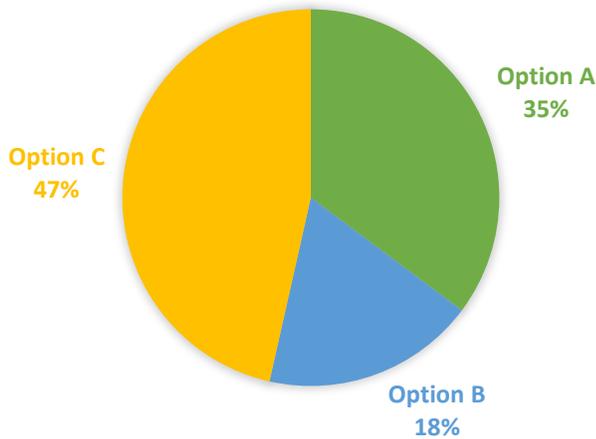


Figure 2: Governance Option for Elected Officials

## STAFF

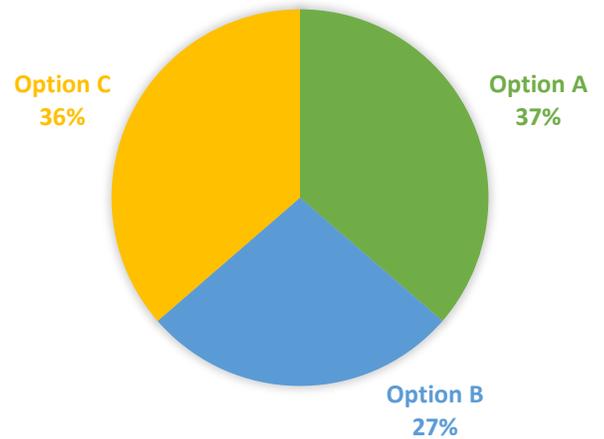


Figure 3: Governance Option for City Staff

Option C was more preferred by city elected officials as opposed to staff, however option C was virtually tied among staff with Option A (keeping the current systems). It is interesting that the option that would provide staff members with additional options for involvement in the LOC Board of Directors was slightly less favored than the current system of staff serving only as board members.

Respondents were asked specifically which roles city staff should be eligible for on the LOC Board. The table below shows that while the majority of respondents picked Option C (which allows staff to serve as board treasurer) there is perhaps more nuance on respondent opinions.

| Roles of City Staff on LOC Board         | Respondents |
|--|-------------|
| Board Members (Only)                     | 48          |
| Treasurer, Board Members                 | 36          |
| All Roles                                | 24          |
| Vice President, Treasurer, Board Members | 2           |
| Treasurer (Only)                         | 1           |
| Vice President, Treasurer                | 1           |

Table 2: What roles should non-elected individuals be allowed to serve in on the LOC Board?

Forty-eight respondents selected board member as the sole role they believed city staff should fill. This being the majority in this question is likely due to the additional options for staff involvement which split those respondents that want greater staff roles across multiple options. While 36 wanted the roles exactly matching option C, 24 respondents thought staff should fulfill any role on the LOC Board of Directors.

Additional to these structured questions, LOC asked respondents their opinion on the general leadership structure of LOC. This was intended to provide more qualitative results and to shine light on considerations not yet explored by the Bylaws Committee. Copies of responses to this specific question, as well as the additional comments asked at the end of the survey, are available in Appendix C.

### Survey Methods

This survey was conducted from March 2 to April 5, 2020, and responses were received from 116 people. This survey was sent to city elected officials as well as city staff. The LOC created the survey with Qualtrics and distributed it to elected officials, city managers, city recorders, and other individuals with positions equal to a city’s chief executive officer.

Cities are divided into population quintiles or groups of cities representing roughly one-fifth of the 241 total cities. This is done to provide a more accurate comparison of differences among city populations. If LOC randomly selected cities from each quintile, we would expect 20 percent to come from each of the five quintiles. Among respondents, there was overrepresentation in the Metro and South Willamette regions as well as in Northeastern Oregon. Further, the survey had an underrepresentation of cities in several regions. Cities in the 1<sup>st</sup> and 2<sup>nd</sup> population quintile were underrepresented. Cities over 3100 in population were overrepresented. In the below table, cells marked with green indicate an overrepresentation and those in red denote underrepresentation.

| Respondents     |     |       |
|-----------------|-----|-------|
|                 | #   | %     |
| <b>Quintile</b> |     |       |
| 1st Quintile    | 13  | 11.2% |
| 2nd Quintile    | 15  | 12.9% |
| 3rd Quintile    | 21  | 18.1% |
| 4th Quintile    | 27  | 23.3% |
| 5th Quintile    | 40  | 34.5% |
| TOTAL           | 116 |       |
| <b>Region</b>   |     |       |
| N. Coast        | 7   | 6.0%  |
| Metro           | 18  | 15.5% |
| N. Willamette   | 22  | 19.0% |
| S. Willamette   | 10  | 8.6%  |
| C. Coast        | 7   | 6.0%  |
| S. Coast        | 4   | 3.4%  |
| S. Oregon       | 11  | 9.5%  |
| Gorge           | 3   | 2.6%  |
| C. Oregon       | 5   | 4.3%  |
| SC Oregon       | 3   | 2.6%  |
| NE Oregon       | 21  | 18.1% |
| E. Oregon       | 5   | 4.3%  |
| TOTAL           | 116 |       |

| Quintile Ranges         | # Cities | % Cities |
|-------------------------|----------|----------|
| 1st Quintile <470       | 48       | 19.8%    |
| 2nd Quintile 471-1300   | 49       | 20.2%    |
| 3rd Quintile 1301-3250  | 48       | 19.8%    |
| 4th Quintile 3251-10200 | 48       | 19.8%    |
| 5th Quintile >10200     | 48       | 19.8%    |
| Small Cities <5000      | 166      | 68.6%    |
| Top 5 % >40000          | 12       | 5.0%     |

## Appendix A: Invitation to Participate

LOC needs your help with this special survey – **Please complete the survey by Friday, April 5<sup>th</sup>.**

In 2019, the LOC Board of Directors created a Bylaws Committee to comprehensively review and, if necessary, update LOC's Bylaws. As the Committee reviewed the LOC Bylaws, it also reviewed the Constitution, and in doing so, significant discussions surrounding LOC's leadership structure began to occur. LOC, and by extension the Bylaws Committee, is committed to being an organization that allows its members to effectively participate in both the organization as a whole and on its Board of Directors. As such, the Bylaws Committee, as part of its review of the LOC governing documents, wants to ensure the structure surrounding LOC's leadership meets the needs and expectations of the membership.

On behalf of the LOC Bylaws Committee, staff respectfully asks that you please take a few minutes to complete the following survey regarding your opinions and preferences on the leadership structure of the LOC. Your time is valuable, both the Committee and the Board of Directors thank you in advance for your participation and feedback.

This survey should take less than 10 minutes to complete.

Please respond to this survey by the deadline: April 5, 2020.

### Survey Link Below:

[http://orcities.co1.qualtrics.com/jfe/form/SV\\_aialQMyplhJXQDb](http://orcities.co1.qualtrics.com/jfe/form/SV_aialQMyplhJXQDb)

Thank you in advance for your participation and prompt response.



Patty Mulvihill, *General Counsel*

503-588-6550 direct: 812-360-2106

1201 Court St. NE, Suite 200, Salem, OR 97301-4194

[www.orcities.org](http://www.orcities.org)



**Appendix B: Survey Instrument**

# 2020 Governance Structure Survey

---

Start of Block: Default Question Block

Q1 2020 LOC Governance Structure Survey

---

*Q2 On behalf of the LOC Bylaws Committee, we ask you to complete the following survey on your opinions about the leadership structure of the LOC. Your time is valuable, both the Committee and the Board of Directors thank you in advance for your participation and feedback.*

---

Q3 Please fill out the following questions.

- City Name: (1) \_\_\_\_\_
  - Your Name: (2) \_\_\_\_\_
  - Your Title: (3) \_\_\_\_\_
  - Email Address: (4) \_\_\_\_\_
- 

Q4 Which of the following leadership structures would you prefer for the LOC Board of Directors?

- Option A (The Current System): The current system includes a succession chain in which the Treasurer is elected and then becomes the Vice President the following year. After another year, the Vice President serves for one year as LOC President. (1)
  - Option B: The Office of Treasurer is eliminated and the chain of elected officer positions begins with the Vice President. Vice President will serve for one year and then succeed to the office of President. (2)
  - Option C: The office of the Treasurer is opened to non-elected members of the board (i.e. City Managers) and the position will remain an elected office on the board. However, the office will not be included in the chain of office positions. In this case the Vice President will serve for one year and then succeed the office of President. (3)
-

Q5 What roles should non-elected individuals (i.e. City Managers, etc.) be allowed to serve in on the LOC Board?

*(Check all that Apply)*

- President (1)
  - Vice President (2)
  - Treasurer (3)
  - Board Members (4)
- 

Q6 Overall, what is your opinion of the leadership structure of LOC?

---

---

---

---

---

Q7 Do you have any additional comments about this survey?

---

---

---

---

---

**Appendix C: Open-Ended Survey Question Responses**

| <b>Overall, what is your opinion of the leadership structure of LOC?</b>   |
|--|
| A little too narrow  |
| A three-year commitment is difficult to do when most elected terms are 4 years.  |
| Adequate but if structured as in option C above, I feel it could be better.  |
| All is well  |
| Coming in new, I was confused by the role of "treasurer" and the succession chain  |
| I am more familiar with VP being elevated as Pres, thus, you elect a President each year and that person is in training for a year before taking over leadership   |
| A numbers cruncher - Treasurer - may not have leadership skills & personality to serve as President.   |
| Currently takes too long to progress thru chairs   |
| Diverse perspectives and experience, including professional and political perspectives, bring value to LOC's decision-making.  |
| For the most part the leadership structure seems to be working all right. I do feel that the treasurer position should be eliminated from the succession of officers. I was on the nominating committee. The criteria for president is very different than that of treasurer. Also, the process was more political than I would have hoped for.  |
| Frankly, I don't like it. This chain-of-succession method seems like a bad idea. A more traditional system, in which each officer is elected separately and there is no succession is a better one.  |
| If a Vice President turns out to be a poor choice during their term in office, the last thing anyone would want is to then shift that individual into the position of President.   |
| The Treasurer's office should be a separate elective office. Nor should non-elected members be allowed to hold the offices of President, Vice-President, or Treasurer, if LOC is really meant to represent the cities of Oregon. Only elected public officials represent the choice of the voters, so only elected officials should represent the cities of Oregon. Non-elected individuals may be loyal to a city, but they don't have that direct connection to the voters, and could potentially have separate interests. |
| I honestly don't understand why LOC has such a screwball leadership system in place, given that LOC represents government entities in Oregon which all or mostly use a traditional elective system. LOC's leadership system should mirror the systems in place in their member cities--election of all officers and no succession.   |
| Good   |
| Has worked but could create problems if someone steps or falls out of the order.   |
| have to learn the leadership structure   |
| I also believe that the Vice President and President should have lifetime membership to the league   |
| I am frankly not that knowledgeable about the leadership structure and probably even less so about how well it is functioning. That said, there have not been any glaring defects and, with the exception of one area, I have not encountered any negative experiences with LOC.   |
| I am not aware of any problems with the current leadership of LOC but if another system would improve the structure, I am in favor of that. People should have the necessary skills to perform the duty of Treasurer.  |
| I am satisfied with the current structure. The Treasurer position could be held by the Executive Director (a non-voting member).   |
| I believe it's working very well the way it is.  |
| I chose the third option as I believe the opening up the pool of potential candidates for Treasurer as a positive one. There may be elected officials out there that may want to be Treasurer, but not necessarily be the President. Opening up the position to a City Manager or Administrator would also be positive.  |
| With that, I believe that only serving a year before becoming the President would not be appropriate. My   |

**Overall, what is your opinion of the leadership structure of LOC?**

recommendation would be to create the position of Second Vice President, which would be for the first year of someone that will eventually ascend to the Presidency.

I do not feel that I have had adequate time and energy (in my volunteer time, next to serving my city) to invest in understanding the LOC leadership structure.

I don't fully understand why City Managers are ineligible for officer-level positions.

I don't know enough about it to weigh in on the subject. It just seems logical to me to let City Managers and Administrators sit on the Board as a voting member, but only if the elected officials take formal action (adopt a Resolutions) naming the Administrator or Manager as their representative. I can understand why you might want someone else to be the treasurer, and so long as the appropriate reviews and votes are recorded, it should be fine.

I don't really have an opinion.

I don't think it is bad.

I have not paid much attention to the structure of the board. I have felt the LOC has performed well under it's current make up.

I have not thought about the structure of LOC. Its goal is to help elected official get information and effectively run cities so if that is the case it should be set up to have the board set up for elected officials

I know little about it. Mike Cully is leagues better than prior executive directors, but the board members I know next to nothing about. Mayor/President Boone aside, the last LOC President that made an impression and was outgoing to more than his immediate colleagues was Jim Fairchild, Mayor of Dallas. Everybody else in between was unremarkable.

I like the quick succession opportunity for the Vice-President. I like the continuity of service.

I like the structure of LOC and feel it takes a number of years to truly understand all LOC does and the learning curve is steep. It is appropriate to have at least a three-year run before becoming President.

I like the succession method because it gives an individual time to learn the leadership position and gives some history into the operations of the LOC.

I like the succession process to groom future leaders. I don't understand why or if this has become an issue.

I really don't have an opinion. appreciate the service the LOC provides.

I support the strength of the board being in the hands of elected officials.

I think a question about the city manager positions on the board is why the first-year position doesn't vote.

I think each position should be elected and there should not be a chain of succession at all.

I think highly of them.

I think it rotates too often. Minimum two-year terms as president and treasurer would be a great place to start. Too much turnover leads to short-term goals at the expense of long-range planning.

I think it works well.

I think that the Treasurer position seems unnecessary as a step to president of LOC. OMA has VP and P and Past P and I think it works just fine.

I think the leadership structure of the LOC Board could be improved slightly by encouraging appointed professionals to be Treasurer. The leadership positions of President and VP should continue to be elected officials.

it has worked well

It is not something that I know much about so don't have strong opinions about.

It is okay

It is working well

It is working well the way it is.

It needs to be changed, updated. For example, eliminating the position of treasurer.

It seems fine to me, but if it doesn't seem to be working internally let us know so we can try to improve it.

it seems to be working well. I feel that our needs as cities are heard by LOC, even the smallest of cities seem to have an equal voice

It seems to function well

**Overall, what is your opinion of the leadership structure of LOC?**

It seems to have worked well for my 30+ years.

There could be greater outreach in term so giving us smaller-medium cities the opportunity to seek advocacy such as wetlands which has seemed to have been dropped from any agenda recently. Sometimes we feel out-lobbied by larger city agendas, but this is not a board structure issue as much as a system of more inclusion.

It seems to work pretty well but see comment below.

It seems to work well now. However, the long succession seems counter to some term lengths. Speaking of term length, what is the result of a Treasurer or VP not being re-elected before they start their Pres. term?

Also, I think the process of selecting board members is very unclear.

It seems to work.

It should be a mix of elected and non-elected members, from all sizes of cities (small/rural to large)

It works pretty well, I think. I appreciate the two years of "training" before taking the role of president.

It works well

It's been working fine

Its fine with or without the change

LOC seems to do just fine as it stands right now, I do understand some not desiring to move up the chain as it is now, and I feel that would call for a separate special election.

No complaints

No complaints

NO OPINION

No opinion (not enough knowledge to formulate).

No opinion other than it appears to have worked all this time.

No strong opinions

None

Non-Elected individuals (ex: City Administrators) should not be allowed on the LOC Board, they have an association of their own which they join at taxpayer expense. I like the way it is so do not change it!

Ok

OK

Ok

Overall, it is good but very difficult for folks to get into leadership positions. Especially given term limits in place for some cities, it is difficult to get on the board. Additionally, I would like more outreach to elected officials for opportunities for input and opportunities.

Recommend Option B.

Seems generally OK to me. Not important to have a two-person succession system.

Seems to be working fine (with the one suggested change to eliminate treasurer position

Seems to be working.

Seems to have worked relatively well in my time involved with LOC.

Seems to work. Just what does the Treasurer do?

Structure is sound. Treasurer position should not lead to VP, President automatically. City managers are more qualified for budgetary oversight purposes. Policy making should remain with elected officials with the addition of City Managers.

The above question should have included background info on current board structure. I had to research to see current structure, before answering.

My general feeling is that the LOC board should contain a balanced both a-elected officials (many/most of whom are volunteers in their cities and should therefore be offered a humble board stipend for their time/energy/effort, if not paid in their elected duties) and b-salaried career professionals (who a being paid by their employers to attend LOC meetings and therefore should not be eligible for and type of stipend for LOC board attendance/work).

| <b>Overall, what is your opinion of the leadership structure of LOC?</b>   |
|--|
| Whatever structure exists, the LOC board should NEVER be dominated by a majority salaried employees/staff!   |
| Yes, get rid of treasurer position and continue to allow salaried staff to populate a minority of the board.   |
| Create a new "Officer at-large" board seat that would only be open to salaried staff and would be one of three officers. But this person would NOT be able to be president or VP (which is reserved for elected officials). If not already permitted, allow officers to do some limited executive work, in absence of full board convening, in order to facilitate nimble response in certain business-related issues.       |
| The current Board of Directors serves LOC well, however there is always ways to improve.   |
| The current leadership structure provides three-year continuity and policy growth throughout the elected board membership. It allows for continuous directional growth, as well as, updated leadership without radical policy diversion.   |
| The volunteer leadership seems to work well. Having a period of time where the officer's stair step allows people to get a full understanding of the role of the President and the depth of LOC operations.  |
| I am concerned about the apparent politicization of some of the recent elections. Really important that we all put together. If he broke things down to more head to head elections, we are being a competitive group, could end up really hurting ourselves. A nominating committee can balance organizational needs, representation, and levels of experience at a level of depth not available to the general membership. |
| Too insular. Should include some requirements that representation should include all regions of the state.   |
| Name the regions, Require at least one person from each region.  |
| Very good.   |
| Works well   |

| <b>Overall, what is your opinion of the leadership structure of LOC?</b>   |
|--|
| City managers not LOC presidents   |
| I appreciate that you are reaching out to our elected officials for their opinion.   |
| I feel it operates well as is, although I am not too educated in the process.  |
| I think city managers have a lot they can offer, but the leadership of the LOC should stay in the hands of elected officials. a little longer term for president would go a long ways, and consistency at the treasurer position could be a real plus.   |
| I think the VP should be selected from an elected official on the Board of Directors. The members of the Board will have demonstrated commitment and they will have learned about the LOC while serving on the Board. This replaces the track through the Treasurer and still ensures the VP is educated on the organization |
| I'd like to see city managers and finance directors have the opportunity to be the League's treasurer.   |
| Just interested in why this has become an issue and if I'm missing something.  |
| Mulvihill rocks!   |
| My perception is that leadership is dominated by small cities, leaving mid-size cities out of the loop. (Cities 10,000 to 50,000   |
| My responses are based on the promotion of the Council/Manager form of government; CM's not holding President, VP and Treasurer.   |
| no   |
| No, I don't  |
| No, thank you.   |

| Overall, what is your opinion of the leadership structure of LOC?  |
|--|
| No, thanks for asking.   |
| No, thanks!  |
| No.  |
| no.  |
| no.  |
| None   |
| None @ this time, thanks.  |
| Nope   |
| Nope!  |
| Not at this time   |
| Thank you for allowing me to give input.   |
| Thank you for asking us to participate in survey.  |
| Thank you for reaching out.  |
| Thank you for short.   |
| The reason for the survey remains unclear. Perhaps some of the arguments for different options ought to have been included in the cover email. |
| Thank you for the opportunity to give input.   |
| Thank you for the opportunity to provide input, and thank you for all things you do for us through LOC.  |
| Thanks for asking.   |
| thanks for giving us a chance to comment on the process. Please post the findings and the final decisions to all involved.                     |
| Thanks for looking at LOC governance.  |
| Thanks for valuing our opinions.   |
| The board should have some requirements to assure rural cities are given priority.   |
| The General Counsel is AWESOME!!!  |
| Very comfortable with allowing City Managers a more visible role!  |
| Yes, offering only those three options seems disingenuous. The traditional system should also be an option.                                    |
| Perhaps even another option should be offered in which we could offer alternative systems for leadership of LOC.                               |



## **MEMORANDUM**

**To: Board of Directors**

**From: Jayme Hafner, Assistant General Counsel**

**Date: April 20, 2020**

**Re: Update on Equity & Inclusion Committee**

---

Since its initial formation, the LOC Equity and Inclusion Committee has completed the following accomplishments to note.

- First, the committee, with approval of the LOC Board of Directors, expanded its membership to include two additional members with the specific intent to expand the diversity of those who serve on the committee.
- Second, with the assistance of its equity consultant, the committee issued a survey directed to city officials to determine the demographic makeup of city staff and elected officials across the state. The results of the survey will be considered as part of the bigger equity lens the committee hopes to begin to develop later this year.
- Third, committee members have evaluated the purpose of the committee, its goals, and the general themes or content needed to be included in an equity lens. The consultant has collated this information and is using it to draft an initial lens for the committee to review and consider.
- Fourth, due to the COVID-19 pandemic, the committee had to cancel a retreat scheduled in early April to begin reviewing a draft equity lenses with the committee's equity consultant. At present, the committee is working to reschedule the retreat.