

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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## Action: Ratification of Unanimous IGR Actions and Action on Non-Unanimous IGR Actions from January 26, February 2, and February 9, 2011

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Meeting Date: February 14, 2011  
Department: City Manager's Office  
*www.eugene-or.gov*

Agenda Item Number: 3  
Staff Contact: Brenda Wilson  
Contact Telephone Number: 541-682-8441

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### ISSUE STATEMENT

This is an action item to discuss and ratify the actions of the Intergovernmental Relations (IGR) Committee from the January 26, February 2, and February 9 2011, IGR Committee meetings.

### BACKGROUND

As a matter of procedure, during the legislative session, the City Council is routinely asked to ratify the actions taken by the Intergovernmental Relations Committee on legislation. The IGR Committee reviews all bills and their associated staff recommendations and provides direction for each piece of legislation introduced during the legislative session.

Any member of the IGR Committee may pull a bill off the IGR Bill Report for discussion. If a bill is not pulled for discussion, the staff recommendation stands. If a bill is pulled for discussion, the IGR Committee may keep or change the staff recommendation. Actions on which the IGR committee is not unanimous must be brought before the full City Council for consideration. These bills must be addressed by the full council in order to provide direction to staff in Salem.

The IGR Committee met on January 26, February 2, and February 9, 2011, to review staff recommendations on bills that have been introduced in the state legislature. The minutes for the February 2, and 9, 2011, meetings are not ready for ratification by the full City Council at this time.

However, the IGR Committee vote on several bills was not unanimous. Accordingly, the full council must provide direction before these bills can be lobbied in Salem. The bills for which there was not a unanimous vote are listed below. Staff comments for each bill are listed in the attached documents. Bills may be accessed via the Legislature's website: <http://www.leg.state.or.us/09reg/measure/main.html>.

### January 26, 2011:

SB 0047: This bill would require certain governing bodies of public bodies to make audio, audio-video or digital re-cording of public meetings; make written records of meetings and specify contents of written record; requires recordings and related written records to be available within seven working days of meeting or within one working day of request to

review or inspect, whichever is later; and requires the Attorney General to develop training materials to educate public employees on public meetings law requirements.

Staff Recommendation: Priority 3, Oppose (By: Jerry Lidz and Beth Forrest)  
IGR Committee Vote: Priority 3, Support (1/2, Clark / Poling, Taylor No)

(See page 18 of the January 26, IGR Bill Report for staff comments.)

SB 0146: This bill would extend the scope of the Residential Service Protection Fund surcharge to include fixed interconnected voice over Internet protocol service and prepaid telecommunications service.

Staff Recommendation: Priority 2, Support (By: Pam Berrian)  
IGR Committee Vote: Neutral (1/2, Clark / Poling, Taylor No)

(See page 22-23 of the January 26, IGR Bill Report for staff comments.)

SB 0186: This bill would require that a person seeking to appeal a land use decision or a limited land use decision to the Land Use Board of Appeals must own or have ownership interest in, real property within (blank ) miles of the real property affected by decision.

Staff Recommendation: Neutral (By Jerry Lidz and Steve Nystrom)  
IGR Committee Vote: Priority 3, Support (2/1, Clark, Poling / Taylor, No)

(See page 23 of the January 26, IGR Bill Report for staff comments.)

HB 2181: This bill would modify the attorney fee provisions related to review of decision of local government before the Land Use Board of Appeals.

Staff Recommendation: Priority 2, Oppose (By Jerry Lidz and Steve Nystrom)  
IGR Committee Vote: Priority 2, Support (2/1, Clark, Poling / Taylor, No)

(See page 7 of the January 26, IGR Bill Report for staff comments.)

HB 2182: This bill would modify the basis for petitioning the Land Use Board of Appeals for review of a land use decision or limited land use decision.

Staff Recommendation: Neutral (By Steve Nystrom)  
IGR Committee Vote: Priority 3, Support (2/1 Clark, Poling / Taylor, No)

(See pages 7-8 of the January 26, IGR Bill Report for staff comments.)

## **February 2, 2011:**

SB 0542: This bill would expand the definition of “tourism-related facility” to include roads that serve tourist destinations for the purposes of transient lodging taxes.

Staff Recommendation: Priority 2 Support / Neutral (By Larry Hill and Mike Magee)  
IGR Committee Vote: Priority 3, Oppose (2/1, Clark, Poling / Taylor, No)

(See page 33 of the January 26 Bill Report for staff comments – held over until February 2.)

HB 2231: This bill would increase the cigarette tax.

Staff Recommendation: Priority 1 Support (By Larry Hill)  
IGR Committee Vote: Monitor (2/1, Clark, Poling / Taylor, No)

(See page 6 of the February 2, IGR Bill Report for staff comments.)

HB 2352: This bill would require cities that reduce available prime industrial land within their urban growth boundaries to replace land or mitigate impacts so that development capacity to satisfy needs for prime industrial land is not reduced or compromised.

Staff Recommendation: Priority 3, Oppose (By Steve Nystrom)  
IGR Committee Vote: Monitor (2/1, Poling, Clark / Taylor, No)

(See page 7 - 8 of the February 2, IGR Bill Report for staff comments.)

HB 2586: This bill would classify exemptions from ad valorem property tax as funds of a public agency for the purpose of requiring payment of prevailing wage.

Staff Recommendation: Priority 3, Oppose (By Larry Hill and Denny Braud)  
IGR Committee Vote: Priority 2, Support (1/2, Taylor / Poling, Clark No)

(See page 19 -20 of the February 2, IGR Bill Report for staff comments.)

HB 2609: This bill would require metropolitan service districts and cities with populations of 25,000 or more that are outside metropolitan service districts to provide rolling, five-year supplies of shovel ready buildable lands for needed housing and for industrial and commercial uses.

Staff Recommendation: Priority 2, Oppose (By Steve Nystrom)  
IGR Committee Vote: Monitor (2/1, Clark, Poling / Taylor, No)

(See page 20 – 21 of the February 2, IGR Bill Report for staff comments.)

HB 2624: This bill would modify the definition of “public works” and classify exemptions from ad valorem property tax as funds of public agency for purpose of requiring payment of prevailing wage.

Staff Recommendation: Priority 2, Oppose (By Larry Hill and Denny Braud)  
IGR Committee Vote: Priority 2, Support (1/2, Taylor / Poling, Clark No)

(See page 23 – 24 of the February 2, IGR Bill Report for staff comments.)

HB 2628: This bill would define “funds of a public agency” for purposes of applying prevailing wage to public projects, to include tax credits or tax abatements that a contractor receives from the state in connection with a project.

Staff Recommendation: Priority 2, Oppose (By Larry Hill and Denny Braud)  
IGR Committee Vote: Priority 2, Support (1/2, Taylor / Poling, Clark No)

(See page 24 - 25 of the February 2, IGR Bill Report for staff comments.)

HB 2709: This bill would direct the State Board of Pharmacy to classify certain synthetic cannabinoid compounds as Schedule I controlled substances.

Staff Recommendation: Priority 3, Support (By Chuck Tilby)  
IGR Committee Vote: Priority 3, Oppose (1/2, Taylor / Poling, Clark, No)

(See page 30 - 31 of the February 2, IGR Bill Report for staff comments.)

HB 2966: This bill would prohibit contracting agencies from awarding public contracts to bidders that perform services outside the United States.

Staff Recommendation: Priority 3, Oppose (By Jamie Garner and Paul Klope)  
IGR Committee Vote: Neutral (1/2, Taylor / Poling, Clark No)

(See page 37 - 38 of the February 2, IGR Bill Report for staff comments.)

### **February 9, 2011:**

HB 2518: This bill would permit local governments to impose a real estate transfer tax or fee, provided a tax or fee that is structured progressively based on consideration paid for property, transfer in which buyer is first-time homebuyer or exempt, and a marginal rate of tax or fee decrease as length of ownership by seller increases.

Staff Recommendation: Priority 2, Support (By Larry Hill)  
IGR Committee Vote: Neutral (2/1, Clark, Poling / Taylor, No)

(See page 9 of the February 9, IGR Bill Report for staff comments.)

HB 2563: This bill would create and adjust sunset dates for certain exemptions to property taxation.

Staff Recommendation: Priority 2, Support (By Larry Hill)  
IGR Committee Vote: Priority 3, Oppose (2/1, Clark, Poling / Taylor, No)

(See page 11 of the February 9, IGR Bill Report for staff comments.)

HB 2602: This bill would Creates offense of unsafe operation of bicycle.

Staff Recommendation: Priority 3, Oppose (By Chuck Tilby, Eric Jones, and Lee Shoemaker)  
IGR Committee Vote: Priority 3, Support (2/1, Poling, Clark / Taylor, No)

(See page 12-13 of the February 9, IGR Bill Report for staff comments.)

## **RELATED CITY POLICIES**

Ratification of IGR Committee actions is the making or affirming of the City of Eugene's policy with respect to Federal and State legislative issues or such other matters as may come to the council from the committee.

## **COUNCIL OPTIONS**

The council may ratify or decline to ratify the IGR Committee's unanimous actions and approval of staff recommendations. Actions on which the IGR committee is not unanimous must be addressed by the full council in order to provide direction to staff in Salem.

## **CITY MANAGER'S RECOMMENDATION**

The City Manager recommends ratification of the IGR Committee's actions and that there be a discussion on the actions that were not unanimous.

## **SUGGESTED MOTION**

Move to ratify the IGR Committee's unanimous actions on bills and approval of staff recommendations in the January 26, February 2, and February 9, 2011, IGR Bill Reports for bills not pulled for discussion at those IGR meetings.

There also needs to be motions to state positions for each bill listed above where the IGR Committee action was not unanimous.

## **ATTACHMENTS**

- A. January 26, 2011 IGR Bill Report
- B. February 2, 2011 IGR Bill Report
- C. February 9, 2011 IGR Bill Report
- D. Bills up for Discussion

## **FOR MORE INFORMATION**

Staff Contact: Brenda Wilson  
Telephone: 541-682-8441  
Staff E-Mail: [brenda.s.wilson@ci.eugene.or.us](mailto:brenda.s.wilson@ci.eugene.or.us)

IGR BILL REPORT  
 JANUARY 26, 2011 / IGR COMMITTEE MEETING  
 CITY OF EUGENE

**HB 2035**

*Relating Clause:* Relating to the filing of civil actions for unlawful discrimination; declaring an emergency.

*Title:* Standardizes time limitations for filing civil actions for unlawful discrimination.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Brad Avakian)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2035.intro.pdf>

|                       |                          |                    |                       |                        |                              |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
| Jerry Lidz            | CS-CMO-ATTY              |                    | 1/17/2011             | --                     | Neutral                      |

*Comments:* Bill would standardize time frames for filing civil action for unlawful discrimination. While it will have some effect on the City, it's not a core issue for us. I'd be okay with "drop."

|                       |                          |                    |                       |                        |                              |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
| Susan Mullett         | CS-HR                    |                    | 1/13/2011             | --                     | Neutral                      |

*Comments:* Would recommend a 6 month time frame rather than the 12 month. The 90 days is too short for responding to an unlawful act.

**HB 2037**

*Relating Clause:* Relating to remedies under civil rights laws.

*Title:* Requires Commissioner of Bureau of Labor and Industries to award costs and reasonable attorney fees when complainant prevails for cease and desist order.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Brad Avakian)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2037.intro.pdf>

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| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
| Jerry Lidz            | CS-CMO-ATTY              |                    | 1/17/2011             | --                     | Neutral                      |

*Comments:* Additional remedy for successful complainant (award of costs and attorney fees) would support enforcement of nondiscrimination statutes, but on rare occasions it could cost the City money. We don't need to take a position.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/13/2011      | --              | Neutral               |

Comments: Follow City Attorney's office recommendation.

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### **HB 2041**

*Relating Clause:* Relating to enforcement authority of the Commissioner of the Bureau of Labor and Industries.

*Title:* Authorizes Commissioner of Bureau of Labor and Industries to issue temporary cease and desist order under certain circumstances.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Brad Avakian)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2037.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/17/2011      | --              | Neutral               |

Comments: Expands BOLI Commissioner's powers to enforce wage claim laws. City probably most affected with regard to prevailing wage requirements.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/13/2011      | --              | Neutral               |

Comments: Support City Attorney's recommendation.

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### **HB 2061**

*Relating Clause:* Relating to electronic records of governmental agencies; creating new provisions; and amending ORS 84.049.

*Title:* Permits governmental agency to conduct transaction electronically or create or retain electronic record of transaction without individual's agreement or consent if agency creates, sends, accepts, generates, communicates, stores, processes, uses or relies on electronic records regularly and in course of ordinary agency business. Permits agency to convert written records or records in other forms into electronic records.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Human Services)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2061.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/17/2011      | Pri 3           | Support               |

Comments: Bill would expand government agencies' ability to conduct transactions electronically and to rely on electronic records of the transactions. Also facilitates conversion of paper records to electronic ones. Generally helpful to us, with no downside apparent to me.

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**HB 2075**

*Relating Clause:* Relating to 9-1-1 emergency reporting system; creating new provisions; and amending ORS 403.105, 403.135, 403.200, 403.210, 403.220, 403.225 and 403.230 and section 4, chapter 5, Oregon Laws 2002 (first special session).

*Title:* Establishes alternative methods for telecommunications provider to satisfy requirement to collect and remit tax on customer access to 9-1-1 emergency reporting system from prepaid telecommunications service customers. Defines terms.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor John A. Kitzhaber for Oregon Military Department)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2075.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Kristi Wilde   |                   | EPD-911     | 1/14/2011      | Pri 1           | Support               |

Comments: The 9-1-1 telephone tax (75 cents per device per month) is an essential component of the overall funding for Oregon's 9-1-1 system. When originally legislated in 1981, the language did not anticipate telephone service via a 'prepaid wireless' device. As we watch consumer trends, in the fourth quarter of 2009, 69% of new subscribers added were choosing the prepaid services. A recent survey by the Opinion Research Council concluded that 39% of current wireless contract users were considering a switch to prepaid service. 17% of cell phone users currently are using the prepaid service. The lack of support by the prepaid wireless phone industry has deprived the Oregon 9-1-1 Program of an estimated \$6.8 million dollars in 2009. Local governments and public safety associations/organizations are being asked to support an Oregon APCO/NENA resolution in support of the inclusion of prepaid wireless devices into the statewide 9-1-1 funding system. Other states, including Washington, have passed similar legislation.

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**HB 2076**

*Relating Clause:* Relating to 9-1-1 emergency communications; creating new provisions; and amending ORS 403.105 and 403.135.

*Title:* Clarifies obligation of providers of telecommunications services and equipment to comply with requirements for 9-1-1 emergency communications.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor John A. Kitzhaber for Oregon Military Department)



*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2076.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Kristi Wilde   |                   | EPD-911     | 1/14/2011      | --              | Monitor               |

*Comments:* Having automatic location information displayed when a caller dials 9-1-1 can save time and lives for public safety responders, especially when callers are unable to assist in providing the location information on their own. The decision to purchase technology that will provide that information in a PBX environment is currently voluntary and does have an associated cost. In this community we have worked with school districts, the University, and businesses to advocate for voluntary investment in the technology. We have had success in some key arenas (e.g. the schools and some financial institutions). The Portland metro area has had a different experience and the impact has been significant. Although this technology is important for public safety, in the current fiscal environment, it will also be an unfunded mandate for businesses. Locally, we should continue to work for voluntary compliance until the technology can be implemented in all multi-line phone systems.

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## **HB 2078**

*Relating Clause:* Relating to fire safety; creating new provisions; amending ORS 476.040, 476.720, 479.168, 479.180, 479.195, 479.200, 479.295 and 479.990; and repealing ORS 479.018, 479.020, 479.030, 479.040, 479.050, 479.060, 479.080, 479.090, 479.100, 479.130, 479.140

*Title:* Repeals certain statutes regarding fire escapes and other fire safety requirements. Deletes statutory specifications regarding fire protection water supply availability for public buildings. Requires State Fire Marshal to establish fire protection water supply requirements by rule.  
Expands types of buildings and structures, or portions of buildings and structures, subject to closure for occupancy limit violations.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon State Police)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2078.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Joann Eppli    |                   | FIRE        | 1/11/2011      | Pri 3           | Support               |

*Comments:* The bill will clean up some conflicting provisions that put the enforcement of fire code provisions that are currently at odds with the Oregon Structural Specialty Code. The bill also corrects conflicts in dated language in ORS concerning water supply for fire fighting purposes that is in direct conflict with the state adopted fire code requirements.

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**HB 2079**

*Relating Clause:* Relating to smoke alerting devices; creating new provisions; and amending ORS 479.260 and 479.297.

*Title:* Requires that smoke alarm or smoke detector in transferred property having dwelling unit or lodging house, and installation of alarm or detector, be in conformance with State Fire Marshal rules. Specifies that alarm or detector comply with state building code applicable on installation date. Clarifies reference to requirements established by smoke alarm feature statute. Removes exemption of used manufactured dwelling equipped with ionization smoke alarm from alarm feature requirement.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon State Police)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2079.intro.pdf>

|                                      |                          |                            |                                    |                                 |   |
|--------------------------------------|--------------------------|----------------------------|------------------------------------|---------------------------------|---|
| <b><u>Contact</u></b><br>Joann Eppli | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>FIRE | <b><u>Updated</u></b><br>1/11/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Support |
|--------------------------------------|--------------------------|----------------------------|------------------------------------|---------------------------------|---|

*Comments:* The bill cleans up confusion concerning specific types of smoke alarms and their power sources. Removes direct conflicting language with the Oregon Structural and Residential Specialty Code concerning power sources for different types of smoke detectors.

**HB 2080**

*Relating Clause:* Relating to firearms; amending ORS 161.325, 161.327, 161.370, 426.130 and 427.290.

*Title:* Requires that certain court orders indicate that person subject to order is barred from possess-ing, receiving, shipping or transporting firearm or firearm ammunition.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon State Police)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2080.intro.pdf>

|                                      |                          |                               |                                    |                                 |   |
|--------------------------------------|--------------------------|-------------------------------|------------------------------------|---------------------------------|---|
| <b><u>Contact</u></b><br>Chuck Tilby | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>EPD-ADM | <b><u>Updated</u></b><br>1/15/2011 | <b><u>Priority</u></b><br>Pri 1 | <b><u>Recommendation</u></b><br>Support |
|--------------------------------------|--------------------------|-------------------------------|------------------------------------|---------------------------------|---|

*Comments:* This legislation fills a loophole in the law that would allow someone convicted of a serious crime, except for insanity, to possess, receive, transport or ship firearms and ammunition. To allow someone who commits serious felony crimes that would prohibit them from possessing, etc., firearms because of their serious mental condition allows a serious threat to the safety and security of society. Additionally, by requiring the court to specifically state in the court order that they are barred from firearms and ammunition

ensures that the defendant is knowledgeable about this prohibition which is a critical element when prosecuting people who are in violation.

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### **HB 2153**

*Relating Clause:* Relating to affordable housing tax credits; creating new provisions; amending ORS 317.097 and section 30, chapter 913, Oregon Laws 2009; appropriating money; and prescribing an effective date.

*Title:* Establishes Oregon Affordable Housing Trust Fund. Deposits contributions into fund. Continuously appropriates moneys in fund to Housing and Community Services Department for purposes of development, preservation or operation of affordable housing. Allows lending institutions that have received certification for tax credit for qualified housing loans to relinquish unclaimed credit. Creates tax credit for monetary contributions to Oregon Affordable Housing Trust Fund. Includes amount of contributions in calculation of maximum amount of credit allowed for affordable housing. Applies to contributions received after effective date of Act and to tax years beginning on or after January 1, 2011. Takes effect on 91st day following adjournment sine die.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Housing and Community Services Department)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2153.intro.pdf>

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel Flannery | S.Jennings        | PDD-ADM     | 1/12/2011      | Pri 2           | Support               |

*Comments:* Modifies OAHIC so it can be used in current financial conditions. DAHTC has been a critical source of subsidy for multifamily development. Without OAHIC the City must use more of its limited resources to fill financing gaps, which results in development of fewer projects. No amendments would make it better.

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### **HB 2166**

*Relating Clause:* Relating to financing for transportation projects; creating new provisions; repealing section 15, chapter 30, Oregon Laws 2010; and declaring an emergency.

*Title:* Authorizes issuance of lottery bonds for transportation projects funded from Multimodal Transportation Fund. Specifies allocation of lottery bond proceeds. Declares emergency, effective July 1, 2011.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Transportation)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2166.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Eric Jones     |                   | PW-ADM      | 1/11/2011      | Pri 3           | Support               |

Comments: In general, I would think we'd want to support about \$100 million for ConnectOregon. Questions: What is the modal split, and what benefits might Eugene Airport and high-speed rail (to Eugene) see from passage of this concept? Assuming a portion of the funding would come to projects in Eugene, we might want to go to a higher level of support.

### **HB 2181**

*Relating Clause:* Relating to land use appeals.

*Title:* Modifies attorney fees provision related to review of decision of local government before Land Use Board of Appeals.

*Sponsored by:* Sponsored by Representative KRIEGER; Representatives ESQUIVEL, SCHAUFLER (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2181.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/17/2011      | Pri 2           | Oppose                |

Comments: This bill would require LUBA and the Court of Appeals to award attorney fees in any land use appeal in which an applicant prevails on appeal. It also limits the LUBA's power to award attorney fees against a person who advances a frivolous position. The bill would tip the playing field noticeably more toward applicants and away from local governments.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Steve Nystrom  |                   | PDD-ADM     | 1/17/2011      | Pri 2           | Oppose                |

Comments: Defer to Jerry Lidz on impacts of this bill.

### **HB 2182**

*Relating Clause:* Relating to land use appeals.

*Title:* Modifies basis for petitioning Land Use Board of Appeals for review of land use decisions or limited land use decisions.

*Sponsored by:* Sponsored by Representative KRIEGER; Representatives ESQUIVEL, SCHAUFLER (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2182.intro.pdf>

|                |                   |             |                |                 |                       |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Steve Nystrom  | PDD-ADM           |             | 1/11/2011      | --              | Neutral               |

Comments: Bill appears to be directed at appeals to LUBA by individuals not immediately impacted by local land use decisions. While it is questionable whether the requirement of a deposit by an appellant to cover the applicant's costs is good law, this Bill specifically exempts local governments from this requirement. As such, there is no direct impact to the city.

**HB 2187**

*Relating Clause:* Relating to product stewardship; appropriating money; declaring an emergency.

*Title:* Requires Department of Environmental Quality to collaborate with certain parties to develop and implement statewide product stewardship system.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Environment and Water)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2187.intro.pdf>

|                 |                   |             |                |                 |                       |
|-----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| <u>Contact</u>  | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Babe O'Sullivan |                   | CS-CMO      | 1/14/2011      | Pri 3           | Support               |

Comments: Cannon has reintroduced what was a DEQ sponsored bill from prior session. Didn't get far last time but we should support this time if it gets traction.

|                |                   |             |                |                 |                       |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Ethan Nelson   |                   | PDD-BPS     | 1/11/2011      | Pri 3           | Support               |

Comments: This bill is the umbrella legislation for statewide product stewardship legislation. Most recently, the state passed the electronics recycling and architectural paint stewardship laws. Rather than address each product category through specific legislation, this bill creates the framework for the DEQ to evaluate product types and categories on a biennial basis. The key element of product stewardship laws are they require product producers to handle end-of-life management rather than placing that financial burden onto the consumer. One of the main objectives of product stewardship legislation is to incorporate price signals into products in regards to the greenhouse gas footprint and the end of life management costs into the price of the product. Ideally, this mechanism will drive innovation in product design and efficiency in manufacturing to reduce the expense of these internalized costs (which were once economic externalities).

**HB 2192**

*Relating Clause:* Relating to broadband services.

*Title:* Allows use of universal service fund moneys for determining availability of broadband services within state.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Sustainability and Economic Development for Oregon Telecommunications Association)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2192.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Pam Berrian    |                   | CS-ISD      | 1/13/2011      | Pri 3           | Oppose                |

*Comments:* 1-13- Update: OPUC staff tell me they 'worked with' OTA on this bill and I have asked for more detail and their official position because I am not apt to oppose a OPUC position of Support. This is a telco industry sponsored bill that, to me, would fundamentally, without apparent rationale, make a wholesale policy shift in focus for the OPUC's use of Universal service funds. For years, the focus has been on facilitating fair and reasonable rates across Oregon-which is in line with policies that equate unaffordable with unavailable. Here, the telco industry wants to substitute a new and limited focus: map where 'adequate' (undefined) broadband is available (undefined). The text replacement is vague and thus potentially litigious for the OPUC. It also represents a backward step in statewide consumer advocacy about broadband or potential broadband use. Is OPUC opposing and desirous of our opposition or that of the LOC/AOC. Also, this is a step back in user advocacy = see if CUB plans to oppose as well.

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## **HB 2200**

*Relating Clause:* Relating to universal service fund.

*Title:* Allows Public Utility Commission to modify method of collecting universal service charge to reflect potential future changes in federal policy and changing technology.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Sustainability and Economic Development for Oregon Telecommunications Association)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2200.dir/hb2200.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Pam Berrian    |                   | CS-ISD      | 1/12/2011      | Pri 3           | Oppose                |

*Comments:* Tentative recommendations as I am seeking information from OPUC staff re: impacts. The City's Telecom legislative policies endorse a platform of consumer advocacy. This industry-sponsored bill appears out of sync with federal-state joint Universal Service Board recommendations just issued last spring. In fact, the Joint Board does not recommend any dismantling of the current USF fund and does not recommend it be replaced with any Broadband access program. Neither do I recall any State of Oregon initiatives in that direction. The 2010 Joint Board Order includes a request that the Joint Board "consider how the potential expansion of the low-income program to broadband would affect any of its recommendations.....the appropriate consideration of the broadband services that might be included in an extension of the low-income program, and reiterates the importance of broadband service to consumers. This is a tentative

position as I am requesting additional information from OPUC staff. A policy shift may or may not have direct or indirect impact on Eugene's telecom fee and tax program.

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### **HB 2244**

*Relating Clause:* Relating to public records.

*Title:* Modifies definition of "public record" for purposes of public records retention and disclosure laws.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care for Secretary of State Kate Brown)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2200.dir/hb2244.intro.pdf>

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Beth Forrest          |                          | CS-CMO             | 1/13/2011             | --                     | Neutral                      |

*Comments:* Passage will require staff to develop a written policy on retention of public records and submit to State Archivist. Council Goal - Effective, Accountable Municipal Government.

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Jerry Lidz            |                          | CS-CMO-ATTY        | 1/17/2011             | --                     | Neutral                      |

*Comments:* This bill contains a new definition of "public record," but it is not clear whether the intent is to change the substance or merely keep pace with technological changes in the form records are kept. (It also requires state agencies to adopt retention schedules, but that provision doesn't apply to cities.) Because the definition of "public record" is so important and it may well be amended, we should keep an eye on this.

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### **HB 2245**

*Relating Clause:* Relating to political subdivision public records; appropriating money.

*Title:* Directs State Archivist to provide certain assistance and training to political subdivisions relating to public records management, retention, long-term storage and disposition.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care for Secretary of State Kate Brown)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2200.dir/hb2245.intro.pdf>

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Beth Forrest          |                          | CS-CMO             | 1/13/2011             | Pri 3                  | Support                      |

*Comments:* --

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     | CS-CMO-ATTY       |             | 1/17/2011      | Pri 3           | Support               |

Comments: Training from State Archivist should be helpful.

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**HB 2258**

*Relating Clause:* Relating to petitions; declaring an emergency.

*Title:* Requires Secretary of State to establish Initiative and Referendum Hotline for reports of election law or rule violations.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care for Secretary of State Kate Brown)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2200.dir/hb2258.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   | CS-CMO            |             | 1/13/2011      | --              | Neutral               |

Comments: Passage would affect elections procedures and the information disseminated to public regarding those procedures.

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**HB 2321**

*Relating Clause:* Relating to electronic mail.

*Title:* Requires public body to send notice by electronic mail if public body has person's electronic mail address and person has not made request for paper copy of notice.

*Sponsored by:* By Representative BARNHART; Representatives NATHANSON, READ, J SMITH, Senator DINGFELDER (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2321.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   | CS-CMO            |             | 1/13/2011      | Pri 3           | Support               |

Comments: Good public policy. Passage will require staff resources to update current forms. (The form shall notify the person that the public body will use electronic mail for notices unless the person specifically requests that paper copies be mailed to the person.)

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     | CS-CMO-ATTY       |             | 1/17/2011      | Pri 3           | Support               |

Comments: Allowing public bodies to provide notices by e-mail instead of snail mail should save paper and postage. Bill would still allow persons to request paper copies of notices.

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**HB 2354**

*Relating Clause:* Relating to property tax exemption for tax-exempt corporation low income housing.

*Title:* Extends sunset date for property tax exemption for tax-exempt corporation low income housing to tax years beginning before July 1, 2027.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2354.intro.pdf>

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel Flannery | S. Jennings       | PDD-ADM     | 1/14/2011      | Pri 2           | Support               |

*Comments:* Facilitates development of affordable housing. No amendments would make it better.

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**HB 2369**

*Relating Clause:* Relating to the Department of Corrections.

*Title:* Authorizes local government to enter into agreement with Department of Corrections for purposes of housing inmates in custody of local government.

*Sponsored by:* By Representative NATHANSON; Representatives BARKER, DEMBROW, MATTHEWS

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2369.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 1/15/2011      | --              | Neutral               |

*Comments:* This bill would allow the City more options in jail bed space, but there are social implications of putting pre-convicted prisoners in a state corrections facility. There are also significant costs for transportation to court, etc. However, in certain circumstances, this may make contractual sense.

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**HB 2385**

*Relating Clause:* Relating to county tobacco taxes; prescribing an effective date.

*Title:* Removes prohibition against imposition of taxes by county on cigarettes and tobacco products.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2385.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/14/2011      | Pri 3           | Support               |

*Comments:* HB 2385 would remove the existing statutory prohibition on a county's ability to tax tobacco. City taxes on tobacco would remain prohibited. In light of Lane County's impending budget shortfall and the likelihood of county service reductions that will impact the City of Eugene, I recommend priority III support. The bill would be improved if the prohibition on cities were also removed by amendment. If this were the case I would recommend a higher priority support position.

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### **HB 2411**

*Relating Clause:* Relating to tax credits for payroll costs; prescribing an effective date.

*Title:* Establishes corporate income and excise tax credit for certain facility costs of business firms that construct facilities and engage in business operations in which average annual gross payroll and increase in number of employees meet specified requirements.

*Sponsored by:* By Representatives READ, HUNT; Representatives BAILEY, BARKER, DOHERTY, GELSER, Senators EDWARDS, HASS (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2411.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/14/2011      | Pri 3           | Support               |

*Comments:* HB 2411 would establish a tax credit program, with the purpose of encouraging qualifying business to construct facilities and increase jobs. The measure would have no significant fiscal or programmatic impact on the City of Eugene but might result in some incremental job creation in the community. The Legislators are likely to give this measure and all other stimulus proposals their positive interest and consideration in this Legislature. I currently have no basis to evaluate the efficiency of this proposal, in light of the State's budget shortfall and in comparison to other stimulus proposals that are sure to be introduced. In light of the City's limited IGR staff capacity and the need to focus on a few issues that would have direct impacts on the City, I do not recommend any significant investment of time in what is probably going to be extensive legislative hearings on economic stimulus proposals. However I recommend a nominal position of priority III support in general for proposals that may offer efficient economic stimulus measures.

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### **HB 2527**

*Relating Clause:* Relating to tax credits for affordable housing lenders; prescribing an effective date.

*Title:* Extends sunset for tax credit for affordable housing lenders.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2527.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/14/2011      | Pri 3           | Support               |

*Comments:* I agree with Amanda.

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel Flannery | S. Jennings       | PDD-ADM     | 1/14/2011      | Pri 3           | Support               |

*Comments:* Facilitates development of affordable housing; No amendments would make it better.

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### **HB 2741**

*Relating Clause:* Relating to the Emergency Communications Account; declaring an emergency.

*Title:* Designates Emergency Communications Account as trust account exclusively for emergency communication purposes.

*Sponsored by:* By Representative BOONE

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2741.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Kristi Wilde   |                   | EPD-911     | 1/14/2011      | Pri 1           | Support               |

*Comments:* The City of Eugene has a long history of prioritizing protection of dedicated 9-1-1 funds for their intended purpose. Over the past six quarters, the revenue has shown a downward trend. Added to that, the FCC has issued a mandate that 9-1-1 services migrate to an enhanced technology, also known as Next Generation 9-1-1 or NG9-1-1, so that callers may access emergency services through text messaging and other advanced communications capabilities regularly in use outside of public safety. Oregon Emergency Management will be conducting a study to determine the cost of this technology upgrade in the next few months. The results of that study may well point to a need to actually increase the current tax of 75 cents per device. Any diversion of funds would magnify the gap.

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### **HB 2861**

*Relating Clause:* Relating to wage discrimination.

*Title:* Prohibits discrimination against members of certain protected classes in payment of wages for work of comparable character that requires comparable skills to perform.

*Sponsored by:* By Representative KOTEK (at the request of Oregon Council on Civil Rights, Oregon Advocacy Commissions and Commissioner of the Bureau of Labor and Industries Brad Avakian)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2800.dir/hb2861.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/14/2011      | --              | Monitor               |

*Comments:* Similar wording to Federal law; would recommend monitoring if changes reflect broader or narrower intent than Federal law.

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### **HM 0001**

*Relating Clause:* Urges Congress to enact legislation restricting ability of Internet service providers to create two-tiered Internet.

*Title:* Urges Congress and President to restrict ability of Internet service providers to create two-tiered Internet and to enable Federal Communications Commission to otherwise regulate Internet service providers.

*Sponsored by:* Sponsored by Representative BARNHART; Representatives DEMBROW, FREDERICK, J SMITH (Presession filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hm1.dir/hm0001.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Pam Berrian    |                   | CS-ISD      | 1/12/2011      | Pri 2           | Support               |

*Comments:* Support but suggest amendments: The City has a Telecom legislative policy that supports network neutrality, opposing network operator-controlled Internet access site or content access restrictions, or establishing related tiered fee levels. The City has followed closely the FCC's preliminary rulings on the issue and is generally supportive. Refinement is expected along the lines of possible fee tiers based on usage, but not content. The City is and could be impacted by erosion of net neutrality principles. For example, the Library uses public Internet connections and would not want any restrictions on the information that the citizens can access from the Library. To my knowledge, Eugene was not contacted about text but offers some cautionary info: The resolution actually supports enactment of net neutrality legislation by Congress rather than backing the FCC's recent Net Neutrality Order. HM001 speaks in support of federal legislation that favors net neutrality, although it appears to go further than the FCC on banning 2-tiered pricing, & not as far as the FCC in a few other areas. Realistically, Federal GOP House control, means that there's zero chance this Congress would enact any such legislation. There is some chance, however, that this Congress could do the opposite: Take action to "undo" the FCC's Net Neutrality Order. So rather than endorse any move to enact any legislation, HM 001 should be redrafted to support the FCC's Net Neutrality Order rather than supporting the enactment of new federal legislation.

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**SB 0007**

*Relating Clause:* Relating to a business incentive tax credit; creating new provisions; amending ORS 314.752 and 318.031; and prescribing an effective date.

*Title:* Creates income tax credit for creation of new employment positions by taxpayer. Establishes \$10 million maximum for credits allowed to all taxpayers. Applies to tax years beginning on or after January 1, 2012, and before January 1, 2013. Takes effect on 91st day following adjournment sine die.

*Sponsored by:* Sponsored by Senator COURTNEY; Senators BATES, DEVLIN (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/l1reg/measpdf/sb0001.dir/sb0007.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/12/2011      | Pri 3           | Support               |

*Comments:* SB 7 would provide a temporary credit against 2012 state corporate income taxes with the purpose of encouraging job creation. The measure would have no significant fiscal or programmatic impact on the City of Eugene but might result in some incremental job creation in the community. The fact that this measure has been introduced by the President of the Senate indicated the level of positive interest and consideration this and all stimulus proposals will likely receive in this Legislature. I currently have no basis to evaluate the efficiency of this proposal, in light of the State's budget shortfall, in comparison to other stimulus proposals that are sure to be introduced. In light of the City's limited IGR staff capacity and the need to focus on a few issues that would have direct impacts on the City, I do not recommend any significant investment of time in what is probably going to be extensive legislative hearings on economic stimulus proposals. However I recommend a nominal position of priority III support in general for proposals that may offer efficient economic stimulus measures.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/11/2011      | Pri 3           | Support               |

*Comments:* Support Finance's recommendation.

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**SB 0041**

*Relating Clause:* Relating to public records; creating new provisions; amending ORS 21.020, 147.421, 166.274, 181.560, 192.410, 192.440, 192.450, 192.460, 192.465, 192.490, 192.650, 287A.350, 305.493, 646.473, 657.732, 657.734 and 802.183; repealing ORS 192.480; and declaring an emergency.

*Title:* Establishes deadlines by which public bodies must respond to public records requests. Provides

exceptions. Delays application of deadlines to local governments until July 1, 2013. Provides exceptions. Limits amount of fees public bodies may charge for responding to public records requests. Provides exceptions. Establishes jurisdiction of Attorney General to hear petitions for review of public records in custody of elected officials by persons denied right to inspect records. Requires Attorney General to develop training materials on public records. Declares emergency, effective on passage.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General John Kroger for Department of Justice)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0001.dir/sb0041.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 1/13/2011      | Pri 3           | Oppose                |

*Comments:* Oppose limit on fees charged for responding to public records requests. Would reduce amount City currently charges. (Staff responding to requests are paid more than minimum wage.)

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/17/2011      | Pri 3           | Oppose                |

*Comments:* This is a mixed bag of amendments to the Public Records Law. It attempts to clarify some ambiguous procedural provisions in the Law, but it also reduces the time for public bodies to respond to requests, and it imposes limits on the fees we can charge for responding to requests. We should consult with LOC about what other cities are doing on this bill.

**SB 0044**

*Relating Clause:* Relating to hate crimes; creating new provisions; amending ORS 30.198, 30.200, 90.396, 131.602, 137.225, 137.712, 163.707, 166.155, 166.165, 166.715 and 181.550; and declaring an emergency.

*Title:* Renames crime of intimidation as hate crime. Includes commission of assault in fourth degree as hate crime in first degree when committed by one person and motivated by perception of victim's race, color, religion, national origin, ethnicity, gender, disability or sexual orientation. Requires court to impose term of incarceration of at least 60 days when person is convicted of assault in fourth degree as hate crime. Modifies authority of certain law enforcement officials to bring civil action based on commission of hate crime. Directs law enforcement agencies to report statistics regarding hate crimes to Department of Justice. Declares emergency, effective on passage.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General John Kroger for Department of Justice)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0001.dir/sb0044.intro.pdf>

| <u>Contact</u>   | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Holly LeMasurier |                   | CS-CMO      | 1/13/2011      | Pri 2           | Support               |

*Comments:* City Council goal: Safe community Current City Manager focus on hate crimes response, significant leadership efforts among Eugene's public agencies This action is aligned with recommendations of our recently implemented City of Eugene Hate Response (stronger sentencing; monitoring and reporting)

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**SB 0047**

*Relating Clause:* Relating to public meetings; creating new provisions; amending ORS 192.640, 192.650, 192.660, 293.714 and 414.395; and declaring an emergency.

*Title:* Requires certain governing bodies of public bodies to make audio, audio-video or digital re- cording of public meetings. Requires written record of meetings and specifies content of written record. Requires recordings and related written records to be available within seven working days of meeting or within one working day of request to review or inspect, whichever is later. Requires Attorney General to develop training materials to educate public employees on public meetings law requirements. Declares emergency, effective on passage.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre- session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General John Kroger for Department of Justice)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0001.dir/sb0047.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/17/2011      | Pri 3           | Oppose                |

*Comments:* Bill would increase the requirements for making a record of any meeting of "a governing body of a public body." The quoted term includes not only the city council but also most of the City's commissions and Council committees. For less formal meetings, the requirements may be an added burden. We should check with LOC about other cities' positions and consider staying neutral on this one.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 1/13/2011      | Pri 3           | Oppose                |

*Comments:* Resource issue – one minutes recorder for all City Council, Sustainability Commission, Human Rights Commission, Police Commission, and Budget Committee meetings. Seven days good goal, but shouldn't be mandated. (Timeframe for audio recording ok.) Regarding Section 8: "... the council shall make the full sound recording and written log of each sound recording of each meeting available to the public prior to the next regularly scheduled meeting of the council." Impractical when meetings are scheduled close together.

Question regarding Section 7: "electronic news media." Is there an industry-accepted definition of who comprises this group?

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**SB 0069**

*Relating Clause:* Relating to fireworks; creating new provisions; amending ORS 164.055, 166.660, 480.152, 480.154, 480.156, 480.165, 480.200 and 480.990; and repealing ORS 480.110, 480.120, 480.122, 480.127, 480.130, 480.150 and 480.160.

*Title:* Revises provisions regulating sale, possession, use and explosion of fireworks. Revises fireworks law definitions, prohibitions and penalties. Sets forth requirements for wholesaler permit. Changes deadlines for submitting applications for retail sales permits or display permits. Expands local government authority to regulate fireworks. Expands types of properties on which fireworks expressly may be used to repel birds or other animals. Makes use of fireworks to repel birds or other animals subject to approval by local government bodies having responsibility for animal protection. Reduces penalty for most fireworks law violations to maximum fine of \$720. Makes violation involving sale, possession, use or explosion of illegal fireworks having 50 pounds or more gross weight punishable by maximum of \$6,250 fine, one year's imprisonment, or both.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Department of State Police)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0001.dir/sb0069.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Joann Eppli    |                   | FIRE        | 1/11/2011      | Pri 3           | Support               |

*Comments:* This bill reorders and organizes the ORS concerning legal fireworks in the state of Oregon.

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**SB 0106**

*Relating Clause:* Relating to emergency medical services; creating new provisions; amending ORS 30.803, 31.740, 40.460, 97.970, 124.050, 127.675, 137.476, 162.257, 163.165, 163.213, 166.070, 181.637, 192.519, 315.622, 352.223, 353.450, 419B.005, 430.735, 431.613, 431.623.

*Title:* Modifies terminology relating to emergency medical services. Directs Director of the Oregon Health Authority to appoint Medical Director of the Emergency Medical Services and Trauma Systems Program. Directs Oregon Health Authority to establish levels of licensure for emergency medical services providers. Modifies membership of State Emergency Medical Service Committee. Creates offense of unlawful operation of unlicensed emergency medical services agency. Punishes by maximum of one year's



imprisonment, \$6,250 fine, or both. Requires county to review and resubmit updated ambulance service area plan to authority at least once every four years.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Oregon Health Authority)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0106.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Joann Eppli    |                   | FIRE        | 1/13/2011      | --              | Neutral               |

*Comments:* This bill updates the ORS to bring EMT certifications up to current national standards. This may make it easier for newly hired employees from out of state to obtain Oregon certification, thus expanding the applicant pool. Two areas of concern are: 1) the state would require the county to submit a new ambulance plan whenever changes are made to the plan. This may make the county hesitant to make changes to the plan. It also requires the county to submit their plan to the state for review every four years, this may create a need for the county to hold a series of meetings on the ambulance plan, thus impacting staff work load. 2) The license rates for agencies of Eugene's size will increase from \$80 to \$500, and the per ambulance rate increases two fold to \$80. These rates will impact the budget, but appear to be manageable. The rates for services and ambulance have not increased in 15 years and it seems reasonable for an increase. Other changes in the bill appear to be housekeeping.

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## **SB 0128**

*Relating Clause:* Relating to transportation; amending ORS 184.843 and 367.617 and sections 5 and 64, chapter 865, Oregon Laws 2009; and declaring an emergency.

*Title:* Removes obsolete reporting dates for Road User Fee Task Force. Changes process used to calculate amount of moneys available to pay debt service and expenses related to certain transportation projects. Declares emergency, effective on passage.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Department of Transportation)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0128.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Eric Jones     |                   | PW-ADM      | 1/11/2011      | Pri 3           | Support               |

*Comments:* I generally concur with Rob's analysis. However, given the significance of the affected projects in our region and the long-term importance of continuing to plan for the future of transportation funding (and the value of continuing the Road User Fee Task Force to move the discussion along) I think we could take a position of Priority 3, Support.

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Rob Inerfeld   |                   | PWE         | 1/11/2011      | Pri 3           | Support               |

Comments: While I think this bill is a good idea, I think it has a very minor impact on the City and I recommend Priority 3, Support as Eric suggested.

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**SB 0130**

*Relating Clause:* Relating to traffic control devices; amending ORS 811.260 and 811.360.

*Title:* Adds green, yellow and red bicycle signals to list of traffic control devices.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Department of Transportation)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0130.intro.pdf>

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Steve Gallup   |                   | PWE         | 1/12/2011      | Pri 3           | Support               |

Comments: Defer to Tom Larsen for comments.

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Tom Larsen     |                   | PWM         | 1/11/2011      | Pri 3           | Support               |

Comments: In Oregon law no mention is made of a bicycle specific traffic signal indications. The Oregon Traffic Control Devices Committee will soon recommend to the Oregon Transportation Commission that amendments to the national Manual on Uniform Traffic Control Devices including bicycle signal heads be included in the Oregon Supplement to the national manual. Three installations of bicycle signal heads currently exist in Portland. Bicycle specific signal indications would only be allowed or used in specific and limited applications. This bill provides the legal back up to the technical changes being proposed by the traffic engineering community, by specifying the duties of a cyclist when facing bicycle signal heads. At the present time, only one City of Eugene location would be appropriate for a bike signal head. If this law were to pass the standard red, yellow and green balls that face only a bike lane could be changed to balls with a bike stencil overlay. Automobile movements would not be affected.

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**SB 0131**

*Relating Clause:* Relating to U-turns; creating new provisions; and amending ORS 811.365.

*Title:* Modifies offense of making illegal U-turn.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Department of Transportation)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0131.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Steve Gallup   |                   | PWE         | 1/12/2011      | Pri 3           | Support               |

*Comments:* This change makes consistent with majority of the other states.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Tom Larsen     |                   | PWM         | 1/12/2011      | Pri 3           | Support               |

*Comments:* ODOT studied this issue at legislative request several year ago. 48 states and the Uniform Vehicle Code take this "allowed unless signed to prohibit" approach to U turns. Oregon and one other state continue to have the "prohibited unless signed to allow" U turn law. This change makes us consistent with Washington, Idaho and California. Impact to the city will be minor as a small number of intersections now allow U turns. If the bill is passed a small number of intersections will have signs prohibiting U turns.

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## **SB 0146**

*Relating Clause:* Relating to the Residential Service Protection Fund; creating new provisions; amending section 7, chapter 290, Oregon Laws 1987; and declaring an emergency.

*Title:* Extends scope of Residential Service Protection Fund surcharge to include fixed interconnected voice over Internet protocol service and prepaid telecommunications service. Declares emergency, effective on passage.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Public Utility Commission)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0146.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Pam Berrian    |                   | CS-ISD      | 1/11/2011      | Pri 2           | Support               |

*Comments:* I would Support, Priority 2 (if OPUC wishes our support), if not than Priority 3 as it is consistent with current position that VOIP is more like a telephony product than not, especially since the FCC has not ruled on what VOIP is but has said they are not pre-empting (at this point) local or state authority. For sure, the FCC has not ruled VOIP to be an Information service like Internet Access. At the same time, Verizon has (in 07) sought to pre-empt fees and taxes on VOIP alluding it is just another form of Internet service, etc. So passage of this legislation may dissuade Verizon from continuing that line of thinking. Also regarding prepaid service like TRACFone. All in all, as technologies converge, and new service terms emerge, there will be increased activities to treat the

new technologies in a manner consistent with similar technologies. I think the OPUC is correctly doing that in this case.

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**SB 0151**

*Relating Clause:* Relating to the Housing Development and Guarantee Account in the Oregon Housing Fund; amending ORS 458.625.

*Title:* Expands and clarifies authority of Housing and Community Services Department regarding use of moneys in Housing Development and Guarantee Account. Authorizes department to set interest rates of loans made from account.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Housing and Community Services Department)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0151.intro.pdf>

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Amanda Nobel Flannery | S. Jennings       | PDD-ADM     | 1/12/2011      | Pri 3           | Support               |

*Comments:* Facilitates more resources available at low interest rates for affordable housing. No amendments would make it better.

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**SB 0186**

*Relating Clause:* Relating to basis for filing appeal to Land Use Board of Appeals; creating new provisions; and amending ORS 197.830.

*Title:* Requires that person seeking to appeal land use decision or limited land use decision to Land Use Board of Appeals must own, or have ownership interest in, real property within miles of real property affected by decision.

*Sponsored by:* Sponsored by Senator KRUSE (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0186.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Jerry Lidz     |                   | CS-CMO-ATTY | 1/17/2011      | --              | Neutral               |

*Comments:* Agree with S. Nystrom's comments.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Steve Nystrom  |                   | PDD-ADM     | 1/11/2011      | --              | Neutral               |

*Comments:* Purpose of Bill appears to be in response to past cases where individuals, not directly affected by a local land use decision, appealed that decision to LUBA. Bill would limit

appeal rights to those more directly affected by the decision, based on proximity to the area in question. Has not been an issue in Eugene.

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**SB 0213**

*Relating Clause:* Relating to health care; creating new provisions; and amending ORS 441.094 and 682.220.

*Title:* Makes legislative findings regarding emergency medical services. Establishes duty of emergency medical personnel to refer patients who do not have emergency medical conditions to appropriate treatment settings.

*Sponsored by:* Sponsored by Senator BATES (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0200.dir/sb0213.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Joann Eppli    |                   | FIRE        | 1/13/2011      | Pri 2           | Support               |

*Comments:* This bill modifies language to discourage inappropriate use of the Emergency Medical System (EMS). It states that the Emergency Medical Technician (EMT) has a duty to refuse treatment and recommend an alternative means of transportation when the patient's condition does not warrant into the EMS system. The bill also gives protection to the EMT's certification if the EMT refuses care in good faith. This bill would help to address some EMS responses that are unnecessary and taxing on the EMS system. Typically, these responses do not fully compensate the system for expenses incurred. There is a point of caution with this bill, as there is the potential for misinterpretation of the patient's condition to create situations where a patient should be transported by EMS and is not. The protection for the EMTs do not address liability issues. Suggestions for improvements to the bill are to put in safeguards for the agency protecting it from liability, and requiring the state EMS authority to define circumstances that meet the requirements of this bill.

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**SB 0217**

*Relating Clause:* Relating to urban renewal; amending ORS 310.150, 457.010, 457.170, 457.190, 457.220 and 457.460; and prescribing an effective date.

*Title:* Permits urban renewal plans to include school construction or reconstruction projects.  
Permits certain urban renewal plans to add certain noncontiguous lands to urban renewal areas.  
Requires urban renewal agencies to categorize tax increment revenues used for school projects within urban renewal plan as school system funds. Takes effect on 91st day following adjournment sine die.

*Sponsored by:* Sponsored by Senator MONROE, Representatives SCHAUFLER, J SMITH (Presession filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0200.dir/sb0217.intro.pdf>

| <u>Contact</u>  | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Sue Cutsogeorge |                   | CS-FIN      | 1/12/2011      | --              | Neutral               |

*Comments:* I concur with Amanda Nobel Flannery's comments.

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Amanda Nobel Flannery |                   | PDD-ADM     | 1/12/2011      | --              | Neutral               |

*Comments:* Legislation would give us a couple new tools not currently available. We're not sure how we would use them. It also requires additional reporting requirements for the URA. \* This recommendation is based on LCC NOT being included in the definition of "public schools" - the proposed change on page 9 ("construction or reconstruction of public schools"). If LCC is included, the change could potentially have a negative impact on the City's approved plan to grant \$8 million toward the construction of LCC's new downtown center across from the library. (Money spent for LCC would be counted not in the general government category, the only logical option would be the school category. Since the school category is already maxed out, receipt of the funds could potentially force a reduction in school operating funds.) We would then recommend PRIORITY 1, OPPOSE.

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## **SB 0219**

*Relating Clause:* Relating to incentives for business hiring; appropriating money; and prescribing an effective date.

*Title:* Authorizes Oregon Business Development Department to administer Oregon Business Retention and Expansion Program to lend incremental Oregon Business Retention and Expansion Program tax revenues to certified employers. Specifies provisions of forgivable loan program. Establishes Oregon Business Retention and Expansion Program Fund. Continuously appropriates moneys in fund to Oregon Business Development Department.  
Appropriates moneys from General Fund to department for purposes of administering program. Specifies rate of withholding on taxable income of person employed by certified employer. Applies to tax years beginning on or after January 1, 2012. Takes effect on 91st day following adjournment sine die.

*Sponsored by:* Sponsored by Senator DEVLIN, Representative READ; Senators EDWARDS, HASS, MONNES ANDERSON (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0200.dir/sb0219.intro.pdf>

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Larry Hill     |                   | CS-FIN      | 1/12/2011      | Pri 3           | Support               |

Comments: SB 210 would establish a business retention program funded by certain state income tax revenues, with the purpose of encouraging qualifying business to retain jobs. The measure would have no significant fiscal or programmatic impact on the City of Eugene but might result in some incremental job retention in the community. The Legislators are likely to give this measure and all other stimulus proposals their positive interest and consideration in this Legislature. I currently have no basis to evaluate the efficiency of this proposal, in light of the State's budget shortfall, in comparison to other stimulus proposals that are sure to be introduced. In light of the City's limited IGR staff capacity and the need to focus on a few issues that would have direct impacts on the City, I do not recommend any significant investment of time in what is probably going to be extensive legislative hearings on economic stimulus proposals. However I recommend a nominal position of priority III support in general for proposals that may offer efficient economic stimulus measures.

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| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Amanda Nobel Flannery | D. Braud          | PDD-ADM     | 1/12/2011      | Pri 3           | Support               |

Comments: Pros: creates/retains jobs; no impact on local revenue Con: could impact state revenue see Larry's comments for more.

**SB 0307**

*Relating Clause:* Relating to local transient lodging tax; amending ORS 320.300 and 320.350; and prescribing an effective date.

*Title:* Expands allowable purposes for new or increased local transient lodging tax to include funding of tourism-related services. Takes effect on 91st day following adjournment sine die.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0300.dir/sb0307.intro.pdf>

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Larry Hill     |                   | CS-FIN      | 1/11/2011      | Pri 3           | Support               |

Comments: This is one of several bills that propose a limited broadening of allowable uses of local transient lodging tax revenue. Currently the City's lodging tax revenue provides over 1/3 of the Cultural Services Fund's revenue. SB 307 would allow this revenue to be used for services provided by a city that have a "substantive purpose of supporting tourism or accommodating tourism activities." As an example, this might allow reimbursement to the General Fund for public safety costs related to conventions, games, festivals or other tourism-generating events.

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**SB 0322**

*Relating Clause:* Relating to multiple-unit housing; creating new provisions; amending ORS 307.603, 307.612, 307.618 and 307.637; and prescribing an effective date.

*Title:* Includes commercial uses of multiple-unit housing as allowable uses for purposes of exemption from property taxation. Extends sunset date of multiple-unit housing exemption program to 2022. Takes effect on 91st day following adjournment sine die.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0300.dir/sb0322.intro.pdf>

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Amanda Nobel Flannery |                   | PDD-ADM     | 1/13/2011      | Pri 1           | Support               |

*Comments:* Extends the MUPTE sunset date from 2012 to 2022 (same as SB 323). Also adds commercial uses within housing structure to tax exemption, as specified by the City. The sunset extension should be P1, support because MUPTE is a key downtown housing incentive. The commercial uses part should be P3, support. We would only be interested in having Council have the option to apply that on a case by case basis. No amendments would make it better.

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**SB 0323**

*Relating Clause:* Relating to property tax exemption for multiple-unit housing; amending ORS 307.637; and prescribing an effective date.

*Title:* Extends sunset date of multiple-unit housing exemption from property taxation to 2022. Takes effect on 91st day following adjournment sine die.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0300.dir/sb0323.intro.pdf>

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Amanda Nobel Flannery |                   | PDD-ADM     | 1/12/2011      | Pri 1           | Support               |



Comments: This extends the sunset date to 2022 (from 2012). Mupte is a key downtown housing incentive. The current sunset date of Jan. 1, 2012 for construction completion basically means that the program is no longer available. No amendments needed to improve the bill.

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**SB 0376**

*Relating Clause:* Relating to crime; amending ORS 161.360, 161.365 and 161.370; and declaring an emergency.

*Title:* Authorizes trial court to consider defendant's fitness to proceed by reason of incapacity at any stage of criminal proceeding. Declares emergency, effective on passage.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon Criminal Defense Lawyers Association)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0300.dir/sb0376.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Jeff Perry     |                   | CS-MUNI     | 1/14/2011      | --              | Neutral               |

Comments: Bill cleans up language and should create no major issues for the court.

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**SB 0404**

*Relating Clause:* Relating to judges; amending ORS 14.210.

*Title:* Provides that judge is not prohibited from acting as judge in proceeding solely because judge is related to partners, associates or other persons in firm of attorney who represents party to proceeding.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0404.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jeff Perry     |                   | CS-MUNI     | 1/14/2011      | --              | Neutral               |

Comments: Bill clarifies further when a judge should not act as judge when related to parties. The bill should be a minimal impact to the court and will likely come up under very rare circumstances.

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**SB 0418**

*Relating Clause:* Relating to community service as alternative to fine; amending ORS 153.093; and declaring an emergency.

*Title:* Creates exception to minimum fine statute for court sentencing offender to community service as alternative to fine. Declares emergency, effective on passage.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0418.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jeff Perry     |                   | CS-MUNI     | 1/14/2011      | --              | Monitor               |

*Comments:* Municipal Court has established its own base fine schedule so the bill as written will not impact the City. Bill should be monitored in the case the scope of the bill is expanded.

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**SB 0452**

*Relating Clause:* Relating to fees for appeal of local land use decisions; creating new provisions; and amending ORS 197.835, 215.422 and 227.180.

*Title:* Limits amount of appeal fee that city or county may charge for quasi-judicial review of city or county decisions on land use application. Requires city or county to refund appeals fee and transcript fee when appellate authority of city or county declines to hear review.  
Prohibits city or county from charging fee for appeal of final decision of county to Land Use Board of Appeals.

*Sponsored by:* Sponsored by Senator PROZANSKI (at the request of Central Oregon LandWatch) (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0452.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Steve Nystrom  |                   | PDD-ADM     | 1/12/2011      | Pri 2           | Oppose                |

*Comments:* Staff recommends a position of "oppose" on this Bill for 2 primary reasons: 1) The Bill would result in a financial impact to the city; and 2) The Bill would take away local government's ability to make individual policy choices regarding the appropriate level of cost recovery to charge. State Law currently requires that appeal fees charged by local jurisdictions be no more than the average cost incurred in administering the appeal. Local jurisdictions have the choice to charge less if they choose. In Eugene, we charge 50% of

the original fee for appeals of Hearings Official decisions, subdivisions and partitions. However, Neighborhood organizations pay 25%. Other appeals are capped at \$250, while Neighborhood Organizations are not charged any fee. Our experience has been that these appeal fees do not cover actual staff costs. Pros of Bill: Would lower costs for applicants and the general public who wish to appeal decisions Cons of Bill: Would take away city's ability to set appropriate appeal fees. Would increase the financial burden on the city to cover costs to administer appeal requests. Unintended consequences: The Bill appears to be aimed at making it more financially attractive for the neighborhoods/general public to appeal local decisions. However, this Bill would also apply to applicants. Historically, we have seen a fairly equal number of appeals filed by applicants as neighborhood groups and the general public. Under Eugene's current system, this Bill would provide a greater benefit to applicants than the general public, given the reduced fees already established for neighborhood groups. In addition, we would expect to see an increase in appeals, given the reduced fees.

**SB 0476**

*Relating Clause:* Relating to exception to land use goals; amending ORS 197.732.

*Title:* Authorizes local government to adopt exception to statewide land use goal without demonstrating that statutory standards for exception have been met for use that is necessary for employer of 10 or more employees under specified circumstance. Requires employer in Willamette Valley seeking exception to provide green-collar jobs at family wage. Requires employer outside Willamette Valley seeking exception to provide family wage. Defines terms.

*Sponsored by:* Sponsored by Senator GEORGE (Presession filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0476.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Steve Nystrom  |                   | PDD-ADM     | 1/13/2011      | --              | Monitor               |

*Comments:* Streamlines regulatory requirements for obtaining an exception to land use requirements on county lands for locating green jobs. Although this bill is directed at land outside of UGB's, it could potentially effect Eugene's efforts to locate similar jobs within its UGB. Based on discussion with the League of Oregon Cities, it's unclear if this bill will actually proceed. LOC will monitor this bill. Staff similarly recommends the bill be monitored at this time.

**SB 0513**

*Relating Clause:* Relating to local government publication of notice; amending ORS 294.311, 294.401, 294.915, 294.920 and 455.210.

*Title:* Provides for publication of notice by posting on home page of unit of local government's Internet

website.

*Sponsored by:* Sponsored by Senator MONNES ANDERSON, Representative WAND (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0500.dir/sb0513.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/17/2011      | Pri 2           | Support               |

*Comments:* SB 513 authorizes cities to publish notice of budget committee meetings and certain fees on the home page of the city's website instead (or in addition to) a newspaper. Over time, this would yield substantial savings for the City. My only question is whether this might be expanded to cover other kinds of notices in addition to those listed in this bill.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 1/13/2011      | Pri 2           | Support               |

*Comments:* Not enough context for this one. Will confer with Jerry Lidz.

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### **SB 0515**

*Relating Clause:* Relating to employment of certain managers.

*Title:* Prohibits city or local service district from entering into employment contract for employment of principal administrator that provides for term of employment that is longer than four years or for automatic renewal of contract. Prohibits payment of compensation for work not performed by administrator. Becomes operative January 1, 2015.

*Sponsored by:* Sponsored by Senator JOHNSON (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0500.dir/sb0515.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/13/2011      | Pri 1           | Oppose                |

*Comments:* This bill would limit the discretion and ability of the City Council to recruit and retain the most qualified individual for the position of City Manager. The provisions prohibited under this bill are standard in most employment contracts both in the public and private sectors. Limiting an employment contract would narrow the City's recruitment pool for viable candidates and would limit the prerogatives of the Council in deciding terms of employment.

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**SB 0536**

*Relating Clause:* Relating to bags; creating new provisions; amending ORS 459.235 and 459A.115; repealing ORS 459A.695; and declaring an emergency.

*Title:* Prohibits use of single-use checkout bags except in certain cases. Allows Department of Environmental Quality to impose civil penalty. Prohibits local governments from imposing charges on checkout bags or other bags provided to customers. Repeals statute requiring retail establishments that offer plastic bags to customers to also offer paper bags. Declares emergency, effective on passage.

*Sponsored by:* Sponsored by Senators HASS, ATKINSON, Representatives CANNON, GILLIAM (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/l1/reg/measpdf/sb0500.dir/sb0536.intro.pdf>

|  |                          |                              |                                    |                                 |   |
|--|--------------------------|------------------------------|------------------------------------|---------------------------------|---|
| <b><u>Contact</u></b><br>Babe O’Sullivan | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>CS-CMO | <b><u>Updated</u></b><br>1/14/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Support |
|--|--------------------------|------------------------------|------------------------------------|---------------------------------|---|

*Comments:* Important policy that relieves the City from any local ordinance.

|                                       |                          |                               |                                    |                                 |   |
|---------------------------------------|--------------------------|-------------------------------|------------------------------------|---------------------------------|---|
| <b><u>Contact</u></b><br>Ethan Nelson | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>PDD-BPS | <b><u>Updated</u></b><br>1/11/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Support |
|---------------------------------------|--------------------------|-------------------------------|------------------------------------|---------------------------------|---|

*Comments:* Good legislation that addresses single use bags at retail centers statewide. This legislation does reduce local control by not allowing local governments to impose fees on bags (Sect. 4), but given that the imposition of a fee at the local level would be very difficult to implement and regulate, this loss of local control is minor. Additionally, having the state set the fee for single use bags is akin to the bottle bill and establishes consistency across jurisdictions (hence increased results of the program). Checked with LOC staff and they do not oppose this bill.

**SB 0541**

*Relating Clause:* Relating to local transient lodging taxes; creating new provisions; and amending ORS 320.300.

*Title:* For purposes of local transient lodging taxes, expands definition of “tourism promotion” to include maintaining public health, safety and welfare of residents and tourists in connection with tourism and of “tourism-related facility” to include improvements on or adjacent to unimproved scenic and historic areas and open spaces intended substantially for use by tourists.

*Sponsored by:* Sponsored by Senator JOHNSON (at the request of League of Oregon Cities) (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/l1/reg/measpdf/sb0500.dir/sb0541.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/14/2011      | Pri 2           | Support               |

Comments: This is one of several bills that propose a limited broadening of allowable uses of local transient lodging tax revenue. Currently the City's lodging tax revenue provides over 1/3 of the Cultural Services Fund's revenue. SB 541 would allow this revenue to be used for "Maintaining the public health, safety and welfare of residents and tourist in connection with tourism." SB 541 would also allow use of these revenues for "An improvement located on or adjacent to unimproved scenic and historic areas and open spaces that is intended substantially for use by tourist". As an example, this might allow reimbursement to the General Fund for public safety costs related to conventions, games, festivals or other tourism-generating events.

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**SB 0542**

*Relating Clause:* Relating to local transient lodging taxes; creating new provisions; and amending ORS 320.300.

*Title:* For purposes of local transient lodging taxes, expands definition of "tourism-related facility" to include road that serves tourist destination.

*Sponsored by:* Sponsored by Senator JOHNSON (at the request of Tillamook County) (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0500.dir/sb0542.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/14/2011      | Pri 2           | Support               |

Comments: This is one of several bills that propose a limited broadening of allowable uses of local transient lodging tax revenue. Currently the City's lodging tax revenue provides over 1/3 of the Cultural Services Fund's revenue. SB 542 would allow TLT revenue to be used for "A road that serves a tourist destination." This could allow use of this revenue for road improvements directly related to access to Autzen Stadium, Cuthbert Amphitheater or Hult Center.

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**SB 0544**

*Relating Clause:* Relating to elections; amending ORS 246.820.

*Title:* Allows any elector to file action in circuit court when elector believes elections official has failed to comply with elections law. Allows attorney fees.

*Sponsored by:* Sponsored by Senator GEORGE (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0500.dir/sb0544.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 1/13/2011      | Pri 2           | Oppose                |

Comments: How does this differ from the current system? What recourse does elector currently have?

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/17/2011      | Pri 2           | Oppose                |

Comments: This bill probably isn't going anywhere, but it has the potential to interfere with elections and cost the city money. The bill would authorize a lawsuit by any elector who thinks an elections official (e.g., city recorder) has violated any election law. (Current law allows the Secretary of State to do do.) The court would have only 10 days to issue a ruling. If the elector wins, or the official corrects the alleged violation, the elector is entitled to attorney fees. The bill is unnecessary, and creates a potential for mischief; it's too easy for a disaffected or partisan elector to file a lawsuit and tie up the city for little or no reason. Elections officials don't need the threat of a lawsuit and attorney fees to do their jobs to the best of their ability.

### **SB 0546**

*Relating Clause:* Relating to tort liability for land use errors by public body.

*Title:* Eliminates requirement for special relationship to establish liability of local government for economic injuries incurred by person acting in good faith reliance on negligent misrepresentation by local government of effect of comprehensive plan and land use regulations.

*Sponsored by:* Sponsored by Senator GEORGE (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0500.dir/sb0546.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/17/2011      | Pri 2           | Oppose                |

Comments: If this bill has legs, consider Priority 1 Oppose. The bill would make cities (and counties) liable for economic losses incurred by a person who relies on the city's negligent misrepresentation about the effect of the city's comprehensive plan or land use regulations on the person's property. It would, in effect, require city staff to act as land use lawyers/consultants for developers. Predicting the effect of a land use regulation on real property is difficult, and it's easy to label a good-faith mistake (a mistake that may have been based in part on inaccurate information from the applicant) "negligent" with hindsight. The claims against the city could be very high.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Steve Nystrom  |                   | PDD-ADM     | 1/13/2011      | Pri 2           | Oppose                |

Comments: The city has opposed similar bills in past sessions. Poses significant financial impact to local governments. Planning defers to City Attorney for final recommendation on this Bill.

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**SJM 0001**

*Relating Clause:* Urges United States Department of Veterans Affairs to place greater emphasis on transitional housing for homeless veterans.

*Title:* Urges United States Department of Veterans Affairs to place greater emphasis on transitional housing for homeless veterans.

*Sponsored by:* Sponsored by Senators MONNES ANDERSON, BOQUIST (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sjm1.dir/sjm0001.intro.pdf>

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Amanda Nobel Flannery | S. Jennings              | PDD-ADM            | 1/12/2011             | Pri 2                  | Support                      |

*Comments:* Transitional housing is a critical component for the successful reintegration of veterans and should be coordinated with other VA services and care. Responding to homeless veterans has significant impact on City services (police, fire, parks, human services). The bill could be improved by adding something to encourage the VA to structure their programs so that they are more easily combined with other federal and state resources to provide housing.



IGR BILL REPORT  
 FEBRUARY 2, 2011 / IGR COMMITTEE MEETING  
 CITY OF EUGENE

**HB 2040**

*Relating Clause:* Relating to the regulation of employment.

*Title:* Requires that unpaid wages requested by employee to the mailed to employee after discharge or termination must be mailed by certified mail.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Brad Avakian)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2040.intro.pdf>

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|--|--------------------------|------------------------------|------------------------------------|---------------------------------|--|
| <b><u>Contact</u></b><br>Mark Villegas | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>CS-FIN | <b><u>Updated</u></b><br>1/14/2011 | <b><u>Priority</u></b><br>Pri 2 | <b><u>Recommendation</u></b><br>Oppose |
|--|--------------------------|------------------------------|------------------------------------|---------------------------------|--|

*Comments:* **Oppose unless amended.** The issue of concern is Section 1 (4) requiring mailed termination checks to be sent certified mail (return receipt requested). We have not run into any problems with employees not receiving checks in the past. It adds additional burden and cost to process termination checks this way. We mail between 30-50 termination checks each year.

|  |                          |                             |                                    |                                 |  |
|--|--------------------------|-----------------------------|------------------------------------|---------------------------------|--|
| <b><u>Contact</u></b><br>Susan Mullett | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>CS-HR | <b><u>Updated</u></b><br>1/24/2011 | <b><u>Priority</u></b><br>Pri 2 | <b><u>Recommendation</u></b><br>Oppose |
|--|--------------------------|-----------------------------|------------------------------------|---------------------------------|--|

*Comments:* Support Payroll recommendation.

**HB 2123**

*Relating Clause:* Relating to firefighter criminal defense expenses.

*Title:* Authorizes State Forester to authorize payment of costs and reasonable attorney fees of fire-fighter alleged to have committed misdemeanor or felony in course of fire suppression activities.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for State Forestry Department)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2123.intro.pdf>

|                                      |                          |                            |                                    |                                 |   |
|--------------------------------------|--------------------------|----------------------------|------------------------------------|---------------------------------|---|
| <b><u>Contact</u></b><br>Joann Eppli | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>FIRE | <b><u>Updated</u></b><br>1/18/2011 | <b><u>Priority</u></b><br>Pri 2 | <b><u>Recommendation</u></b><br>Support |
|--------------------------------------|--------------------------|----------------------------|------------------------------------|---------------------------------|---|

*Comments:* The State Forester that is managing fires in inhabited areas will ask for mutual or automatic aid from surrounding jurisdictions and those commanders that are supporting

the suppression operation should be indemnified if they are acting within the incident management plan and have the proper qualifications. This bill needs an amendment to cover all fire commanders working with State Foresters that are operating in mutual aid, automatic aid, and in a conflagration that has been designated by the Governor's office.

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**HB 2129**

*Relating Clause:* Relating to procedure for post-acknowledgment change to local land use plans; creating new provisions; and amending ORS 197.254, 197.610, 197.615, 197.620, 197.625, 197.649, 197.830, 215.427, 215.435, 227.178 and 227.181.

*Title:* Modifies process for local government to make post-acknowledgment changes to comprehensive plans and land use regulations.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Land Conservation and Development)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2129.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Steve Nystrom  |                   | PDD-ADM     | 1/18/2011      | Pri 3           | Support               |

*Comments:* Amends various provisions relating to noticing requirements for comprehensive plan amendments and code amendments. Primary changes are focused on coordination/notice requirements between city and DLCDC staff. Many changes are housekeeping in nature, but some reflect better alignment with local public processes. Minimal changes to notice process for general public. Bill does introduce greater flexibility to provide electronic forms of noticing.

In general, this bill provides needed updates to better reflect local processes which in some cases will result in potential cost savings to local jurisdictions.

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**HB 2131**

*Relating Clause:* Relating to land use planning for needed housing; creating new provisions; and amending ORS 197.178, 197.303, 197.307, 197.312, 197.314, 197.732, 197.831, 307.651 and 446.200.

*Title:* Modifies criteria for establishment and review of needed housing within urban growth boundaries.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Land Conservation and Development)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2131.intro.pdf>

**Contact**  
Steve Nystrom

| <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| PDD-ADM                  |                    | 01/19/2011            | Pri 2                  | Oppose                       |

Comments:

State statutes define the term "needed housing" and include regulatory limits which cities can impose. These statutes have been amended many times over the years and are difficult to understand. DLCD staff are proposing to clean up these statutes to make them more understandable. Although there are many policy level issues associated with this topic, DLCD is attempting to avoid any policy level changes.

For the most part these changes have minimal impact to the city of Eugene. In fact, it's questionable whether the amendments provide any noticeable clarity.

However, DLCD has added language which troubles city staff. The amendment would require that cities and counties compile and submit an annual report about the rates at which needed housing is being located within their jurisdictions. That subsection would prohibit LCDC from providing any financial assistance to a city that fails to provide the annual report.

An annual review serves no purpose (there is no indication of what DLCD is supposed to do with the reports) and it's likely that DLCD lacks the staffing to do anything with these reports every year. Cities like Eugene are required to periodically develop and adopt regulations and programs to accommodate their housing needs for 20 years at a time. This 20-year planning process goes through a rigorous review before LCDC will acknowledge that the City's regulations will accommodate its needed housing.

Given the cost implications and lack of purpose for this reporting requirement, staff recommend this bill be opposed.

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## **HB 2142**

*Relating Clause:*

Relating to admissibility of drug recognition evaluations.

*Title:*

Provides that partial or complete drug recognition evaluation is admissible as evidence and may be used to determine whether person was driving under influence of intoxicants.

*Sponsored by:*

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Transportation)

*URL:*

<http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2142.intro.pdf>

**Contact**  
Chuck Tilby

| <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| EPD-ADM                  |                    | 1/18/2011             | Pri 2                  | Support                      |

Comments:

A drug recognition evaluation is done by specially trained and certified police officers and the process is very rigorous. Basically the evaluation is a 12 step process. The current court ruling is that if any one of those steps is not included the entire evaluation with all of its evidence is not admissible. The most common occurrence is when the suspect refuses to provide a urine sample. Since it's one of the steps, the court ruling essentially invalidates the entire evaluation. The statistical data supports the fact the opinion of the DRE is highly reliable from the objective analysis of the rest of the evaluation. In fact the

DRE draws absolutely nothing from the urine test to draw his conclusions and the urine is only supporting physical evidence when tested in the lab to confirm the finding of the DRE. Therefore to throw out the rest of the evaluation based on the fact the suspect refuses is a real and significant impediment to successfully prosecuting individuals who are impaired.

Other instances of steps not being completed arise when a suspect suddenly stops cooperating with the evaluation or due to various conditions is unable to perform a step. The DRE is able, through their extensive training, to render an opinion in most cases based on the evidence that does present itself from the incomplete evaluation and where he is unable would say so in his report. It just doesn't make sense to throw any actual evidence already collected out based on the fact an investigator was unable to collect other pieces of evidence not made available for whatever reason.

There would be significant value derived from the passing of this bill toward the effort of holding drug impaired drivers accountable.

**HB 2151**

*Relating Clause:* Relating to alcoholic beverages; creating new provisions; and amending ORS 471.313.

*Title:* Allows city or county to adopt limits on numbers of premises within city or county, or within specific areas of city or county, that Oregon Liquor Control Commission may license for full or limited on-premises sales or off-premises sales of alcoholic beverages or as brewery-public house.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon Liquor Control Commission)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2151.intro.pdf>

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel-Flannery | Denny Braud       | PDD-ADM     | 01/18/2011     | --              | Neutral               |

*Comments:* We agree with the other respondents.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     | CS-CMO-ATTY       |             | 01/13/2011     | --              | Neutral               |

*Comments:* This concept is generally good for cities, in that it gives us more control over the number of bars, taverns, etc. in the city. I don't have any idea whether we think Eugene has too many drinking establishments (from a public safety perspective), so I defer to Chuck and Scott as to whether it's worth our time and effort to support it actively. I assume LOC and/or other cities will advocate for it.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/15/2011     | --              | Neutral               |

*Comments:* The ability to limit the number of licensed premises within the City has many advantages to the control of not only alcohol related crimes, but many other crimes that have

connection to alcohol sales. Currently, for example, we must rely on voluntary compliance to limit sales of fortified alcohol in our efforts to curb crimes enabled by alcohol consumption. This would allow the City to establish a rational limit on the number of vendors licensed under OLCC based upon community dynamics and wishes.

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**HB 2164**

*Relating Clause:* Relating to fire protection; creating new provisions; amending ORS 477.230, 477.270, 477.755 and 477.777; limiting expenditures; and declaring an emergency.

*Title:* Reduces limit on forest patrol assessment rates for lands located east of summit of Cascade Mountains and certain other areas. Changes permissible use of moneys in Oregon Forest Land Protection Fund. Alters and creates statutory limits on expenditures from fund. Deletes certain mandatory items from State Forester budget request. Changes required content of annual report by State Forester to Emergency Board. Declares emergency, effective July 1, 2011.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for State Forestry Department)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2164.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Joann Eppli    |                   | FIRE        | 1/18/2011      | Pri 3           | Support               |

*Comments:* This bill provides resources to attack a wild fire aggressively in the early stages with the interest of controlling the fire quickly. This pro-active approach to having resources available to manage an incident at its lowest level will save property, promote life safety, potentially saving resources that are required for an extended suppression operation.

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**HB 2230**

*Relating Clause:* Relating to payment of wages to newly hired employees.

*Title:* Requires employer to offer first payment of wages to employee within 14 days of first day of employment.

*Sponsored by:* By Representative GREENLICK (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2200.dir/hb2230.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Finn Cronin    |                   | CS-FIN      | 1/18/2011      | Pri 1           | Oppose                |

*Comments:* Agree with Mark's assessment – huge workload impact and employee still has to wait for 2<sup>nd</sup> paycheck.

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Mark Villegas  |                   | CS-FIN      | 01/14/2011     | Pri 1           | Oppose                |

Comments: This would impose a huge burden on the City to process pay for newly hired employees. The changes to the system, the manual processing, and need to contact each and every new hire. At the beginning of summer we hire 40-60 employees each pay period for a few pay periods. This doesn't even help the employees; instead of a long wait before receiving their first pay check, they end up with the same long wait between their 1st and 2nd pay checks. No good way to modify bill to make it acceptable.

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Susan Mullett  |                   | CS-HR       | 01/13/2011     | Pri 1           | Oppose                |

Comments: Support Finance's Recommendation.

**HB 2231**

*Relating Clause:* Relating to cigarettes taxes; prescribing an effective date; providing for revenue raising that requires approval by a three-fifths majority.

*Title:* Increases cigarette tax.

*Sponsored by:* By Representative GREENLICK (Presession filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2200.dir/hb2231.intro.pdf>

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Larry Hill     |                   | CS-FIN      | 01/20/2011     | Pri 1           | Support               |

Comments: HB 2231 would significantly increase millage taxes on cigarettes, from a total of 59 mills to 109 mills per cigarette. This would raise the total cigarette tax from the current \$1.18 to \$1.23 per pack. The bill would as well as impose a new one-time floor tax of 50 mills per cigarette on distributors and retailers of cigarettes on stock on hand as of January 1, 2012. However it also proposes to change the distribution of cigarette tax revenues, some of which come to the City of Eugene, although the distribution amounts are left blank in the printed bill.

The bill will need amendment to insert distribution amounts. It is very important that the share of cigarette tax revenue currently going to cities not be reduced, and it should be increased if at all possible. The cigarette tax, when it was approved by voters in 1967, was \$0.04 per pack, with 50% of the tax designated for property tax relief and 50% to be distributed to cities and counties. Since then, the amount of tax on cigarettes has increased but cities proportionate share of the tax revenue has shrunk, from 33% to just 1.7% of the total tax (a second penny was added for cities in 1986).

The current tax rate is \$1.18 per pack of 20 cigarettes. Generally, the tax is paid through the use of tax stamps that are purchased by Oregon licensed cigarette distributors. Revenue from the tax is allocated as follows: \$0.22 to the State General Fund (18.64%), \$0.86 to the Oregon Health Plan (72.66%), \$0.02 to cities (1.93%), \$0.02 to counties (1.93%), \$0.02 to the Oregon Department of Transportation for transportation services to

the elderly and disabled (1.93%), and \$0.03 to the Tobacco Use Reduction Account (2.9%). The statutory authorization for this distribution is ORS 323.455. Revenues are paid to cities on a per capita basis. Cities may use their share for general government purposes, without program restrictions on their use. In FY11 the City of Eugene expects to receive \$211,500 from the state cigarette tax.

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**HB 2317**

*Relating Clause:* Relating to telecommunications contracts.

*Title:* Requires telecommunications contract between telecommunications utility and residential customer to allow customer to terminate contract without penalty if customer enters hospice program.

*Sponsored by:* By Representative BARNHART; Representatives BARKER, DEMBROW, FREDERICK, GELSER, MATTHEWS (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2317.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Pam Berrian    |                   | CS-ISD      | 01/20/2011     | Pri 3           | Support               |

*Comments:* 1-19-11 Update: Support as consumer advocacy but suggest amendments. I have confirmed this was introduced at request of a wireless customer and also confirmed my suspicions that the text is inadvertently limiting the intent. The term 'Telecomm Utility' is used for a narrow category [about 5 such companies in Oregon) of telecom provider - the incumbent local exchange providers like Qwest, who to my knowledge do not use contracts. The text needs to be broadened, especially to mobile cellular service providers.

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**HB 2352**

*Relating Clause:* Relating to prime industrial land.

*Title:* Requires city that reduces available prime industrial land within urban growth boundary to replace land or mitigate impact so that development capacity to satisfy need for prime industrial land is not reduced or compromised.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2352.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Steve Nystrom  |                   | PDD-ADM     | 01/20/2011     | Pri 3           | Oppose                |

*Comments:* This bill would require a city to replace or mitigate the loss of any prime industrial land resulting from a city action. As written, this could mean that a city's approval of development of a prime industrial parcel must be tied to a corresponding action to add

back another parcel of equal size. While this may not be the intent of the bill, such an obligation would be completely unrealistic.

Beyond this concern, the language of the bill provides very little clarity on how and when such land would need to be provided. Further, state law requires cities to ensure there is an adequate supply of industrial land anytime they take actions (such as zone changes or comprehensive plan amendments) to reduce that inventory.

Given the vague language of this bill, staff would recommend opposing it until further clarification can be provided.

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**HB 2358**

*Relating Clause:* Relating to preferences in public project construction for products produced within the United States; declaring an emergency.

*Title:* Prohibits contracting agency from awarding contract for public improvement or public works unless iron, steel, wood products and manufactured goods, including equipment, used in public improvement or public works are produced within United States.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2358.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jamie Garner   |                   | CS-FIN      | 01/14/2011     | Pri 2           | Oppose                |

*Comments:* Combining the potential 25% increase in materials and equipment with the administrative time that would be required by the City to verify this for every PI or PW project makes this seem like an incredibly costly proposition that, as Mike and Paul said, is well-intentioned but coming at the wrong time when budgets have been significantly tightened. The City should oppose this bill because the implications could quite possibly limit the amount of projects the City could afford to take on.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Mike Penwell   |                   | CS-FAC      | 01/19/2011     | Pri 2           | Oppose                |

*Comments:* While this bill is well-intentioned, experience with stimulus projects have "Buy American" requirements has demonstrated that it's often difficult to obtain material and equipment--especially for buildings--that meet the requirements, and it raises the overall cost of the project significantly.

This bill would also limit access to a multitude of cutting-edge technologies and energy-efficient products coming out of Europe and the Pacific Rim.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Eric Jones     |                   | PW-ADM      | 01/21/2011     | --              | --                    |

*Comments:* Defer to Paul Klope.



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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Jenifer Willer |                   | PWE         | 01/19/2011     | Pri 2           | Oppose                |

Comments: I agree with the comments made by the other responders.

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Paul Klope     |                   | PWE         | 01/19/2011     | Pri 2           | Oppose                |

Comments: Requires the use of domestic iron, steel and wood products and manufactured goods and equipment for public improvements unless the product is not made in the US and reasonably available or unless purchasing the US made product will increase the cost of the entire public improvement project 25% or more.

Although the goal of saving US jobs is laudable, the potential to increase the cost of public works projects as much as 25% is unreasonable given the extensive budget cuts public agencies are experiencing. It also will be expensive and difficult for the City to administer, because it will be difficult and time consuming to determine whether the thousands of individual manufactured products that go into building public improvements, such as a building, are entirely produced in the US or not.

I recommend the City oppose this bill unless the percentage of increase is lowered to a more reasonable number like 5%, or the materials list is narrowed to iron, steel, and wood products.

**HB 2370**

*Relating Clause:* Relating to public real property near rail infrastructure.

*Title:* Requires political subdivision to give Department of Transportation at least 30 days' notice of intent to sell or transfer real property near rail infrastructure.

*Sponsored by:* By Representative NATHANSON; Representatives BARKER, DEMBROW, DOHERTY, GELSER, HOYLE, HUNT, KOTEK, J SMITH (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2370.intro.pdf>

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Eric Jones     |                   | PW-ADM      | 01/21/2011     | --              | Monitor               |

Comments: Per Lloyd Williams in PWE real estate section, the definition of "near" is at the very limits of our tolerance, and we probably would oppose any efforts to increase the distances from 100/500 feet. Also, we have no objection to ODOT have the right of first notice/first purchase but would oppose extending that to the railroads or any other private entity. If we're comfortable that these provisions won't be amended, we could support a drop position.

**HB 2417**

*Relating Clause:* Relating to elections.

*Title:* Exempts district from paying expenses for district election held on same date as date of primary or general election.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2417.intro.pdf>

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|---------------------------------------|------------------------------------|------------------------------|-------------------------------------|---------------------------------|--|
| <b><u>Contact</u></b><br>Beth Forrest | <b><u>Respondent</u></b><br>CS-CMO | <b><u>Dept</u></b><br>CS-CMO | <b><u>Updated</u></b><br>01/18/2011 | <b><u>Priority</u></b><br>Pri 2 | <b><u>Recommendation</u></b><br>Oppose |
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*Comments:* Unclear - what is included in "election expenses?" Voters Pamphlet would not be produced in situations where there are no local ballot measures or open seats, although there may be a primary election.

**HB 2425**

*Relating Clause:* Relating to local budget law.

*Title:* Modifies provisions relating to local budget law.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2425.intro.pdf>

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| <b><u>Contact</u></b><br>Larry Hill | <b><u>Respondent</u></b><br>CS-FIN | <b><u>Dept</u></b><br>CS-FIN | <b><u>Updated</u></b><br>01/21/2011 | <b><u>Priority</u></b><br>Pri 2 | <b><u>Recommendation</u></b><br>Oppose |
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*Comments:* Oppose as published, but support if amended. HB 2425 proposes revision to local budget law that would impact the City of Eugene. Most changes are acceptable, one in particular would be beneficial and save on costs, and a few provisions are unclear, imply additional costs, or would be difficult to accomplish. I am recommending the bill be amended to address our concerns.

>> Section 6(c)(5)(b) contains proposed changes to the Budget Committee meeting notice requirements that should save us some money, since one of the notices may be published on the web site rather than in the newspaper. rather than in a newspaper. The City supports this change.

>> Section 6(8) contains new language requiring the governing body to provide copies of the budget document to individuals upon request. It is not clear from the new language whether providing a budget on a CD or providing a hyperlink to the web site would satisfy this requirement. This is our current proactive, as we publish few hard copies. The City provide citizen access to the budget document on CDs or through the City website, rather than publishing many hard copies. Providing hard copies upon request at no

additional charge to the individual will create additional costs.

>>Section 8(2)needs some clarification. Does the language of subsections (b),(d),(e) and (f) require only total amounts under each category be published in the notice, or does it require more detail. For instance, does subsection (b) allow a simple total amount to be published for non-tax income, or must subtotals for fees, licenses, permits, fines, assessments and all other service charges be published? I have similar concerns for the language of (d),(e) and (f). If subtotals must be published it will increase the complexity an cost of budget notices, without necessarily providing more clarity to citizen readers.

>> Section 8(1) and(5)(a) would impose a new requirement for a financial summary of the budget in narrative format to be included in the budget notice. This narrative would have to describe "the prominent changes from the current year or current budget period in the activities and financing of the major organizational units or major programs." For an organization as complies as the City of Eugene, it would be very difficult to summarize all prominent changes in all major units and programs in the context of a published budget notice. It takes about 40 pages for the City to present this information in useful, summarized form in the Budget Message and Summary in the proposed budget document. To attempt to summarize this information into a published newspaper notice would be difficult and the narrative would necessarily be greatly oversimplified. In addition, costs would increase with the enlarged notice.

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**HB 2428**

*Relating Clause:* Relating to election ballots.

*Title:* Modifies, on general or special election ballot, number of political parties that may be listed opposite name of candidate in certain circumstances.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2428.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 01/18/2011     | Pri 2           | Oppose                |

*Comments:* Seems reasonable to limit the number of times a candidate's name is on the ballot to one; however, it does not make sense to limit naming the minor parties endorsing the candidate to one. Gives unfair advantage to more well-established parties. (FYI - Fiscal impact statements linked above are unrelated to this bill.)

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**HB 2429**

*Relating Clause:* Relating to primary election.

*Title:* Changes date of primary election from third Tuesday in May to second Tuesday in June.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2429.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 01/18/2011     | --              | Neutral               |

*Comments:* --

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### **HB 2430**

*Relating Clause:* Relating to filing for candidacy.

*Title:* Modifies time period for candidate to file nominating petition or declaration of candidacy.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2430.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 01/18/2011     | Pri 3           | Support               |

*Comments:* Would decrease time to declare by 12 days - not a significant negative impact on candidates, but could have a positive impact on elections officials.

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### **HB 2451**

*Relating Clause:* Relating to the Oregon Forest Land Protection Fund; declaring an emergency.

*Title:* Limits expenditure from Oregon Forest Land Protection Fund to lesser of specified sum or one-half of fire suppression and insurance costs.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2451.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Joann Eppli    |                   | FIRE        | 01/18/2011     | --              | Neutral               |

*Comments:* The issues addressed by this bill will not directly impact the operations, services, or finances of the City, however, this bill may impact other mutual aid or automatic aid areas.

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**HB 2465**

*Relating Clause:* Relating to notice requirements for public meetings.

*Title:* Requires at least 72 hours' notice for conduct of public meetings, unless actual emergency warrants less notice.

*Sponsored by:* By Representative GELSER; Representative DEMBROW (at the request of Penny York) (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2465.intro.pdf>

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|---------------------------------------|------------------------------------|------------------------------|-------------------------------------|---------------------------------|--|
| <b><u>Contact</u></b><br>Beth Forrest | <b><u>Respondent</u></b><br>CS-CMO | <b><u>Dept</u></b><br>CS-CMO | <b><u>Updated</u></b><br>01/18/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Oppose |
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*Comments:* Passage of this bill would significantly reduce a governing body's ability to schedule meetings that are time-sensitive - but perhaps not an emergency.

|                                     |   |                                   |                                     |                                 |  |
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| <b><u>Contact</u></b><br>Jerry Lidz | <b><u>Respondent</u></b><br>CS-CMO-ATTY | <b><u>Dept</u></b><br>CS-CMO-ATTY | <b><u>Updated</u></b><br>01/17/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Oppose |
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*Comments:* Increases notice requirement for special meeting of "governing body of a public body," which includes not only Council but also city commissions and council committees, from 24 to 72 hours; allows emergency meeting on less notice only if three-fifths of members agree. While more notice is generally better than less notice, the added burden here is likely to interfere with accomplishing city business more than it adds to public awareness of the meetings. Still, because almost all city meetings are regularly-scheduled ones, this bill probable has little practical effect on us. "Neutral" would be okay.

**HB 2466**

*Relating Clause:* Relating to unsolicited facsimiles.

*Title:* Prohibits sending of unsolicited facsimiles to public bodies.

*Sponsored by:* By Representative GELSER; Representatives BARKER, DOHERTY, NATHANSON, READ, J SMITH, TOMEI (at the request of Lisa Krause) (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2466.intro.pdf>

|                                       |                                    |                              |                                     |                                 |   |
|---------------------------------------|------------------------------------|------------------------------|-------------------------------------|---------------------------------|---|
| <b><u>Contact</u></b><br>Beth Forrest | <b><u>Respondent</u></b><br>CS-CMO | <b><u>Dept</u></b><br>CS-CMO | <b><u>Updated</u></b><br>01/18/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Support |
|---------------------------------------|------------------------------------|------------------------------|-------------------------------------|---------------------------------|---|

*Comments:* Passage of this bill would save public resources and would eliminate the need to retain irrelevant documents as public records.

|                                     |   |                                   |                                     |                                 |   |
|-------------------------------------|---|-----------------------------------|-------------------------------------|---------------------------------|---|
| <b><u>Contact</u></b><br>Jerry Lidz | <b><u>Respondent</u></b><br>CS-CMO-ATTY | <b><u>Dept</u></b><br>CS-CMO-ATTY | <b><u>Updated</u></b><br>01/20/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Support |
|-------------------------------------|---|-----------------------------------|-------------------------------------|---------------------------------|---|

Comments: The bill would prohibit unsolicited faxes to public bodies. I defer to Beth Forrest on the need for this. My one concern is that it pretty much eliminates faxes as a means to communicate with government, except where the sender has called or e-mailed ahead.

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### **HB 2483**

*Relating Clause:* Relating to task force review of public records laws; declaring an emergency.

*Title:* Establishes task force to study and make recommendations on exemptions from public records and changes to public records laws to ensure consistent criteria and processes are applied in exempting public records from disclosure, in application of public records requirements to social media data and for other purposes.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability for Government Efficiency Task Force)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2483.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 01/21/2011     | Pri 2           | Support               |

Comments: Passage of bill may result in changes to current public records criteria and procedures, which are in need of clarification.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 01/20/2011     | Pri 2           | Support               |

Comments: The Public Records Law has been around for nearly 40 years without major updates, and exemptions have proliferated. It needs a thorough, thoughtful review to adapt the law to the era of electronic records and to reduce the number of exemptions. This task force would be a good way to start.

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### **HB 2500**

*Relating Clause:* Relating to statutes of limitation.

*Title:* Removes certain statutes of limitation for actions brought by public bodies arising out of construction, alteration or repair of improvement of real property.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2500.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 01/21/2011     | Pri 3           | Support               |

Comments: This bill would remove the time limit for public bodies to sue an architect, engineer, surveyor, landscape architect, etc. for negligence or breach of contract relating to their work for the public body. Recommend asking LOC about what others are doing with this bill.

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**HB 2517**

*Relating Clause:* Relating to tax expenditure goal statements; prescribing an effective date.

*Title:* Requires goal statement, including administration plan, for measures that create or renew tax expenditures or provide connection to tax expenditures provided in federal law.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2517.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 01/19/2011     | Pri 2           | Support               |

Comments: HB 2517 would require state agencies to prepare and submit a "goal statement" for any tax expenditure. The goal statement must demonstrate how the expenditure achieves the policy goals of the state. Among other things it must describe the targeted problem and demonstrate how the public benefits will outweigh the cost. This would be helpful in controlling the proliferation of tax exemptions, including those that reduce local government property tax revenues.

The bill would be significantly improved if it were amended to specifically include analysis of the impact of any tax expenditure on local units of government, including municipal governments. The current language only addresses impacts on the state and overlooks the offer large impacts on cities. References to impacts on local governments should be included in Section 1(2), as well as section 1(3)(c) & (e).

A tax expenditure is "...any law of the Federal Government or this state that exempts, in whole or in part, certain persons, income, goods, services or property from the impact of established taxes, including but not limited to tax deductions, tax exclusions, tax subtractions, tax exemptions, tax deferrals, preferential tax rates and tax credits." (Oregon Laws 1995, Chapter 746)

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**HB 2533**

*Relating Clause:* Relating to tax on cigarettes; prescribing an effective date; providing for revenue raising that requires approval by a three-fifths majority.

*Title:* Increase tax on cigarettes.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2533.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 01/20/2011     | --              | Monitor               |

*Comments:* HB 2533 must be carefully monitored to determine whether it would increase or decrease revenue to the City from the state cigarette tax. Amendments should be pursued if necessary to make the bill favorable to cities.

Would significantly reduce the percentage share of cigarette tax revenue under ORS 323.030 distributed to cities from 3.45% to 1.93%. It would also impose a new one-time floor tax of over 90 mills per cigarette on distributors and retailers of cigarettes on stock on hand as of January 1, 2012. Finally it would impose an additional cigarette stamp tax with the amount of the tax based on the type of stamp. NO fiscal analysis is available yet on this bill. It isn't possible for me at this time to determine what the net effect of these changes would be on revenue to be received by the City of Eugene from state cigarette tax revenue distributions.

It is very important that the share of cigarette tax revenue currently going to cities not be reduced, and it should be increased if at all possible. The cigarette tax, when it was approved by voters in 1967, was \$0.04 per pack, with 50% of the tax designated for property tax relief and 50% to be distributed to cities and counties. Since then, the amount of tax on cigarettes has increased but cities proportionate share of the tax revenue has shrunk, from 33% to just 1.7% of the total tax (a second penny was added for cities in 1986).

The current tax rate is \$1.18 per pack of 20 cigarettes. Generally, the tax is paid through the use of tax stamps that are purchased by Oregon licensed cigarette distributors. Revenue from the tax is allocated as follows: \$0.22 to the State General Fund (18.64%), \$0.86 to the Oregon Health Plan (72.66%), \$0.02 to cities (1.93%), \$0.02 to counties (1.93%), \$0.02 to the Oregon Department of Transportation for transportation services to the elderly and disabled (1.93%), and \$0.03 to the Tobacco Use Reduction Account (2.9%). The statutory authorization for this distribution is ORS 323.455. Revenues are paid to cities on a per capita basis. Cities may use their share for general government purposes, without program restrictions on their use. In FY11 the City of Eugene expects to receive \$211,500 from the state cigarette tax.

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## **HB 2552**

*Relating Clause:* Relating to compliance with the tax laws of the State of Oregon; declaring an emergency.

*Title:* Requires contracting agency to verify that person that enters into public contract with contracting agency has paid all taxes due and otherwise complied with tax laws of this state.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2552.intro.pdf>



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|--------------------------------|-------------------|-----------------------|------------------------------|--------------------------|---------------------------------|
| <u>Contact</u><br>Jamie Garner | <u>Respondent</u> | <u>Dept</u><br>CS-FIN | <u>Updated</u><br>01/14/2011 | <u>Priority</u><br>Pri 2 | <u>Recommendation</u><br>Oppose |
|--------------------------------|-------------------|-----------------------|------------------------------|--------------------------|---------------------------------|

Comments: **Oppose unless amended.** Based on the ORS 279A.010(z) definition of a Public Contract I would suggest that the City oppose this HB unless Section 2(1) is amended to include a dollar amount that would minimize inquires for small purchases, possibly a \$50,000 minimum, and it should be amended to put a limitation on the number of times an agency is required to inquire because of multiple purchases from a single vendor. This HB could apply to every purchase and disposal of property by the City which would be not only time-consuming to research but I do not believe the DoR could keep up with the inquiries based on the sheer number of purchases from just the City.

The definition of a Public Contract per ORS 279A.010(z) includes a sale or other disposal, or a purchase, lease, rental or other acquisition, by a contracting agency of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement, but does not include Grants.

|                              |                   |                       |                              |                          |                                 |
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| <u>Contact</u><br>Larry Hill | <u>Respondent</u> | <u>Dept</u><br>CS-FIN | <u>Updated</u><br>01/20/2011 | <u>Priority</u><br>Pri 2 | <u>Recommendation</u><br>Oppose |
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Comments: I agree with Jamie's analysis and recommendation.

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| <u>Contact</u><br>Mike Penwell | <u>Respondent</u> | <u>Dept</u><br>CS-FAC | <u>Updated</u><br>01/14/2011 | <u>Priority</u><br>Pri 2 | <u>Recommendation</u><br>Oppose |
|--------------------------------|-------------------|-----------------------|------------------------------|--------------------------|---------------------------------|

Comments: I concur with Jamie Garner's comments.

**HB 2554**

*Relating Clause:* Relating to the state transient lodging tax; prescribing an effective date; providing for revenue raising that requires approval by three-fifths majority.

*Title:* Increases state transient lodging tax rate to 6.29 percent.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/leg/measpdf/hb2500.dir/hb2554.intro.pdf>

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|------------------------------|-------------------|-----------------------|------------------------------|-----------------------|----------------------------------|
| <u>Contact</u><br>Larry Hill | <u>Respondent</u> | <u>Dept</u><br>CS-FIN | <u>Updated</u><br>01/20/2011 | <u>Priority</u><br>-- | <u>Recommendation</u><br>Monitor |
|------------------------------|-------------------|-----------------------|------------------------------|-----------------------|----------------------------------|

Comments: HB 2554 should be monitored for any amendments that would constrain or otherwise adversely limit local transient lodging taxes. If any are proposed we should oppose their adoption.

**HB 2569**

*Relating Clause:* Relating to property tax appeals; prescribing an effective date.  
*Title:* Authorizes county assessor to order deferred billing credit to taxpayer if dollar amount at issue in property tax appeal exceeds \$1 million.  
*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)  
*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2569.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 01/20/2011     | Pri 1           | Support               |

*Comments:* HB 2569 has the potential to save the City loss of tax revenue due to large property tax appeals that may occur in the future. This bill comes from an Association of Oregon Counties interim task force that worked with assessors to come up with an idea to give a discretionary "tool" to the assessors tool box when the assessor receive notice of large value appeals. The bill would allow the property under appeal with a disputed value above \$1 million to be assessed, taxed and sent a tax bill as normal but then the assessor in certain circumstances could then issue a "deferred billing credit" notice to the taxpayer informing them to not pay some portion of the tax related to the disputed value. The taxpayer holds their own money pending the appeal and therefore the district does incur the 12% interest required by statute on the refund if the appeal succeeds. If the value is upheld and/or no change in original tax amount occurs, then the taxpayer must pay the tax amount due within 30 days for immediate distribution to the districts. The intent is for this to be used in very limited circumstances as a way to mitigate the 12% interest that accrues to all the districts on refunds for appeals that go on for years. Right now, assessors only have the ability to set up a refund reserve for disputed principal in certain situations but no way to stop the interest accrual or set aside money for the interest for districts. Under the current statutory scheme, sophisticated taxpayers may be utilizing the property tax appeal process and the 12% interest on refunds as an investment strategy, which is to the detriment of our local governments and schools. Given the Comcast and Hynix appeals and impacts to districts for multiple years of large refunds that may be owed when this is done, the assessors responded in HB 2569 with a workable idea that didn't mess with the valuation process or the tax bill/tax distribution schedule.

**HB 2584**

*Relating Clause:* Relating to employment of temporary employees by public employers; declaring an emergency.  
*Title:* Limits period for which certain public employers may employ temporary workers.  
*Sponsored by:* By Representative SCHAUFLER; Representative MATTHEWS (Pre-session filed.)  
*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2584.intro.pdf>

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Susan Mullett  |                   | CS-HR       | 01/24/2011     | Pri 1           | Oppose                |

Comments: Too restrictive. Would have an impact on departments in the City that use temporary employees. This impact would require change in business plans, cutting services or increase in program costs to the public. Currently the City already has guidelines for temporary employees and many are within the 1040 hours.

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Mike Magee     |                   | LRCS-ADM    | 01/20/2011     | Pri 1           | Oppose                |

Comments: This bill would require LRCS to significantly change the way we do business and would result in cost increases or program/service reductions. LRCS utilizes temporary employees to staff programs and services during times of increased activity throughout the year. Many of these employees are high school and college students that need to have flexible schedules to meet their study obligations. As an example, in our Aquatics programs, temporary staff have been certified and trained to provide unique skills such as lifeguarding as well as swim and water fitness instructing. Other services that could be affected include LRCS facility front desk positions, before and after school program care providers, and specialty class and program leaders.

While some of our temporary employees do work less than six calendar months in a twelve month period, many do work more than that while still remaining under the current 1040 hours per year limit. By making the definition of a temporary employee more restrictive, LRCS would have to hire, train and terminate new temporary staff every six months, hire more regular staff at a significantly increased cost to the City, reduce the capacity of programs based on existing regular staff without using significant temporary employees, and/or cut back on the number of programs/services enabling us to use our existing regular staff.

Because of the significant impacts, LRCS opposes this bill unless the definition is changed to incorporate employees who work 1040 hours or less in a calendar year. However, since this affects all temporary employees in the City, we will defer to HR, as the City's lead on this bill, if they have a differing opinion.

**HB 2586**

*Relating Clause:* Relating to the application of prevailing wage rates to enterprise zones; declaring an emergency.

*Title:* Classifies exemption from ad valorem property taxation as funds of public agency for purpose of requiring payment of prevailing rate of wage.

*Sponsored by:* By Representative SCHAUFLER; Representative MATTHEWS (Presession filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2586.intro.pdf>

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Larry Hill     |                   | CS-FIN      | 01/20/2011     | Pri 3           | Oppose                |

Comments: This bill would require the value of an exemption from property taxes resulting from location of a private project costing \$2 million or more within an enterprise zone to be considered "public funds" under prevailing wage statutes. Such a private project would be designated a "public work" under the new language. This would discourage private investment within an enterprise zone.

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel Flannery | Denny Braud       | PDD-ADM     | 01/20/2011     | Pri 3           | Oppose                |

Comments: This bill would require prevailing wages to be paid for Enterprise Zone projects, require the zone sponsor (City and County) to pay a \$5,000 fee to BOLI for each enterprise zone project, and require the zone sponsor to monitor certified payrolls (at its own expense) for each project. Requiring fees and the payment of prevailing wage for enterprise zone projects will have a negative impact on the effectiveness of the EZ program's goal of promoting local economic development and job creation. The value of a typical 3-year EZ tax exemption is approximately 3% of the eligible new construction cost. Additional fees and added construction costs associated with prevailing wage requirements for EZ construction projects could potentially offset all of the EZ tax exemption benefits. The monitoring requirements would also represent an unfunded mandate for the City.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Mike Penwell   |                   | CS-FAC      | 01/20/2011     | Pri 3           | Oppose                |

Comments: I agree with Larry Hill's comments; this bill is counter to the purpose of encouraging development of certain types of development in certain areas through the use of enterprise zones and property tax exemptions.

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## **HB 2609**

*Relating Clause:* Relating to buildable lands.

*Title:* Requires metropolitan service districts and cities with population of 25,000 or more that are outside metropolitan service districts to provide rolling, five-year supply of shovel-ready buildable lands for needed housing and for industrial and commercial uses.

*Sponsored by:* By Representative SCHAUFLER (at the request of Oregon Home Builders Association) (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2609.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Steve Nystrom  |                   | PDD-ADM     | 01/20/2011     | Pri 2           | Oppose                |

Comments: Would require Eugene to perform a buildable lands review for most of its land needs every 5 years to ensure an adequate supply of "shovel-ready" sites (defined as those sites that can be issued building permits within one year). While there are some requirements to plan for shovel ready employment lands, this bill would mandate such a supply and would apply this same term to residential lands.

Pros: Would ensure a rolling supply of land that can be more readily developed during

the typical 20 year planning period.

Cons: The Bill would require cities to perform a buildable lands analysis every 5 years without any new funding sources identified. The financial impact could be significant. It's likely that such efforts could lead to regular UGB expansions.

May also require cities to streamline land use processes to ensure 1 year timeline can be met. Based on the bill's language, this one year period would need to account for local processes, including appeals, as well as related agency reviews (state and Federal permits).

Other factors: The term "needed housing" has specific meaning in state statute which could complicate how cities determine their need and allocation. The bill could also shift efforts away from redevelopment and brownfield opportunities given the longer time frame involved.

This bill would also further restrict Eugene's ability to make local decisions about how best to monitor and adjust our strategies during our 20 year planning period.

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**HB 2613**

*Relating Clause:* Relating to deposits of public funds.

*Title:* Allows deposit of public funds in Oregon depository in amount in excess of statutory limit if Oregon depository redeposits funds into insured deposit accounts in other financial institutions, redeposited funds are federally insured and Oregon depository receives amount of deposits from other financial institutions in at least equal amount.

*Sponsored by:* By Representative SCHAUFLER (at the request of Oregon Bankers Association) (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2613.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Twylla Miller  |                   | CS-FIN      | 01/20/2011     | Pri 3           | Support               |

*Comments:* This bill allows for deposits of public funds in insured cash accounts. Similar to the existing program CDARS for certificates of deposit, funds could be deposited in a participating bank which would then redeposit the funds in other banks at a level fully insured by the FDIC.

While this bill would not significantly impact city operations, this could create a potential investment alternative for the City to consider in relation to other investment options.

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**HB 2619**

*Relating Clause:* Relating to obligations between contractors on public contracts; declaring an emergency.

*Title:* Permits contracting agency to consider bidder's record of relations with subcontractors in evaluating bidder's responsibility for purposes of awarding public contract.

*Sponsored by:* By Representative SCHAUFLENER (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2619.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jamie Garner   |                   | CS-FIN      | 01/19/2011     | --              | Neutral               |

*Comments:* The addition of bidder's record of relations with subs in the consideration of responsibility is optional and is relevant so I do not see this negatively impacting the City. If this should pass, however, it will necessitate modifications to existing City contract templates because of new requirements to the contractor. I will be interested in the outcome but do not feel that this will have a substantial impact on the City.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Mike Penwell   |                   | CS-FAC      | 01/14/20       | --              | Neutral               |

*Comments:* I concur with Paul Klope's comments, although I'm not sure it's necessary to actively monitor this bill as Brenda and Jessica will send us this bill again if it is modified.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Paul Klope     |                   | PWE         | 01/19/2011     | --              | Neutral               |

*Comments:* Allows the public agency to consider a contractor's history regarding prompt payment to subcontractors when considering whether to award a public improvement contract.

It is unlikely most public agencies will have knowledge of a contractor's past performance regarding payments to subcontractors. Since the bill is "permissive" and leaves it open as to how public agencies would evaluate and determine whether to award a contract based on this past performance, this bill will have little impact on the City. However, in the past bills like this have been modified during the session, so I recommend monitoring it in case something changes that could affect the City.

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## **HB 2623**

*Relating Clause:* Relating to determinations of responsibility for contractors on public improvement contracts.

*Title:* Requires contracting agency to base determination of contractor's responsibility for public improvement contract on contractor's demonstrating that contractor has provided health insurance to contractor's employees for period of two years before contractor submitted bid for public improvement contract.

*Sponsored by:* By Representative SCHAUFLENER

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2623.intro.pdf>

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Jamie Garner   |                   | CS-FIN      | 01/19/2011     | Pri 2           | Oppose                |

Comments: Agree with Paul and Mike. This proposed standard of responsibility does not seem related as the others do to the bidder's performance. Also agree with Paul to oppose unless amended to remove the 2-year requirement.

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Mike Penwell   |                   | CS-FAC      | 01/14/2011     | Pri 2           | Oppose                |

Comments: I recommend opposing this bill because it introduces a criterion for determining a responsible bidder--in contrast to existing criteria--that has no direct correlation to a contractor's ability and standing to successfully complete the work. Public improvement contracts are not the appropriate vehicle to advance health insurance reform.

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|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Paul Klope     |                   | PWE         | 01/14/2011     | Pri 2           | Oppose                |

Comments: This bill would reduce competition for public improvement contracts by eliminating contractors that are not large and wealthy enough to carry health insurance continuously for all their employees who will work on public contracts, whether employed continuously during the 2 year period or not. Most contractors only work during the spring and summer in Oregon, and then only to the extent they are successful bidders for available projects. If they are not working they aren't receiving payments, so in most cases they lay off the workers who aren't needed. Due to the uncertainty of whether they will be awarded bids and how much money they will earn in any one year, it will be impossible for all but the largest companies to comply with this bill. Due to the lesser pool of contractors available to bid on public projects, it will increase the cost of projects due to lesser competition.

The City should oppose this bill in its current form. If the bill is modified to eliminate the 2 year requirement, and just require that workers who are employed on public projects have health insurance while the project is under construction, then I recommend we drop the bill.

**HB 2624**

*Relating Clause:* Relating to the application of prevailing rates of wage; declaring an emergency.

*Title:* Modifies definition of "public works." Classifies exemption from ad valorem property taxation as funds of public agency for purpose of requiring payment of prevailing wage.

*Sponsored by:* By Representative SCHAUFLER

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2624.intro.pdf>

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| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
| Larry Hill     |                   | CS-FIN      | 01/19/2011     | Pri 2           | Oppose                |

Comments: I agree with Denny's analysis.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Mike Penwell   |                   | CS-FAC      | 01/14/2011     | Pri 2           | Oppose                |

Comments: This bill seems to counter to the intended use of enterprise zones and property tax exemptions as tools to spur certain types of development in specific places by placing the burden of prevailing wage rate requirements on private development subject to this bill. Furthermore, it seems somewhat arbitrary to impose these requirements on private development only when it occurs in an enterprise zone or receives a property tax exemption.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Susan Mullett  |                   | CS-HR       | 01/19/2011     | Pri 2           | Oppose                |

Comments: Support recommendation of PW and Facilities.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Eric Jones     |                   | PW-ADM      | 01/21/2011     | Pri 2           | Oppose                |

Comments: Defer to other reviewers. The “public works” that are the subject of this bill are related to buildings and affordable housing structures.

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel Flannery | Denny Braud       | PDD-ADM     | 01/19/2011     | Pri 2           | Oppose                |

Comments: Requiring payment of prevailing wage for enterprise zone projects will have a negative impact on the effectiveness of the EZ program goal of promoting local economic development and job creation. The value of a typical 3-year EZ tax exemption is approximately 3% of the eligible new construction cost. Additional construction costs associated with prevailing wage requirements for EZ construction projects could potentially offset all of the EZ tax exemption benefits. No amendments would make this better.

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## **HB 2628**

*Relating Clause:* Relating to the application of prevailing rate of wage to public works projects; declaring an emergency.

*Title:* Defines “funds of a public agency,” for purposes of applying prevailing rate of wage to projects for public works, to include tax credits or tax abatements that contractor engaged in project for public works receives from state in connection with project.

*Sponsored by:* By Representative SCHAUFLER

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2628.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Larry Hill     |                   | CS-FIN      | 01/19/2011     | Pri 2           | Oppose                |



Comments: The bill would not have a fiscal impact on the City of Eugene, but I agree with Denny that it could reduce incentives and increase costs for certain development projects that the City wishes to encourage.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Mike Penwell   |                   | CS-FAC      | 01/14/2011     | Pri 2           | Oppose                |

Comments: I'm having a hard time imagining a situation where the provisions of this bill would apply to a City of Eugene project. I will defer to others with more knowledge of the intended purpose of this bill.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 01/14/2011     | Pri 2           | Oppose                |

Comments: Support PW and Facilities recommendation.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Eric Jones     |                   | PW-ADM      | 01/21/2011     | Pri 2           | Oppose                |

Comments: Defer to other reviewers.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Paul Klope     |                   | PWE         | 01/14/2011     | Pri 2           | Oppose                |

Comments: It would be very unusual for a public works project to have tax credits or abatements associated with it. I will defer to Mia Carriaga and Mike Penwell.

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel Flannery | Denny Braud       | PDD-ADM     | 01/19/2011     | Pri 2           | Oppose                |

Comments: Requiring payment of prevailing wage for projects receiving tax abatement will have a negative impact on the effectiveness of incentive programs such as the Enterprise Zone program, the Multi-Unit Property Tax Exemption (MUPTEx) program, and Vertical Housing Development Zone program. Additional construction costs associated with prevailing wage requirements could potentially offset the tax exemption benefits and reduce the number of projects that create long-term jobs and create new housing units in the core area. No amendments would improve this bill.

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## **HB 2646**

*Relating Clause:* Relating to studded tires.

*Title:* Requires permit for operation of motor vehicle with studded tires.

*Sponsored by:* By Representative GREENLICK (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2646.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Eric Jones     |                   | PW-ADM      | 01/24/2011     | Pri 3           | Support               |

Comments: A perennial effort to limit road damage on Oregon roads. This bill would likely reduce the use of studded tires (because of the onerous and costly requirements to obtain a permit to use snow tires). It also could result in additional funds for Eugene to fix streets damaged by studded tires (the permit fees would go the State Highway Trust Fund, of which Eugene gets a share).

### **HB 2653**

*Relating Clause:* Relating to justice courts.

*Title:* Expands collection mechanisms that Collections Unit of Department of Revenue may use to collect judgments in criminal actions assigned to unit by justice courts.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability for Task Force on Effective and Cost-Efficient Service Provision)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2653.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jeff Perry     |                   | CS-MUNI     | 01/18/2011     | --              | Monitor               |

Comments: Bill only applies to State Courts and Justice Courts. If the bill also applied to Municipal Courts it could prove to be a useful and effective collection tool.

### **HB 2672**

*Relating Clause:* Relating to crime; declaring an emergency.

*Title:* Requires peace officer to obtain and preserve public record relevant to criminal investigation and to disclose to district attorney existence of record.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2672.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/18/2011     | Pri 1           | Oppose                |

Comments: This bill appears to require that a police officer "obtain" any public record that pertains to a criminal investigation. This record must be disclosed to the DA and retained unless the DA authorizes destruction. At first read, this appears to be what officers normally do. However, the mandate in the bill is what makes it not workable. First, any "public record" referred to here would be a copy of a public record, so the original record would never be

obtained - the point being that the record can always be obtained later. Second, this law would mandate that a public record be obtained, rather than referred to. An example would be a vehicle title would have to be obtained if the ownership of the vehicle was somehow pertinent to a criminal record, even if it has minor impact. Rather than just refer to the public record in a police report (knowing that the record can be obtained later if it is necessary) the officer would have to obtain the title to the vehicle and retain it. This would not only waste local resources, but State resources as well since the record holder would have to copy and transmit that record. I suspect that this bill is intended to address a specific issue, but the wording goes way beyond reasonable.

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### **HB 2673**

*Relating Clause:* Relating to controlled substances in Schedule I; declaring an emergency.

*Title:* Reduces possession of user quantity of controlled substance in Schedule I to Class C felony.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2673.intro.pdf>

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Chuck Tilby           |                          | EPD-ADM            | 01/20/2011            | --                     | Neutral                      |

*Comments:* Establishes "user quantities" of heroin, cocaine, hashish, and marijuana and establishes a B felony for that level. Also, removes the exemption to A felony for mj distribution and manufacture. VNU is looking at this further.

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### **HB 2674**

*Relating Clause:* Relating to possession controlled substances; declaring an emergency.

*Title:* Reduces possession of user quantity of controlled substance in Schedules I and II to Class A misdemeanor.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2674.intro.pdf>

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Chuck Tilby           |                          | EPD-ADM            | 01/20/2011            | Pri 3                  | Oppose                       |

*Comments:* Appears to contradict itself: Possession of user quantity is a class A misdemeanor and a violation all at the same time.

**HB 2675**

*Relating Clause:* Relating to possession of controlled substances; declaring an emergency.

*Title:* Reduces possession of user quantity of controlled substance in Schedules I and II to Class A misdemeanor if person has not previously been convicted of possession of controlled substance.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2675.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/20/2011     | Pri 3           | Oppose                |

*Comments:* If a person has been convicted of a misdemeanor possession charge, the record of that conviction is not available except through OJIN which is a system that is not designed to be accessed in operational situations. Therefore, it would be very difficult to determine if the subject had been convicted prior to a new possession. It is likely, then, that police would consistently "over charge" defendants creating a bad situation for the defendant, but also creating more work for prosecutors who would have to change the original paperwork and court filings. Cost would be a factor worthy of opposition.

**HB 2676**

*Relating Clause:* Relating to public employees; declaring an emergency.

*Title:* Prohibits public body from disclosing recording of public employee made during investigation of employee's conduct unless employee consents in writing.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2676.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 01/21/2011     | --              | Neutral               |

*Comments:* I don't know what prompted this bill. Seems like a response to some event that I'm not aware of. Also seems unnecessary. I defer to Alana and Susan on this.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 01/24/2011     | --              | Neutral               |

*Comments:* Support City Attorney's Recommendation.

**HB 2682**

*Relating Clause:* Relating to wage exemption; declaring an emergency.

*Title:* Increases minimum wage exemption for purposes of garnishment and other execution.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar Consumer Law Section)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2682.intro.pdf>

|                                      |                          |                              |                                     |                              |   |
|--------------------------------------|--------------------------|------------------------------|-------------------------------------|------------------------------|---|
| <b><u>Contact</u></b><br>Finn Cronin | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>CS-FIN | <b><u>Updated</u></b><br>01/18/2011 | <b><u>Priority</u></b><br>-- | <b><u>Recommendation</u></b><br>Neutral |
|--------------------------------------|--------------------------|------------------------------|-------------------------------------|------------------------------|---|

*Comments:* --

|  |                          |                              |                                     |                              |   |
|--|--------------------------|------------------------------|-------------------------------------|------------------------------|---|
| <b><u>Contact</u></b><br>Mark Villegas | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>CS-FIN | <b><u>Updated</u></b><br>01/18/2011 | <b><u>Priority</u></b><br>-- | <b><u>Recommendation</u></b><br>Neutral |
|--|--------------------------|------------------------------|-------------------------------------|------------------------------|---|

*Comments:* Updating garnishment rules for minimum wage increase.

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**HB 2699**

*Relating Clause:* Relating to crime.

*Title:* Modifies crime of prostitution.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2699.intro.pdf>

|                                      |                          |                               |                                     |                              |   |
|--------------------------------------|--------------------------|-------------------------------|-------------------------------------|------------------------------|---|
| <b><u>Contact</u></b><br>Chuck Tilby | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>EPD-ADM | <b><u>Updated</u></b><br>01/20/2011 | <b><u>Priority</u></b><br>-- | <b><u>Recommendation</u></b><br>Neutral |
|--------------------------------------|--------------------------|-------------------------------|-------------------------------------|------------------------------|---|

*Comments:* --

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**HB 2705**

*Relating Clause:* Relating to crime.

*Title:* Modifies crime of assaulting a public safety officer and aggravated harassment to include conduct committed against persons authorized to issue citations for violations of parking laws.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for American Federation of State, County and Municipal Employees)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2705.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jeff Perry     |                   | CS-MUNI     | 01/14/2011     | Pri 2           | Support               |

*Comments:* Court defers to EPD on this bill.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/20/2011     | Pri 2           | Support               |

*Comments:* The inclusion of parking enforcement officers is a good protection for them and has probably been an oversight in the law. The law protects animal control officers, etc., so protecting parking control officers makes sense. In addition, we have volunteers who enforce handicapped parking laws on private property and it makes it a higher level of crime to assault or harass them, as well.

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### **HB 2706**

*Relating Clause:* Relating to firearms.

*Title:* Provides public safety officers employed by law enforcement unit with affirmative defense to crime of unlawful possession of a firearm.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for American Federation of State, County and Municipal Employees)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2706.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/24/2011     | --              | Neutral               |

*Comments:* --

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### **HB 2709**

*Relating Clause:* Relating to controlled substances; declaring an emergency.

*Title:* Directs State Board of Pharmacy to classify certain synthetic cannabinoid compounds as Schedule I controlled substances.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2709.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/24/2011     | Pri 3           | Support               |

Comments: Most states are updating their drug statutes to incorporate synthetic drugs that mimic or supplant existing drugs. Oregon should not be the exception.

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**HB 2714**

*Relating Clause:* Relating to crime.

*Title:* Modifies crime of prostitution.

*Sponsored by:* By Representative TOMEI; Representatives BAILEY, BARKER, DOHERTY, FREDERICK, GELSER, HARKER, MATTHEWS

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2714.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/24/2011     | Pri 2           | Support               |

Comments: This bill creates a misdemeanor crime of "patronizing a prostitute" which is a good clarification of actions that were already a crime. Additionally, it sets a very high fine for patronizing a "minor" (under 18 years old) prostitute and establishes that the state does not have to prove that the defendant knew the prostitute was a minor. This has been a stumbling block in prosecuting cases involving trafficking of minors because the pimps market the prostitutes in such a way as to mask their real age and all they have to do in trial is assert that they didn't know and prosecution is stymied.

---

**HB 2726**

*Relating Clause:* Relating to the Oregon Indoor Clean Air Act; declaring an emergency.

*Title:* Modifies definition of "smoke shop" for purposes of Oregon Indoor Clean Air Act and directs Oregon Health Authority to establish registration system for smoke shops.

*Sponsored by:* By Representative TOMEI, Senator MONNES ANDERSON; Representatives DOHERTY, FREDERICK, HARKER, READ

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2726.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 01/21/2011     | Pri 2           | Support               |

Comments: I agree with Rachelle's comments.

| <u>Contact</u>    | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Rachelle Nicholas |                   | PDD-BPS     | 01/18/2011     | Pri 2           | Support               |

Comments: Currently the City's local smoking code is more restrictive than the State's Oregon Indoor Clean Air Act. The amendments proposed would support the intent of local code;

allowing smoking indoors only for purposes of "sampling" and would address "loopholes" found in both the City code and State law.

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**HB 2742**

*Relating Clause:* Relating to crime; appropriating money.

*Title:* Requires persons who commit certain crimes against animals to register with law enforcement agencies.

*Sponsored by:* By Representative BOONE

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2742.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/24/2011     | Pri 2           | Oppose                |

*Comments:* Requires City police department to intake registration information, photograph and fingerprint people who are sent to us. Photographing and fingerprinting is a rather lengthy process and is more appropriately conducted by a Sheriff's Office (who run correctional facilities). This process is essentially the same as sex offender registrations. We must have a Detective process the photographing and fingerprinting because records personnel are not trained to conduct activities. We are, therefore, diverting detective work to a regulatory activity more appropriately conducted by Parole and Probation. We do have the benefit of learning more about the offender with a detective involvement. In the case of animal abusers, there is no such benefit. Also, their photograph is less likely to be our offender database because they are lower level offenders to begin with. If we assume that there will be as many animal offenders sent to us as there are sex offenders, the work to process them is more than double because of the requirement to photograph. In addition, the State Police will assess a fee of \$70 to the individual for the relatively minor impact of managing the program. However, there is no provision to reimburse local agencies for doing the work of the state police in processing registrants.

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**HB 2743**

*Relating Clause:* Relating to podiatric physicians.

*Title:* Adds podiatric physician and surgeon to definition of "attending physician" for purposes of workers' compensation law.

*Sponsored by:* By Representative BOONE (at the request of Oregon Podiatric Medical Association)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2743.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jamie Iboa     |                   | CS-RS       | 01/18/2011     | --              | Monitor               |



Comments: As written, the bill isn't anything that the City needs to be concerned about but I don't want to drop it in case other definitions of "attending physician" are added.

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**HB 2785**

*Relating Clause:* Relating to constitutional competency examinations.

*Title:* Requires elected State of Oregon officials at local, state and federal levels, or public employees who must swear or affirm to support United States Constitution or Oregon Constitution as condition of office or employment, to take examination on constitutional principles where results of examination would be made accessible to public.

*Sponsored by:* By Representative THATCHER

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2785.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 01/21/2011     | Pri 3           | Oppose                |

Comments: Unfunded mandate.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 01/21/2011     | Pri 3           | Oppose                |

Comments: This bill prescribes in great detail the contents of an exam on state and federal constitutional law that would be given to every elected official or public employee whose position requires swearing/affirming to support the constitutions. Besides being an unfunded mandate, the bill has numerous built-in biases concerning the contents of the exam. Requiring officials to study for such an exam will deter some folks from pursuing office, and the impact will fall more heavily on folks who are poor, less educated and/or less experienced at taking these kinds of tests. Although we can all agree that public officials should know something about our constitutions, this is not a good way to go about it. If this bill has legs, we should consider Priority 2 Oppose.

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**HB 2790**

*Relating Clause:* Relating to firearms.

*Title:* Grants rights given to concealed handgun licensee to any person who may lawfully purchase and possess firearm.

*Sponsored by:* By Representative THATCHER

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2790.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/24/2011     | Pri 2           | Oppose                |

Comments: This bill would eliminate the issuance of a concealed handgun license, in deference to just the ability to purchase or possess a firearm. A concealed handgun license has many more restrictions than the laws regarding possession. For example, a person who is subject to an arrest warrant cannot have a concealed permit, a person who has not passed a safety course cannot get a permit, a person who has been dishonorably discharged from the military cannot obtain a permit. It is good public policy to have stricter guidelines to carry a firearm concealed, as opposed to just possession. The concealed permit is also issued by the county where the person resides, and can be revoked upon an arrest for an offense or the misuse of the firearm, even though they can legally still possess the firearm.

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**HB 2791**

*Relating Clause:* Relating to firearms.

*Title:* Removes Department of State Police as designated state point of contact for purposes of National Instant Criminal Background Check System.

*Sponsored by:* By Representative THATCHER

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2791.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 01/24/2011     | Pri 3           | Oppose                |

Comments: This bill appears to automate the Instant check, referring the seller to the "system" as opposed to OSP. The problem here is that the "system" cannot interpret state law, and intricate conditions that a person may experience. As we know from other automated systems, they are fraught with inaccuracies and we relegate serious decisions to a machine. This bill, however, still allows OSP to collect the fees in order to run the "system." This is a budget cutting bill because OSP is reducing their availability to law enforcement for firearms background checks already. The only logical next step when we would discover the "system" doesn't work is to relegate the background checks to local police. This would have a significant impact on the workload of local police and fragment a system that should be centralized.

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**HB 2793**

*Relating Clause:* Relating to firearms.

*Title:* Modifies definition of "public place" for purposes of certain city of county ordinances related to possession of loaded firearms.

*Sponsored by:* By Representative THATCHER

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2793.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     | CS-CMO-ATTY       |             | 01/21/2011     | Pri 3           | Oppose                |

Comments: This bill appears to be a reaction to a 2008 Court of Appeals decision that affirmed a conviction for possessing a loaded firearm in a public place when the firearm was in a private vehicle. Given the number of incidents involving shootings from vehicles, allowing cities to regulate loaded firearms even when they're in a vehicle makes sense. Current law is okay as it is.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    | EPD-ADM           |             | 01/24/2011     | Pri 3           | Oppose                |

Comments: Concur for Lidz.

### HB 2846

*Relating Clause:* Relating to the use of contact centers in public contracts.

*Title:* Prohibits contracting agency from entering into public contract for services with contractor that uses contact center located outside United States to perform all or part of services that are basis of public contract.

*Sponsored by:* By Representatives DOHERTY, HUNT; Representative DEMBROW

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2800.dir/hb2846.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jamie Garner   | CS-FIN            |             | 01/20/2011     | Pri 3           | Oppose                |

Comments: **Oppose unless amended** to clarify the definition of "contact center". If amended perhaps I will move to drop. I believe the intent of this bill is to prevent outsourcing of customer service and ordering and to protect U.S. jobs but I agree with Mike that this seems unenforceable. Again, the definition of a public contract extends to purchases that are not contracts but just general purchases. This is a broad definition and might be labor intensive research for the decentralized buyers in the City.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Mike Penwell   | CS-FAC            |             | 01/14/2011     | --              | --                    |

Comments: This bill seems irrelevant and unenforceable. Regardless, I don't think it will have any effect on public works or public improvement projects.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jenifer Willer | PWE               |             | 01/19/2011     | --              | --                    |

Comments: Engineering does not utilize contracts that would provide these types of services.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Paul Klope     | PWE               |             | 01/14/2011     | --              | --                    |

Comments: This bill will have no impact on public works contracts.

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**HB 2855**

*Relating Clause:* Relating to efficiencies in the provision of governmental services; declaring an emergency.

*Title:* Creates State and Local Government Efficiency Task Force.

*Sponsored by:* By Representative NATHANSON; Representatives BARKER, BARNHART, DEMBROW, DOHERTY, FREDERICK, HOYLE, J SMITH, Senator EDWARDS

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2800.dir/hb2855.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 01/18/2011     | Pri 3           | Support               |

Comments: --

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 01/21/2011     | Pri 3           | Support               |

Comments: An efficiency task force probably can't hurt much, and it may help. The bill would be better if there were more than one representative from cities; as proposed, there will be four local government representatives on the task force (one from cities, two from counties, one from special districts) and four legislators, seven state agency representatives and one from the Governor's staff. Maybe that's an indication of the relative efficiency of the various governments!

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**HB 2911**

*Relating Clause:* Relating to procurements from qualified nonprofit agencies for individuals with disabilities.

*Title:* Makes optional current requirement for public agencies to procure certain products or services from qualified nonprofit agency for individuals with disabilities.

*Sponsored by:* By Representative WITT (at the request of Oregon School Employees Association)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2900.dir/hb2911.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jamie Garner   |                   | CS-FIN      | 01/19/2011     | --              | Neutral               |

Comments: Proposes changing the requirements from mandatory to permissive for products and services produced by certified QRF firms. Within the City there would be proponents for both sides of this argument as many people dislike the requirement to purchase from an organization without being able to negotiate pricing, or take that into account in the

selection process. However, utilizing QRFs fits with the City's Triple Bottom Line goals and allows us to establish a contract without doing a solicitation. Overall, this change would provide some flexibility that the City would enjoy but would come at the detriment to the QRF firms who are providing valuable employment opportunities. I believe it best that the City not take a position on this and I will closely monitor any proposed amendments.

|                                |                   |                       |                              |                       |                             |
|--------------------------------|-------------------|-----------------------|------------------------------|-----------------------|-----------------------------|
| <u>Contact</u><br>Mike Penwell | <u>Respondent</u> | <u>Dept</u><br>CS-FAC | <u>Updated</u><br>01/14/2011 | <u>Priority</u><br>-- | <u>Recommendation</u><br>-- |
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Comments: I defer to Mia Carriaga and Jamie Garner.

|                              |                   |                    |                              |                       |                             |
|------------------------------|-------------------|--------------------|------------------------------|-----------------------|-----------------------------|
| <u>Contact</u><br>Paul Klope | <u>Respondent</u> | <u>Dept</u><br>PWE | <u>Updated</u><br>01/14/2011 | <u>Priority</u><br>-- | <u>Recommendation</u><br>-- |
|------------------------------|-------------------|--------------------|------------------------------|-----------------------|-----------------------------|

Comments: I defer to Mia Carriage and Jamie Garner.

**HB 2966**

*Relating Clause:* Relating to public contracting for services; declaring an emergency.

*Title:* Prohibits contracting agency from awarding public contract for services to bidder or proposer that performs services outside United States.

*Sponsored by:* By Representative DEMBROW (at the request of Oregon AFL-CIO)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2900.dir/hb2966.intro.pdf>

|                                |                   |                       |                              |                          |                                 |
|--------------------------------|-------------------|-----------------------|------------------------------|--------------------------|---------------------------------|
| <u>Contact</u><br>Jamie Garner | <u>Respondent</u> | <u>Dept</u><br>CS-FIN | <u>Updated</u><br>01/20/2011 | <u>Priority</u><br>Pri 3 | <u>Recommendation</u><br>Oppose |
|--------------------------------|-------------------|-----------------------|------------------------------|--------------------------|---------------------------------|

Comments: **Oppose unless amended** to more specific wording regarding the performance of the services, perhaps the percentage of the services performed, etc.

While I would guess that the amount of contracting that the City does with firms that perform the services outside of the country is minimal I do know that we have had contracts with firms in Canada and one vendor who resides a portion of the year in France. I understand the intent of this bill is to protect jobs but I fear that the impact on an increasingly globalized workplace would negatively impact competition. Would this apply to U.S.-based consultants working on reports for the City whilst travelling as a part of their consulting job? This bill appears to be too restrictive.

|                                |                   |                       |                              |                       |                             |
|--------------------------------|-------------------|-----------------------|------------------------------|-----------------------|-----------------------------|
| <u>Contact</u><br>Mike Penwell | <u>Respondent</u> | <u>Dept</u><br>CS-FAC | <u>Updated</u><br>01/14/2011 | <u>Priority</u><br>-- | <u>Recommendation</u><br>-- |
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Comments: I don't see this bill as having any appreciable effect on City public works or public improvements. I will defer to others to provide a recommendation on this bill.

|                                  |                   |                    |                              |                       |                             |
|----------------------------------|-------------------|--------------------|------------------------------|-----------------------|-----------------------------|
| <u>Contact</u><br>Jenifer Willer | <u>Respondent</u> | <u>Dept</u><br>PWE | <u>Updated</u><br>01/19/2011 | <u>Priority</u><br>-- | <u>Recommendation</u><br>-- |
|----------------------------------|-------------------|--------------------|------------------------------|-----------------------|-----------------------------|

Comments: Does not seem this would have an impact on services contracted by Engineering.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Paul Klope     |                   | PWE         | 01/14/2011     | --              | --                    |

Comments: Protects jobs in Oregon and the US. Also, an advantage for the City is that it makes it easier to monitor the contractors work.

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### **HB 2973**

*Relating Clause:* Relating to verification of legal status for employment; declaring an emergency.

*Title:* Requires employer to verify legal status of employee to be employed in United States through federal E-Verify program prior to deducting expenses related to worker's employment from Oregon taxable income.

*Sponsored by:* By Representative JENSON

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2900.dir/hb2973.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 01/14/2011     | --              | Monitor               |

Comments: E-verify system does not definitively verify social security numbers so still would require employer to do the same steps currently in order to verify mismatched numbers.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Mark Villegas  |                   | CS-FIN      | 01/18/2011     | --              | Monitor               |

Comments: What impact would this have on the City which is tax-exempt? Would we be required to adhere to this requirement? We are currently not using E-Verify.

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### **HB 3000**

*Relating Clause:* Relating to preferences in public contracting; declaring an emergency.

*Title:* Requires proposal for public contract for services to include personnel deployment disclosure.

*Sponsored by:* By Representative CLEM

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb3000.dir/hb3000.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jamie Garner   |                   | CS-FIN      | 01/20/2011     | Pri 3           | Oppose                |

Comments: Agree with the other comments and with Mike's assertion that there could be retaliatory effects from other states as a result of this. The current reciprocal preference application is difficult enough when attempting to decipher some states' preferences and determining the contract price from an initial proposal is not necessarily going to be indicative of the final pricing. This proposed bill does not seem to provide an adequate way of providing preferences.

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| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
| Mike Penwell          |                          | CS-FAC             | 01/18/2011            | Pri 3                  | Oppose                       |

Comments: I agree with Paul Klope that this bill would increase the cost of procuring goods and services for the City of Eugene. In addition, passage of this bill could spur retaliatory bills in neighboring states that penalize OR companies by an equivalent amount making it harder for OR companies to do business in those states. Since CA and WA are more populous than OR, this would likely hurt OR companies more than help.

|                       |                          |                    |                       |                        |                              |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
| Paul Klope            |                          | PWE                | 01/19/2011            | Pri 3                  | Oppose                       |

Comments: Relates to contracts for goods and services (not public infrastructure or architect, engineer or surveyor contracts). Requires contracting agency to require a proposer for a contract to provide a personnel deployment disclosure to indicate the number of workers that will be employed locally and within the state, and whether the proposer is located locally. Requires the contracting agency to give preference to proposers within the local county (7.5%), or within the same state (5%), or within the U.S. (2.5%). This preference is in addition to the percentage preference added to the bid of an out of state bidder as required by ORS 279.120.

This bill has the potential to increase the cost of public contracts for goods and services and to decrease the competition to provide them. Given the budget tightening the City is experiencing, this bill would make it more difficult to meet our budget. I recommend the City oppose this bill.

If the bill is amended to clarify that the preferences are not additive, and to remove the county preference, and to modify the state preference such that the total of the preference provided by this bill when added to the preference provided in ORS279A does not exceed 5%, then I would recommend "drop".

|                       |                          |                    |                       |                        |                              |
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| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
| Jenifer Willer        |                          | PWE                | 01/19/2011            | Pri 3                  | Oppose                       |

Comments: I agree with comments made by Mike and Paul.

**SB 0004**

*Relating Clause:* Relating to healthy lifestyles for children; creating new provisions; amending ORS 329.498, 336.631 and 338.115 and section 9, chapter 839, Oregon Laws 2007, and section 15, chapter 50, Oregon Laws 2008; and declaring an emergency.

*Title:* Requires school districts to ensure that physical education or recess time is available each school day for students in kindergarten through grade 8. Requires school district to ensure that number of students in kindergarten through grade 8 who are engaged in at least 60 minutes of physical education each school day increases each school year. Encourages school districts to enter into partnerships with parks and recreation districts and with other community organizations. Directs Department of Education to establish annual list that recognizes efforts of schools, school districts and child care facilities that implement exemplary policies related to physical activity and nutrition. Declares emergency, effective July 1, 2011.

*Sponsored by:* Sponsored by Senators COURTNEY, KRUSE; Senator BATES (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0001.dir/sb0004.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Mike Magee     | Craig Smith       | LRCS-ADM    | 01/18/2011     | Pri 3           | Support               |

*Comments:* This bill deals mainly with school districts and their health and fitness related activities. However, because this also supports the Recreation division's goals of reducing childhood obesity, we believe the City should support the bill. Further, the bill encourages school districts to work with recreation activity providers to implement the goals outlined in the bill. Since the City already has a relationship with the school districts for recreation and after school activities, this should further our partnership in the shared goals outlined in the bill.

## **SB 0178**

*Relating Clause:* Relating to prevailing rate of wage applicable to public works contracts; creating new provisions; amending ORS 279C.815, 279C.830 and 279C.855; and declaring an emergency.

*Title:* Removes requirement for Commissioner of Bureau of Labor and Industries to compare state and federal prevailing rates of wage and make results of comparison available when commissioner determines state prevailing rate of wage. Requires public agency to require in specifications and contracts for public works requirement that contractor and subcontractor pay higher of applicable state or federal prevailing rate of wage. Declares emergency, effective on passage.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Commerce and Workforce Development)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0178.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Susan Mullett  |                   | CS-HR       | 01/24/2011     | Pri 3           | Support               |

*Comments:* Supports recommendation made by Facility and Public Works.



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|--------------------------------|-------------------|-----------------------|------------------------------|--------------------------|----------------------------------|
| <u>Contact</u><br>Mike Penwell | <u>Respondent</u> | <u>Dept</u><br>CS-FAC | <u>Updated</u><br>01/20/2011 | <u>Priority</u><br>Pri 3 | <u>Recommendation</u><br>Support |
|--------------------------------|-------------------|-----------------------|------------------------------|--------------------------|----------------------------------|

Comments: This is a good change in my opinion as it properly makes the contractor responsible for compliance with paying the higher rate of pay between the state and federal prevailing wage rates rather than the local contracting agency (the City). This will make it a little bit easier for the City to administer public improvement projects that utilize federal funds, without negatively affecting workers' ability to receive the higher rate of pay.

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|------------------------------|-------------------|--------------------|------------------------------|--------------------------|----------------------------------|
| <u>Contact</u><br>Paul Klope | <u>Respondent</u> | <u>Dept</u><br>PWE | <u>Updated</u><br>01/20/2011 | <u>Priority</u><br>Pri 3 | <u>Recommendation</u><br>Support |
|------------------------------|-------------------|--------------------|------------------------------|--------------------------|----------------------------------|

Comments: Takes the burden off BOLI to determine the higher of federal vs. state wages and places it on the contractor.

The requirement that the contractor pay the higher of federal vs. state prevailing wages for federally funded projects seems redundant to a similar requirement in ORS279C.838, but this clause certainly reinforces the intent to pay the higher wage.

This change will have no effect on City projects as we are already enforcing this requirement.

**SB 0192**

*Relating Clause:* Relating to green jobs in forest products industries; amending ORS 660.355, 660.358 and 660.364.

*Title:* Expands green jobs growth initiative to include analysis of growth factors and employment projections for green jobs in forest products industries. Requires State Workforce Investment Board to identify forest products industries to be classified as high-demand green industries. Requires Oregon Business Development Department to include forest products industries when developing criteria for investment in green economy industries.

*Sponsored by:* Sponsored by Senator NELSON; Senators BOQUIST, COURTNEY, FERRIOLI, GIROD, HASS, JOHNSON, MONNES ANDERSON, MONROE, TELFER, VERGER, WHITSETT, WINTERS (Presession filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0192.intro.pdf>

|   |                                  |                        |                              |                          |                                  |
|---|----------------------------------|------------------------|------------------------------|--------------------------|----------------------------------|
| <u>Contact</u><br>Amanda Nobel Flannery | <u>Respondent</u><br>Denny Braud | <u>Dept</u><br>PDD-ADM | <u>Updated</u><br>01/18/2011 | <u>Priority</u><br>Pri 3 | <u>Recommendation</u><br>Support |
|---|----------------------------------|------------------------|------------------------------|--------------------------|----------------------------------|

Comments: As supported in the Regional Prosperity Economic Development Plan, the best opportunity for job creation will be the growth and expansion of the regions existing, traditional industries including forest products. Economic development efforts that support investments in forest products industries have the potential to create high quality, local employment opportunities in the manufacturing sector.

## **SB 0304**

*Relating Clause:* Relating to costs allowed in property tax proceedings; creating new provisions; amending ORS 305.490 and 305.790; and prescribing an effective date.

*Title:* Requires county to pay attorney fees and expenses allowed in property tax proceeding involving locally assessed property. Takes effect on 91<sup>st</sup> day following adjournment sine die.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0300.dir/sb0304.intro.pdf>

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Larry Hill            |                          | CS-FIN             | 01/19/2011            | Pri 2                  | Oppose                       |

*Comments:* By imposing a new requirement that attorney fees and expenses be paid out of the county unsegregated tax account, SB 304 would reduce revenue from the unsegregated tax account to the City of Eugene as well as to all other taxing jurisdictions in the county. We don't have the data to accurately estimate the fiscal impact of this change. While there would be some impact it would be manageable.

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## **SB 0346**

*Relating Clause:* Relating to exemption from disclosure of audio recording of voice of caller to 9-1-1 emergency reporting system; amending ORS 192.501.

*Title:* Exempts from disclosure under public records law audio recording of voice of called to 9-1-1 emergency reporting system unless public interest requires disclosure. Creates exceptions. Allows any person to obtain transcript of audio recording.

*Sponsored by:* Sponsored by Senator ROSENBAUM (Presession filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0300.dir/sb0346.intro.pdf>

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Jerry Lidz            |                          | CS-CMO-ATTY        | 01/13/2011            | Pri 3                  | Support                      |

*Comments:* Bill would conditionally exempt from required disclosure under public records law any audio recording of caller making 9-1-1 call. Purpose is to protect caller's privacy, but the bill would allow law enforcement, DAs, 9-1-1 agency, etc. to have access for official purposes. Seems like a reasonable exemption that would not impose a burden on the City.

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Kristi Wilde          |                          | EPD-911            | 01/21/2011            | Pri 3                  | Support                      |

Comments: Versions of this bill have been introduced in the past by organizations representing crime victims. The goal is to protect the privacy of individuals who have called 9-1-1 for help. The information will still be available in transcript form, but the legislation is meant to prevent their actual phone calls from becoming the main event on the nightly news. As Jerry states, this bill makes no change in the availability of recordings to those who need them for official business (eg legal proceedings, public safety incident debriefs, training or other business related follow up).

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**SB 0437**

*Relating Clause:* Relating to public record disclosure exemption for economic development information; creating new provisions; and amending ORS 192.502.

*Title:* Expands public records disclosure exemption to records, communications and information received by counties and cities in connection with applications for economic development moneys, support or assistance.

*Sponsored by:* Sponsored by Senator MONNES ANDERSON (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0437.intro.pdf>

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel Flannery | Denny Braud       | PDD-ADM     | 01/18/2011     | Pri 2           | Support               |

Comments: Exempts personal info such as tax returns, bank account info, and proprietary info from public disclosure. Jerry's last sentence is worth repeating given that we do have programs that require application: To the extent that some potential applicants for aid do not apply because they fear disclosure of confidential or proprietary information, this bill would remove an obstacle to implementing the City's aid programs.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     | CS-CMO-ATTY       |             | 1/13/2011      | Pri 2           | Support               |

Comments: This bill would expand an exemption from required disclosure in the Public Records Law. Current law exempts specified financial and business information submitted to certain state economic development agencies by an applicant for a loan or other financial assistance. This bill would make the exemption applicable to information submitted to cities and counties by applicants for grants, loans, etc. To the extent that some potential applicants for aid do not apply because they fear disclosure of confidential or proprietary information, this bill would remove an obstacle to implementing the City's aid programs.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   | CS-CMO            |             | 01/13/2011     | Pri 2           | Support               |

Comments: Not enough context on this one. Will confer with Jerry Lidz.

**SB 0470**

*Relating Clause:* Relating to property taxation; amending ORS 311.505; and prescribing an effective date.

*Title:* Reduces monthly interest on delinquent property tax payments to lesser of prime rate plus one percent, multiplied by one-twelfth, or two-thirds of one percent. Takes effect on 91st day following adjournment sine die.

*Sponsored by:* Sponsored by Senator GEORGE (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0470.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 01/19/2011     | Pri 2           | Oppose                |

*Comments:* SB 470 would change the method of calculating interest on delinquent property taxes. The interest rate would be lowered from the current one and one-thirds percent to a formula based on the prime rate at the time the delinquency began or two-thirds percent (whichever is lower) interest penalty. This is a reduction of at least 50%, and possibly more, from the current interest penalty. This would decrease incentives for timely payment of taxes, would impose an unfunded administrative cost on county assessment to implement the new formula, and would reduce penalty revenue that is currently shared among all taxing districts through the county's unsegregated tax account. There would be a fiscal impact but it would be manageable.

**SB 0507**

*Relating Clause:* Relating to television antennas; creating new provisions; and amending ORS 90.320.

*Title:* Imposes building code requirement that new constructions or rehabilitations of multifamily housing include television antenna system. Makes violation subject to civil penalty, not to exceed \$5,000. Modifies landlord-tenant law to require that landlords of multifamily housing provide dwelling units with television antenna system access. Phases in requirement. Makes lack of required television antenna system access uninhabitable condition. Grants tax credit to multifamily housing operator that installs television antenna system at least 12 months prior to date installation is required under landlord-tenant law.

*Sponsored by:* Sponsored by Senator BOQUIST (at the request of Ken Lewetag) (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0500.dir/sb0507.intro.pdf>

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel Flannery | S. Jennings       | PDD-ADM     | 01/12/2011     | Pri 3           | Oppose                |

*Comments:* This bill would increase the cost of housing development and rehabilitation, increase staff time to enforce code, and reduce state revenue. BPS staff should also comment as they would be on enforcement. (I added Mark Whitmill.)

**Contact**

Mark Whitmill

**Respondent**

**Dept**

PDD-BPS

**Updated**

01/18/2011

**Priority**

Pri 3

**Recommendation**

Oppose

Comments:

The bill would make it a requirement of the building code that rental housing units have television antennas to receive over-the-air signals. The purpose of the state building code is to establish minimum standards to safeguard public health, safety and welfare. It addresses elements of our built environment related to structural strength, safe exiting, fire safety, healthy interior environments, accessibility and energy conservation. The ability or lack thereof to receive television signals is outside of that scope and purpose, and therefore the building code is not the appropriate tool to use for this purpose. Enforcing this law would take time away from the important work that building department staff do to ensure safe buildings, and there is no mechanism in the bill to recover costs.

IGR BILL REPORT  
FEBRUARY 9, 2011 / IGR COMMITTEE MEETING  
CITY OF EUGENE

**HB 2038**

*Relating Clause:* Relating to expression of milk in the workplace; declaring an emergency.

*Title:* Conforms Oregon law related to expression of milk in workplace to federal law.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Brad Avakian)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2038.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/11/2011      | Pri 3           | Support               |

Comments: Follow recommendation by Risk – Myrnie Daut.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Myrnie Daut    |                   | CS-RS       | 1/28/2011      | Pri 3           | Support               |

Comments: This bill conforms state law with federal law, which makes it easier for Oregon employers to comply.

**HB 2114**

*Relating Clause:* Relating to membership in the individual account program of the Oregon Public Service Retirement Plan; creating new provisions; amending ORS 169.810 and 238A.300; and declaring an emergency.

*Title:* Provides that inactive member of pension program of Oregon Public Service Retirement Plan who withdrew amounts in individual account program becomes member of individual account program immediately upon reemployment in qualifying position. Declares emergency, effective on passage.

*Sponsored by:* Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Public Employees Retirement System)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2114.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Myrnie Daut    |                   | CS-RS       | 1/28/2011      | Pri 3           | Support               |

Comments: I think this bill will align administration of the IAP program for rehired inactive members with administration of the defined benefit portion of PERS/OPSRP.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Finn Cronin    |                   | CS-FIN      | 1/19/2011      | Pri 3           | Support               |

Comments: Agree with Mark's recommendation.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Mark Villegas  |                   | CS-FIN      | 1/14/2011      | Pri 3           | Support               |

Comments: Minor benefit to City in processing OPSRP employees who had previously refunded only their IAP accounts. I think the bill is a good idea but it is only for a situation that we have run into a couple of times.

**HB 2214**

*Relating Clause:* Relating to health insurance coverage for individuals with disabilities.

*Title:* Adds new definitions and requirements for health insurance coverage of autism spectrum disorders.

*Sponsored by:* By Representatives BUCKLEY, THOMPSON, Senator EDWARDS, Senator BONAMICI (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2200.dir/hb2214.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Myrnie Daut    |                   | CS-RS       | 1/28/2011      | --              | Monitor               |

Comments: Health insurance mandates increase plan costs, but it is unknown what financial impact the expansion of coverage for autism spectrum disorders would have for the City's health plans.

**HB 2241**

*Relating Clause:* Relating to employment protections for members of the uniformed service; declaring an emergency.

*Title:* Expands definition of term "uniformed service" for purpose of employment protections for members of uniformed service to match federal definition.

*Sponsored by:* By Representative MATTHEWS; Representatives BARKER, BUCKLEY, DOHERTY, READ (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2200.dir/hb2241.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Myrnie Daut    |                   | CS-RS       | 1/28/2011      | Pri 3           | Support               |

Comments: It is helpful when state and federal law on the same topic are in alignment – makes administration easier.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/31/2011      | Pri 3           | Support               |

Comments: --

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### **HB 2334**

*Relating Clause:* Relating to asphaltic concrete pavement mix.

*Title:* Requires Department of Transportation to include asphaltic concrete pavement mix composed of up to five percent recycled asphaltic shingles in materials selected for construction, maintenance and operation of state highways.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Transportation)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2334.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Eric Jones     |                   | PW-ADM      | 1/21/2011      | --              | --                    |

Comments: Assigned Paul Klope and Matt Rodrigues to review bill. Defer to them on priority and position.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Ethan Nelson   |                   | PDD-BPS     | 1/31/2011      | --              | Monitor               |

Comments: The City of Eugene supports an amended bill that directs ODOT to:

- Complete the current Pilot Project(s) and report back to the legislature on the progress in 2012 session, with final report and sample specification complete by 2013;
- Include standard specifications in ODOT paving contracts that permit the use of RAS starting in 2013 after the final report is issued.
- Develop an incentive program for cities, counties and other public agencies and for private companies for use of RAS in pilot projects with reporting requirements back to ODOT.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Matt Rodrigues |                   | PWE         | 1/24/2011      | --              | --                    |

Comments: I am passing this to Paul and Ethan. I believe we responded to a very similar bill last legislative session.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Paul Klope     |                   | PWE         | 1/31/2011      | --              | Monitor               |

Comments: This bill was proposed during last year's session and may have been proposed the session before as well. There are good intentions behind this bill, and there are some good



reasons to allow use of shingles in asphalt concrete (AC), as long as such usage doesn't compromise the strength, performance and life of this pavement material. Several years ago, Legislature directed ODOT to conduct research into use of shingles in AC. ODOT completed the first portion of this research in 2010. The lab study showed that shingles did not negatively affect the quality of the AC when tested in the lab. However, the study goes on further to recommend that a pilot project and study be undertaken to construct and monitor AC pavement with recycled shingles over a period of time to determine how it performs under traffic. This pilot project study has not been completed yet.

I think as a policy matter, ODOT should continue with the pilot project study to research how the AC with shingles material performs under traffic, with the goal of establishing a mix design procedure and set of construction specifications that will ensure that the material is successful.

Additionally, I concur with Ethan's comments.

**HB 2345**

*Relating Clause:* Relating to minimum efficiency standards for biomass tax credits; prescribing an effective date.

*Title:* For purposes of biomass income tax credit, limits Director of State Department of Energy rulemaking authority for minimum overall thermal conversion efficiency rating to 20 percent for facility placed in service prior to January 1, 2008.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture, Natural Resources and Rural Communities)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2345.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Ethan Nelson   |                   | PDD-BPS     | 1/31/2011      | Pri 3           | Oppose                |

*Comments:* This proposal would have the impact of reducing the state's general tax income by grandfathering in biomass power plants with low thermal efficiencies. The Oregon Department of Energy should develop the thermal efficiency standards that will incentivize increased combine heat and power operations while utilizing the limited tax credit opportunities facing the state on developing energy efficiency industry or building new biomass thermal facilities to high efficiency standards.

**HB 2348**

*Relating Clause:* Relating to supervisory employees under public collective bargaining law.

*Title:* Modifies definition of “supervisory employee” for purposes of public employee collective bargaining law.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2348.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/25/2011      | Pri 1           | Oppose                |

*Comments:* For the City of Eugene, all management positions except for the Police Chief and possibly Division Managers (Captains) would fit the definition as described by this bill and would require these positions to be included in the union. At a minimum this could create uncomfortable situations as well as difficulty in the first line of supervision on a day to day basis as they must supervise staff that are in the same union. Lieutenants, and sometimes Sergeants, are normally in charge of whatever police operations are occurring at any given time. In the City of Eugene, those in first line supervisory positions and above are defined as FLSA exempt based on their supervisory duties. The narrow definition of supervisory duties defined in this bill would jeopardize the FLSA exemption for these first line supervisors and mid-level managers, and could require these positions be redefined as FLSA non-exempt. For the City, this would result in both higher personnel costs based on eligibility for overtime and the need to increase our managerial employees. This bill weakens the supervisory control as we lose role definition and distinction between first line supervisors and staff who report to them. It becomes a practical operational issue on a day by day basis. Police upper management relies on the input from Sergeants into handling daily operations and make recommendations regarding disciplinary matters. This bill results in administrative and operational concerns for the City of Eugene. This is similar to Bill 2633 from last year's legislative session.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Joann Eppli    |                   | FIRE        | 1/27/2011      | Pri 1           | Oppose                |

*Comments:* After further review and discussion, agree with Chuck Tilby's comments. This bill includes language that opens the door for extreme misinterpretations.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 1/24/2011      | Pri 1           | Oppose                |

*Comments:* I have consulted with Alana Holmes and Chief Kerns on the impact of this bill that defines any employee who cannot impose economic discipline as non-supervisory. Therefore, it appears to apply collective bargaining law to all police employees other than the Chief. Two main issues exist for the PD: 1) this would apply collective bargaining rules (overtime, etc) to over 30 employees - the financial impact could be significant, 2) the department needs reliable problem solving at current supervisory, middle management and division management levels - this could be significantly depleted if these employees are also represented. Consistent arguments to 2009 position on this bill.

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## **HB 2350**

*Relating Clause:* Relating to Oregon Indoor Clean Air Act; declaring an emergency.

*Title:* Provides that business primarily engaged in sale of tobacco products and smoking instruments on December 31, 2008, may qualify as "smoke shop" for purposes of Oregon Indoor Clean Air Act even if business is not stand-alone business.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2350.intro.pdf>

| <u>Contact</u>    | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Rachelle Nicholas |                   | PDD-BPS     | 1/18/2011      | --              | Monitor               |

*Comments:* Staff would like to monitor this bill. It is unclear what impact this amendment may have on the administration of Eugene's code. Staff are not currently aware of the number of businesses that would request the smoke shop exemption using the language being added by amendment and what impact that may have on the community.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Jerry Lidz     |                   | CS-CMO-ATTY | 1/27/2011      | --              | Monitor               |

*Comments:* I agree with Rachelle's comments. This bill would expand slightly the current exemption for "smoke shop" by including (in the exemption) a business that was primarily engaged in tobacco sales in 2008, even if the shop is not a stand-alone business. (Current law requires both, among other things.) It appears to be aimed at saving a specific business or two that don't fall within the exemption in current statutes. We should monitor to make sure the exemption really is narrow and that amendments don't expand it.

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## **HB 2364**

*Relating Clause:* Relating to local procurement plans; prescribing an effective date.

*Title:* Requires authorized business firm to submit local procurement plan as condition of enterprise zone exemption from property taxation.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2364.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/25/2011      | Pri 3           | Oppose                |

*Comments:* HB 2364 is a prescriptive legislative proposal that would likely have a net detrimental impact on cities' economic development and job creation efforts, because it would reduce the effectiveness of current tax incentives available to cities to bring and retain private investment through the use of an enterprise zone. The bill would require that businesses located in an enterprise zone and enjoying tax benefits submit a "local procurement plan" detailing goals, strategies, targets and good faith efforts to comply with the requirements. Failure to fully satisfy the bill's requirements could result in loss of the enterprise zone tax benefits. HB 2364 would require that cities monitor these plans and make

determination of "qualified local vendors", and cities would have to adopt rules to enforce the requirements. The bill would place an administrative burden on both business firm and city. HB 2364 would increased investors' risk, restrict competition among available suppliers, both within and without the city, and provide a disincentive to investment which enterprise zones are intended to encourage. The bill could be made acceptable if it is amended to be simply permissive at the discretion of the city, rather than impose prescriptive requirements.

| <u>Contact</u>        | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-----------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Amanda Nobel Flannery | D. Braud          | PDD-ADM     | 1/25/2011      | Pri 3           | Oppose                |

Comments: We agree with Larry's comments.

### **HB 2487**

*Relating Clause:* Relating to tax supervising and conservation commissions; prescribing an effective date.

*Title:* Requires county of 100,000 or more inhabitants to establish tax supervising and conservation commission or to require each municipal corporation within county to submit financial summary to county.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2487.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/26/2011      | Pri 2           | Oppose                |

Comments: HB 2487 would impose additional costs and administrative burdens on Lane County and municipalities within the County, including the City of Eugene, although Eugene could opt-out as long as the city's population is below 200,000. The bottom line is that HB 2487 would be redundant with existing local budget law, public meeting requirements, financial reporting requirements and public transparency practices of modern municipal governments.

In the early 1900s, municipal corruption occurred with a degree of frequency and compliance by local municipalities with budgeting and tax laws were difficult for the state to monitor. The 1919 legislature decided a state-controlled watchdog agency was necessary in Oregon's largest county to ensure that public hearings were held, county and municipal budgets were scrutinized, and to prevent illegal tax and budget actions by local governments. The 1919 law required Oregon's most populous county, Multnomah, to establish the Multnomah County Tax Supervising and Conservation Commission. This commission is still in existence but no others have been established since then.

Modern local budget law, public meetings law, and financial reporting requirements have greatly strengthened municipal transparency and public scrutiny of municipal finances since 1919. Media technology has also increased transparency; budget proposals are now typically available on the internet and budget discussions are often broadcast. Due to these advances the tax supervising and conservation commission model has become

redundant.

Nevertheless, HB 2487 would impose a new requirement that seven additional counties, those with a population over 100,000 including Lane County, each form a county tax supervising and coordination commission. The 5 commission members for each county would be appointed by the Governor and would adopt their own budgets for staffing and administrative which the counties would then be required to fund. Participating local governments within each county would be billed a proportional share in order to reimburse 50% of the county's cost. Municipalities with 200,000 or more population would have to participate, and those of under 200,000 population would be required to participate unless a formal election to not participate were adopted by their governing board. This election would expire after 3 years, after which it would have to be renewed.

Tax supervising and conservation commissions are state agencies with certain statutory jurisdiction over municipalities budgets and taxation. Local governments would be required to provide copies of proposed municipal budgets on which the commission could hold public hearings. Commissions would vote on any advisory objections and recommendations it wishes to make on any proposed municipal budget. The commissions also could strike any items from a proposed municipal budget if the commission finds that the item is an expenditure not allowed by law, or if the amount of a tax exceeds what is allowed by law. The commissions would also be required by statute to hold public hearings on all local special tax levy or bond proposals. Municipalities would have to submit annual audit reports or financial statements, and the commissions would be authorized to inquire broadly into management, books of accounts and systems of the municipalities, down to the department level. The commissions could compel attendance by municipal governing boards at meetings.

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**HB 2493**

*Relating Clause:* Relating to residential service disruption.

*Title:* Prohibits cable television provider, competitive telecommunications provider, consumer-owned utility, public utility or telecommunications utility from charging customer for repair related to disruption of service when disruption was not caused by customer.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability)

*URL:* <http://www.leg.state.or.us/l1reg/measpdf/hb2400.dir/hb2493.intro.pdf>

|                                      |                                    |                    |                                    |                                 |   |
|--------------------------------------|------------------------------------|--------------------|------------------------------------|---------------------------------|---|
| <b><u>Contact</u></b><br>Pam Berrian | <b><u>Respondent</u></b><br>CS-ISD | <b><u>Dept</u></b> | <b><u>Updated</u></b><br>1/31/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Support |
|--------------------------------------|------------------------------------|--------------------|------------------------------------|---------------------------------|---|

*Comments:* Support as a Consumer advocacy issue unless NOT supported by EWEB. I do not think the text is as clear as it could be but City Risk staff do not see any indirect or precedent setting issue. I sent to Wastewater Director Jeff Lankston to see if he saw any precedent setting issue should such a law be applied to Wastewater, for example, in the future. There could be situations not caused by customer (disaster-related), that I wondered whether City would be held responsible for repairs to equipment on person's property.

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**HB 2518**

*Relating Clause:* Relating to real estate transfers.

*Title:* Permits local governments to impose real estate transfer tax or fee, provided tax or fee is structured progressively based on consideration paid for property, transfers in which buyer is first-time homebuyer or exempt, and marginal rate of tax or fee decreases as length of ownership by seller increases.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2518.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/25/2011      | Pri 2           | Support               |

*Comments:* City of Eugene has historically supported a repeal of the prohibition on local real estate transfer taxes. HB 2518 proposes language that would allow local real estate transfer taxes under certain circumstances.

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**HB 2545**

*Relating Clause:* Relating to a tax on motor vehicle rentals; appropriating money; prescribing an effective date; providing for revenue raising that requires approval by a three-fifths majority.

*Title:* Establishes tax on motor vehicle rentals.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2545.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/31/2011      | Pri 3           | Support               |

*Comments:* HB 2545 would create a new state tax on motor vehicle rentals, with the proceeds going to the State Highway Trust Fund. Any marginal increase in revenue to the Fund would be shared with cities and counties. The amount of the increase that would be received by the City of Eugene for local streets would probably be very small, however, and so I recommend a priority III level support position. The city should be vigilant and strongly oppose any amendments that would preempt city taxes on motor vehicle rentals.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Eric Jones     |                   | PW-ADM      | 1/31/2011      | Pri 3           | Support               |

Comments: Support and monitor. Red flags: I did not see a provision that disallows local vehicle rental fees; however, that would be a major red flag to look for. Also, very broad enabling clause.

In general, defer to Larry Hill's analysis. At a quick read, it seems like the City would support this bill because the additional revenue from the proposed motor vehicle rental tax would go to the State Highway Trust Fund and be allocated per existing formula (i.e., the City of Eugene would get a portion of the new revenue).

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**HB 2561**

*Relating Clause:* Relating to financial institutions.

*Title:* Directs public officials to deposit public funds in certain community banks.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2561.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Twylla Miller  |                   | CS-FIN      | 1/24/2011      | Pri 2           | Oppose                |

Comments: I oppose this bill. This bill directs public officials to deposit public funds with community banks if the cost to provide banking services (multiplied by a factor of 0.9) is lower than the cost for services charged by a bank that is not a community bank.

Public entities should have the flexibility to manage their resources and place public funds with banks that are able to provide the unique services needed by the public sector while providing competitive rates.

The City's current depository and primary lending banks are not community banks. It has been our experience that community banks do not have the knowledge base/experience to deal with the unique needs of large public entities. The City's main (depository) bank is selected through an RFP process - through which all banks are eligible to compete for our business.

The bulk of the City's funds that aren't otherwise invested are held in the Local Government Investment Pool - managed by the State. Under ORS the allowable balance is about \$42M, with unlimited deposits and withdrawals, making the pool a good tool to handle the daily cash flow needs of the City.

While the City could open accounts at several different banks, we do not do so as there is a cost both in staff time & fees to having accounts at several banks.

We do value our community banks and place funds through certificates of deposit via a competitive bid process in which any bank with a presence in Eugene is invited to participate. Local banks usually win such bids as their CD rates are much better than the national banks.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     | CS-CMO-ATTY       |             | 1/20/2011      | --              | --                    |

Comments: I defer to Larry Hill on the impact this bill may have on the City, I have some concern that the bill's favoritism for Oregon-based financial institutions may prompt a legal challenge based on the Commerce Clause in the federal constitution, but the City is not likely to be a party to that litigation.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     | CS-FIN            |             | 1/25/2011      | Pri 2           | Oppose                |

Comments: I strongly agree with Twylla's comments. This bill would have a negative fiscal impact on the City of Eugene. There is no reasonable basis for the proposed changes and they are contrary to good municipal financial management.

### HB 2563

*Relating Clause:* Relating to exemptions to property taxation; prescribing an effective date.

*Title:* Creates and adjusts sunset dates for certain exemptions to property taxation.

*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2563.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     | CS-FIN            |             | 1/25/2011      | Pri 2           | Support               |

Comments: HB 2563 and SB 310 are identical as introduced. These bills amend numerous statutes concerning property tax exemptions. While most exemptions would simply be granted sunset date extensions, several small exemptions would be eliminated. No new exemptions would be created in the bills as introduced. The most significant change for the City of Eugene would be provided by sections 10 and 11, which remove the statutory exemption of taxable personal property with a total value less than \$12,500. In FY10, almost \$7,000,000 in otherwise taxable personal property fell within this exemption in the City of Eugene, representing about \$50,000 in lost revenue. While this is a small revenue improvement it does move the City's revenue in the correct direction. This bill should be monitored and any amendments that would expand or add new property tax exemptions should be opposed.

### HB 2568

*Relating Clause:* Relating to property taxation; prescribing an effective date.

*Title:* Decreases rate of interest payable on overdue property taxes to \_\_\_\_ percent.



*Sponsored by:* Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2500.dir/hb2568.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/25/2011      | Pri 3           | Oppose                |

*Comments:* HB 2568 would decrease the interest charged on delinquent taxes or penalties from the current one and one-third % per month to an as-yet-determined amount. A reduction in the penalty could encourage more tax delinquencies and reduce current tax revenue. This could be exacerbated as the economy recovers to the point that other investment options offer net benefits in comparison to the cost of the penalty on the delinquent tax amount. A significantly lower interest penalty could encourage "gaming" of the tax system by some taxpayers.

### **HB 2601**

*Relating Clause:* Relating smoking.

*Title:* Modifies definition of "smoke shop" for purposes of Oregon Indoor Clean Air Act to include businesses that are attached to other businesses or residential property.

*Sponsored by:* By Representative SCHAUFLER (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2601.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/27/2011      | Pri 2           | Oppose                |

*Comments:* I agree with Rachelle's comments. The first part of this bill, amending the definition of "smoke shop," is similar to HB 2350, but it expands the exemption even more. And the second part, which would allow smoking in certain private clubs that have OLCC liquor licenses, is a big loophole that would conflict with our code.

| <u>Contact</u>    | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|-------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Rachelle Nicholas |                   | PDD-BPS     | 1/18/2011      | Pri 2           | Oppose                |

*Comments:* The amendments proposed do not support local code. Passage would allow indoor smoking in "private clubs" and remove the State requirement that the business be a stand-alone which may impact other business owners.

### **HB 2602**

*Relating Clause:* Relating to unsafe operation of a bicycle.

*Title:* Creates offense of unsafe operation of bicycle.

*Sponsored by:* By Representative SCHAUFLER (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2602.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Chuck Tilby    |                   | EPD-ADM     | 1/18/2011      | --              | --                    |

*Comments:* From a public safety standpoint, the attentions of a bicyclist when operating on a public right of way should be required, the same as when operating a motor vehicle. Although, the implications can be far less. Consulting with Sgt. Schulz to determine if the size of the problem warrants a more supportive position.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Eric Jones     |                   | PW-ADM      | 1/31/2011      | --              | --                    |

*Comments:* Defer to Lee Shoemaker. I suspect this bill would be roundly opposed by most cyclists.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Lee Shoemaker  |                   | PWE         | 1/25/2011      | Pri 3           | Oppose                |

*Comments:* While riding bicycles with listening devices is not wise, I think this law be very unpopular with otherwise law abiding bicyclists who may feel singled out because this bill does not apply to motors who also may be distracted while listening but have greater potential for serious crashes. The bill will result in a new law for local police to enforce. Educating bicyclists about the dangers of distracted riding as part of existing safety programs may be more effective than the burden of a new traffic law.

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## **HB 2620**

*Relating Clause:* Relating to fees for building permits; declaring an emergency.

*Title:* Requires Department of Consumer and Business Services and municipality that assumes responsibility for administering and enforcing building and specialty codes to charge one-third of fee for permit upon issuing permit, one-third when construction of building or installation of equipment begins and one-third when construction or installation is complete.

*Sponsored by:* By Representative SCHAUFLER (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2620.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Mark Whitmill  |                   | PDD-BPS     | 1/31/2011      | Pri 1           | Oppose                |

*Comments:* The City of Eugene Building Division is mandated to recover all costs of construction permitting through assessed fees; no other funds are available to support the service. Passage of this bill would result in an increase in fees and a reduction in service to our customers.

Following are issues related to the deferred payment schedule:

- Under the bill, thirty-three percent of permit fees would be collected after the City's work has been completed. With the recent economic recession and associated impacts on construction, there is inadequate cash on hand to provide services prior to payment without exhausting reserves.

For various reasons, permits can take months or years to complete. Eugene currently has 114 active building permits older than three years and 619 active building permits for 2008 through 2010. How would the Building Division handle cash flow to meet service needs over such an expansive time frame?

- Paying fees all at one time reduces administrative processing time and is more cost-effective. Three installment payments for each project would require a new method for collecting the second and third payment, likely by billing all customers. Using FY10 as an example, staff would process approximately 19,000 additional billings at a conservative estimate of \$35.00 per billing or \$665,000 in additional costs over the span of a year. Late payments and non-payments would increase costs even more due to the collections process, and in extreme cases placing liens on properties. These activities would require at least one new staff person to process billings and manage the collections process.

The bill would prohibit the City from charging any fees other than the amount specified at the time a permit is issued. Fees assessed after permit issuance typically result from either services requested by, or the performance of, our customers. Last fiscal year just over \$1 million in fees were assessed AFTER permit issuance (approximately 20 percent of total revenue).

Following are issues related to the inability to charge additional fees:

- Services that are currently provided at the request of our customers would potentially be eliminated. Examples:
  - A customer desires to temporarily occupy a building before construction is finished, requiring additional inspections and administrative activities. (78 requests in FY10 or \$14,500)
  - A customer requests to have inspections performed after standard work hours or on weekends, when labor contracts require staff be compensated at 1 ½ times normal salary. (44 requests in FY10, or approx. \$8,680)
  - BPS would lack the funding to respond to some of the realities of construction, such as:
    - Customer-initiated changes to projects, requiring additional plan review, inspection and administrative activities. (1,800 hours in FY10, or \$144,000)
    - Customer begins work but doesn't finish before permit expires, requiring staff to visit the site to ensure that no health or life safety issues result from the partially finished project. (\$45,000 in fees in FY10)

These fees, which do not apply to the majority of projects, are assessed directly to projects requiring the services. Under the guidelines established in HS 2620, if these services were to still be provided, the costs would have to be included in base permit fees, funded by all.

Implementing this bill as an emergency would also pose a challenge for Eugene. The building permit and cashiering systems would need major updates to accommodate changes in permit and payment processing. Hiring a new staff person to manage billings

and collections would be necessary, as would updating processes, revising forms, editing websites, training staff and educating permit applicants. Some time will be needed to complete these activities while continuing to process incoming permit applications with staffing levels that are 25 percent less than two years ago due to economic conditions. The City is required to give the State 60 days lead time on fee changes, so may not be able to move fast enough to mitigate the impacts through an increase in fees.

**HB 2802**

*Relating Clause:* Relating to aliens; declaring an emergency.

*Title:* Prohibits restrictions on public body’s ability to enforce immigration law to extent permitted by federal law.

*Sponsored by:* By Representative THATCHER

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2800.dir/hb2802.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Emmy Jenson    |                   | CS-CMO      | 1/31/2011      | Pri 2           | Oppose                |

*Comments:* Concur with Jerry Lidz to continue City’s historical position to oppose on human rights basis if the bill goes forward.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     |                   | CS-CMO-ATTY | 1/28/2011      | Pri 2           | Oppose                |

*Comments:* This is a collection of new laws to require or encourage state and local agencies to help enforce federal immigration laws. It also requires peace officers to inquire about immigration status when making an arrest if the officer has reasonable suspicion that the person is an unlawful alien. In the past, we've opposed similar bills on human rights grounds. If this bill has legs, we should consider Priority 1 Oppose.

**HB 2806**

*Relating Clause:* Relating to verification of eligibility for employment.

*Title:* Limits deductibility of expenses related to employment of workers hired on or after January 1, 2012, to workers whose eligibility for employment in United States has been verified through federal EVerify employment verification system.

*Sponsored by:* By Representative THATCHER

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2800.dir/hb2806.intro.pdf>

| <u>Contact</u>   | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|------------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Holly Lemasurier |                   | CS-CMO      | 1/20/2011      | Pri 2           | Oppose                |

Comments: Economic burden – Makes state/local municipal gov undertake work of fed agents. Faulty system. Not the solution to immigration reform. This legislation targets and is potentially harmful and divisive toward immigrant and minority communities.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/31/2011      | Pri 2           | Oppose                |

Comments: HR did earlier research on EVerify system and felt that it would increase administrative process and responsibilities at the City level. EVerify system has received mixed reviews from organizations that currently use it. Not a sound proposal.

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### **HB 2808**

*Relating Clause:* Relating to multipurpose service districts.

*Title:* Authorizes organization of service district with elected board of directors in urbanized areas of unincorporated territory of counties.

*Sponsored by:* By Representative THATCHER (at the request of Special Districts Association of Oregon)

*URL:* <http://www.leg.state.or.us/l1reg/measpdf/hb2800.dir/hb2808.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/25/2011      | --              | Monitor               |

Comments: As published HB 2808 would not have any fiscal impact on the City of Eugene. It would modify statutes addressing county service districts. I defer to Steve regarding land use and urban service implications.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Steve Nystrom  |                   | PDD-ADM     | 1/25/2011      | --              | Monitor               |

Comments: Defer to Larry Hill regarding any potential financial concerns. From a land use standpoint, it appears this bill is limited to changes in how special districts can be formed in unincorporated areas, including those within UGB's. The bill does not appear to limit a city's ability to have properties withdrawn from these special districts upon annexation to the city.

As background, the city assumes the responsibility of providing the full range of urban services to properties as they annex. In doing so, State law requires the property's withdrawal from any special districts in order to adjust the tax rolls accordingly.

Recommend this bill be monitored given the potential impacts to the city's annexation process and urban service delivery.

**HB 2863**

*Relating Clause:* Relating to public accommodations.

*Title:* Expands definition of “place of public accommodation” to include places owned or maintained by public body and services provided by public body.

*Sponsored by:* By Representatives KOTEK, FREDERICK, Senator MORSE (at the request of Oregon Council on Civil Rights, Oregon Advocacy Commissions and Commissioner of the Bureau of Labor and Industries Brad Avakian)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2800.dir/hb2863.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jerry Lidz     | CS-CMO-ATTY       |             | 1/28/2011      | --              | Monitor               |

*Comments:* Bill would expand (?) statute prohibiting discrimination in public accommodations to include places that are open to the public and owned or maintained by a public body. I don't think that's a change in the law and don't see any reason to oppose it. However, the broad relating clause suggests we should monitor it.

**HB 2917**

*Relating Clause:* Relating to urban growth boundaries.

*Title:* Allows local government required to have urban growth boundary to establish process by which local government self-certifies amendments to urban growth boundary for compliance with applicable requirements of statewide land use planning goals, statutes and rules.

*Sponsored by:* By Representative WHISNANT

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2900.dir/hb2917.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Steve Nystrom  | PDD-ADM           |             | 1/25/2011      | Pri 2           | Support               |

*Comments:* Would allow cities to establish a self-certification process regarding amendments to its UGB. All other state requirements regarding the provision of a 20 year supply of land would remain in place. Bill is focused on the adoption process and appears to only apply when cities are in periodic review.

While it's questionable how realistic passage of this bill is, it provides a greater level of control to local jurisdictions in determining compliance with state statutes. Cities are not required to adopt a self-certification process. Given the added flexibility provided in this bill, staff recommends support.

## **HB 2964**

*Relating Clause:* Relating to intimidation.

*Title:* Modifies crimes of intimidation in first degree and intimidation in second degree to include certain conduct committed because of perception that victim is homeless.

*Sponsored by:* By Representative DEMBROW

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hb2900.dir/hb2964.intro.pdf>

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Holly Lemasurier      |                          | CS-CMO             | 1/31/2011             | Pri 3                  | Support                      |

*Comments:* Expands protected classes to include 'perceived homelessness'-another recommendation to address hate crimes. Eugene recently experienced a rash of violence against persons who are homeless which resulted in public statements against this violence, as well as efforts to expand protected classes to include them. These persons are often targeted due to their vulnerabilities and barriers of access to due process. Expansions in protections, as well as punitive measures against perpetrators, will broaden hate crime interventions.

Possible impacts on police, court and defenders to prove hate crime, however, EPD are strong partners in hate crime prevention and monitoring.

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
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| Emmy Jenson           |                          | CS-CMO             | 1/31/2011             | Pri 3                  | Support                      |

*Comments:* Concur with H. LeMasurier comments.

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## **HJR 0008**

*Relating Clause:* Proposing amendment to Oregon Constitution relating to collective bargaining agreements.

*Title:* Proposes amendment to Oregon Constitution prohibiting public employer from executing collective bargaining agreement unless agreement is first approved by voters in jurisdiction subject to agreement.

*Sponsored by:* By Representative THATCHER (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/hjr1.dir/hjr0008.intro.pdf>

| <b><u>Contact</u></b> | <b><u>Respondent</u></b> | <b><u>Dept</u></b> | <b><u>Updated</u></b> | <b><u>Priority</u></b> | <b><u>Recommendation</u></b> |
|-----------------------|--------------------------|--------------------|-----------------------|------------------------|------------------------------|
| Jerry Lidz            |                          | CS-CMO-ATTY        | 1/28/2011             | Pri 1                  | Oppose                       |

*Comments:* Requiring the voters to approve any collective bargaining agreement between a public body and its employees would create delays in labor negotiations and would cost a lot to implement. It would also be a significant change in our form of government: labor

negotiations have traditionally been an administrative matter that isn't subject to a popular vote. I hate to think of the political campaigns over labor negotiations!

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Beth Forrest   |                   | CS-CMO      | 1/13/2011      | Pri 1           | Oppose                |

Comments: --

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Susan Mullett  |                   | CS-HR       | 1/13/2011      | Pri 1           | Oppose                |

Comments: The time and money required to have CSAs approved or rejected by a general election would be administratively challenging and costly. We have several MOUs (memorandum of understanding) bargained through the life of a collective bargaining agreement so would this require that each MOU be presented in a general election for approval?

**SB 0106**

*Relating Clause:* Relating to emergency medical services; creating new provisions; amending ORS 30.803, 31.740, 40.460, 97.970, 124.050, 127.675, 137.476, 162.257, 163.165, 163.213, 166.070, 181.637, 192.519, 315.622, 352.223, 353.450, 419B.005, 430.735, 431.613, 431.623.

*Title:* Modifies terminology relating to emergency medical services. Directs Director of the Oregon Health Authority to appoint Medical Director of the Emergency Medical Services and Trauma Systems Program. Directs Oregon Health Authority to establish levels of licensure for emergency medical services providers. Modifies membership of State Emergency Medical Service Committee. Creates offense of unlawful operation of unlicensed emergency medical services agency. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both. Requires county to review and resubmit updated ambulance service area plan to authority at least once every four years.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Oregon Health Authority)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0106.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Joann Eppli    |                   | FIRE        | 1/27/2011      | Pri 2           | Oppose                |

Comments: If this bill is passed with the current language it would deregulate non-emergency ambulance work. Non-emergency transports are critical to the ability of the ambulance transport system to maintain the revenue flow. If deregulated, private ambulance providers could 'cherry pick' the profitable calls leaving the Ambulance Service Area providers to handle only the calls that are low profit. This could further destabilize the Ambulance Transport Fund. OSAA is current proposing new language that corrects this portion of the bill.



**SB 0213**

*Relating Clause:* Relating to health care; creating new provisions; and amending ORS 441.094 and 682.220.

*Title:* Makes legislative findings regarding emergency medical services. Establishes duty of emergency medical personnel to refer patients who do not have emergency medical conditions to appropriate treatment settings.

*Sponsored by:* Sponsored by Senator BATES (Pre-session filed.)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0200.dir/sb0213.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Joann Eppli    |                   | FIRE        | 1/27/2011      | Pri 1           | Oppose                |

*Comments:* This bill has been proposed by insurance carriers. If passed, insurance carriers would have the right to not pay for services provided if in THEIR opinion the patient did not require transport. This could further destabilize the Ambulance Transport Fund revenue stream. It also puts the paramedics in the field in the position of making diagnosis, where currently, they make assessments. This would also give insurance companies the ability to not pay for treatment if further diagnosis at the hospital, after definitive testing, proves our “diagnosis” incorrect.

**SB 0310**

*Relating Clause:* Relating to exemptions to property taxation; creating new provisions; amending ORS 264.110, 285C.255, 285C.406, 307.060, 307.095, 307.110, 307.175, 307.518, 307.529, 307.535, 307.637, 307.651, 307.681, 308.236, 308.250, 308.256, 308.290, 308.450, 308.47

*Title:* Creates and adjusts sunset dates for certain exemptions to property taxation. Adjusts certain other dates relating to exemptions to property taxation. Takes effect on 91st day following adjournment sine die.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0300.dir/sb0310.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/25/2011      | Pri 2           | Support               |

*Comments:* HB 2563 and SB 310 are identical as introduced. These bills amend numerous statutes concerning property tax exemptions. While most exemptions would simply be granted sunset date extensions, several small exemptions would be eliminated. No new exemptions would be created in the bills as introduced. The most significant change for

the City of Eugene would be provided by sections 10 and 11, which remove the statutory exemption of taxable personal property with a total value less than \$12,500. In FY10, almost \$7,000,000 in otherwise taxable personal property fell within this exemption in the City of Eugene, representing about \$50,000 in lost revenue. While this is a small revenue improvement it does move the City's revenue in the correct direction. This bill should be monitored and any amendments that would expand or add new property tax exemptions should be opposed.

**SB 0407**

*Relating Clause:* Relating to exceptions to prohibition against operating a motor vehicle using a mobile communication device; creating new provisions; and amending ORS 811.507.

*Title:* Removes exception for person operating motor vehicle in scope of person's employment from offense of operating motor vehicle while using mobile communication device.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0407.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
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| Eric Jones     |                   | PW-ADM      | 1/25/2011      | Pri 3           | Oppose                |

*Comments:* We're trying to protect the situation where a Public Works motor vehicle operator uses a cell phone to communicate with dispatch or with an incident commander when the emergency command center has been activated.

It is unclear whether the existing law at Section 1(3)(e) would allow this possibility (because the phrase "as a volunteer" at the end of the clause might exclude a Public Works equipment operator). It's also not clear to this reviewer what "one-way voice communication" would entail (and whether the exemption at Section 1(3)(j)(C) would apply).

As written, the bill would continue to allow two-way radio communication. However, cell phones are increasingly a viable communication tool for Public Works equipment operators.

Recommend priority 3 oppose, seeking an amendment at Section 1(1)(e) to strike the words "as a volunteer" (i.e., to allow the use of a cell phone for a Public Works equipment operator providing emergency services).

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jamie Iboa     | Craig Sorseth     | CS-RS       | 1/20/2011      | Pri 3           | Oppose                |

*Comments:* The City already has a policy on this issue which, while it was being developed, considered what this bill proposes. I believe that the feedback received from managers for the City was that it would unnecessarily limit the ability to communicate or respond under some circumstances.

|                                       |                          |                           |                                    |                                 |  |
|---------------------------------------|--------------------------|---------------------------|------------------------------------|---------------------------------|--|
| <b><u>Contact</u></b><br>Tony Jobanek | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>PWM | <b><u>Updated</u></b><br>1/31/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Oppose |
|---------------------------------------|--------------------------|---------------------------|------------------------------------|---------------------------------|--|

Comments: City staff do use cellular devices on occasion in city vehicles while performing aspects of their operational responsibilities. e.g. building inspectors calling supervisors, or customers with updates of their scheduling and work flow. Although Public Works field staff primarily use a two way radio system for emergency communications , there are times when their work flows require the use of cell phones to communicate while driving. If the use of a cell phone was not permitted these operations would be required to pull over to the side of the road to complete their communications or use a dedicated hands free device. Currently there is a City cell phone use policy that addresses most operational questions within the organization. Elimination of the proposed cell phone use language in this bill could potentially have a negative effect on certain City staff operations. The impact should be mitigated by the use of vehicle based blue tooth devices.

**SB 0422**

*Relating Clause:* Relating to insurance requirements in public contracts for professional services; and declaring an emergency.

*Title:* Prohibits contracting agency from requiring contractor in contract for architectural, engineering and land surveying services or related services to obtain and maintain in force liability insurance with combined single limit that exceeds \$1 million unless contracting agency makes determination after considering certain factors or unless contracting agency pays portion of premium cost that is attributable to increased combined single limit. Becomes operative January 1, 2012. Declares emergency, effective on passage.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0422.intro.pdf>

|                                     |                          |                           |                                    |                                 |  |
|-------------------------------------|--------------------------|---------------------------|------------------------------------|---------------------------------|--|
| <b><u>Contact</u></b><br>Paul Klope | <b><u>Respondent</u></b> | <b><u>Dept</u></b><br>PWE | <b><u>Updated</u></b><br>1/26/2011 | <b><u>Priority</u></b><br>Pri 3 | <b><u>Recommendation</u></b><br>Oppose |
|-------------------------------------|--------------------------|---------------------------|------------------------------------|---------------------------------|--|

Comments: Although it may add a small amount of staff cost to formalize the determination required by the bill to exceed \$1 million, the consideration of appropriate liability insurance limits is an action already performed by staff. A concern I have about this bill is that it would take something that has been a discretionary action on the part of the public agency and instead set limits and controls on that action and by doing so makes it easier for consultants to make a legal challenge which would add cost to the public agency and delay to completion of important public infrastructure projects. Another concern I have is that there is nothing "magic" about this \$1 million limit, even though it is a commonly used amount and the amount that is in the City's contract (probably because it is an insurance industry standard). In most cases this amount is a very safe and possibly excessive amount. In some cases, however, such as designing a bridge or a multi-story

building for instance, it is much too small due to the potential liability the City could be exposed to if the structure failed, so staff will require a higher insurance amount. The City shouldn't be in a position to have to face legal challenges to liability insurance amounts staff sets in order to protect the City.

In addition, this bill is unnecessary if it's purpose is to protect consultants from unexpected expenses. When the City (and any other public agency) requests proposals for services, it includes information regarding insurance requirements in the request for proposals, so the consultant knows up front what their costs for insurance are going to be. The consultant will include those costs in any proposal they make to the City.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Jamie Iboa     | Cathy Joseph      | CS-RS       | 1/13/2011      | Pri 3           | Oppose                |

Comments: Passage of this bill would require the City of Eugene to pay for additional premium if insurance coverage over \$1,000,000 was required on particular types of contracts.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Mike Penwell   |                   | CS-FAC      | 1/13/2011      | Pri 3           | Oppose                |

Comments: While this matches our current requirement for combined single limit, it would affect our ability to raise those limits in the future if we so desired. In reality, we would probably pay higher professional fees if we raised our insurance limits; but market forces can regulate this cost rather than the State.

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Eric Jones     |                   | PW-ADM      | 1/31/2011      | Pri 3           | Oppose                |

Comments: Defer to other reviewers for analysis.

**SJR 0007**

*Relating Clause:* Proposes amendment to Oregon Constitution changing exception valuation of property to 75 percent of real market value. Adds to classes of property subject to exception valuation property sold or transferred to new owner.

*Title:* Proposes amendment to Oregon Constitution changing exception valuation of property to 75 percent of real market value. Adds to classes of property subject to exception valuation property sold or transferred to new owner. Applies to tax years beginning on after July 1, 2010. Refers proposed amendment to people for their approval or rejection at next regular general election.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sjr1.dir/sjr0007.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|

## Comments:

With passage of Measure 50 in 1997, taxable assessed value of real property was reduced to be significantly less than its real market value. Assessed value was allowed to grow only 3% annually, while real market value have typically grown faster. Even though real market values have generally decreased in the recent recession, there exists a significant gap between assessed value and real market value for most properties. This gap varies widely among types of properties. For instance, in 2010 residential properties were on average assessed at about 74% of their market value and commercial properties were assessed at 54% of their market value, while industrial properties were on average assessed at 100% of market value. With economic recovery, real market values will increase again and this gap between assessed and real market values widen for most properties. This situation has several impacts. It unfairly shifts the relative shares of the total property tax burden among types of property, and it contributes to the structural revenue difficulties of local governments, including City of Eugene.

SJR 7 and SJR 8 are similar in that they propose various amendments to Article XI, Section 11 of the Oregon Constitution. This constitutional language contains a method to set assessed values of a changed property for purposes of taxation, usually much lower than the property's real market value. While this discussion is very important I don't think we can yet endorse a specific amendment because of the need for analysis of the impacts of the various proposals on the City of Eugene. I'm recommending the discussions be closely monitored until we have a better idea of the impacts.

The League of Oregon Cities has made a constitutional amendment allowing local governments to deal with the impacts of Measure 5/50 property tax restrictions a high priority.

SJR 7, like SJR 8, would imposes a changed method of determining the assessed value of real property if a property is sold or undergoes a major change. The new AV would be 75% of the real market values rather than be determined by the "changed property ratio" as is now done. While this would allow some properties, such as commercial properties, to be assigned assessed values closer to their real market values, other properties, especially industrial properties, would actually be assigned lower assessed values than under the current formula. A closer analysis is needed.

**SJR 0008***Relating Clause:*

Proposes amendment to Oregon Constitution creating minimum assessed value for ad valorem property taxation equal to 50 percent of real market value and maximum assessed value for property taxation equal to 75 percent of real market value.

*Title:*

Proposes amendment to Oregon Constitution creating minimum assessed value for ad valorem property taxation equal to 50 percent of real market value and maximum assessed value for property taxation equal to 75 percent of real market value. Changes exception valuation of property to 75 percent of real market value. Adds to classes of property subject to exception valuation property sold or transferred to new owner. Applies to tax years beginning after July 1, 2010. Refers proposed amendment to people for their approval or rejection at next regular general election.

*Sponsored by:*

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

*URL:*

<http://www.leg.state.or.us/11reg/measpdf/sjr1.dir/sjr0008.intro.pdf>

**Contact**

Larry Hill

**Respondent**

**Dept**

CS-FIN

**Updated**

1/28/2011

**Priority**

--

**Recommendation**

Monitor

*Comments:*

With passage of Measure 50 in 1997, taxable assessed value of real property was reduced to be significantly less than its real market value. Assessed value was allowed to grow only 3% annually, while real market value have typically grown faster. Even though real market values have generally decreased in the recent recession, there exists a significant gap between assessed value and real market value for most properties. This gap varies widely among types of properties. For instance, in 2010 residential properties were on average assessed at about 74% of their market value and commercial properties were assessed at 54% of their market value, while industrial properties were on average assessed at 100% of market value. With economic recovery, real market values will increase again and this gap between assessed and real market values widen for most properties. This situation has several impacts. It unfairly shifts the relative shares of the total property tax burden among types of property, and it contributes to the structural revenue difficulties of local governments, including City of Eugene.

SJR 7 and SJR 8 are similar in that they propose various amendments to Article XI, Section 11 of the Oregon Constitution. This constitutional language contains a method to set assessed values of a changed property for purposes of taxation, usually much lower than the property's real market value. While this discussion is very important I don't think we can yet endorse a specific amendment because of the need for analysis of the impacts of the various proposals on the City of Eugene. I'm recommending the discussions be closely monitored until we have a better idea of the impacts.

The League of Oregon Cities has made a constitutional amendment allowing local governments to deal with the impacts of Measure 5/50 property tax restrictions a high priority.

SJR 8 would do two things. First, the amendment would impose a floor for assessed values, set at 50% of a property's real market value. SJR 8, like SJR 7, also would impose a changed method of determining the assessed value of real property if a property is sold or undergoes a major change. The new AV would be 75% of the real market values rather than be determined by the "changed property ratio" as is now done. While this would allow some properties, such as commercial properties, to be assigned assessed values closer to their real market values, other properties, especially industrial properties, would actually be assigned lower assessed values than under the current formula. A closer analysis is needed.

**SJR 0009**

*Relating Clause:* Proposes revision of Oregon Constitution relating to ad valorem property taxation. Requires Legislative Assembly to provide by law for continuation of local option tax levies.

*Title:* Proposes revision of Oregon Constitution relating to ad valorem property taxation. Requires Legislative Assembly to provide by law for continuation of local option tax levies. Lowers maximum allowable taxes to \$3.33 per \$1,000 of real market value for public school system and \$6.67 per \$1,000 of real market value for government operations other than public school system. Applies to tax years beginning on or after July 1, 2012. Refers proposed revision to people for their approval or rejection at next primary election.

*Sponsored by:* Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

*URL:* <http://www.leg.state.or.us/11reg/measpdf/sjr1.dir/sjr0009.intro.pdf>

| <u>Contact</u> | <u>Respondent</u> | <u>Dept</u> | <u>Updated</u> | <u>Priority</u> | <u>Recommendation</u> |
|----------------|-------------------|-------------|----------------|-----------------|-----------------------|
| Larry Hill     |                   | CS-FIN      | 1/28/2011      | --              | Monitor               |

*Comments:* Like SJR 7 and SJR 8, SJR 9 would amend Article XI of the Oregon Constitution to change our property tax system.

SJR 9 changes would be much more sweeping however, repealing Measure 47/50 language from the Constitution. SJR 9 would eliminate the difference between assessed value and real market value of property. Property would be taxed on its real market value, resolving the unfair distribution among classes of property that has developed under Measure 47/50's provisions.

Measure 5's caps on total general government and total education taxes would remain in the Constitution, but these caps would be lowered; general government taxes on a property would be capped at \$6.67 instead of \$10 per \$1000 real market value, while education taxes would be capped at \$3.33 instead of \$5 per \$1000 RMV. This will result in compression of taxes in the event these limits are reached for any individual property, with reduction of tax revenue. My analysis of the net impact of these changes on the City of Eugene's revenue is underway but is not yet complete. I recommend that discussions on this measure be closely monitored, but no position be taken at this time.

The League of Oregon Cities has made it a high priority to achieve a constitutional amendment allowing local governments to deal with the impacts of Measure 5/50 property tax restrictions.

# Senate Bill 47

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General John Kroger for Department of Justice)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires certain governing bodies of public bodies to make audio, audio-video or digital recording of public meetings. Requires written record of meetings and specifies content of written record. Requires recordings and related written records to be available within seven working days of meeting or within one working day of request to review or inspect, whichever is later.

Requires Attorney General to develop training materials to educate public employees on public meetings law requirements.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public meetings; creating new provisions; amending ORS 192.640, 192.650, 192.660,  
3 293.714 and 414.395; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 192.650 is amended to read:

6 192.650. (1) **Except as provided in sections 3 and 4 of this 2011 Act**, the governing body of  
7 a public body shall provide for the [*sound, video*] **audio, audio-video** or digital recording or the  
8 taking of written minutes of all its meetings. Neither a full transcript nor a full recording of the  
9 meeting is required, except as otherwise provided by law, but the written minutes or recording must  
10 give a true reflection of the matters discussed at the meeting and the views of the participants. All  
11 minutes or recordings shall be available to the public within a reasonable time after the meeting[,  
12 *and shall include at least the following information*]. **Any written minutes shall meet the re-**  
13 **quirements of section 5 of this 2011 Act. In the absence of written minutes, a recording must**  
14 **include:**

15 (a) **The identity of the public body;**

16 (b) **The date, time and location of the meeting; and**

17 [*(a) All*] (c) **The names of the** members of the governing body present[;].

18 (2) **If recordings are made to meet the requirements of this section, written records de-**  
19 **scribed in section 5 (2)(b) of this 2011 Act must also be maintained.**

20 [*(b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their dis-*  
21 *position;*]

22 [*(c) The results of all votes and, except for public bodies consisting of more than 25 members unless*  
23 *requested by a member of that body, the vote of each member by name;*]

24 [*(d) The substance of any discussion on any matter; and*]

25 [*(e) Subject to ORS 192.410 to 192.505 relating to public records, a reference to any document dis-*  
26 *cussed at the meeting.*]

27 [(2) *Minutes of executive sessions shall be kept in accordance with subsection (1) of this section.*]

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.



1 *However, the minutes of a hearing held under ORS 332.061 shall contain only the material not ex-*  
 2 *cluded under ORS 332.061 (2). Instead of written minutes, a record of any executive session may be*  
 3 *kept in the form of a sound or video tape or digital recording, which need not be transcribed unless*  
 4 *otherwise provided by law. If the disclosure of certain material is inconsistent with the purpose for*  
 5 *which a meeting under ORS 192.660 is authorized to be held, that material may be excluded from*  
 6 *disclosure. However, excluded materials are authorized to be examined privately by a court in any legal*  
 7 *action and the court shall determine their admissibility.]*

8 [(3) A reference in minutes or a recording to a document discussed at a meeting of a governing  
 9 body of a public body does not affect the status of the document under ORS 192.410 to 192.505.]

10 [(4) A public body may charge a person a fee under ORS 192.440 for the preparation of a transcript  
 11 from a recording.]

12 **SECTION 2. Sections 3 to 5 of this 2011 Act are added to and made a part of ORS 192.610**  
 13 **to 192.690.**

14 **SECTION 3. (1) Notwithstanding ORS 192.650, a governing body of any of the following**  
 15 **public bodies shall provide for the audio, audio-video or digital recording of meetings of the**  
 16 **governing body:**

17 (a) A city, county, school district, education service district, community college district  
 18 or community college service district; or

19 (b) A board or commission of state government, as defined in ORS 174.111.

20 (2) A governing body that is subject to the requirements of this section shall also prepare  
 21 a written record of the meeting that meets the requirements of section 5 of this 2011 Act.

22 (3) The recording described in subsection (1) of this section and the written record de-  
 23 scribed in subsection (2) of this section shall be available for review and inspection within  
 24 seven working days of the date of the meeting or within one working day following a request  
 25 to review and inspect the recording or written record by a member of the public, whichever  
 26 date is later.

27 (4) A public body may charge a person a fee under ORS 192.440 for the preparation of a  
 28 transcript from a recording.

29 (5) Subsection (1) of this section does not apply to a meeting or part of a meeting that  
 30 is a hearing held under ORS 332.061, unless a public hearing has been requested under ORS  
 31 332.061 (1). A nonpublic hearing under ORS 332.061 is subject to the requirements of ORS  
 32 192.650. If a recording is made of a nonpublic hearing under ORS 332.061, the recording is  
 33 exempt from disclosure under ORS 192.410 to 192.505.

34 (6) If a provision of law requires a governing body described in subsection (1) of this  
 35 section to take or maintain written minutes of meetings of the governing body, that re-  
 36 quirement is satisfied by taking and maintaining the recordings and written records de-  
 37 scribed in subsections (1) and (2) of this section.

38 **SECTION 4. (1) Notwithstanding ORS 192.650, a governing body of a public body shall**  
 39 **provide for the audio, audio-video or digital recording of executive sessions held by the gov-**  
 40 **erning body. To the extent practicable, an executive session shall be recorded separately**  
 41 **from any part of a meeting that is open to the public.**

42 (2) A recording of an executive session is confidential and exempt from disclosure under  
 43 ORS 192.410 to 192.505 unless a final and unappealed determination that the recording shows  
 44 a violation of ORS 192.610 to 192.690 has been made by one of the following:

45 (a) A court of competent jurisdiction;

1 (b) The Oregon Government Ethics Commission;

2 (c) The Attorney General in response to a petition under ORS 192.450; or

3 (d) A district attorney in response to a petition under ORS 192.460.

4 (3) If a public meeting is held entirely in executive session, then the governing body of  
5 a public body shall also prepare a written record of the meeting that meets the requirements  
6 of section 5 of this 2011 Act.

7 (4) A hearing held under ORS 332.061 is not subject to the requirements of this section,  
8 but is subject to ORS 192.650.

9 **SECTION 5.** (1) A written record prepared under ORS 192.650 or section 3 or 4 of this 2011  
10 Act shall include at least the following information:

11 (a) The date, time and location of the meeting and the identity of the governing body;

12 (b) A list of the members of the governing body that were present during the meeting;

13 (c) A general description of the matters discussed at the meeting, including the basis for  
14 any executive session, if appropriate; and

15 (d) Subject to ORS 192.410 to 192.505, a reference to any document discussed at the  
16 meeting.

17 (2) Written records prepared under ORS 192.650 or section 3 of this 2011 Act shall also  
18 include the following information:

19 (a) All motions, proposals, resolutions, orders, ordinances and measures proposed and  
20 their disposition, appearing in the order they were voted on by the governing body; and

21 (b) The results of all votes and, except for governing bodies consisting of more than 25  
22 members unless requested by a member of the governing body, the vote of each member by  
23 name.

24 (3) Written minutes prepared under ORS 192.650 shall also include the substance of any  
25 discussion on any matter.

26 (4) To the extent that a written record reflects matters discussed in executive session,  
27 that material is exempt from disclosure under ORS 192.410 to 192.505 if disclosure would be  
28 inconsistent with the purpose authorizing the executive session.

29 (5) Notwithstanding subsections (1) to (3) of this section, the written record of a non-  
30 public hearing under ORS 332.061 shall contain only the material not excluded under ORS  
31 332.061 (2).

32 **SECTION 6.** ORS 192.640 is amended to read:

33 192.640. (1) The governing body of a public body shall provide for and give public notice, rea-  
34 sonably calculated to give actual notice to interested persons including news media [*which*] **that**  
35 have requested notice, of the time and place for holding regular meetings. The notice shall also in-  
36 clude a list of the principal subjects anticipated to be considered at the meeting, but this require-  
37 ment shall not limit the ability of a governing body to consider additional subjects.

38 (2) If an executive session only will be held, the notice shall be given to the members of the  
39 governing body, to the general public and to news media [*which*] **that** have requested notice, stating  
40 the specific provision of law authorizing the executive session.

41 (3) No special meeting shall be held without at least 24 hours' notice to the members of the  
42 governing body, the news media [*which*] **that** have requested notice and the general public. In case  
43 of an actual emergency, a meeting may be held upon such notice as is appropriate to the circum-  
44 stances, but the **recording or written record of** [*minutes for*] such a meeting shall describe the  
45 emergency justifying less than 24 hours' notice.

**SECTION 7.** ORS 192.660 is amended to read:

192.660. (1) ORS 192.610 to 192.690 do not prevent the governing body of a public body from holding executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization under ORS 192.610 to 192.690 for holding the executive session.

(2) The governing body of a public body may hold an executive session:

(a) To consider the employment of a public officer, employee, staff member or individual agent.

(b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing.

(c) To consider matters pertaining to the function of the medical staff of a public hospital licensed pursuant to ORS 441.015 to 441.063 including, but not limited to, all clinical committees, executive, credentials, utilization review, peer review committees and all other matters relating to medical competency in the hospital.

(d) To conduct deliberations with persons designated by the governing body to carry on labor negotiations.

(e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

(f) To consider information or records that are exempt by law from public inspection.

(g) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations.

(h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

(i) To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

(j) To carry on negotiations under ORS chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments.

(k) If the governing body is a health professional regulatory board, to consider information obtained as part of an investigation of licensee or applicant conduct.

(L) If the governing body is the State Landscape Architect Board, or an advisory committee to the board, to consider information obtained as part of an investigation of registrant or applicant conduct.

(m) To discuss information about review or approval of programs relating to the security of any of the following:

(A) A nuclear-powered thermal power plant or nuclear installation.

(B) Transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or nuclear installation.

(C) Generation, storage or conveyance of:

(i) Electricity;

(ii) Gas in liquefied or gaseous form;

(iii) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

(iv) Petroleum products;

(v) Sewage; or

(vi) Water.

(D) Telecommunication systems, including cellular, wireless or radio systems.

(E) Data transmissions by whatever means provided.

1 (3) Labor negotiations shall be conducted in open meetings unless negotiators for both sides  
 2 request that negotiations be conducted in executive session. Labor negotiations conducted in exec-  
 3 utive session are not subject to the notification requirements of ORS 192.640.

4 (4) Representatives of the news media, **including electronic news media**, shall be allowed to  
 5 attend executive sessions other than those held under subsection (2)(d) of this section relating to  
 6 labor negotiations or executive session held pursuant to ORS 332.061 (2) but the governing body may  
 7 require that specified information be undisclosed.

8 (5) When a governing body convenes an executive session under subsection (2)(h) of this section  
 9 relating to conferring with counsel on current litigation or litigation likely to be filed, the governing  
 10 body shall bar any member of the news media from attending the executive session if the member  
 11 of the news media is a party to the litigation or is an employee, agent or contractor of a news media  
 12 organization that is a party to the litigation.

13 (6) No executive session may be held for the purpose of taking any final action or making any  
 14 final decision.

15 (7) The exception granted by subsection (2)(a) of this section does not apply to:

16 (a) The filling of a vacancy in an elective office.

17 (b) The filling of a vacancy on any public committee, commission or other advisory group.

18 (c) The consideration of general employment policies.

19 (d) The employment of the chief executive officer, other public officers, employees and staff  
 20 members of a public body unless:

21 (A) The public body has advertised the vacancy;

22 (B) The public body has adopted regular hiring procedures;

23 (C) In the case of an officer, the public has had the opportunity to comment on the employment  
 24 of the officer; and

25 (D) In the case of a chief executive officer, the governing body has adopted hiring standards,  
 26 criteria and policy directives in meetings open to the public in which the public has had the op-  
 27 portunity to comment on the standards, criteria and policy directives.

28 (8) A governing body may not use an executive session for purposes of evaluating a chief exec-  
 29 utive officer or other officer, employee or staff member to conduct a general evaluation of an agency  
 30 goal, objective or operation or any directive to personnel concerning agency goals, objectives, op-  
 31 erations or programs.

32 (9) Notwithstanding subsections (2) and (6) of this section and [ORS 192.650] **section 4 of this**  
 33 **2011 Act:**

34 (a) ORS 676.175 governs the public disclosure of minutes, transcripts or recordings relating to  
 35 the substance and disposition of licensee or applicant conduct investigated by a health professional  
 36 regulatory board.

37 (b) ORS 671.338 governs the public disclosure of minutes, transcripts or recordings relating to  
 38 the substance and disposition of registrant or applicant conduct investigated by the State Landscape  
 39 Architect Board or an advisory committee to the board.

40 **SECTION 8.** ORS 293.714 is amended to read:

41 293.714. [(1) Notwithstanding ORS 192.650 (1) and (2), full sound recordings shall be made of every  
 42 meeting of the Oregon Investment Council. The full sound recordings shall be produced on equipment  
 43 selected by the Oregon Investment Council for compatibility with equipment for reproduction by the  
 44 State Archives.]

45 [(2)] **In addition to the requirements of section 3 of this 2011 Act, the Oregon Investment**

1 Council shall maintain a written log of each sound recording that gives a true reflection of the  
2 matters discussed at the meeting and where those matters are found on the sound recording.

3 [(3) *Notwithstanding ORS 192.650 (1)*] **Notwithstanding section 3 of this 2011 Act**, the council  
4 shall make the full sound recording and written log of each sound recording of each meeting avail-  
5 able to the public prior to the next regularly scheduled meeting of the council.

6 **SECTION 9.** ORS 414.395 is amended to read:

7 414.395. (1) Notwithstanding ORS 192.660, the Drug Use Review Board may meet in an executive  
8 session for purposes of reviewing the prescribing or dispensing practices of individual physicians or  
9 pharmacists or to discuss drug use review data pertaining to individual physicians or pharmacists  
10 or to review profiles of individual clients. The [*meeting*] **executive session** is subject to the re-  
11 quirements of [*ORS 192.650 (2)*] **section 4 of this 2011 Act**.

12 (2) The board shall provide appropriate opportunity for public testimony at the regularly  
13 scheduled board meetings.

14 **SECTION 10.** **The Attorney General shall develop training materials designed to educate**  
15 **public employees on the requirements of ORS 192.610 to 192.690 and make those materials**  
16 **available free of charge on the Attorney General's website.**

17 **SECTION 11.** **This 2011 Act being necessary for the immediate preservation of the public**  
18 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
19 **on its passage.**

20

# Senate Bill 146

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Public Utility Commission)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Extends scope of Residential Service Protection Fund surcharge to include fixed interconnected voice over Internet protocol service and prepaid telecommunications service.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the Residential Service Protection Fund; creating new provisions; amending section 7,  
3 chapter 290, Oregon Laws 1987; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** Section 7, chapter 290, Oregon Laws 1987, as amended by section 2, chapter 622,  
6 Oregon Laws 1991, section 8, chapter 872, Oregon Laws 1991, section 1, chapter 231, Oregon Laws  
7 1993, section 387, chapter 79, Oregon Laws 1995, section 1, chapter 451, Oregon Laws 1995, and  
8 section 2, chapter 408, Oregon Laws 2001, is amended to read:

9 **Sec. 7. (1) For purposes of this section:**

10 (a) **“Customer” means a person that has telecommunications service with access to the**  
11 **telecommunications relay service through local exchange service, cellular service or other**  
12 **wired or wireless means, including fixed interconnected voice over Internet protocol service.**

13 (b) **“Fixed interconnected voice over Internet protocol service” means any Internet pro-**  
14 **tol enabled service that offers real-time two-way voice communications requiring a**  
15 **broadband connection from the user’s location and permits users generally to receive calls**  
16 **that originate on the public switched telephone network and to terminate calls to the public**  
17 **switched telephone network.**

18 (c) **“Prepaid telecommunications service” means any telecommunications service paid for**  
19 **by the customer prior to activation or use of the service.**

20 (d) **“Prepaid telecommunications service provider” means any telecommunications ser-**  
21 **vice provider that sells prepaid telecommunications service on a wholesale or retail basis.**

22 [(1)] (2)(a) In order to fund the programs provided in sections 2 to 6 and 9 to 14, chapter 290,  
23 Oregon Laws 1987, the Public Utility Commission shall develop and implement a system for assess-  
24 ing a surcharge in an amount not to exceed 35 cents per month against each paying retail [*sub-*  
25 *scriber*] **customer** [*who has telecommunications service with access to the telecommunications relay*  
26 *service*]. The surcharge shall be applied on a telecommunications circuit designated for a particular  
27 [*subscriber*] **customer**. One [*subscriber*] **customer** line shall be counted for each circuit that is ca-  
28 pable of generating usage on the line side of the **public** switched **telephone** network regardless of  
29 the quantity of customer premises equipment connected to each circuit. For providers of central  
30 office based services, the surcharge shall be applied to each line that has unrestricted connection

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New sections are in **boldfaced** type.

1 to the telecommunications relay service. These central office based service lines that have restricted  
 2 access to the telecommunications relay service shall be charged based on software design. **Except**  
 3 **for prepaid telecommunications service, the surcharge shall be assessed on each customer**  
 4 **connection for cellular, wireless, fixed interconnected voice over Internet protocol or other**  
 5 **radio common carriers.** *[For cellular, wireless or other radio common carriers, the surcharge shall*  
 6 *be applied on a per instrument basis, but]* **The surcharge** applies only to *[subscribers]* **customers**  
 7 whose place of primary use, as defined and determined under 4 U.S.C. 116 to 126, is within this state.

8 **(b) The surcharge must be assessed on each customer connection provided and billed by**  
 9 **each telecommunications service provider and on any prepaid telecommunications service**  
 10 **offered by each prepaid telecommunications service provider.**

11 **(c) Each customer is liable to the telecommunications service provider for payment of**  
 12 **any surcharge properly imposed under this section. The telecommunications service provider**  
 13 **is not liable for any uncollected surcharge, and does not have an obligation to take legal**  
 14 **action to enforce the collection of any surcharge that is unpaid by its customers.**

15 **(d) Each telecommunications service provider that periodically bills customers for its**  
 16 **services must bill each customer for the surcharge.**

17 **(e) For customers that are not billed periodically, including but not limited to customers**  
 18 **that purchase prepaid telecommunications service, the telecommunications service provider**  
 19 **must include in the price of the service the surcharge for each month during which the**  
 20 **customer is authorized to use the service. A prepaid telecommunications service provider**  
 21 **must remit to the Residential Protection Service Fund an amount equal to the surcharge**  
 22 **after collecting the amount using one of the following options:**

23 **(A) On a monthly basis, the prepaid telecommunications service provider must collect**  
 24 **an amount equal to the surcharge from each active prepaid telecommunications service**  
 25 **customer whose account balance is equal to or greater than the surcharge; or**

26 **(B) The prepaid telecommunications service provider must divide the provider's total**  
 27 **intrastate monthly revenue by the national average monthly revenue for each prepaid tele-**  
 28 **communications service customer of the national prepaid telecommunications service in-**  
 29 **dustry to determine the number of the provider's prepaid customers. The prepaid**  
 30 **telecommunications service provider must then pay on a monthly basis an amount to the**  
 31 **Residential Service Protection Fund equal to the number of the provider's prepaid custom-**  
 32 **ers, multiplied by the amount of the surcharge.**

33 **(f) The commission may adopt by rule the method for calculating the national average**  
 34 **monthly revenue for each prepaid telecommunications service customer of the national pre-**  
 35 **paid telecommunications service industry.**

36 **(g) If a customer receives prepaid wireless telecommunication services at no cost to the**  
 37 **customer, the provider of the services must remit an amount equal to the surcharge for each**  
 38 **month during which the customer is authorized to use the service.**

39 *[(2)]* **(3)** The surcharge imposed by subsection *[(1)]* **(2)** of this section does not apply to:

40 **(a) Services upon which the state is prohibited from imposing the surcharge by the Constitution**  
 41 **or laws of the United States or the Constitution or laws of the State of Oregon.**

42 **(b) Interconnection between telecommunications utilities, telecommunications cooperatives,**  
 43 **competitive telecommunications services providers certified pursuant to ORS 759.020, radio common**  
 44 **carriers and interexchange carriers.**

45 *[(3)]* **(4)** The commission annually shall review the surcharge and the balance in the Residential

1 Service Protection Fund and may make adjustments to the amount of the surcharge to ensure that  
2 the fund has adequate resources but that the fund balance does not exceed six months of projected  
3 expenses.

4 [(4)] (5) Moneys collected pursuant to the surcharge [*shall*] **may** not be considered in any pro-  
5 ceeding to establish rates for telecommunication service.

6 [(5)] (6) The commission shall direct telecommunications public utilities to identify separately  
7 in bills to customers for service the surcharge imposed pursuant to this section.

8 **SECTION 2. The amendments to section 7, chapter 290, Oregon Laws 1987, by section 1**  
9 **of this 2011 Act become operative January 1, 2012.**

10 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**  
11 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
12 **on its passage.**

13 \_\_\_\_\_



# Senate Bill 186

Sponsored by Senator KRUSE (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that person seeking to appeal land use decision or limited land use decision to Land Use Board of Appeals must own, or have ownership interest in, real property within \_\_\_\_\_ miles of real property affected by decision.

## A BILL FOR AN ACT

1  
2 Relating to basis for filing appeal to Land Use Board of Appeals; creating new provisions; and  
3 amending ORS 197.830.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 197.830 is amended to read:

6 197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to  
7 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Ap-  
8 peals.

9 (2) Except as provided in ORS 197.620 [(1) and (2)], a person **that owns real property, or has**  
10 **an ownership interest in real property, that is within \_\_\_\_\_ miles of real property affected**  
11 **by a land use decision or a limited land use decision** may petition the board for review of [*a land*  
12 *use decision or limited land use*] **the** decision if the person:

13 (a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section;  
14 and

15 (b) Appeared before the local government, special district or state agency orally or in writing.

16 (3) If a local government makes a land use decision without providing a hearing, except as  
17 provided under ORS 215.416 (11) or 227.175 (10), or the local government makes a land use decision  
18 that is different from the proposal described in the notice of hearing to such a degree that the notice  
19 of the proposed action did not reasonably describe the local government's final actions, a person  
20 **that owns real property, or has an ownership interest in real property, that is within**  
21 **\_\_\_\_\_ miles of real property affected by the land use decision and is** adversely affected by  
22 the decision may appeal the decision to the board under this section:

23 (a) Within 21 days of actual notice where notice is required; or

24 (b) Within 21 days of the date a person knew or should have known of the decision where no  
25 notice is required.

26 (4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416  
27 (11) or 227.175 (10):

28 (a) A person [*who*] **that owns real property, or has an ownership interest in real property,**  
29 **that is within \_\_\_\_\_ miles of real property affected by the land use decision and** was not  
30 provided mailed notice of the decision as required under ORS 215.416 (11)(c) or 227.175 (10)(c) may  
31 appeal the decision to the board under this section within 21 days of receiving actual notice of the

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 decision.

2 (b) A person [*who*] **that** is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but  
 3 [*who*] **that owns real property, or has an ownership interest in real property, that is within**  
 4 **\_\_\_\_\_ miles of real property affected by the land use decision and** is adversely affected or  
 5 aggrieved by the decision may appeal the decision to the board under this section within 21 days  
 6 after the expiration of the period for filing a local appeal of the decision established by the local  
 7 government under ORS 215.416 (11)(a) or 227.175 (10)(a).

8 (c) A person [*who*] **that** receives mailed notice of a decision made without a hearing under ORS  
 9 215.416 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days  
 10 of receiving actual notice of the nature of the decision, if the mailed notice of the decision did not  
 11 reasonably describe the nature of the decision **and the person owns real property, or has an**  
 12 **ownership interest in real property, that is within \_\_\_\_\_ miles of real property affected by**  
 13 **the decision.**

14 (d) Except as provided in paragraph (c) of this subsection, a person [*who*] **that** receives mailed  
 15 notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may not appeal  
 16 the decision to the board under this section.

17 (5) If a local government makes a limited land use decision which is different from the proposal  
 18 described in the notice to such a degree that the notice of the proposed action did not reasonably  
 19 describe the local government's final actions, a person **that owns real property, or has an own-**  
 20 **ership interest in real property, that is within \_\_\_\_\_ miles of real property affected by the**  
 21 **limited land use decision and is** adversely affected by the decision may appeal the decision to the  
 22 board under this section:

23 (a) Within 21 days of actual notice where notice is required; or

24 (b) Within 21 days of the date a person knew or should have known of the decision where no  
 25 notice is required.

26 (6)(a) Except as provided in paragraph (b) of this subsection, the appeal periods described in  
 27 subsections (3), (4) and (5) of this section shall not exceed three years after the date of the decision.

28 (b) If notice of a hearing or an administrative decision made pursuant to ORS 197.195 or 197.763  
 29 is required but has not been provided, the provisions of paragraph (a) of this subsection do not ap-  
 30 ply.

31 (7)(a) Within 21 days after a notice of intent to appeal has been filed with the board under  
 32 subsection (1) of this section, any person described in paragraph (b) of this subsection may intervene  
 33 in and be made a party to the review proceeding by filing a motion to intervene and by paying a  
 34 filing fee of \$100.

35 (b) Persons [*who*] **that** may intervene in and be made a party to the review proceedings, as set  
 36 forth in subsection (1) of this section, are:

37 (A) The applicant who initiated the action before the local government, special district or state  
 38 agency; or

39 (B) Persons [*who*] **that own real property, or have an ownership interest in real property,**  
 40 **that is within \_\_\_\_\_ miles of real property affected by the land use decision or limited land**  
 41 **use decision and that** appeared before the local government, special district or state agency, orally  
 42 or in writing.

43 (c) Failure to comply with the deadline or to pay the filing fee set forth in paragraph (a) of this  
 44 subsection shall result in denial of a motion to intervene.

45 (8) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party

1 to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on  
2 the same date the respondent's brief is due and shall be accompanied by a filing fee of \$100.

3 (9) A notice of intent to appeal a land use decision or limited land use decision shall be filed  
4 not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of  
5 intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to  
6 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is  
7 mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a  
8 certificate of mailing with the notice mailed under ORS 197.615 shall not render the notice defective.  
9 Copies of the notice of intent to appeal shall be served upon the local government, special district  
10 or state agency and the applicant of record, if any, in the local government, special district or state  
11 agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule  
12 of the board and shall be accompanied by a filing fee of \$200 and a deposit for costs to be estab-  
13 lished by the board. If a petition for review is not filed with the board as required in subsections  
14 (10) and (11) of this section, the filing fee and deposit shall be awarded to the local government,  
15 special district or state agency as cost of preparation of the record.

16 (10)(a) Within 21 days after service of the notice of intent to appeal, the local government, spe-  
17 cial district or state agency shall transmit to the board the original or a certified copy of the entire  
18 record of the proceeding under review. By stipulation of all parties to the review proceeding the  
19 record may be shortened. The board may require or permit subsequent corrections to the record;  
20 however, the board shall issue an order on a motion objecting to the record within 60 days of re-  
21 ceiving the motion.

22 (b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice  
23 to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860.  
24 Any person moving to intervene shall be provided such notice within seven days after a motion to  
25 intervene is filed. The notice required by this paragraph shall be accompanied by a statement that  
26 mediation information or assistance may be obtained from the Department of Land Conservation and  
27 Development.

28 (11) A petition for review of the land use decision or limited land use decision and supporting  
29 brief shall be filed with the board as required by the board under subsection (13) of this section.

30 (12) The petition shall include a copy of the decision sought to be reviewed and shall state:

31 (a) The facts that establish that the petitioner has standing.

32 (b) The date of the decision.

33 (c) The issues the petitioner seeks to have reviewed.

34 (13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for  
35 oral argument.

36 (b) At any time subsequent to the filing of a notice of intent and prior to the date set for filing  
37 the record, or, on appeal of a decision under ORS 197.610 to 197.625, prior to the filing of the  
38 respondent's brief, the local government or state agency may withdraw its decision for purposes of  
39 reconsideration. If a local government or state agency withdraws an order for purposes of recon-  
40 sideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision.  
41 If the petitioner is dissatisfied with the local government or agency action after withdrawal for  
42 purposes of reconsideration, the petitioner may refile the notice of intent and the review shall pro-  
43 ceed upon the revised order. An amended notice of intent shall not be required if the local govern-  
44 ment or state agency, on reconsideration, affirms the order or modifies the order with only minor  
45 changes.

1 (14) The board shall issue a final order within 77 days after the date of transmittal of the record.  
 2 If the order is not issued within 77 days the applicant may apply in Marion County or the circuit  
 3 court of the county where the application was filed for a writ of mandamus to compel the board to  
 4 issue a final order.

5 (15)(a) Upon entry of its final order the board may, in its discretion, award costs to the pre-  
 6 vailing party including the cost of preparation of the record if the prevailing party is the local  
 7 government, special district or state agency whose decision is under review. The deposit required  
 8 by subsection (9) of this section shall be applied to any costs charged against the petitioner.

9 (b) The board shall also award reasonable attorney fees and expenses to the prevailing party  
 10 against any other party who the board finds presented a position without probable cause to believe  
 11 the position was well-founded in law or on factually supported information.

12 (16) Orders issued under this section may be enforced in appropriate judicial proceedings.

13 (17)(a) The board shall provide for the publication of its orders that are of general public in-  
 14 terest in the form it deems best adapted for public convenience. The publications shall constitute  
 15 the official reports of the board.

16 (b) Any moneys collected or received from sales by the board shall be paid into the Board  
 17 Publications Account established by ORS 197.832.

18 (18) Except for any sums collected for publication of board opinions, all fees collected by the  
 19 board under this section that are not awarded as costs shall be paid over to the State Treasurer to  
 20 be credited to the General Fund.

21 **SECTION 2. The amendments to ORS 197.830 by section 1 of this 2011 Act apply to per-**  
 22 **sons filing notices of intent to appeal, seeking review by the Land Use Board of Appeals, on**  
 23 **and after the effective date of this 2011 Act.**

# House Bill 2181

Sponsored by Representative KRIEGER; Representatives ESQUIVEL, SCHAUFLEER (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies attorney fees provision related to review of decision of local government before Land Use Board of Appeals. Directs board to award attorney fees and expenses to prevailing party if prevailing party was applicant before local government.

Directs appellate courts to award attorney fees and expenses to prevailing party on review of decision of Land Use Board of Appeals if prevailing party was applicant before local government.

## A BILL FOR AN ACT

1  
2 Relating to land use appeals; creating new provisions; and amending ORS 197.830 and 197.850.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 197.830 is amended to read:

5 197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to  
6 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Ap-  
7 peals.

8 (2) Except as provided in ORS 197.620 (1) and (2), a person may petition the board for review  
9 of a land use decision or limited land use decision if the person:

10 (a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section;  
11 and

12 (b) Appeared before the local government, special district or state agency orally or in writing.

13 (3) If a local government makes a land use decision without providing a hearing, except as  
14 provided under ORS 215.416 (11) or 227.175 (10), or the local government makes a land use decision  
15 that is different from the proposal described in the notice of hearing to such a degree that the notice  
16 of the proposed action did not reasonably describe the local government's final actions, a person  
17 adversely affected by the decision may appeal the decision to the board under this section:

18 (a) Within 21 days of actual notice where notice is required; or

19 (b) Within 21 days of the date a person knew or should have known of the decision where no  
20 notice is required.

21 (4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416  
22 (11) or 227.175 (10):

23 (a) A person who was not provided mailed notice of the decision as required under ORS 215.416  
24 (11)(c) or 227.175 (10)(c) may appeal the decision to the board under this section within 21 days of  
25 receiving actual notice of the decision.

26 (b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who  
27 is adversely affected or aggrieved by the decision may appeal the decision to the board under this  
28 section within 21 days after the expiration of the period for filing a local appeal of the decision es-  
29 tablished by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

30 (c) A person who receives mailed notice of a decision made without a hearing under ORS 215.416

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New sections are in **boldfaced** type.

1 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days of re-  
 2 ceiving actual notice of the nature of the decision, if the mailed notice of the decision did not rea-  
 3 sonably describe the nature of the decision.

4 (d) Except as provided in paragraph (c) of this subsection, a person who receives mailed notice  
 5 of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may not appeal the  
 6 decision to the board under this section.

7 (5) If a local government makes a limited land use decision which is different from the proposal  
 8 described in the notice to such a degree that the notice of the proposed action did not reasonably  
 9 describe the local government's final actions, a person adversely affected by the decision may appeal  
 10 the decision to the board under this section:

11 (a) Within 21 days of actual notice where notice is required; or

12 (b) Within 21 days of the date a person knew or should have known of the decision where no  
 13 notice is required.

14 (6)(a) Except as provided in paragraph (b) of this subsection, the appeal periods described in  
 15 subsections (3), (4) and (5) of this section shall not exceed three years after the date of the decision.

16 (b) If notice of a hearing or an administrative decision made pursuant to ORS 197.195 or 197.763  
 17 is required but has not been provided, the provisions of paragraph (a) of this subsection do not ap-  
 18 ply.

19 (7)(a) Within 21 days after a notice of intent to appeal has been filed with the board under  
 20 subsection (1) of this section, any person described in paragraph (b) of this subsection may intervene  
 21 in and be made a party to the review proceeding by filing a motion to intervene and by paying a  
 22 filing fee of \$100.

23 (b) Persons who may intervene in and be made a party to the review proceedings, as set forth  
 24 in subsection (1) of this section, are:

25 (A) The applicant who initiated the action before the local government, special district or state  
 26 agency; or

27 (B) Persons who appeared before the local government, special district or state agency, orally  
 28 or in writing.

29 (c) Failure to comply with the deadline or to pay the filing fee set forth in paragraph (a) of this  
 30 subsection shall result in denial of a motion to intervene.

31 (8) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party  
 32 to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on  
 33 the same date the respondent's brief is due and shall be accompanied by a filing fee of \$100.

34 (9) A notice of intent to appeal a land use decision or limited land use decision shall be filed  
 35 not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of  
 36 intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to  
 37 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is  
 38 mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a  
 39 certificate of mailing with the notice mailed under ORS 197.615 shall not render the notice defective.  
 40 Copies of the notice of intent to appeal shall be served upon the local government, special district  
 41 or state agency and the applicant of record, if any, in the local government, special district or state  
 42 agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule  
 43 of the board and shall be accompanied by a filing fee of \$200 and a deposit for costs to be estab-  
 44 lished by the board. If a petition for review is not filed with the board as required in subsections  
 45 (10) and (11) of this section, the filing fee and deposit shall be awarded to the local government,

1 special district or state agency as cost of preparation of the record.

2 (10)(a) Within 21 days after service of the notice of intent to appeal, the local government, spe-  
 3 cial district or state agency shall transmit to the board the original or a certified copy of the entire  
 4 record of the proceeding under review. By stipulation of all parties to the review proceeding the  
 5 record may be shortened. The board may require or permit subsequent corrections to the record;  
 6 however, the board shall issue an order on a motion objecting to the record within 60 days of re-  
 7 ceiving the motion.

8 (b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice  
 9 to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860.  
 10 Any person moving to intervene shall be provided such notice within seven days after a motion to  
 11 intervene is filed. The notice required by this paragraph shall be accompanied by a statement that  
 12 mediation information or assistance may be obtained from the Department of Land Conservation and  
 13 Development.

14 (11) A petition for review of the land use decision or limited land use decision and supporting  
 15 brief shall be filed with the board as required by the board under subsection (13) of this section.

16 (12) The petition shall include a copy of the decision sought to be reviewed and shall state:

17 (a) The facts that establish that the petitioner has standing.

18 (b) The date of the decision.

19 (c) The issues the petitioner seeks to have reviewed.

20 (13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for  
 21 oral argument.

22 (b) At any time subsequent to the filing of a notice of intent and prior to the date set for filing  
 23 the record, or, on appeal of a decision under ORS 197.610 to 197.625, prior to the filing of the  
 24 respondent's brief, the local government or state agency may withdraw its decision for purposes of  
 25 reconsideration. If a local government or state agency withdraws an order for purposes of recon-  
 26 sideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision.  
 27 If the petitioner is dissatisfied with the local government or agency action after withdrawal for  
 28 purposes of reconsideration, the petitioner may refile the notice of intent and the review shall pro-  
 29 ceed upon the revised order. An amended notice of intent shall not be required if the local govern-  
 30 ment or state agency, on reconsideration, affirms the order or modifies the order with only minor  
 31 changes.

32 (14) The board shall issue a final order within 77 days after the date of transmittal of the record.  
 33 If the order is not issued within 77 days the applicant may apply in Marion County or the circuit  
 34 court of the county where the application was filed for a writ of mandamus to compel the board to  
 35 issue a final order.

36 (15)[(a)] Upon entry of its final order the board:

37 (a) May, in its discretion, award costs to the prevailing party including the cost of preparation  
 38 of the record if the prevailing party is the local government, special district or state agency whose  
 39 decision is under review. The deposit required by subsection (9) of this section shall be applied to  
 40 any costs charged against the petitioner.

41 (b) [*The board shall also*] **Shall** award reasonable attorney fees and expenses to the prevailing  
 42 party [*against any other party who the board finds presented a position without probable cause to be-*  
 43 *lieve the position was well-founded in law or on factually supported information*] **if the prevailing**  
 44 **party was the applicant before the local government.**

45 (16) Orders issued under this section may be enforced in appropriate judicial proceedings.

1 (17)(a) The board shall provide for the publication of its orders that are of general public in-  
 2 terest in the form it deems best adapted for public convenience. The publications shall constitute  
 3 the official reports of the board.

4 (b) Any moneys collected or received from sales by the board shall be paid into the Board  
 5 Publications Account established by ORS 197.832.

6 (18) Except for any sums collected for publication of board opinions, all fees collected by the  
 7 board under this section that are not awarded as costs shall be paid over to the State Treasurer to  
 8 be credited to the General Fund.

9 **SECTION 2.** ORS 197.850 is amended to read:

10 197.850. (1) Any party to a proceeding before the Land Use Board of Appeals under ORS 197.830  
 11 to 197.845 may seek judicial review of a final order issued in those proceedings.

12 (2) Notwithstanding the provisions of ORS 183.480 to 183.540, judicial review of orders issued  
 13 under ORS 197.830 to 197.845 is solely as provided in this section.

14 (3)(a) Jurisdiction for judicial review of proceedings under ORS 197.830 to 197.845 is conferred  
 15 upon the Court of Appeals. Proceedings for judicial review are instituted by filing a petition in the  
 16 Court of Appeals. The petition must be filed within 21 days following the date the board delivered  
 17 or mailed the order upon which the petition is based.

18 (b) Filing of the petition, as set forth in paragraph (a) of this subsection, and service of a peti-  
 19 tion on all persons identified in the petition as adverse parties of record in the board proceeding is  
 20 jurisdictional and may not be waived or extended.

21 (4) The petition must state the nature of the order the petitioner desires reviewed. Copies of the  
 22 petition must be served by first class, registered or certified mail on the board and all other parties  
 23 of record in the board proceeding.

24 (5) Within seven days after service of the petition, the board shall transmit to the court the  
 25 original or a certified copy of the entire record of the proceeding under review, but, by stipulation  
 26 of all parties to the review proceeding, the record may be shortened. The court may tax a party that  
 27 unreasonably refuses to stipulate to limit the record for the additional costs. The court may require  
 28 or permit subsequent corrections or additions to the record when deemed desirable. Except as spe-  
 29 cifically provided in this subsection, the court may not tax the cost of the record to the petitioner  
 30 or any intervening party. However, the court may tax such costs and the cost of transcription of  
 31 record to a party filing a frivolous petition for judicial review.

32 (6) Petitions and briefs must be filed within time periods and in a manner established by the  
 33 Court of Appeals by rule.

34 (7)(a) The court shall hear oral argument within 49 days of the date of transmittal of the record.

35 (b) The court may hear oral argument more than 49 days from the date of transmittal of the  
 36 record provided the court determines that the ends of justice served by holding oral argument on  
 37 a later day outweigh the best interests of the public and the parties. The court shall not hold oral  
 38 argument more than 49 days from the date of transmittal of the record because of general congestion  
 39 of the court calendar or lack of diligent preparation or attention to the case by any member of the  
 40 court or any party.

41 (c) The court shall set forth in writing a determination to hear oral argument more than 49 days  
 42 from the date the record is transmitted, together with the reasons for its determination, and shall  
 43 provide a copy to the parties. The court shall schedule oral argument as soon as practicable there-  
 44 after.

45 (d) In making a determination under paragraph (b) of this subsection, the court shall consider:



1 (A) Whether the case is so unusual or complex, due to the number of parties or the existence  
2 of novel questions of law, that 49 days is an unreasonable amount of time for the parties to brief  
3 the case and for the court to prepare for oral argument; and

4 (B) Whether the failure to hold oral argument at a later date likely would result in a miscarriage of justice.

6 (8) Judicial review of an order issued under ORS 197.830 to 197.845 shall be confined to the record. The court shall not substitute its judgment for that of the board as to any issue of fact.

8 (9) The court may affirm, reverse or remand the order. The court shall reverse or remand the order only if it finds:

10 (a) The order to be unlawful in substance or procedure, but error in procedure is not cause for reversal or remand unless the court finds that substantial rights of the petitioner were prejudiced thereby;

13 (b) The order to be unconstitutional; or

14 (c) The order is not supported by substantial evidence in the whole record as to facts found by the board under ORS 197.835 (2).

16 (10) The Court of Appeals shall issue a final order on the petition for judicial review with the greatest possible expediency.

18 (11) If the order of the board is remanded by the Court of Appeals or the Supreme Court, the board shall respond to the court's appellate judgment within 30 days.

20 (12) A party must file with the board an undertaking with one or more sureties insuring that the party will pay all costs, disbursements and attorney fees awarded against the party by the Court of Appeals if:

23 (a) The party appealed a decision of the board to the Court of Appeals; and

24 (b) In making the decision being appealed to the Court of Appeals, the board awarded attorney fees and expenses against that party under ORS 197.830 (15)(b).

26 (13) Upon entry of its final order, the court shall award attorney fees and expenses to:

27 (a) A party who prevails on a claim that an approval condition imposed by a local government on an application for a permit pursuant to ORS 215.416 or 227.175 is unconstitutional under section 28 18, Article I, Oregon Constitution, or the Fifth Amendment to the United States Constitution.

30 (b) **The prevailing party if the prevailing party was the applicant before the local government.**

32 (14) The undertaking required in subsection (12) of this section must be filed with the board and served on the opposing parties within 10 days after the date the petition was filed with the Court of Appeals.

35 **SECTION 3. The amendments to ORS 197.830 and 197.850 by sections 1 and 2 of this 2011 Act apply to notices of intent to appeal filed with the Land Use Board of Appeals under ORS 37 197.830 (1) on or after the effective date of this 2011 Act.**

# House Bill 2182

Sponsored by Representative KRIEGER; Representatives ESQUIVEL, SCHAUFLEER (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies basis for petitioning Land Use Board of Appeals for review of land use decisions or limited land use decisions. Requires person that does not own real property adjacent to use or to real property that is subject of land use decision or limited land use decision to post deposit to cover attorney fees and costs of expert witnesses required by applicant to establish that use or change to real property meets applicable standards.

## A BILL FOR AN ACT

1  
2 Relating to land use appeals; creating new provisions; and amending ORS 196.115, 197.625, 197.796,  
3 197.830, 197.832, 197.835, 197.840, 197.845, 197.850, 215.416 and 227.175.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 197.830 is amended to read:

6 197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to  
7 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Ap-  
8 peals.

9 (2) Except as provided in ORS 197.620 [(1) and (2)], a person may petition the board for review  
10 of a land use decision or limited land use decision if the person:

11 (a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section;  
12 and

13 (b) Appeared before the local government, special district or state agency orally or in writing.

14 **(3) Except as provided in ORS 197.620, in addition to the requirements of subsection (2)**  
15 **of this section, if a person does not own, or have an ownership interest in, real property that**  
16 **is adjacent to a use or to real property that is a subject of the land use decision or limited**  
17 **land use decision to be reviewed by the board, the person may petition for review of the de-**  
18 **cision only after making a deposit with the board, as determined by rule of the board, to**  
19 **cover the cost of expert witnesses and attorney fees required by the applicant to establish**  
20 **that the use or the change to the real property meets the applicable standards.**

21 **(4) Subsection (3) of this section does not apply to local governments, special districts,**  
22 **state agencies or the applicant before the local government.**

23 [(3)] **(5)** If a local government makes a land use decision without providing a hearing, except as  
24 provided under ORS 215.416 (11) or 227.175 (10), or the local government makes a land use decision  
25 that is different from the proposal described in the notice of hearing to such a degree that the notice  
26 of the proposed action did not reasonably describe the local government's final actions, a person  
27 adversely affected by the decision may appeal the decision to the board under this section:

28 (a) Within 21 days of actual notice where notice is required; or

29 (b) Within 21 days of the date a person knew or should have known of the decision where no  
30 notice is required.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1        [(4)] **(6)** If a local government makes a land use decision without a hearing pursuant to ORS  
 2 215.416 (11) or 227.175 (10):

3        (a) A person who was not provided mailed notice of the decision as required under ORS 215.416  
 4 (11)(c) or 227.175 (10)(c) may appeal the decision to the board under this section within 21 days of  
 5 receiving actual notice of the decision.

6        (b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who  
 7 is adversely affected or aggrieved by the decision may appeal the decision to the board under this  
 8 section within 21 days after the expiration of the period for filing a local appeal of the decision es-  
 9 tablished by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

10        (c) A person who receives mailed notice of a decision made without a hearing under ORS 215.416  
 11 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days of re-  
 12 ceiving actual notice of the nature of the decision, if the mailed notice of the decision did not rea-  
 13 sonably describe the nature of the decision.

14        (d) Except as provided in paragraph (c) of this subsection, a person who receives mailed notice  
 15 of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may not appeal the  
 16 decision to the board under this section.

17        [(5)] **(7)** If a local government makes a limited land use decision which is different from the  
 18 proposal described in the notice to such a degree that the notice of the proposed action did not  
 19 reasonably describe the local government’s final actions, a person adversely affected by the decision  
 20 may appeal the decision to the board under this section:

21        (a) Within 21 days of actual notice where notice is required; or

22        (b) Within 21 days of the date a person knew or should have known of the decision where no  
 23 notice is required.

24        [(6)(a)] **(8)(a)** Except as provided in paragraph (b) of this subsection, the appeal periods de-  
 25 scribed in subsections [(3), (4) and] (5), **(6) and (7)** of this section shall not exceed three years after  
 26 the date of the decision.

27        (b) If notice of a hearing or an administrative decision made pursuant to ORS 197.195 or 197.763  
 28 is required but has not been provided, the provisions of paragraph (a) of this subsection do not ap-  
 29 ply.

30        [(7)(a)] **(9)(a)** Within 21 days after a notice of intent to appeal has been filed with the board  
 31 under subsection (1) of this section, any person described in paragraph (b) of this subsection may  
 32 intervene in and be made a party to the review proceeding by filing a motion to intervene and by  
 33 paying a filing fee of \$100.

34        (b) Persons who may intervene in and be made a party to the review proceedings, as set forth  
 35 in subsection (1) of this section, are:

36        (A) The applicant who initiated the action before the local government, special district or state  
 37 agency; or

38        (B) Persons who appeared before the local government, special district or state agency, orally  
 39 or in writing.

40        (c) Failure to comply with the deadline or to pay the filing fee set forth in paragraph (a) of this  
 41 subsection shall result in denial of a motion to intervene.

42        [(8)] **(10)** If a state agency whose order, rule, ruling, policy or other action is at issue is not a  
 43 party to the proceeding, it may file a brief with the board as if it were a party. The brief shall be  
 44 due on the same date the respondent’s brief is due and shall be accompanied by a filing fee of \$100.

45        [(9)] **(11)** A notice of intent to appeal a land use decision or limited land use decision shall be

1 filed not later than 21 days after the date the decision sought to be reviewed becomes final. A notice  
 2 of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to  
 3 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is  
 4 mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a  
 5 certificate of mailing with the notice mailed under ORS 197.615 shall not render the notice defective.  
 6 Copies of the notice of intent to appeal shall be served upon the local government, special district  
 7 or state agency and the applicant of record, if any, in the local government, special district or state  
 8 agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule  
 9 of the board and shall be accompanied by a filing fee of \$200 and a deposit for costs to be estab-  
 10 lished by the board. If a petition for review is not filed with the board as required in subsections  
 11 [(10) and (11)] **(12) and (13)** of this section, the filing fee and deposit shall be awarded to the local  
 12 government, special district or state agency as cost of preparation of the record.

13 [(10)(a)] **(12)(a)** Within 21 days after service of the notice of intent to appeal, the local govern-  
 14 ment, special district or state agency shall transmit to the board the original or a certified copy of  
 15 the entire record of the proceeding under review. By stipulation of all parties to the review pro-  
 16 ceeding the record may be shortened. The board may require or permit subsequent corrections to  
 17 the record.[:] However, the board shall issue an order on a motion objecting to the record within  
 18 60 days of receiving the motion.

19 (b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice  
 20 to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860.  
 21 Any person moving to intervene shall be provided such notice within seven days after a motion to  
 22 intervene is filed. The notice required by this paragraph shall be accompanied by a statement that  
 23 mediation information or assistance may be obtained from the Department of Land Conservation and  
 24 Development.

25 [(11)] **(13)** A petition for review of the land use decision or limited land use decision and sup-  
 26 porting brief shall be filed with the board as required by the board under subsection [(13)] **(15)** of  
 27 this section.

28 [(12)] **(14)** The petition shall include a copy of the decision sought to be reviewed and shall state:

- 29 (a) The facts that establish that the petitioner has standing.
- 30 (b) The date of the decision.
- 31 (c) The issues the petitioner seeks to have reviewed.

32 [(13)(a)] **(15)(a)** The board shall adopt rules establishing deadlines for filing petitions and briefs  
 33 and for oral argument.

34 (b) At any time subsequent to the filing of a notice of intent and prior to the date set for filing  
 35 the record, or, on appeal of a decision under ORS 197.610 to 197.625, prior to the filing of the  
 36 respondent's brief, the local government or state agency may withdraw its decision for purposes of  
 37 reconsideration. If a local government or state agency withdraws an order for purposes of recon-  
 38 sideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision.  
 39 If the petitioner is dissatisfied with the local government or agency action after withdrawal for  
 40 purposes of reconsideration, the petitioner may refile the notice of intent and the review shall pro-  
 41 ceed upon the revised order. An amended notice of intent shall not be required if the local govern-  
 42 ment or state agency, on reconsideration, affirms the order or modifies the order with only minor  
 43 changes.

44 [(14)] **(16)** The board shall issue a final order within 77 days after the date of transmittal of the  
 45 record. If the order is not issued within 77 days the applicant may apply in Marion County or the

1 circuit court of the county where the application was filed for a writ of mandamus to compel the  
 2 board to issue a final order.

3 [(15)(a)] (17)(a) Upon entry of its final order the board may, in its discretion, award costs to the  
 4 prevailing party including the cost of preparation of the record if the prevailing party is the local  
 5 government, special district or state agency whose decision is under review. The deposit required  
 6 by subsection [(9)] (11) of this section shall be applied to any costs charged against the petitioner.

7 (b) The board shall also award reasonable attorney fees and expenses to the prevailing party  
 8 against any other party who the board finds presented a position without probable cause to believe  
 9 the position was well-founded in law or on factually supported information.

10 [(16)] (18) Orders issued under this section may be enforced in appropriate judicial proceedings.

11 [(17)(a)] (19)(a) The board shall provide for the publication of its orders that are of general  
 12 public interest in the form it deems best adapted for public convenience. The publications shall  
 13 constitute the official reports of the board.

14 (b) Any moneys collected or received from sales by the board shall be paid into the Board  
 15 Publications Account established by ORS 197.832.

16 [(18)] (20) Except for any sums collected for publication of board opinions, all fees collected by  
 17 the board under this section that are not awarded as costs shall be paid over to the State Treasurer  
 18 to be credited to the General Fund.

19 **SECTION 2.** ORS 196.115 is amended to read:

20 196.115. (1) For purposes of judicial review, decisions of the Columbia River Gorge Commission  
 21 [shall be] **are** subject to review solely as provided in this section, except as otherwise provided by  
 22 the Columbia River Gorge National Scenic Area Act, P.L. 99-663.

23 (2)(a) A final action or order by the commission in a review or appeal of any action of the  
 24 commission pursuant to section 10(c) or 15(b)(4) of the Columbia River Gorge National Scenic Area  
 25 Act, or a final action or order by the commission in a review or appeal of any action of a county  
 26 pursuant to section 15(a)(2) or 15(b)(4) of the Columbia River Gorge National Scenic Area Act, shall  
 27 be reviewed by the Court of Appeals on a petition for judicial review filed and served as provided  
 28 in subsections (3) and (4) of this section and ORS 183.482.

29 (b) On a petition for judicial review under paragraph (a) of this subsection the Court of Appeals  
 30 also shall review the action of the county that is the subject of the commission's order, if requested  
 31 in the petition.

32 (c) The Court of Appeals shall issue a final order on review under this subsection within the  
 33 time limits provided by ORS 197.855.

34 (d) In lieu of judicial review under paragraphs (a) and (b) of this subsection, a county action  
 35 may be appealed to the Land Use Board of Appeals under ORS 197.805 to 197.855. A notice of intent  
 36 to appeal the county's action shall be filed not later than 21 days after the commission's order on  
 37 the county action becomes final.

38 (e) Notwithstanding ORS 197.835, the scope of review in an appeal pursuant to paragraph (d)  
 39 of this subsection shall not include any issue relating to interpretation or implementation of the  
 40 Columbia River Gorge National Scenic Area Act, P.L. 99-663, and any issue related to such inter-  
 41 pretation or implementation shall be waived by the filing of an appeal under paragraph (d) of this  
 42 subsection.

43 (f) After county land use ordinances are approved pursuant to sections 7(b) and 8(h) to (k) of the  
 44 Columbia River Gorge National Scenic Area Act, P.L. 99-663, the Land Use Board of Appeals shall  
 45 not review land use decisions within the general management area or special management area for

1 compliance with the statewide planning goals. The limitation of this paragraph shall not apply if the  
 2 Land Conservation and Development Commission decertifies the management plan pursuant to ORS  
 3 196.107.

4 (3)(a) If a petition for judicial review of a commission order is filed pursuant to subsection (2)(a)  
 5 of this section, the procedures to be followed by the parties, the commission and the court, and the  
 6 court's review, shall be in accordance with ORS 183.480, 183.482 (1) to (7), 183.485, 183.486, 183.490  
 7 and 183.497, except as this section or the Columbia River Gorge National Scenic Area Act, P.L.  
 8 99-663, otherwise provides.

9 (b) Notwithstanding any provision of ORS 183.482:

10 (A) The commission shall transmit the original record or the certified copy of the entire record  
 11 within 21 days after service of a petition for judicial review is served on the commission; and

12 (B) The parties shall file briefs with the court within the times allowed by rules of the court.

13 (c) The court may affirm, reverse or remand the order. If the court finds that the agency has  
 14 erroneously interpreted a provision of law and that a correct interpretation compels a particular  
 15 action, the court shall:

16 (A) Set aside or modify the order; or

17 (B) Remand the case to the agency for further action under a correct interpretation of the pro-  
 18 vision of law.

19 (d) The court shall remand the order to the agency if the court finds the agency's exercise of  
 20 discretion to be:

21 (A) Outside the range of discretion delegated to the agency by law;

22 (B) Inconsistent with an agency rule, an officially stated agency position or a prior agency  
 23 practice, unless the inconsistency is explained by the agency; or

24 (C) Otherwise in violation of a constitutional or statutory provision.

25 (e) The court shall set aside or remand the order if the court finds that the order is not sup-  
 26 ported by substantial evidence in the whole record.

27 (f) Notwithstanding any other provision of this section, in any case where review of a county  
 28 action as well as a commission order is sought pursuant to subsection (2)(a) and (b) of this section,  
 29 the court shall accept any findings of fact by the commission which the court finds to be supported  
 30 by substantial evidence in the whole record, and such findings by the commission shall prevail over  
 31 any findings by the county concerning the same or substantially the same facts.

32 (4)(a) Except as otherwise provided by this section or the Columbia River Gorge National Scenic  
 33 Area Act, P.L. 99-663, if review of a county action is sought pursuant to subsection (2)(b) of this  
 34 section, the procedures to be followed by the parties, the county and the court, and the court's re-  
 35 view, shall be in accordance with those provisions governing review of county land use decisions  
 36 by the Land Use Board of Appeals set forth in ORS 197.830 (2) to [(8), (10), (15) and (16)] **(10), (12),**  
 37 **(17) and (18)** and 197.835 (2) to (10), (12) and (13). As used in this section, "board" as used in the  
 38 enumerated provisions shall mean "court" and the term "notice of intent to appeal" in ORS 197.830  
 39 [(10)] **(12)** shall refer to the petition described in subsection (2) of this section.

40 (b) In addition to the other requirements of service under this section, the petitioner shall serve  
 41 the petition upon the persons and bodies described in ORS 197.830 [(9)] **(11)**, as a prerequisite to  
 42 judicial review of the county action.

43 (c) In accordance with subsection (3)(b)(B) of this section, a party to a review of both a com-  
 44 mission order and a county action shall file only one brief with the court, which shall address both  
 45 the commission order and the county action.

1 (d) Review of a decision under ORS 197.830 to 197.845 shall be confined to the record. Subject  
 2 to subsection (3)(f) of this section, the court shall be bound by any finding of fact of the county for  
 3 which there is substantial evidence in the whole record. The court may appoint a master and follow  
 4 the procedures of ORS 183.482 (7) in connection with matters that the board may take evidence for  
 5 under ORS 197.835 (2).

6 (5) Approval of county land use ordinances by the commission pursuant to section 7 of the  
 7 Columbia River Gorge National Scenic Area Act, P.L. 99-663, may be reviewed by the Court of Ap-  
 8 peals as provided in ORS 183.482.

9 (6) Notwithstanding ORS 183.484, any proceeding filed in circuit court by or against the com-  
 10 mission shall be filed with the circuit court for the county in which the commission has a principal  
 11 business office or in which the land involved in the proceeding is located.

12 **SECTION 3.** ORS 197.625 is amended to read:

13 197.625. (1) If a notice of intent to appeal is not filed within the 21-day period set out in ORS  
 14 197.830 [(9)] (11), the amendment to the acknowledged comprehensive plan or land use regulation  
 15 or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day  
 16 period. An amendment to an acknowledged comprehensive plan or land use regulation is not con-  
 17 sidered acknowledged unless the notices required under ORS 197.610 and 197.615 have been sub-  
 18 mitted to the Director of the Department of Land Conservation and Development and:

19 (a) The 21-day appeal period has expired; or

20 (b) If an appeal is timely filed, the **Land Use Board of Appeals** affirms the decision or the ap-  
 21 pellate courts affirm the decision.

22 (2) If the decision adopting an amendment to an acknowledged comprehensive plan or land use  
 23 regulation or a new land use regulation is affirmed on appeal under ORS 197.830 to 197.855, the  
 24 amendment or new regulation shall be considered acknowledged upon the date the appellate decision  
 25 becomes final.

26 (3)(a) Prior to its acknowledgment, the adoption of a new comprehensive plan provision or land  
 27 use regulation or an amendment to a comprehensive plan or land use regulation is effective at the  
 28 time specified by local government charter or ordinance and is applicable to land use decisions,  
 29 expedited land divisions and limited land use decisions if the amendment was adopted in substantial  
 30 compliance with ORS 197.610 and 197.615 unless a stay is granted under ORS 197.845.

31 (b) Any approval of a land use decision, expedited land division or limited land use decision  
 32 subject to an unacknowledged amendment to a comprehensive plan or land use regulation shall in-  
 33 clude findings of compliance with [those] **the statewide** land use goals applicable to the amendment.

34 (c) The issuance of a permit under an effective but unacknowledged comprehensive plan or land  
 35 use regulation shall not be relied upon to justify retention of improvements so permitted if the  
 36 comprehensive plan provision or land use regulation does not gain acknowledgment.

37 [(d) The provisions of this subsection apply to applications for land use decisions, expedited land  
 38 divisions and limited land use decisions submitted after February 17, 1993, and to comprehensive plan  
 39 and land use regulation amendments adopted:]

40 [(A) After June 1, 1991, pursuant to periodic review requirements under ORS 197.628, 197.633 and  
 41 197.636;]

42 [(B) After June 1, 1991, to meet the requirements of ORS 197.646; and]

43 [(C) After November 4, 1993.]

44 (4) The director shall issue certification of the acknowledgment upon receipt of an affidavit from  
 45 the board stating either:

1 (a) That no appeal was filed within the 21 days allowed under ORS 197.830 [(9)] (11); or

2 (b) The date the appellate decision affirming the adoption of the amendment or new regulation  
3 became final.

4 (5) The board shall issue an affidavit for the purposes of subsection (4) of this section within five  
5 days of receiving a valid request from the local government.

6 (6) After issuance of the notice provided in ORS 197.633, nothing in this section shall prevent  
7 the Land Conservation and Development Commission from entering an order pursuant to ORS  
8 197.633, 197.636 or 197.644 to require a local government to respond to the standards of ORS 197.628.

9 **SECTION 4.** ORS 197.796 is amended to read:

10 197.796. (1) An applicant for a land use decision, limited land use decision or expedited land di-  
11 vision or for a permit under ORS 215.427 or 227.178 may accept a condition of approval imposed  
12 under ORS 215.416 or 227.175 and file a challenge to the condition under this section. Acceptance  
13 by an applicant for a land use decision, limited land use decision, expedited land division or permit  
14 under ORS 215.427 or 227.178 of a condition of approval imposed under ORS 215.416 or 227.175 does  
15 not constitute a waiver of the right to challenge the condition of approval. Acceptance of a condi-  
16 tion may include but is not limited to paying a fee, performing an act or providing satisfactory evi-  
17 dence of arrangements to pay the fee or to ensure compliance with the condition.

18 (2) Any action for damages under this section shall be filed in the circuit court of the county  
19 in which the application was submitted within 180 days of the date of the decision.

20 (3)(a) A challenge filed pursuant to this section may not be dismissed on the basis that the ap-  
21 plicant did not request a variance to the condition of approval or any other available form of re-  
22 consideration of the challenged condition. However, an applicant shall comply with ORS 197.763 (1)  
23 prior to appealing to the Land Use Board of Appeals or bringing an action for damages in circuit  
24 court and must exhaust all local appeals provided in the local comprehensive plan and land use  
25 regulations before proceeding under this section.

26 (b) In addition to the requirements of ORS 197.763 (5), at the commencement of the initial public  
27 hearing, a statement shall be made to the applicant that the failure of the applicant to raise con-  
28 stitutional or other issues relating to proposed conditions of approval with sufficient specificity to  
29 allow the local government or its designee to respond to the issue precludes an action for damages  
30 in circuit court.

31 (c) An applicant is not required to raise an issue under this subsection unless the condition of  
32 approval is stated with sufficient specificity to enable the applicant to respond to the condition prior  
33 to the close of the final local hearing.

34 (4) In any challenge to a condition of approval that is subject to the Takings Clause of the Fifth  
35 Amendment to the United States Constitution, the local government shall have the burden of dem-  
36 onstrating compliance with the constitutional requirements for imposing the condition.

37 (5) In a proceeding in circuit court under this section, the court shall award costs and reason-  
38 able attorney fees to a prevailing party. Notwithstanding ORS 197.830 [(15)] (17), in a proceeding  
39 before the Land Use Board of Appeals under this section, the board shall award costs and reason-  
40 able attorney fees to a prevailing party.

41 (6) This section applies to appeals by the applicant of a condition of approval and claims filed  
42 in state court seeking damages for the unlawful imposition of conditions of approval in a land use  
43 decision, limited land use decision, expedited land division or permit under ORS 215.427 or 227.178.

44 **SECTION 5.** ORS 197.832 is amended to read:

45 197.832. The Board Publications Account is established in the General Fund. All moneys in the



1 account are appropriated continuously to the Land Use Board of Appeals to be used for paying ex-  
 2 penses incurred by the board under ORS 197.830 [(17)] (19). Disbursements of moneys from the ac-  
 3 count shall be approved by a member of the board.

4 **SECTION 6.** ORS 197.835 is amended to read:

5 197.835. (1) The Land Use Board of Appeals shall review the land use decision or limited land  
 6 use decision and prepare a final order affirming, reversing or remanding the land use decision or  
 7 limited land use decision. The board shall adopt rules defining the circumstances in which it will  
 8 reverse rather than remand a land use decision or limited land use decision that is not affirmed.

9 (2)(a) Review of a decision under ORS 197.830 to 197.845 shall be confined to the record.

10 (b) In the case of disputed allegations of standing, unconstitutionality of the decision, ex parte  
 11 contacts, actions described in subsection (10)(a)(B) of this section or other procedural irregularities  
 12 not shown in the record that, if proved, would warrant reversal or remand, the board may take ev-  
 13 idence and make findings of fact on those allegations. The board shall be bound by any finding of  
 14 fact of the local government, special district or state agency for which there is substantial evidence  
 15 in the whole record.

16 (3) Issues shall be limited to those raised by any participant before the local hearings body as  
 17 provided by ORS 197.195 or 197.763, whichever is applicable.

18 (4) A petitioner may raise new issues to the board if:

19 (a) The local government failed to list the applicable criteria for a decision under ORS 197.195  
 20 (3)(c) or 197.763 (3)(b), in which case a petitioner may raise new issues based upon applica-  
 21 ble criteria that were omitted from the notice. However, the board may refuse to allow new issues to be  
 22 raised if it finds that the issue could have been raised before the local government; or

23 (b) The local government made a land use decision or limited land use decision which is different  
 24 from the proposal described in the notice to such a degree that the notice of the proposed action  
 25 did not reasonably describe the local government's final action.

26 (5) The board shall reverse or remand a land use decision not subject to an acknowledged  
 27 comprehensive plan and land use regulations if the decision does not comply with the goals. The  
 28 board shall reverse or remand a land use decision or limited land use decision subject to an ac-  
 29 knowledged comprehensive plan or land use regulation if the decision does not comply with the  
 30 goals and the Land Conservation and Development Commission has issued an order under ORS  
 31 197.320 or adopted a new or amended goal under ORS 197.245 requiring the local government to  
 32 apply the goals to the type of decision being challenged.

33 (6) The board shall reverse or remand an amendment to a comprehensive plan if the amendment  
 34 is not in compliance with the goals.

35 (7) The board shall reverse or remand an amendment to a land use regulation or the adoption  
 36 of a new land use regulation if:

37 (a) The regulation is not in compliance with the comprehensive plan; or

38 (b) The comprehensive plan does not contain specific policies or other provisions which provide  
 39 the basis for the regulation, and the regulation is not in compliance with the statewide planning  
 40 goals.

41 (8) The board shall reverse or remand a decision involving the application of a plan or land use  
 42 regulation provision if the decision is not in compliance with applicable provisions of the compre-  
 43 hensive plan or land use regulations.

44 (9) In addition to the review under subsections (1) to (8) of this section, the board shall reverse  
 45 or remand the land use decision under review if the board finds:

1 (a) The local government or special district:

2 (A) Exceeded its jurisdiction;

3 (B) Failed to follow the procedures applicable to the matter before it in a manner that preju-  
4 diced the substantial rights of the petitioner;

5 (C) Made a decision not supported by substantial evidence in the whole record;

6 (D) Improperly construed the applicable law; or

7 (E) Made an unconstitutional decision; or

8 (b) The state agency made a decision that violated the goals.

9 (10)(a) The board shall reverse a local government decision and order the local government to  
10 grant approval of an application for development denied by the local government if the board finds:

11 (A) Based on the evidence in the record, that the local government decision is outside the range  
12 of discretion allowed the local government under its comprehensive plan and implementing ordi-  
13 nances; or

14 (B) That the local government's action was for the purpose of avoiding the requirements of ORS  
15 215.427 or 227.178.

16 (b) If the board does reverse the decision and orders the local government to grant approval of  
17 the application, the board shall award attorney fees to the applicant and against the local govern-  
18 ment.

19 (11)(a) Whenever the findings, order and record are sufficient to allow review, and to the extent  
20 possible consistent with the time requirements of ORS 197.830 [(14)] (16), the board shall decide all  
21 issues presented to it when reversing or remanding a land use decision described in subsections (2)  
22 to (9) of this section or limited land use decision described in ORS 197.828 and 197.195.

23 (b) Whenever the findings are defective because of failure to recite adequate facts or legal  
24 conclusions or failure to adequately identify the standards or their relation to the facts, but the  
25 parties identify relevant evidence in the record which clearly supports the decision or a part of the  
26 decision, the board shall affirm the decision or the part of the decision supported by the record and  
27 remand the remainder to the local government, with direction indicating appropriate remedial  
28 action.

29 (12) The board may reverse or remand a land use decision under review due to ex parte contacts  
30 or bias resulting from ex parte contacts with a member of the decision-making body, only if the  
31 member of the decision-making body did not comply with ORS 215.422 (3) or 227.180 (3), whichever  
32 is applicable.

33 (13) Subsection (12) of this section does not apply to reverse or remand of a land use decision  
34 due to ex parte contact or bias resulting from ex parte contact with a hearings officer.

35 (14) The board shall reverse or remand a land use decision or limited land use decision [*which*]  
36 **that** violates a commission order issued under ORS 197.328.

37 (15) In cases in which a local government provides a quasi-judicial land use hearing on a limited  
38 land use decision, the requirements of subsections (12) and (13) of this section apply.

39 (16) The board may decide cases before it by means of memorandum decisions and shall prepare  
40 full opinions only in such cases as it deems proper.

41 **SECTION 7.** ORS 197.840 is amended to read:

42 197.840. (1) The following periods of delay shall be excluded from the 77-day period within which  
43 the board must make a final decision on a petition under ORS 197.830 [(14)] (16):

44 (a) Any period of delay up to 120 days resulting from the board's deferring all or part of its  
45 consideration of a petition for review of a land use decision or limited land use decision that

1 allegedly violates the goals if the decision has been:

2 (A) Submitted for acknowledgment under ORS 197.251; or

3 (B) Submitted to the Department of Land Conservation and Development as part of a periodic  
4 review work program task pursuant to ORS 197.628 to 197.650 and not yet acknowledged.

5 (b) Any period of delay resulting from a motion, including but not limited to, a motion disputing  
6 the constitutionality of the decision, standing, ex parte contacts or other procedural irregularities  
7 not shown in the record.

8 (c) Any reasonable period of delay resulting from a request for a stay under ORS 197.845.

9 (d) Any reasonable period of delay resulting from a continuance granted by a member of the  
10 board on the member's own motion or at the request of one of the parties, if the member granted  
11 the continuance on the basis of findings that the ends of justice served by granting the continuance  
12 outweigh the best interest of the public and the parties in having a decision within 77 days.

13 (2) [No] A period of delay resulting from a continuance granted by the board under subsection  
14 (1)(d) of this section [*shall be*] **is not** excludable under this section unless the board sets forth in the  
15 record, either orally or in writing, its reasons for finding that the ends of justice served by granting  
16 the continuance outweigh the best interests of the public and the other parties in a decision within  
17 the 77 days. The factors the board shall consider in determining whether to grant a continuance  
18 under subsection (1)(d) of this section in any case are as follows:

19 (a) Whether the failure to grant a continuance in the proceeding would be likely to make a  
20 continuation of the proceeding impossible or result in a miscarriage of justice; or

21 (b) Whether the case is so unusual or so complex, due to the number of parties or the existence  
22 of novel questions of fact or law, that it is unreasonable to expect adequate consideration of the  
23 issues within the 77-day time limit.

24 (3) [No] A continuance under subsection (1)(d) of this section [*shall*] **may not** be granted because  
25 of general congestion of the board calendar or lack of diligent preparation or attention to the case  
26 by any member of the board or any party.

27 (4) The board may defer all or part of its consideration of a land use decision or limited land  
28 use decision described in subsection (1)(a) of this section until the Land Conservation and Develop-  
29 ment Commission has disposed of the acknowledgment proceeding described in subsection (1)(a) of  
30 this section. If the board deferred all or part of its consideration of a decision under this subsection,  
31 the board may grant a stay of the comprehensive plan provision, land use regulation, limited land  
32 use decision or land use decision under ORS 197.845.

33 **SECTION 8.** ORS 197.845 is amended to read:

34 197.845. (1) Upon application of the petitioner, the **Land Use Board of Appeals** may grant a stay  
35 of a land use decision or limited land use decision under review if the petitioner demonstrates:

36 (a) A colorable claim of error in the land use decision or limited land use decision under review;  
37 and

38 (b) That the petitioner will suffer irreparable injury if the stay is not granted.

39 (2) If the board grants a stay of a quasi-judicial land use decision or limited land use decision  
40 approving a specific development of land, it shall require the petitioner requesting the stay to give  
41 an undertaking in the amount of \$5,000. The undertaking shall be in addition to the filing fee and  
42 deposit for costs required under ORS 197.830 [(9)] (11). The board may impose other reasonable  
43 conditions such as requiring the petitioner to file all documents necessary to bring the matter to  
44 issue within specified reasonable periods of time.

45 (3) If the board affirms a quasi-judicial land use decision or limited land use decision for which

1 a stay was granted under subsections (1) and (2) of this section, the board shall award reasonable  
 2 attorney fees and actual damages resulting from the stay to the person who requested the land use  
 3 decision or limited land use decision from the local government, special district or state agency,  
 4 against the person requesting the stay in an amount not to exceed the amount of the undertaking.

5 (4) The board shall limit the effect of a stay of a legislative land use decision to the geographic  
 6 area or to particular provisions of the legislative decision for which the petitioner has demonstrated  
 7 a colorable claim of error and irreparable injury under subsection (1) of this section. The board may  
 8 impose reasonable conditions on a stay of a legislative decision, such as the giving of a bond or  
 9 other undertaking or a requirement that the petitioner file all documents necessary to bring the  
 10 matter to issue within a specified reasonable time period.

11 **SECTION 9.** ORS 197.850 is amended to read:

12 197.850. (1) Any party to a proceeding before the Land Use Board of Appeals under ORS 197.830  
 13 to 197.845 may seek judicial review of a final order issued in those proceedings.

14 (2) Notwithstanding the provisions of ORS 183.480 to 183.540, judicial review of orders issued  
 15 under ORS 197.830 to 197.845 is solely as provided in this section.

16 (3)(a) Jurisdiction for judicial review of proceedings under ORS 197.830 to 197.845 is conferred  
 17 upon the Court of Appeals. Proceedings for judicial review are instituted by filing a petition in the  
 18 Court of Appeals. The petition must be filed within 21 days following the date the board delivered  
 19 or mailed the order upon which the petition is based.

20 (b) Filing of the petition, as set forth in paragraph (a) of this subsection, and service of a peti-  
 21 tion on all persons identified in the petition as adverse parties of record in the board proceeding is  
 22 jurisdictional and may not be waived or extended.

23 (4) The petition must state the nature of the order the petitioner desires reviewed. Copies of the  
 24 petition must be served by first class, registered or certified mail on the board and all other parties  
 25 of record in the board proceeding.

26 (5) Within seven days after service of the petition, the board shall transmit to the court the  
 27 original or a certified copy of the entire record of the proceeding under review, but, by stipulation  
 28 of all parties to the review proceeding, the record may be shortened. The court may tax a party that  
 29 unreasonably refuses to stipulate to limit the record for the additional costs. The court may require  
 30 or permit subsequent corrections or additions to the record when deemed desirable. Except as spe-  
 31 cifically provided in this subsection, the court may not tax the cost of the record to the petitioner  
 32 or any intervening party. However, the court may tax such costs and the cost of transcription of  
 33 record to a party filing a frivolous petition for judicial review.

34 (6) Petitions and briefs must be filed within time periods and in a manner established by the  
 35 Court of Appeals by rule.

36 (7)(a) The court shall hear oral argument within 49 days of the date of transmittal of the record.

37 (b) The court may hear oral argument more than 49 days from the date of transmittal of the  
 38 record provided the court determines that the ends of justice served by holding oral argument on  
 39 a later day outweigh the best interests of the public and the parties. The court shall not hold oral  
 40 argument more than 49 days from the date of transmittal of the record because of general congestion  
 41 of the court calendar or lack of diligent preparation or attention to the case by any member of the  
 42 court or any party.

43 (c) The court shall set forth in writing a determination to hear oral argument more than 49 days  
 44 from the date the record is transmitted, together with the reasons for its determination, and shall  
 45 provide a copy to the parties. The court shall schedule oral argument as soon as practicable there-

1 after.

2 (d) In making a determination under paragraph (b) of this subsection, the court shall consider:

3 (A) Whether the case is so unusual or complex, due to the number of parties or the existence  
4 of novel questions of law, that 49 days is an unreasonable amount of time for the parties to brief  
5 the case and for the court to prepare for oral argument; and

6 (B) Whether the failure to hold oral argument at a later date likely would result in a miscarriage of justice.

8 (8) Judicial review of an order issued under ORS 197.830 to 197.845 shall be confined to the record. The court shall not substitute its judgment for that of the board as to any issue of fact.

10 (9) The court may affirm, reverse or remand the order. The court shall reverse or remand the order only if it finds:

12 (a) The order to be unlawful in substance or procedure, but error in procedure is not cause for reversal or remand unless the court finds that substantial rights of the petitioner were prejudiced  
13 thereby;

15 (b) The order to be unconstitutional; or

16 (c) The order is not supported by substantial evidence in the whole record as to facts found by  
17 the board under ORS 197.835 (2).

18 (10) The Court of Appeals shall issue a final order on the petition for judicial review with the  
19 greatest possible expediency.

20 (11) If the order of the board is remanded by the Court of Appeals or the Supreme Court, the  
21 board shall respond to the court's appellate judgment within 30 days.

22 (12) A party must file with the board an undertaking with one or more sureties insuring that  
23 the party will pay all costs, disbursements and attorney fees awarded against the party by the Court  
24 of Appeals if:

25 (a) The party appealed a decision of the board to the Court of Appeals; and

26 (b) In making the decision being appealed to the Court of Appeals, the board awarded attorney  
27 fees and expenses against that party under ORS 197.830 [(15)(b)] **(17)(b)**.

28 (13) Upon entry of its final order, the court shall award attorney fees and expenses to a party  
29 who prevails on a claim that an approval condition imposed by a local government on an application  
30 for a permit pursuant to ORS 215.416 or 227.175 is unconstitutional under section 18, Article I,  
31 Oregon Constitution, or the Fifth Amendment to the United States Constitution.

32 (14) The undertaking required in subsection (12) of this section must be filed with the board and  
33 served on the opposing parties within 10 days after the date the petition was filed with the Court  
34 of Appeals.

35 **SECTION 10.** ORS 215.416 is amended to read:

36 215.416. (1) When required or authorized by the ordinances, rules and regulations of a county,  
37 an owner of land may apply in writing to such persons as the governing body designates, for a  
38 permit, in the manner prescribed by the governing body. The governing body shall establish fees  
39 charged for processing permits at an amount no more than the actual or average cost of providing  
40 that service.

41 (2) The governing body shall establish a consolidated procedure by which an applicant may ap-  
42 ply at one time for all permits or zone changes needed for a development project. The consolidated  
43 procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated proce-  
44 dure shall be available for use at the option of the applicant no later than the time of the first pe-  
45 riodic review of the comprehensive plan and land use regulations.

1 (3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least  
 2 one public hearing on the application.

3 (4) The application shall not be approved if the proposed use of land is found to be in conflict  
 4 with the comprehensive plan of the county and other applicable land use regulation or ordinance  
 5 provisions. The approval may include such conditions as are authorized by statute or county legis-  
 6 lation.

7 (5) Hearings under this section shall be held only after notice to the applicant and also notice  
 8 to other persons as otherwise provided by law and shall otherwise be conducted in conformance  
 9 with the provisions of ORS 197.763.

10 (6) Notice of a public hearing on an application submitted under this section shall be provided  
 11 to the owner of an airport defined by the Oregon Department of Aviation as a “public use airport”  
 12 if:

13 (a) The name and address of the airport owner has been provided by the Oregon Department  
 14 of Aviation to the county planning authority; and

15 (b) The property subject to the land use hearing is:

16 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon  
 17 Department of Aviation to be a “visual airport”; or

18 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon  
 19 Department of Aviation to be an “instrument airport.”

20 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing  
 21 need not be provided as set forth in subsection (6) of this section if the zoning permit would only  
 22 allow a structure less than 35 feet in height and the property is located outside the runway “ap-  
 23 proach surface” as defined by the Oregon Department of Aviation.

24 (8)(a) Approval or denial of a permit application shall be based on standards and criteria which  
 25 shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county  
 26 and which shall relate approval or denial of a permit application to the zoning ordinance and com-  
 27 prehensive plan for the area in which the proposed use of land would occur and to the zoning or-  
 28 dinance and comprehensive plan for the county as a whole.

29 (b) When an ordinance establishing approval standards is required under ORS 197.307 to provide  
 30 only clear and objective standards, the standards must be clear and objective on the face of the  
 31 ordinance.

32 (9) Approval or denial of a permit or expedited land division shall be based upon and accompa-  
 33 nied by a brief statement that explains the criteria and standards considered relevant to the deci-  
 34 sion, states the facts relied upon in rendering the decision and explains the justification for the  
 35 decision based on the criteria, standards and facts set forth.

36 (10) Written notice of the approval or denial shall be given to all parties to the proceeding.

37 (11)(a)(A) The hearings officer or such other person as the governing body designates may ap-  
 38 prove or deny an application for a permit without a hearing if the hearings officer or other desig-  
 39 nated person gives notice of the decision and provides an opportunity for any person who is  
 40 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,  
 41 to file an appeal.

42 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)  
 43 of this subsection.

44 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall  
 45 describe the nature of the decision. In addition, the notice shall state that any person who is ad-

1 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-  
 2 section may appeal the decision by filing a written appeal in the manner and within the time period  
 3 provided in the county's land use regulations. A county may not establish an appeal period that is  
 4 less than 12 days from the date the written notice of decision required by this subsection was  
 5 mailed. The notice shall state that the decision will not become final until the period for filing a  
 6 local appeal has expired. The notice also shall state that a person who is mailed written notice of  
 7 the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS  
 8 197.830.

9 (D) An appeal from a hearings officer's decision made without hearing under this subsection  
 10 shall be to the planning commission or governing body of the county. An appeal from such other  
 11 person as the governing body designates shall be to a hearings officer, the planning commission or  
 12 the governing body. In either case, the appeal shall be to a de novo hearing.

13 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial  
 14 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board  
 15 of Appeals. At the de novo hearing:

16 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-  
 17 ments and evidence as they would have had in a hearing under subsection (3) of this section before  
 18 the decision;

19 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised  
 20 in a notice of appeal; and

21 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are  
 22 accepted at the hearing.

23 (b) If a local government provides only a notice of the opportunity to request a hearing, the  
 24 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing  
 25 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,  
 26 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the  
 27 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made  
 28 by neighborhood or community organizations recognized by the governing body and whose bounda-  
 29 ries include the site.

30 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-  
 31 plicant and to the owners of record of property on the most recent property tax assessment roll  
 32 where such property is located:

33 (i) Within 100 feet of the property that is the subject of the notice when the subject property  
 34 is wholly or in part within an urban growth boundary;

35 (ii) Within 250 feet of the property that is the subject of the notice when the subject property  
 36 is outside an urban growth boundary and not within a farm or forest zone; or

37 (iii) Within 750 feet of the property that is the subject of the notice when the subject property  
 38 is within a farm or forest zone.

39 (B) Notice shall also be provided to any neighborhood or community organization recognized by  
 40 the governing body and whose boundaries include the site.

41 (C) At the discretion of the applicant, the local government also shall provide notice to the  
 42 Department of Land Conservation and Development.

43 (12) A decision described in ORS 215.402 (4)(b) shall:

44 (a) Be entered in a registry available to the public setting forth:

45 (A) The street address or other easily understood geographic reference to the subject property;

1 (B) The date of the decision; and

2 (C) A description of the decision made.

3 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a  
4 limited land use decision.

5 (c) Be subject to the appeal period described in ORS 197.830 [(5)(b)] **(7)(b)**.

6 (13) At the option of the applicant, the local government shall provide notice of the decision  
7 described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal  
8 to the board shall be filed within 21 days of the decision. The notice shall include an explanation  
9 of appeal rights.

10 (14) Notwithstanding the requirements of this section, a limited land use decision shall be sub-  
11 ject to the requirements set forth in ORS 197.195 and 197.828.

12 **SECTION 11.** ORS 227.175 is amended to read:

13 227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the  
14 hearings officer, or such other person as the city council designates, for a permit or zone change,  
15 upon such forms and in such a manner as the city council prescribes. The governing body shall es-  
16 tablish fees charged for processing permits at an amount no more than the actual or average cost  
17 of providing that service.

18 (2) The governing body of the city shall establish a consolidated procedure by which an appli-  
19 cant may apply at one time for all permits or zone changes needed for a development project. The  
20 consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consol-  
21 idated procedure shall be available for use at the option of the applicant no later than the time of  
22 the first periodic review of the comprehensive plan and land use regulations.

23 (3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least  
24 one public hearing on the application.

25 (4) The application shall not be approved unless the proposed development of land would be in  
26 compliance with the comprehensive plan for the city and other applicable land use regulation or  
27 ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215  
28 or any city legislation.

29 (5) Hearings under this section may be held only after notice to the applicant and other inter-  
30 ested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

31 (6) Notice of a public hearing on a zone use application shall be provided to the owner of an  
32 airport, defined by the Oregon Department of Aviation as a “public use airport” if:

33 (a) The name and address of the airport owner has been provided by the Oregon Department  
34 of Aviation to the city planning authority; and

35 (b) The property subject to the zone use hearing is:

36 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon  
37 Department of Aviation to be a “visual airport”; or

38 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon  
39 Department of Aviation to be an “instrument airport.”

40 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing  
41 need only be provided as set forth in subsection (6) of this section if the permit or zone change  
42 would only allow a structure less than 35 feet in height and the property is located outside of the  
43 runway “approach surface” as defined by the Oregon Department of Aviation.

44 (8) If an application would change the zone of property that includes all or part of a mobile  
45 home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give



1 written notice by first class mail to each existing mailing address for tenants of the mobile home  
 2 or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first  
 3 hearing on the application. The governing body may require an applicant for such a zone change to  
 4 pay the costs of such notice.

5 (9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not  
 6 invalidate any zone change.

7 (10)(a)(A) The hearings officer or such other person as the governing body designates may ap-  
 8 prove or deny an application for a permit without a hearing if the hearings officer or other desig-  
 9 nated person gives notice of the decision and provides an opportunity for any person who is  
 10 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,  
 11 to file an appeal.

12 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)  
 13 of this subsection.

14 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall  
 15 describe the nature of the decision. In addition, the notice shall state that any person who is ad-  
 16 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-  
 17 section may appeal the decision by filing a written appeal in the manner and within the time period  
 18 provided in the city's land use regulations. A city may not establish an appeal period that is less  
 19 than 12 days from the date the written notice of decision required by this subsection was mailed.  
 20 The notice shall state that the decision will not become final until the period for filing a local appeal  
 21 has expired. The notice also shall state that a person who is mailed written notice of the decision  
 22 cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

23 (D) An appeal from a hearings officer's decision made without hearing under this subsection  
 24 shall be to the planning commission or governing body of the city. An appeal from such other person  
 25 as the governing body designates shall be to a hearings officer, the planning commission or the  
 26 governing body. In either case, the appeal shall be to a de novo hearing.

27 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial  
 28 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board  
 29 of Appeals. At the de novo hearing:

30 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-  
 31 ments and evidence as they would have had in a hearing under subsection (3) of this section before  
 32 the decision;

33 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised  
 34 in a notice of appeal; and

35 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are  
 36 accepted at the hearing.

37 (b) If a local government provides only a notice of the opportunity to request a hearing, the  
 38 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing  
 39 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,  
 40 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the  
 41 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made  
 42 by neighborhood or community organizations recognized by the governing body and whose bounda-  
 43 ries include the site.

44 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-  
 45 plicant and to the owners of record of property on the most recent property tax assessment roll

1 where such property is located:

2 (i) Within 100 feet of the property that is the subject of the notice when the subject property  
3 is wholly or in part within an urban growth boundary;

4 (ii) Within 250 feet of the property that is the subject of the notice when the subject property  
5 is outside an urban growth boundary and not within a farm or forest zone; or

6 (iii) Within 750 feet of the property that is the subject of the notice when the subject property  
7 is within a farm or forest zone.

8 (B) Notice shall also be provided to any neighborhood or community organization recognized by  
9 the governing body and whose boundaries include the site.

10 (C) At the discretion of the applicant, the local government also shall provide notice to the  
11 Department of Land Conservation and Development.

12 (11) A decision described in ORS 227.160 (2)(b) shall:

13 (a) Be entered in a registry available to the public setting forth:

14 (A) The street address or other easily understood geographic reference to the subject property;

15 (B) The date of the decision; and

16 (C) A description of the decision made.

17 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a  
18 limited land use decision.

19 (c) Be subject to the appeal period described in ORS 197.830 [(5)(b)] (7)(b).

20 (12) At the option of the applicant, the local government shall provide notice of the decision  
21 described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal  
22 to the board shall be filed within 21 days of the decision. The notice shall include an explanation  
23 of appeal rights.

24 (13) Notwithstanding other requirements of this section, limited land use decisions shall be  
25 subject to the requirements set forth in ORS 197.195 and 197.828.

26 **SECTION 12. The amendments to ORS 196.115, 197.625, 197.796, 197.830, 197.832, 197.835,**  
27 **197.840, 197.845, 197.850, 215.416 and 227.175 by sections 1 to 11 of this 2011 Act apply to no-**  
28 **tices of intent to appeal filed with the Land Use Board of Appeals under ORS 197.830 (1) on**  
29 **or after the effective date of this 2011 Act.**

30

# Senate Bill 542

Sponsored by Senator JOHNSON (at the request of Tillamook County) (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

For purposes of local transient lodging taxes, expands definition of "tourism-related facility" to include road that serves tourist destination.

## A BILL FOR AN ACT

1 Relating to local transient lodging taxes; creating new provisions; and amending ORS 320.300.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1.** ORS 320.300 is amended to read:

4 320.300. As used in ORS 320.300 to 320.350:

5 (1) "Collection reimbursement charge" means the amount a transient lodging provider may re-  
6 tain as reimbursement for the costs incurred by the provider in collecting and reporting a transient  
7 lodging tax and in maintaining transient lodging tax records.

8 (2) "Conference center" means a facility that:

9 (a) Is owned or partially owned by a unit of local government, a governmental agency or a  
10 nonprofit organization; and

11 (b) Meets the current membership criteria of the International Association of Conference Cen-  
12 ters.

13 (3) "Convention center" means a new or improved facility that:

14 (a) Is capable of attracting and accommodating conventions and trade shows from international,  
15 national and regional markets requiring exhibition space, ballroom space, meeting rooms and any  
16 other associated space, including but not limited to banquet facilities, loading areas and lobby and  
17 registration areas;

18 (b) Has a total meeting room and ballroom space between one-third and one-half of the total size  
19 of the center's exhibition space;

20 (c) Generates a majority of its business income from tourists;

21 (d) Has a room-block relationship with the local lodging industry; and

22 (e) Is owned by a unit of local government, a governmental agency or a nonprofit organization.

23 (4) "Local transient lodging tax" means a tax imposed by a unit of local government on the sale,  
24 service or furnishing of transient lodging.

25 (5) "State transient lodging tax" means the tax imposed under ORS 320.305.

26 (6) "Tourism" means economic activity resulting from tourists.

27 (7) "Tourism promotion" means any of the following activities:

28 (a) Advertising, publicizing or distributing information for the purpose of attracting and wel-  
29 coming tourists;

30 (b) Conducting strategic planning and research necessary to stimulate future tourism develop-  
31

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 ment;

2 (c) Operating tourism promotion agencies; and

3 (d) Marketing special events and festivals designed to attract tourists.

4 (8) "Tourism promotion agency" includes:

5 (a) An incorporated nonprofit organization or governmental unit that is responsible for the  
6 tourism promotion of a destination on a year-round basis.

7 (b) A nonprofit entity that manages tourism-related economic development plans, programs and  
8 projects.

9 (c) A regional or statewide association that represents entities that rely on tourism-related  
10 business for more than 50 percent of their total income.

11 (9) "Tourism-related facility" **means**:

12 (a) [Means] A conference center, convention center or visitor information center[; and].

13 (b) [Means] Other improved real property that has a useful life of 10 or more years and has a  
14 substantial purpose of supporting tourism or accommodating tourist activities.

15 **(c) A road that serves a tourist destination.**

16 (10) "Tourist" means a person who, for business, pleasure, recreation or participation in events  
17 related to the arts, heritage or culture, travels from the community in which [that] **the** person is a  
18 resident to a different community that is separate, distinct from and unrelated to the person's com-  
19 munity of residence[, and that trip] **on a trip that**:

20 (a) Requires the person to travel more than 50 miles from the **person's** community of residence;  
21 or

22 (b) Includes an overnight stay.

23 (11) "Transient lodging" means:

24 (a) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;

25 (b) Spaces used for parking recreational vehicles or erecting tents during periods of human oc-  
26 cupancy; or

27 (c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of [any  
28 of] these dwelling units, that are used for temporary human occupancy.

29 (12) "Unit of local government" has the meaning given that term in ORS 190.003.

30 (13) "Visitor information center" means a building, or a portion of a building, the main purpose  
31 of which is to distribute or disseminate information to tourists.

32 **SECTION 2. The amendments to ORS 320.300 by section 1 of this 2011 Act apply to local**  
33 **transient lodging taxes imposed or increased on or after the effective date of this 2011 Act.**

34

# House Bill 2231

Sponsored by Representative GREENLICK (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases cigarette tax. Applies increase to cigarettes distributed on or after January 1, 2012, and to existing inventories of cigarettes not yet acquired by consumers as of January 1, 2012. Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to cigarettes taxes; creating new provisions; amending ORS 323.031 and 323.457; prescribing  
3 an effective date; and providing for revenue raising that requires approval by a three-fifths ma-  
4 jority.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 323.031 is amended to read:

7 323.031. (1) Notwithstanding ORS 323.030 (2) and in addition to and not in lieu of any other tax,  
8 every distributor shall pay a tax upon distributions of cigarettes at the rate of [30] **80** mills for the  
9 distribution of each cigarette in this state.

10 (2) Any cigarette for which a tax has once been imposed under ORS 323.005 to 323.482 may not  
11 be subject upon a subsequent distribution to the taxes imposed by ORS 323.005 to 323.482.

12 **SECTION 2.** ORS 323.457 is amended to read:

13 323.457. (1) Moneys received under ORS 323.031 shall be paid over to the State Treasurer to be  
14 held in a suspense account established under ORS 293.445. After the payment of refunds:

15 (a) [29.37/30] \_\_\_\_/80 of the moneys shall be credited to the Oregon Health Plan Fund estab-  
16 lished under ORS 414.109;

17 (b) [0.14/30] \_\_\_\_/80 of the moneys are continuously appropriated to the Oregon Department of  
18 Administrative Services for distribution to the cities of this state;

19 (c) [0.14/30] \_\_\_\_/80 of the moneys are continuously appropriated to the Oregon Department of  
20 Administrative Services for distribution to the counties of this state;

21 (d) [0.14/30] \_\_\_\_/80 of the moneys are continuously appropriated to the Department of Trans-  
22 portation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund  
23 established under ORS 391.800; and

24 (e) [0.21/30] \_\_\_\_/80 of the moneys shall be credited to the Tobacco Use Reduction Account es-  
25 tablished under ORS 431.832.

26 (2)(a) Moneys distributed to cities and counties under this section shall be distributed to each  
27 city or county using the proportions used for distributions made under ORS 323.455.

28 (b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Trans-  
29 portation Fund at the same time moneys are distributed to cities, counties and the Elderly and  
30 Disabled Special Transportation Fund under ORS 323.455.

31 **SECTION 3.** (1) **In addition to and not in lieu of any other tax, for the privilege of holding**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 or storing cigarettes for sale, use or consumption, a floor tax is imposed upon every dealer  
 2 at the rate of 50 mills for each cigarette in the possession of or under the control of the  
 3 dealer in this state at 12:01 a.m. on January 1, 2012.

4 (2) The tax imposed by this section is due and payable on or before January 20, 2012. Any  
 5 amount of tax that is not paid within the time required shall bear interest at the rate es-  
 6 tablished under ORS 305.220 per month, or fraction of a month, from the date on which the  
 7 tax is due to be paid, until paid.

8 (3) By January 20, 2012, every dealer must file a report with the Department of Revenue  
 9 in such form as the department may prescribe. The report must state the number of ciga-  
 10 rettes in the possession of or under the control of the dealer in this state at 12:01 a.m. on  
 11 January 1, 2012, and the amount of tax due. Each report must be accompanied by a remit-  
 12 tance payable to the department for the amount of tax due.

13 (4) As used in this section, "dealer" has the meaning given that term in ORS 323.010.

14 SECTION 4. Notwithstanding ORS 323.030 (3), for the privilege of distributing cigarettes  
 15 as a distributor, as defined in ORS 323.015, and for holding or storing cigarettes for sale, use  
 16 or consumption, a floor tax and cigarette adjustment indicia tax is imposed upon every dis-  
 17 tributor in the amount of \$1.25 for each Oregon cigarette tax stamp bearing the designation  
 18 "25," in the amount of \$1 for each Oregon cigarette tax stamp bearing the designation "20"  
 19 and in the amount of 50 cents for each Oregon cigarette tax stamp bearing the designation  
 20 "10," that is affixed to any package of cigarettes in the possession of or under the control  
 21 of the distributor at 12:01 a.m. on January 1, 2012.

22 SECTION 5. (1) Every distributor as defined in ORS 323.015 must take an inventory as  
 23 of 12:01 a.m. on January 1, 2012, of all packages of cigarettes to which are affixed Oregon  
 24 cigarette tax stamps and of all unaffixed Oregon cigarette tax stamps in the possession of  
 25 or under the control of the distributor.

26 (2) Every distributor must file a report with the Department of Revenue by January 20,  
 27 2012, in such form as the department may prescribe, showing:

28 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that  
 29 were affixed to packages of cigarettes in the possession of or under the control of the dis-  
 30 tributor at 12:01 a.m. on January 1, 2012; and

31 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the  
 32 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.  
 33 on January 1, 2012.

34 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette  
 35 tax stamps shall be computed pursuant to section 4 of this 2011 Act and remitted with the  
 36 distributor's report. Any amount of tax not paid within the time specified for the filing of  
 37 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-  
 38 tion of a month, from the due date of the report until paid.

39 SECTION 6. All moneys received by the Department of Revenue from the taxes imposed  
 40 by sections 3 and 4 of this 2011 Act shall be paid over to the State Treasurer to be held in  
 41 a suspense account established under ORS 293.445. After payment of refunds, the balance  
 42 shall be credited to the General Fund.

43 SECTION 7. The amendments to ORS 323.031 and 323.457 by sections 1 and 2 of this 2011  
 44 Act apply to cigarette tax reporting periods beginning on or after January 1, 2012.

45 SECTION 8. This 2011 Act takes effect on the 91st day after the date on which the reg-

1 **ular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

2

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# House Bill 2586

Sponsored by Representative SCHAUFLER; Representative MATTHEWS (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Classifies exemption from ad valorem property taxation as funds of public agency for purpose of requiring payment of prevailing rate of wage. Requires city, county or other sponsor of enterprise zone to notify Commissioner of Bureau of Labor and Industries of exemption from ad valorem property taxation connected with public works project located in sponsor's enterprise zone.

Requires sponsor of enterprise zone in which public works project is located to pay specified fee. Creates procedures by which multiple public agencies that award public works contract or multiple sponsors that designate enterprise zone in which public works project is located must apportion fees and apportion receipt of certified statements from contractors and subcontractors.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the application of prevailing wage rates to enterprise zones; creating new provisions;  
3 amending ORS 279C.800, 279C.810, 279C.825, 279C.827, 279C.835 and 279C.845; and declaring an  
4 emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 279C.800, as amended by section 1, chapter 45, Oregon Laws 2010, is amended  
7 to read:

8 279C.800. As used in ORS 279C.800 to 279C.870:

9 (1) "Fringe benefits" means the amount of:

10 (a) The rate of contribution a contractor or subcontractor makes irrevocably to a trustee or to  
11 a third person under a plan, fund or program; and

12 (b) The rate of costs to the contractor or subcontractor that may be reasonably anticipated in  
13 providing the following items, except for items that federal, state or local law requires the con-  
14 tractor or subcontractor to provide:

15 (A) Benefits to workers pursuant to an enforceable written commitment to the workers to carry  
16 out a financially responsible plan or program for:

17 (i) Medical or hospital care;

18 (ii) Pensions on retirement or death; or

19 (iii) Compensation for injuries or illness that result from occupational activity;

20 (B) Insurance to provide the benefits described in subparagraph (A) of this paragraph;

21 (C) Unemployment benefits;

22 (D) Life insurance;

23 (E) Disability and sickness insurance or accident insurance;

24 (F) Vacation and holiday pay;

25 (G) Costs of apprenticeship or other similar programs; or

26 (H) Other bona fide fringe benefits.

27 (2) "Housing" has the meaning given that term in ORS 456.055.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.



1 (3) "Locality" means the following district in which the public works **project**, or the major  
 2 portion thereof, is to be performed:

- 3 (a) District 1, composed of Clatsop, Columbia and Tillamook Counties;
- 4 (b) District 2, composed of Clackamas, Multnomah and Washington Counties;
- 5 (c) District 3, composed of Marion, Polk and Yamhill Counties;
- 6 (d) District 4, composed of Benton, Lincoln and Linn Counties;
- 7 (e) District 5, composed of Lane County;
- 8 (f) District 6, composed of Douglas County;
- 9 (g) District 7, composed of Coos and Curry Counties;
- 10 (h) District 8, composed of Jackson and Josephine Counties;
- 11 (i) District 9, composed of Hood River, Sherman and Wasco Counties;
- 12 (j) District 10, composed of Crook, Deschutes and Jefferson Counties;
- 13 (k) District 11, composed of Klamath and Lake Counties;
- 14 (L) District 12, composed of Gilliam, Grant, Morrow, Umatilla and Wheeler Counties;
- 15 (m) District 13, composed of Baker, Union and Wallowa Counties; and
- 16 (n) District 14, composed of Harney and Malheur Counties.

17 (4) "Prevailing rate of wage" means the rate of hourly wage, including all fringe benefits, that  
 18 the Commissioner of the Bureau of Labor and Industries determines is paid in the locality to the  
 19 majority of workers employed on projects of a similar character in the same trade or occupation.

20 (5) "Public agency" means the State of Oregon or a political subdivision of the State of Oregon,  
 21 or a county, city, district, authority, public corporation or public entity organized and existing under  
 22 law or charter or an instrumentality of the county, city, district, authority, public corporation or  
 23 public entity.

24 (6)(a) "Public works" includes, but is not limited to:

25 (A) Roads, highways, buildings, structures and improvements of all types, the construction, re-  
 26 construction, major renovation or painting of which is carried on or contracted for by *[any]* a public  
 27 agency to serve the public interest;

28 (B) A project that uses funds of a private entity and \$750,000 or more of funds of a public agency  
 29 for constructing, reconstructing, painting or performing a major renovation on a privately owned  
 30 road, highway, building, structure or improvement of any type;

31 (C) A project that uses funds of a private entity for constructing a privately owned road, high-  
 32 way, building, structure or improvement of any type in which a public agency will use or occupy  
 33 25 percent or more of the square footage of the completed project; *[or]*

34 (D) Notwithstanding the provisions of ORS 279C.810 (2)(a), (b) and (c), a device, structure or  
 35 mechanism, or a combination of devices, structures or mechanisms, that:

36 (i) Uses solar radiation as a source for generating heat, cooling or electrical energy; and

37 (ii) Is constructed or installed, with or without using funds of a public agency, on land, premises,  
 38 structures or buildings that a public body, as defined in ORS 174.109, owns[.]; **or**

39 **(E) A project for constructing, reconstructing or performing a major renovation of a**  
 40 **privately owned road, highway, building, structure or improvement of any type that:**

41 **(i) Is located in an enterprise zone, as defined in ORS 285C.050;**

42 **(ii) Consists of or is sited on real property for which a qualified business firm, as defined**  
 43 **in ORS 285C.050, has received an exemption from ad valorem property taxation under ORS**  
 44 **285C.170 or 285C.175; and**

45 **(iii) Has a projected cost of \$2 million or more.**

(b) "Public works" does not include:

(A) *[The reconstruction or renovation of]* **Reconstructing or renovating** privately owned property that a public agency leases; or

(B) *[The renovation of]* **Renovating** publicly owned real property that is more than 75 years old *[by a private nonprofit entity]* if:

(i) The real property is leased **for more than 25 years** to the private nonprofit entity **that performs the renovation** *[for more than 25 years]*;

(ii) Funds of a public agency used in the renovation do not exceed 15 percent of the total cost of the renovation; and

(iii) Contracts for the renovation were advertised or, if not advertised, were entered into before July 1, 2003, but the renovation *[has not been]* **was not** completed on or before July 13, 2007.

**(7) "Sponsor" has the meaning given that term in ORS 285C.050.**

**SECTION 2.** ORS 279C.810 is amended to read:

279C.810. (1) As used in this section:

(a) "Funds of a public agency" does not include:

(A) Funds provided in the form of a government grant to a nonprofit organization, unless the government grant is issued for the purpose of construction, reconstruction, major renovation or painting;

(B) Building and development permit fees *[paid or waived by the public agency]* **that the public agency pays or waives**;

(C) Tax credits or tax abatements, **except for exemptions from ad valorem property taxation allowed under ORS 285C.170 or 285C.175**;

(D) Land that a public agency sells to a private entity at fair market value;

(E) The difference between:

(i) The value of land that a public agency sells to a private entity as determined at the time of the sale after taking into account any plan, requirement, covenant, condition, restriction or other limitation, exclusive of zoning or land use regulations, that the public agency imposes on the development or use of the land; and

(ii) The fair market value of the land if the land is not subject to the limitations described in sub-subparagraph (i) of this subparagraph;

(F) Staff resources *[of]* the public agency *[used]* **uses** to:

(i) Manage a project or to provide a principal source of supervision, coordination or oversight of a project; **or**

*[(G)]* (ii) *[Staff resources of the public agency used to]* Design or inspect one or more components of a project;

*[(H)]* (G) Moneys derived from the sale of bonds that *[are loaned by]* a state agency **loans** to a private entity, unless the moneys will be used for a public improvement;

*[(I)]* (H) Value added to land as a consequence of a public agency's site preparation, demolition of real property or remediation or removal of environmental contamination, except for value added in excess of the expenses the public agency incurred in the site preparation, demolition or remediation or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to 279C.870; or

*[(J)]* (I) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289 or ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

(b) "Nonprofit organization" means an organization or group of organizations described in sec-

tion 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(2) ORS 279C.800 to 279C.870 do not apply to:

(a) Projects for which the contract price does not exceed \$50,000. In determining the price of a project, a public agency:

(A) May not include the value of donated materials or work performed on the project by individuals volunteering to the public agency without pay; and

(B) Shall include the value of work performed by every person *[paid by]* a contractor or subcontractor **pays** in any manner for the person's work on the project.

(b) Projects for which no funds of a public agency are directly or indirectly used. In accordance with ORS chapter 183, the Commissioner of the Bureau of Labor and Industries shall adopt rules to carry out the provisions of this paragraph.

(c) Projects:

(A) That are privately owned;

(B) That use funds of a private entity;

(C) In which **a public agency will occupy or use** less than 25 percent of the square footage of a completed project *[will be occupied or used by a public agency]*; and

(D) For which less than \$750,000 of funds of a public agency are used.

(d) Projects for residential construction that are privately owned and that predominantly provide affordable housing. As used in this paragraph:

(A) "Affordable housing" means housing that serves occupants whose incomes are *[no]* **not** greater than 60 percent of the area median income or, if the occupants are owners, whose incomes are *[no]* **not** greater than 80 percent of the area median income.

(B) "Predominantly" means 60 percent or more.

(C) "Privately owned" includes:

(i) Affordable housing provided on real property *[owned by]* **that** a public agency **owns** if the real property and related structures are leased to a private entity for 50 or more years; and

(ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability company in which a housing authority, as defined in ORS 456.005, is a general partner, director or managing member and the housing authority is not a majority owner in the partnership, nonprofit corporation or limited liability company.

(D) "Residential construction" includes the construction, reconstruction, major renovation or painting of single-family houses or apartment buildings not more than four stories in height and all incidental items, such as site work, parking areas, utilities, streets and sidewalks, pursuant to the United States Department of Labor's "All Agency Memorandum No. 130: Application of the Standard of Comparison "Projects of a Character Similar" Under Davis-Bacon and Related Acts," dated March 17, 1978. However, the commissioner may consider different definitions of residential construction in determining whether a project is a residential construction project for purposes of this paragraph, including definitions that:

(i) Exist in local ordinances or codes; or

(ii) Differ, in the prevailing practice of a particular trade or occupation, from the United States Department of Labor's description of residential construction.

**SECTION 3.** ORS 279C.825 is amended to read:

279C.825. (1)(a) The Commissioner of the Bureau of Labor and Industries, by order, shall establish a fee to be paid by the public agency **or public agencies** that *[awards]* **award** a public works

1 contract subject to ORS 279C.800 to 279C.870.

2 **(b) The sponsor or sponsors of an enterprise zone in which a public works project is or**  
 3 **will be located shall pay a fee in the amount of \$5,000.**

4 **(2)(a) If more than one public agency is involved in awarding a public works contract**  
 5 **subject to ORS 279C.800 to 279C.870, the public agencies involved shall agree which public**  
 6 **agencies shall pay the fee required under subsection (1)(a) of this section and in what**  
 7 **amounts. If the public agencies do not agree, each public agency shall pay a proportional**  
 8 **share of the fee based on the amount of public funds the public agency provides for the**  
 9 **contract or the amount of space the public agency occupies or uses in the public works**  
 10 **project.**

11 **(b) If more than one sponsor has participated in the designation of an enterprise zone in**  
 12 **which a public works project subject to ORS 279C.800 to 279C.870 is located, the participating**  
 13 **sponsors shall agree which sponsors shall pay the fee required under subsection (1)(b) of this**  
 14 **section and in what amounts. If the sponsors do not agree, the sponsors are jointly and se-**  
 15 **verally liable for paying the fee.**

16 **(3) The commissioner shall use the proceeds of the fee to pay the costs of:**

17 [(A)] **(a) Surveys to determine the prevailing rates of wage;**

18 [(B)] **(b) Administering and providing investigations under and enforcement of ORS 279C.800 to**  
 19 **279C.870; and**

20 [(C)] **(c) Providing educational programs on public contracting law under the Public Contracting**  
 21 **Code.**

22 [(b)] **(4) The commissioner shall establish the fee described in subsection (1)(a) of this section**  
 23 **at 0.1 percent of the contract price. [However, in no event may a fee be charged and collected] The**  
 24 **commissioner may not charge or collect a fee under this subsection that is less than \$250 or**  
 25 **more than \$7,500.**

26 [(2)] **(5) The commissioner shall pay moneys received under this section into the State Treasury.**  
 27 **The moneys shall be credited to the Prevailing Wage Education and Enforcement Account created**  
 28 **by ORS 651.185.**

29 [(3)] **(6)(a) [The] A public agency shall pay the fee described in subsection (1)(a) of this sec-**  
 30 **tion at the time the public agency notifies the commissioner under ORS 279C.835 that a contract**  
 31 **subject to the provisions of ORS 279C.800 to 279C.870 has been awarded.**

32 **(b) A sponsor shall pay the fee described in subsection (1)(b) of this section at the time**  
 33 **the sponsor notifies the commissioner under ORS 279C.835 that the sponsor approved, under**  
 34 **ORS 285C.140, an eligible business firm's application to have qualified property that is a**  
 35 **public works project and that is in the sponsor's enterprise zone exempted from ad valorem**  
 36 **property taxation.**

37 **SECTION 4.** ORS 279C.827 is amended to read:

38 279C.827. (1)(a) A public agency **or a person that under ORS 279C.800 to 279C.870 must pay**  
 39 **a prevailing rate of wage on a public works project** may not divide a public works project into  
 40 more than one contract for the purpose of avoiding compliance with ORS 279C.800 to 279C.870.

41 (b) [When] **If the Commissioner of the Bureau of Labor and Industries determines that a public**  
 42 **agency or a person that under ORS 279C.800 to 279C.870 must pay a prevailing rate of wage**  
 43 **on a public works project** has divided a public works project into more than one contract for the  
 44 purpose of avoiding compliance with ORS 279C.800 to 279C.870, the commissioner shall issue an  
 45 order [compelling] **to compel compliance.**

1 (c) In making [*determinations*] a **determination** under this subsection, the commissioner shall  
 2 consider:

3 (A) The physical separation of the [*project*] structures **of the public works project**;

4 (B) The timing of the work on [*project*] phases or structures **of the public works project**;

5 (C) The continuity of [*project*] contractors and subcontractors working on [*project*] parts or  
 6 phases **of the public works project**;

7 (D) The manner in which the public agency and the contractors administer and implement the  
 8 [*project*] **public works project**;

9 (E) Whether a single public works project includes several types of improvements or structures;  
 10 and

11 (F) Whether the combined improvements or structures have an overall purpose or function.

12 [(2) *If a project is a public works of the type described in ORS 279C.800 (6)(a)(B) or (C), the*  
 13 *commissioner shall divide the project, if appropriate, after applying the considerations set forth in*  
 14 *subsection (1)(c) of this section to separate the parts of the project that include funds of a public agency*  
 15 *or that will be occupied or used by a public agency from the parts of the project that do not include*  
 16 *funds of a public agency and that will not be occupied or used by a public agency. If the commissioner*  
 17 *divides the project, any part of the project that does not include funds of a public agency and that will*  
 18 *not be occupied or used by a public agency is not subject to ORS 279C.800 to 279C.870.]*

19 [(3) *If a project includes parts that are owned by a public agency and parts that are owned by a*  
 20 *private entity, the commissioner shall divide the project, if appropriate, after applying the consider-*  
 21 *ations set forth in subsections (1)(c) and (2) of this section to separate the parts of the project that are*  
 22 *public works from the parts of the project that are not public works. If the commissioner divides the*  
 23 *project, parts of the project that are not public works are not subject to ORS 279C.800 to 279C.870.]*

24 **(2) If a public works project is of the type described in ORS 279C.800 (6)(a)(B) or (C), the**  
 25 **commissioner, after applying the considerations set forth in subsection (1)(c) of this section,**  
 26 **shall divide the public works project, if appropriate, to separate the parts of the public works**  
 27 **project that use funds of a public agency or that a public agency will occupy or use from the**  
 28 **parts of the public works project that do not use funds of a public agency and that a public**  
 29 **agency will not occupy or use. If the commissioner divides the public works project, any part**  
 30 **of the public works project that does not use funds of a public agency and that a public**  
 31 **agency will not occupy or use is not subject to ORS 279C.800 to 279C.870.**

32 **(3) If a public works project includes parts that a public agency owns and parts that a**  
 33 **private entity owns, the commissioner, after applying the considerations set forth in sub-**  
 34 **sections (1)(c) and (2) of this section, shall divide the public works project, if appropriate, to**  
 35 **separate the parts of the public works project that the public agency owns from the parts**  
 36 **of the public works project that the private entity owns. If the commissioner divides the**  
 37 **public works project, parts of the public works project that the private entity owns are not**  
 38 **subject to ORS 279C.800 to 279C.870.**

39 **SECTION 5.** ORS 279C.835 is amended to read:

40 279C.835. (1)(a) [*Public agencies*] **A public agency** shall notify the Commissioner of the Bureau  
 41 of Labor and Industries in writing, on a form [*prescribed by*] the commissioner **prescribes**, whenever  
 42 a contract subject to the provisions of ORS 279C.800 to 279C.870 has been awarded.

43 **(b) A sponsor shall notify the commissioner in writing, on a form the commissioner**  
 44 **prescribes, whenever the sponsor approves under ORS 285C.140 an eligible business firm's**  
 45 **application to have qualified property that is a public works project and is in the sponsor's**

1 **enterprise zone exempted from ad valorem property taxation.**

2 (2)(a) [The] A notification [shall] **under subsection (1)(a) of this section must** be made within  
 3 30 days [of] **after** the date [that] **on which** the contract is awarded.

4 (b) **A notification under subsection (1)(b) of this section must be made within 30 days**  
 5 **after the date on which the sponsor approves under ORS 285C.140 an eligible business firm's**  
 6 **application to have qualified property exempted from ad valorem property taxation.**

7 (c) [The] A notification [shall] **under subsection (1) of this section must** include payment of  
 8 the fee required under ORS 279C.825. **A notification under subsection (1)(a) of this section must**  
 9 **also include [and] a copy of the disclosure of first-tier subcontractors that was submitted under ORS**  
 10 **279C.370.**

11 **SECTION 6.** ORS 279C.845 is amended to read:

12 279C.845. [(1) *The contractor or the contractor's surety and every subcontractor or the*  
 13 *subcontractor's surety shall file certified statements with the public agency in writing, on a form pre-*  
 14 *scribed by the Commissioner of the Bureau of Labor and Industries, certifying:]*

15 (1) **A contractor or the contractor's surety and a subcontractor or the subcontractor's**  
 16 **surety shall submit certified wage statements in writing to one of the following:**

17 (a) **The public agency with which the contractor or subcontractor has a public works**  
 18 **contract. If the public works project is of a type defined in ORS 279C.800 (6)(a)(B) or (C), the**  
 19 **contractor shall submit the certified statements to the public agency that provided funds for**  
 20 **the public works project or that will occupy 25 percent or more of the square footage of the**  
 21 **completed public works project. If more than one public agency provided funds for the public**  
 22 **works project or will occupy 25 percent or more of the square footage of the completed public**  
 23 **works project, the public agencies involved shall agree upon which public agency will receive**  
 24 **the certified statements.**

25 (b) **The sponsor of the enterprise zone in which the public works project is located. If**  
 26 **more than one sponsor participated in designating the enterprise zone, the participating**  
 27 **sponsors shall agree upon which sponsor will receive the certified statements.**

28 (2) **The certified wage statements must be on a form that the Commissioner of the Bu-**  
 29 **reau of Labor and Industries prescribes and must:**

30 (a) **Specify** the hourly rate of wage **the contractor or subcontractor** paid each worker whom  
 31 the contractor or the subcontractor [has] employed upon the public works **project**; and

32 (b) **State** that no worker employed upon the public works [has been] **project was** paid less than  
 33 the prevailing rate of wage or less than the minimum hourly rate of wage specified in the contract.

34 [(2)] (3) **The contractor or the contractor's surety or the subcontractor or the**  
 35 **subcontractor's surety shall attest by oath in the** certified statement [shall be verified by the  
 36 *oath of the contractor or the contractor's surety or subcontractor or the subcontractor's surety*] that the  
 37 contractor or subcontractor has read the certified statement, that the contractor or subcontractor  
 38 knows the contents of the certified statement and that to the [contractor] **contractor's** or  
 39 subcontractor's knowledge the certified statement is true.

40 [(3)] (4) The certified [statements] **statement** shall set out accurately and completely the  
 41 contractor's or subcontractor's payroll records, including the name and address of each worker, the  
 42 worker's correct classification, rate of pay, daily and weekly number of hours worked and the gross  
 43 wages the worker earned upon the public works **project** during each week identified in the certified  
 44 statement.

45 [(4)] (5) The contractor or subcontractor shall deliver or mail each certified statement required

1 by subsection (1) of this section to the public agency **or to the sponsor**. Certified statements for  
 2 each week during which the contractor or subcontractor employs a worker upon the public works  
 3 *[shall]* **project must** be submitted once a month, by the fifth business day of the following month.  
 4 Information submitted on certified statements may be used only to ensure compliance with the pro-  
 5 visions of ORS 279C.800 to 279C.870.

6 *[(5)]* **(6) [Each] The** contractor or subcontractor shall preserve the certified statements for a  
 7 period of three years from the date *[of completion of]* **on which** the contract **is completed**.

8 *[(6)]* **(7)** Certified statements received by a public agency **or a sponsor** are public records sub-  
 9 ject to the provisions of ORS 192.410 to 192.505.

10 *[(7)]* **(8)** Notwithstanding ORS 279C.555 or 279C.570 (7), if a contractor *[is required to file]* **must**  
 11 **submit** certified statements **to a public agency** under this section, the public agency shall retain  
 12 25 percent of any amount *[earned by]* the contractor **earns** on the public works **project** until the  
 13 contractor *[has filed with the public agency]* **submits** certified statements **to the public agency** as  
 14 required by this section. The public agency shall pay the contractor the amount retained under this  
 15 subsection within 14 days after the contractor *[files]* **submits** the certified statements as required  
 16 by this section, regardless of whether a subcontractor *[has]* failed to *[file]* **submit** certified state-  
 17 ments as required by this section. *[The public agency is not required to verify the truth of the contents*  
 18 *of certified statements filed by the contractor under this section.]*

19 *[(8)]* **(9)** Notwithstanding ORS 279C.555, the contractor shall retain 25 percent of any amount  
 20 *[earned by]* a first-tier subcontractor **earns** on a public works **project** until the subcontractor *[has*  
 21 *filed with the public agency]* **submits** certified statements **to the public agency** as required by this  
 22 section. The contractor shall verify that the first-tier subcontractor *[has filed]* **submitted** the certi-  
 23 fied statements before the contractor *[may pay]* **pays** the subcontractor any amount retained under  
 24 this subsection. The contractor shall pay the first-tier subcontractor the amount retained under this  
 25 subsection within 14 days after the subcontractor *[files]* **submits** the certified statements as required  
 26 by this section. *[Neither the public agency nor the contractor is required to verify the truth of the*  
 27 *contents of certified statements filed by a first-tier subcontractor under this section.]*

28 **(10) This section does not require:**

29 **(a) A public agency or a sponsor to verify the truth of the contents of a contractor's**  
 30 **certified statements; or**

31 **(b) A public agency, sponsor or contractor to verify the truth of the contents of a**  
 32 **subcontractor's certified statements.**

33 **SECTION 7.** The amendments to ORS 279C.800, 279C.810, 279C.825, 279C.827, 279C.835 and  
 34 279C.845 by sections 1 to 6 of this 2011 Act apply to contracts for public works first adver-  
 35 tised or otherwise solicited or, if not advertised or solicited, first entered into on or after the  
 36 operative date specified in section 8 (1) of this 2011 Act.

37 **SECTION 8.** (1) The amendments to ORS 279C.800, 279C.810, 279C.825, 279C.827, 279C.835  
 38 and 279C.845 by sections 1 to 6 of this 2011 Act become operative 90 days after the effective  
 39 date of this 2011 Act.

40 (2) The Commissioner of the Bureau of Labor and Industries may take any action before  
 41 the operative date specified in subsection (1) of this section that is necessary to enable the  
 42 commissioner to exercise, on and after the operative date specified in subsection (1) of this  
 43 section, all the duties, functions and powers conferred on the commissioner by the amend-  
 44 ments to ORS 279C.800, 279C.810, 279C.825, 279C.827, 279C.835 and 279C.845 by sections 1 to 6  
 45 of this 2011 Act.

1        **SECTION 9. This 2011 Act being necessary for the immediate preservation of the public**  
2        **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
3        **on its passage.**

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# House Bill 2624

Sponsored by Representative SCHAUFLER (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies definition of "public works." Classifies exemption from ad valorem property taxation as funds of public agency for purpose of requiring payment of prevailing wage.

Requires public agency that procured contract for public works or sponsor of enterprise zone in which public works is located, as appropriate, to receive certified statements.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the application of prevailing rates of wage; creating new provisions; amending ORS  
3 279C.800, 279C.810, 279C.827 and 279C.845; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 279C.800, as amended by section 1, chapter 45, Oregon Laws 2010, is amended  
6 to read:

7 279C.800. As used in ORS 279C.800 to 279C.870:

8 (1) "Fringe benefits" means the amount of:

9 (a) The rate of contribution a contractor or subcontractor makes irrevocably to a trustee or to  
10 a third person under a plan, fund or program; and

11 (b) The rate of costs to the contractor or subcontractor that may be reasonably anticipated in  
12 providing the following items, except for items that federal, state or local law requires the con-  
13 tractor or subcontractor to provide:

14 (A) Benefits to workers pursuant to an enforceable written commitment to the workers to carry  
15 out a financially responsible plan or program for:

16 (i) Medical or hospital care;

17 (ii) Pensions on retirement or death; or

18 (iii) Compensation for injuries or illness that result from occupational activity;

19 (B) Insurance to provide the benefits described in subparagraph (A) of this paragraph;

20 (C) Unemployment benefits;

21 (D) Life insurance;

22 (E) Disability and sickness insurance or accident insurance;

23 (F) Vacation and holiday pay;

24 (G) Costs of apprenticeship or other similar programs; or

25 (H) Other bona fide fringe benefits.

26 (2) "Housing" has the meaning given that term in ORS 456.055.

27 (3) "Locality" means the following district in which the public works, or the major portion  
28 thereof, is to be performed:

29 (a) District 1, composed of Clatsop, Columbia and Tillamook Counties;

30 (b) District 2, composed of Clackamas, Multnomah and Washington Counties;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

- 1 (c) District 3, composed of Marion, Polk and Yamhill Counties;
- 2 (d) District 4, composed of Benton, Lincoln and Linn Counties;
- 3 (e) District 5, composed of Lane County;
- 4 (f) District 6, composed of Douglas County;
- 5 (g) District 7, composed of Coos and Curry Counties;
- 6 (h) District 8, composed of Jackson and Josephine Counties;
- 7 (i) District 9, composed of Hood River, Sherman and Wasco Counties;
- 8 (j) District 10, composed of Crook, Deschutes and Jefferson Counties;
- 9 (k) District 11, composed of Klamath and Lake Counties;
- 10 (L) District 12, composed of Gilliam, Grant, Morrow, Umatilla and Wheeler Counties;
- 11 (m) District 13, composed of Baker, Union and Wallowa Counties; and
- 12 (n) District 14, composed of Harney and Malheur Counties.

13 (4) "Prevailing rate of wage" means the rate of hourly wage, including all fringe benefits, that  
 14 the Commissioner of the Bureau of Labor and Industries determines is paid in the locality to the  
 15 majority of workers employed on projects of a similar character in the same trade or occupation.

16 (5) "Public agency" means the State of Oregon or a political subdivision of the State of Oregon,  
 17 or a county, city, district, authority, public corporation or public entity organized and existing under  
 18 law or charter or an instrumentality of the county, city, district, authority, public corporation or  
 19 public entity.

20 (6)(a) "Public works" includes, but is not limited to:

21 (A) Roads, highways, buildings, structures and improvements of all types, the construction, re-  
 22 construction, major renovation or painting of which is carried on or contracted for by any public  
 23 agency to serve the public interest;

24 (B) A project that uses funds of a private entity and \$750,000 or more of funds of a public agency  
 25 for constructing, reconstructing, painting or performing a major renovation on a privately owned  
 26 road, highway, building, structure or improvement of any type;

27 (C) A project that uses funds of a private entity for constructing a privately owned road, high-  
 28 way, building, structure or improvement of any type in which a public agency will use or occupy  
 29 25 percent or more of the square footage of the completed project; [*or*]

30 (D) Notwithstanding the provisions of ORS 279C.810 (2)(a), (b) and (c), a device, structure or  
 31 mechanism, or a combination of devices, structures or mechanisms, that:

- 32 (i) Uses solar radiation as a source for generating heat, cooling or electrical energy; and
- 33 (ii) Is constructed or installed, with or without using funds of a public agency, on land, premises,  
 34 structures or buildings that a public body, as defined in ORS 174.109, owns[.]; **or**

35 **(E) A project for constructing, reconstructing or performing a major renovation of a**  
 36 **privately owned road, highway, building, structure or improvement of any type that:**

- 37 **(i) Is located in an enterprise zone, as defined in ORS 285C.050;**
- 38 **(ii) Consists of or is sited on real property for which a qualified business firm, as defined**  
 39 **in ORS 285C.050, has received or will receive an exemption from ad valorem property taxation**  
 40 **under ORS 285C.170 or 285C.175 in connection with the project; and**
- 41 **(iii) Has a total project cost that the contracting agency that is funding the project, or**  
 42 **the lead contracting agency, if more than one contracting agency participates in the project,**  
 43 **reasonably projects will equal or exceed \$5 million.**

44 (b) "Public works" does not include:

45 (A) [*The reconstruction or renovation of*] **Reconstructing or renovating** privately owned prop-

erty that a public agency leases; or

(B) *[The]* **A private nonprofit entity's** renovation of publicly owned real property that is more than 75 years old *[by a private nonprofit entity]* if:

(i) The real property is leased to the private nonprofit entity for more than 25 years;

(ii) Funds of a public agency used in the renovation do not exceed 15 percent of the total cost of the renovation; and

(iii) Contracts for the renovation were advertised or, if not advertised, were entered into before July 1, 2003, but the renovation has not been completed on or before July 13, 2007.

**(7) "Sponsor" has the meaning given that term in ORS 285C.050.**

**SECTION 2.** ORS 279C.810 is amended to read:

279C.810. (1) As used in this section:

(a) "Funds of a public agency" does not include:

(A) Funds provided in the form of a government grant to a nonprofit organization, unless the government grant is issued for the purpose of construction, reconstruction, major renovation or painting;

(B) Building and development permit fees *[paid or waived by the]* **that a public agency pays or waives;**

(C) Tax credits or tax abatements, **except for exemptions from ad valorem property taxation allowed under ORS 285C.170 or 285C.175;**

(D) Land that a public agency sells to a private entity at fair market value;

(E) The difference between:

(i) The value of land that a public agency sells to a private entity as determined at the time of the sale after taking into account any plan, requirement, covenant, condition, restriction or other limitation, exclusive of zoning or land use regulations, that the public agency imposes on the development or use of the land; and

(ii) The fair market value of the land if the land is not subject to the limitations described in sub-subparagraph (i) of this subparagraph;

(F) Staff resources *[of the]* a public agency *[used]* **uses to:**

(i) Manage a project or to provide a principal source of supervision, coordination or oversight of a project; **or**

*[(G)]* **(ii)** *[Staff resources of the public agency used to]* Design or inspect one or more components of a project;

*[(H)]* **(G)** Moneys derived from the sale of bonds that *[are loaned by]* a state agency **loans** to a private entity, unless the moneys will be used for a public improvement;

*[(I)]* **(H)** Value added to land as a consequence of a public agency's site preparation, demolition of real property or remediation or removal of environmental contamination, except for value added in excess of the expenses the public agency incurred in the site preparation, demolition or remediation or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to 279C.870; or

*[(J)]* **(I)** Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289 or ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

(b) "Nonprofit organization" means an organization or group of organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(2) ORS 279C.800 to 279C.870 do not apply to:

1 (a) *[Projects]* **A project** for which the contract price does not exceed \$50,000. In determining the  
 2 price of a project, a public agency:

3 (A) May not include the value of donated materials or work *[performed on the project by]* **that**  
 4 individuals volunteering to the public agency **perform on the project** without pay; and

5 (B) Shall include the value of work *[performed by every person paid by]* **for which** a contractor  
 6 or subcontractor **pays a person** in any manner for the person's work on the project.

7 (b) Projects for which *[no]* funds of a public agency are **not** directly or indirectly used. In ac-  
 8 cordance with ORS chapter 183, the Commissioner of the Bureau of Labor and Industries shall adopt  
 9 rules to carry out the provisions of this paragraph.

10 (c) *[Projects]* **A project**:

11 (A) That *[are]* **is** privately owned;

12 (B) That *[use]* **uses** funds of a private entity;

13 (C) In which **a public agency will occupy or use** less than 25 percent of the square footage  
 14 of *[a]* **the** completed project *[will be occupied or used by a public agency]*; and

15 (D) For which less than \$750,000 of funds of a public agency are used.

16 (d) *[Projects]* **A project** for residential construction that *[are]* **is** privately owned and that pre-  
 17 dominantly *[provide]* **provides** affordable housing. As used in this paragraph:

18 (A) "Affordable housing" means housing that serves occupants whose incomes are *[no]* **not**  
 19 greater than 60 percent of the area median income or, if the occupants are owners, whose incomes  
 20 are *[no]* **not** greater than 80 percent of the area median income.

21 (B) "Predominantly" means 60 percent or more.

22 (C) "Privately owned" *[includes]* **means**:

23 (i) Affordable housing provided on real property owned by a public agency if the real property  
 24 and related structures are leased to a private entity for 50 or more years; and

25 (ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability com-  
 26 pany in which a housing authority, as defined in ORS 456.005, is a general partner, director or  
 27 managing member and the housing authority is not a majority owner in the partnership, nonprofit  
 28 corporation or limited liability company.

29 (D) "Residential construction" *[includes]* **means** the construction, reconstruction, major reno-  
 30 vation or painting of single-family houses or apartment buildings not more than four stories in  
 31 height and all incidental items, such as site work, parking areas, utilities, streets and sidewalks,  
 32 pursuant to the United States Department of Labor's "All Agency Memorandum No. 130: Applica-  
 33 tion of the Standard of Comparison "Projects of a Character Similar" Under Davis-Bacon and Re-  
 34 lated Acts," dated March 17, 1978. However, the commissioner may consider different definitions of  
 35 residential construction in determining whether a project is a residential construction project for  
 36 purposes of this paragraph, including definitions that:

37 (i) Exist in local ordinances or codes; or

38 (ii) Differ, in the prevailing practice of a particular trade or occupation, from the United States  
 39 Department of Labor's description of residential construction.

40 **SECTION 3.** ORS 279C.827 is amended to read:

41 279C.827. (1)(a) A public agency **or a person that under ORS 279C.800 to 279C.870 must pay**  
 42 **a prevailing rate of wage on public works** may not divide a public works project into more than  
 43 one contract for the purpose of avoiding compliance with ORS 279C.800 to 279C.870.

44 (b) *[When]* **If** the Commissioner of the Bureau of Labor and Industries determines that a public  
 45 agency **or a person that under ORS 279C.800 to 279C.870 must pay a prevailing rate of wage**

1 **on public works** has divided a public works project into more than one contract for the purpose  
 2 of avoiding compliance with ORS 279C.800 to 279C.870, the commissioner shall issue an order [*com-*  
 3 *PELLING*] **to compel** compliance.

4 (c) In making determinations under this subsection, the commissioner shall consider:

5 (A) The physical separation of the project structures;

6 (B) The timing of the work on project phases or structures;

7 (C) The continuity of project contractors and subcontractors working on project parts or phases;

8 (D) The manner in which the public agency and the contractors administer and implement the  
 9 project;

10 (E) Whether a single public works project includes several types of improvements or structures;  
 11 and

12 (F) Whether the combined improvements or structures have an overall purpose or function.

13 (2) If a project is a public works of the type described in ORS 279C.800 (6)(a)(B) or (C), the  
 14 commissioner, **after applying the considerations set forth in subsection (1)(c) of this section**,  
 15 shall divide the project, if appropriate, [*after applying the considerations set forth in subsection (1)(c)*  
 16 *of this section*] to separate the parts of the project that [*include*] **use** funds of a public agency or that  
 17 **a public agency** will [*be occupied or used by a public agency*] **occupy or use** from the parts of the  
 18 project that do not [*include*] **use** funds of a public agency and that **a public agency** will not [*be*  
 19 *occupied or used by a public agency*] **occupy or use**. If the commissioner divides the project, any part  
 20 of the project that does not [*include*] **use** funds of a public agency and that **a public agency** will  
 21 not [*be occupied or used by a public agency*] **occupy or use** is not subject to ORS 279C.800 to  
 22 279C.870.

23 (3) If a project includes parts that [*are owned by*] a public agency **owns** and parts that [*are*  
 24 *owned by*] a private entity **owns**, the commissioner, **after applying the considerations set forth**  
 25 **in subsections (1)(c) and (2) of this section**, shall divide the project, if appropriate, [*after applying*  
 26 *the considerations set forth in subsections (1)(c) and (2) of this section*] to separate the parts of the  
 27 project that are public works from the parts of the project that are not public works. If the com-  
 28 missioner divides the project, parts of the project that are not public works are not subject to ORS  
 29 279C.800 to 279C.870.

30 **SECTION 4.** ORS 279C.845 is amended to read:

31 279C.845. (1) [*The*] **A** contractor or the contractor's surety and every subcontractor or the  
 32 subcontractor's surety shall file certified statements [*with the public agency*] in writing, on a form  
 33 [*prescribed by*] the Commissioner of the Bureau of Labor and Industries **prescribes, with one of**  
 34 **the following, as appropriate:**[*, certifying:*]

35 (a) **The public agency that awarded the contract for public works to which the contractor**  
 36 **is a party. If the project is a public works as defined in ORS 279C.800 (6)(a)(B) or (C), the**  
 37 **contractor shall submit the certified statements to the public agency that provided public**  
 38 **funds for the project or that will occupy or use more than 25 percent of the square footage**  
 39 **of the completed project. If more than one public agency provided public funds for the project**  
 40 **or will occupy or use more than 25 percent of the square footage of the completed project,**  
 41 **the public agencies involved shall agree upon which public agency will receive the certified**  
 42 **statements.**

43 (b) **The sponsor of the enterprise zone in which the public works project is located. If**  
 44 **more than one sponsor participated in designating the enterprise zone, the participating**  
 45 **sponsors shall agree upon which sponsor shall receive the certified statements.**

1       **(2) The certified statements must certify:**

2       (a) The hourly rate of wage paid each worker whom the contractor or the subcontractor has  
3 employed upon the public works; and

4       (b) That no worker employed upon the public works has been paid less than the prevailing rate  
5 of wage or less than the minimum hourly rate of wage specified in the contract.

6       [(2)] **(3)** *[The certified statement shall be verified by the oath of]* The contractor or the contractor's  
7 surety or subcontractor or the subcontractor's surety **shall verify certified statements by oath,**  
8 **attesting** that the contractor or subcontractor has read the certified *[statement]* **statements**, that  
9 the contractor or subcontractor knows the contents of the certified *[statement]* **statements** and that  
10 to the contractor or subcontractor's knowledge the certified *[statement is]* **statements are** true.

11       [(3)] **(4)** The certified statements shall set out accurately and completely the contractor's or  
12 subcontractor's payroll records, including the name and address of each worker, the worker's cor-  
13 rect classification, rate of pay, daily and weekly number of hours worked and the gross wages the  
14 worker earned upon the public works during each week identified in the certified statement.

15       [(4)] **(5)** The contractor or subcontractor shall deliver or mail *[each]* **the** certified *[statement]*  
16 **statements** required by subsection (1) of this section to the public agency **or to the sponsor.**  
17 Certified statements for each week during which the contractor or subcontractor employs a worker  
18 upon the public works *[shall]* **must** be submitted once a month, by the fifth business day of the fol-  
19 lowing month. Information submitted on certified statements may be used only to ensure compliance  
20 with the provisions of ORS 279C.800 to 279C.870.

21       [(5)] **(6)** Each contractor or subcontractor shall preserve the certified statements for a period  
22 of three years from the date of completion of the contract.

23       [(6)] **(7)** Certified statements *[received by]* a public agency **or a sponsor receives** are public  
24 records subject to the provisions of ORS 192.410 to 192.505.

25       [(7)] **(8)** Notwithstanding ORS 279C.555 or 279C.570 (7), if a contractor *[is required to]* **must** file  
26 certified statements **with a public agency** under this section, the public agency shall retain 25  
27 percent of any amount *[earned by]* the contractor **earns** on the public works until the contractor  
28 has filed with the public agency certified statements as required by this section. The public agency  
29 shall pay the contractor the amount retained under this subsection within 14 days after the con-  
30 tractor files the certified statements as required by this section, regardless of whether a subcon-  
31 tractor has failed to file certified statements as required by this section. *[The public agency is not*  
32 *required to verify the truth of the contents of certified statements filed by the contractor under this*  
33 *section.]*

34       [(8)] **(9)** Notwithstanding ORS 279C.555, the contractor shall retain 25 percent of any amount  
35 *[earned by]* a first-tier subcontractor **earns** on a public works until the subcontractor has filed with  
36 the public agency certified statements as required by this section. The contractor shall verify that  
37 the first-tier subcontractor has filed the certified statements before the contractor may pay the  
38 subcontractor *[any]* **an** amount retained under this subsection. The contractor shall pay the first-tier  
39 subcontractor the amount retained under this subsection within 14 days after the subcontractor files  
40 the certified statements as required by this section. *[Neither the public agency nor the contractor is*  
41 *required to verify the truth of the contents of certified statements filed by a first-tier subcontractor un-*  
42 *der this section.]*

43       **(10) This section does not require:**

44       (a) **A public agency or a sponsor to verify the truth of the contents of a contractor's**  
45 **certified statements; or**

1       **(b) A public agency, a sponsor or a contractor to verify the truth of the contents of a**  
2 **subcontractor's certified statements.**

3       **SECTION 5. The amendments to ORS 279C.800, 279C.810, 279C.827 and 279C.845 by**  
4 **sections 1 to 4 of this 2011 Act apply to contracts for public works that are first advertised**  
5 **or solicited or, if not advertised or solicited, first entered into on or after the operative date**  
6 **specified in section 6 of this 2011 Act.**

7       **SECTION 6. (1) The amendments to ORS 279C.800, 279C.810, 279C.827 and 279C.845 by**  
8 **sections 1 to 4 of this 2011 Act become operative 91 days after the effective date of this 2011**  
9 **Act.**

10       **(2) A sponsor, as defined in ORS 285C.050, a public agency that adopts rules under ORS**  
11 **279A.065 and the Commissioner of the Bureau of Labor and Industries may take any action**  
12 **before the operative date specified in subsection (1) of this section that is necessary to enable**  
13 **the sponsor, the public agency or the commissioner to exercise, on and after the operative**  
14 **date specified in subsection (1) of this section, all of the duties, functions and powers con-**  
15 **ferred on the sponsor, the public agency or the commissioner by this 2011 Act.**

16       **SECTION 7. This 2011 Act being necessary for the immediate preservation of the public**  
17 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
18 **on its passage.**

# House Bill 2628

Sponsored by Representative SCHAUFLER (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Defines "funds of a public agency," for purposes of applying prevailing rate of wage to projects for public works, to include tax credits or tax abatements that contractor engaged in project for public works receives from state in connection with project.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to application of a prevailing rate of wage to public works projects; creating new pro-  
3 visions; amending ORS 279A.010, 279C.800, 279C.810, 279C.827 and 279C.830; and declaring an  
4 emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 279C.800, as amended by section 1, chapter 45, Oregon Laws 2010, is amended  
7 to read:

8 279C.800. As used in ORS 279C.800 to 279C.870:

9 (1) "Fringe benefits" means the amount of:

10 (a) The rate of contribution a contractor or subcontractor makes irrevocably to a trustee or to  
11 a third person under a plan, fund or program; and

12 (b) The rate of costs to the contractor or subcontractor that may be reasonably anticipated in  
13 providing the following items, except for items that federal, state or local law requires the con-  
14 tractor or subcontractor to provide:

15 (A) Benefits to workers pursuant to an enforceable written commitment to the workers to carry  
16 out a financially responsible plan or program for:

17 (i) Medical or hospital care;

18 (ii) Pensions on retirement or death; or

19 (iii) Compensation for injuries or illness that result from occupational activity;

20 (B) Insurance to provide the benefits described in subparagraph (A) of this paragraph;

21 (C) Unemployment benefits;

22 (D) Life insurance;

23 (E) Disability and sickness insurance or accident insurance;

24 (F) Vacation and holiday pay;

25 (G) Costs of apprenticeship or other similar programs; or

26 (H) Other bona fide fringe benefits.

27 **(2)(a) "Funds of a public agency" means moneys that a contracting agency uses to fund**  
28 **construction, reconstruction, major renovation or painting for a project for public works, or**  
29 **a tax credit or tax abatement that a contractor engaged in a project for public works re-**  
30 **ceives from this state in connection with the project for public works.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.



1 (b) “Funds of a public agency” does not include:

2 (A) Funds provided in the form of a government grant to an organization or group of  
3 organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from  
4 income tax under section 501(a) of the Internal Revenue Code, unless the government grant  
5 is issued for the purpose of construction, reconstruction, major renovation or painting;

6 (B) Building and development permit fees the public agency pays or waives;

7 (C) Land that a public agency sells to a private entity at fair market value;

8 (D) The difference between:

9 (i) The value of land that a public agency sells to a private entity as determined at the  
10 time of the sale after taking into account any plan, requirement, covenant, condition, re-  
11 striction or other limitation, exclusive of zoning or land use regulations, that the public  
12 agency imposes on the development or use of the land; and

13 (ii) The fair market value of the land if the land is not subject to the limitations described  
14 in sub-subparagraph (i) of this subparagraph;

15 (E) Staff resources the public agency uses to:

16 (i) Manage a project or to provide a principal source of supervision, coordination or  
17 oversight of a project; or

18 (ii) Design or inspect one or more components of a project;

19 (F) Moneys derived from the sale of bonds that a state agency lends to a private entity,  
20 unless the moneys will be used for a public improvement;

21 (G) Value added to land as a consequence of a public agency’s site preparation, demolition  
22 of real property or remediation or removal of environmental contamination, except for value  
23 added in excess of the expenses the public agency incurred in the site preparation, demolition  
24 or remediation or removal when the land is sold for use in a project otherwise subject to  
25 ORS 279C.800 to 279C.870; or

26 (H) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter  
27 289 or ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improve-  
28 ment.

29 [(2)] (3) “Housing” has the meaning given that term in ORS 456.055.

30 [(3)] (4) “Locality” means the following district in which the public works, or the major portion  
31 thereof, is to be performed:

32 (a) District 1, composed of Clatsop, Columbia and Tillamook Counties;

33 (b) District 2, composed of Clackamas, Multnomah and Washington Counties;

34 (c) District 3, composed of Marion, Polk and Yamhill Counties;

35 (d) District 4, composed of Benton, Lincoln and Linn Counties;

36 (e) District 5, composed of Lane County;

37 (f) District 6, composed of Douglas County;

38 (g) District 7, composed of Coos and Curry Counties;

39 (h) District 8, composed of Jackson and Josephine Counties;

40 (i) District 9, composed of Hood River, Sherman and Wasco Counties;

41 (j) District 10, composed of Crook, Deschutes and Jefferson Counties;

42 (k) District 11, composed of Klamath and Lake Counties;

43 (L) District 12, composed of Gilliam, Grant, Morrow, Umatilla and Wheeler Counties;

44 (m) District 13, composed of Baker, Union and Wallowa Counties; and

45 (n) District 14, composed of Harney and Malheur Counties.

1        [(4)] (5) “Prevailing rate of wage” means the rate of hourly wage, including all fringe benefits,  
 2 that the Commissioner of the Bureau of Labor and Industries determines is paid in the locality to  
 3 the majority of workers employed on projects of a similar character in the same trade or occupation.

4        [(5)] (6) “Public agency” means the State of Oregon or a political subdivision of the State of  
 5 Oregon, or a county, city, district, authority, public corporation or public entity organized and ex-  
 6 isting under law or charter or an instrumentality of the county, city, district, authority, public cor-  
 7 poration or public entity.

8        [(6)(a)] (7)(a) “Public works” includes, but is not limited to:

9        (A) Roads, highways, buildings, structures and improvements of all types, the construction, re-  
 10 construction, major renovation or painting of which is carried on or contracted for by any public  
 11 agency to serve the public interest;

12        (B) A project that uses funds of a private entity and \$750,000 or more of funds of a public agency  
 13 for constructing, reconstructing, painting or performing a major renovation on a privately owned  
 14 road, highway, building, structure or improvement of any type;

15        (C) A project that uses funds of a private entity for constructing a privately owned road, high-  
 16 way, building, structure or improvement of any type in which a public agency will use or occupy  
 17 25 percent or more of the square footage of the completed project; or

18        (D) Notwithstanding the provisions of ORS 279C.810 [(2)(a), (b) and (c)] (1), (2) and (3), a device,  
 19 structure or mechanism, or a combination of devices, structures or mechanisms, that:

20        (i) Uses solar radiation as a source for generating heat, cooling or electrical energy; and

21        (ii) Is constructed or installed, with or without using funds of a public agency, on land, premises,  
 22 structures or buildings that a public body, as defined in ORS 174.109, owns.

23        (b) “Public works” does not include:

24        (A) The reconstruction or renovation of privately owned property that a public agency leases;  
 25 or

26        (B) The renovation of publicly owned real property that is more than 75 years old by a private  
 27 nonprofit entity if:

28        (i) The real property is leased to the private nonprofit entity for more than 25 years;

29        (ii) Funds of a public agency used in the renovation do not exceed 15 percent of the total cost  
 30 of the renovation; and

31        (iii) Contracts for the renovation were advertised or, if not advertised, were entered into before  
 32 July 1, 2003, but the renovation has not been completed on or before July 13, 2007.

33        **SECTION 2.** ORS 279C.810 is amended to read:

34        279C.810. [(1) As used in this section:]

35        [(a) “Funds of a public agency” does not include:]

36        [(A) Funds provided in the form of a government grant to a nonprofit organization, unless the  
 37 government grant is issued for the purpose of construction, reconstruction, major renovation or paint-  
 38 ing;]

39        [(B) Building and development permit fees paid or waived by the public agency;]

40        [(C) Tax credits or tax abatements;]

41        [(D) Land that a public agency sells to a private entity at fair market value;]

42        [(E) The difference between.]

43        [(i) The value of land that a public agency sells to a private entity as determined at the time of the  
 44 sale after taking into account any plan, requirement, covenant, condition, restriction or other limitation,  
 45 exclusive of zoning or land use regulations, that the public agency imposes on the development or use

1 of the land; and]

2 [(ii) The fair market value of the land if the land is not subject to the limitations described in  
3 sub-subparagraph (i) of this subparagraph;]

4 [(F) Staff resources of the public agency used to manage a project or to provide a principal source  
5 of supervision, coordination or oversight of a project;]

6 [(G) Staff resources of the public agency used to design or inspect one or more components of a  
7 project;]

8 [(H) Moneys derived from the sale of bonds that are loaned by a state agency to a private entity,  
9 unless the moneys will be used for a public improvement;]

10 [(I) Value added to land as a consequence of a public agency's site preparation, demolition of real  
11 property or remediation or removal of environmental contamination, except for value added in excess  
12 of the expenses the public agency incurred in the site preparation, demolition or remediation or removal  
13 when the land is sold for use in a project otherwise subject to ORS 279C.800 to 279C.870; or]

14 [(J) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289 or  
15 ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.]

16 [(b) "Nonprofit organization" means an organization or group of organizations described in section  
17 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the  
18 Internal Revenue Code.]

19 [(2)] ORS 279C.800 to 279C.870 do not apply to:

20 [(a)] (1) [Projects] **A project** for which the contract price does not exceed \$50,000. In determin-  
21 ing the price of a project, a public agency:

22 [(A)] (a) May not include the value of donated materials or work [performed on the project by]  
23 **that** individuals volunteering to the public agency **perform** without pay; and

24 [(B)] (b) Shall include the value of work [performed by every person paid by] **for which** a con-  
25 tractor or subcontractor **pays a person** in any manner for the person's work on the project.

26 [(b)] (2) [Projects] **A project** for which [no] funds of a public agency are **not** directly or indi-  
27 rectly used. In accordance with ORS chapter 183, the Commissioner of the Bureau of Labor and  
28 Industries shall adopt rules to carry out the provisions of this [paragraph] **subsection.**

29 [(c) Projects:]

30 (3) **A project:**

31 [(A)] (a) That [are] **is** privately owned;

32 [(B)] (b) That [use] **uses** funds of a private entity;

33 [(C)] (c) In which [less than 25 percent of the square footage of a completed project will be occupied  
34 or used by] a public agency **will occupy or use less than 25 percent of the square footage of the**  
35 **completed project;** and

36 [(D)] (d) [For] **In** which less than \$750,000 of funds of a public agency are used.

37 [(d)] (4)(a) [Projects] **A project** for residential construction that [are] **is** privately owned and  
38 that predominantly [provide] **provides** affordable housing.

39 (b) As used in this [paragraph] **subsection:**

40 (A) "Affordable housing" means housing that serves occupants whose incomes are [no] **not**  
41 greater than 60 percent of the area median income or, if the occupants are owners, whose incomes  
42 are [no] **not** greater than 80 percent of the area median income.

43 (B) "Predominantly" means 60 percent or more.

44 (C) "Privately owned" [includes] **means:**

45 (i) Affordable housing provided on real property [owned by] **that** a public agency **owns** if the

1 real property and related structures are leased to a private entity for 50 or more years; and

2 (ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability com-  
 3 pany in which a housing authority, as defined in ORS 456.005, is a general partner, director or  
 4 managing member and the housing authority is not a majority owner in the partnership, nonprofit  
 5 corporation or limited liability company.

6 (D) “Residential construction” [*includes*] **means** the construction, reconstruction, major reno-  
 7 vation or painting of single-family houses or apartment buildings not more than four stories in  
 8 height and all incidental items, such as site work, parking areas, utilities, streets and sidewalks,  
 9 pursuant to the United States Department of Labor’s “All Agency Memorandum No. 130: Applica-  
 10 tion of the Standard of Comparison “Projects of a Character Similar” Under Davis-Bacon and Re-  
 11 lated Acts,” dated March 17, 1978. However, the commissioner may consider different definitions of  
 12 “residential construction” in determining whether a project is a residential construction project for  
 13 purposes of this [*paragraph*] **subsection**, including definitions that:

14 (i) Exist in local ordinances or codes; or

15 (ii) Differ, in the prevailing practice of a particular trade or occupation, from the United States  
 16 Department of Labor’s description of residential construction.

17 **SECTION 3.** ORS 279C.827 is amended to read:

18 279C.827. (1)(a) A public agency may not divide a public works project into more than one con-  
 19 tract for the purpose of avoiding compliance with ORS 279C.800 to 279C.870.

20 (b) When the Commissioner of the Bureau of Labor and Industries determines that a public  
 21 agency has divided a public works project into more than one contract for the purpose of avoiding  
 22 compliance with ORS 279C.800 to 279C.870, the commissioner shall issue an order compelling com-  
 23 pliance.

24 (c) In making determinations under this subsection, the commissioner shall consider:

25 (A) The physical separation of the project structures;

26 (B) The timing of the work on project phases or structures;

27 (C) The continuity of project contractors and subcontractors working on project parts or phases;

28 (D) The manner in which the public agency and the contractors administer and implement the  
 29 project;

30 (E) Whether a single public works project includes several types of improvements or structures;  
 31 and

32 (F) Whether the combined improvements or structures have an overall purpose or function.

33 (2) If a project is a public works of the type described in ORS 279C.800 [(6)(a)(B)] **(7)(a)(B)** or  
 34 (C), the commissioner shall divide the project, if appropriate, after applying the considerations set  
 35 forth in subsection (1)(c) of this section to separate the parts of the project that include funds of a  
 36 public agency or that will be occupied or used by a public agency from the parts of the project that  
 37 do not include funds of a public agency and that will not be occupied or used by a public agency.  
 38 If the commissioner divides the project, any part of the project that does not include funds of a  
 39 public agency and that will not be occupied or used by a public agency is not subject to ORS  
 40 279C.800 to 279C.870.

41 (3) If a project includes parts that are owned by a public agency and parts that are owned by  
 42 a private entity, the commissioner shall divide the project, if appropriate, after applying the con-  
 43 siderations set forth in subsections (1)(c) and (2) of this section to separate the parts of the project  
 44 that are public works from the parts of the project that are not public works. If the commissioner  
 45 divides the project, parts of the project that are not public works are not subject to ORS 279C.800

1 to 279C.870.

2 **SECTION 4.** ORS 279C.830 is amended to read:

3 279C.830. (1)(a) Except as provided in paragraph (d) of this subsection, the specifications for  
 4 every contract for public works shall contain a provision stating the existing state prevailing rate  
 5 of wage and, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act  
 6 (40 U.S.C. 3141 et seq.) that may be paid to workers in each trade or occupation required for the  
 7 public works employed in the performance of the contract either by the contractor or subcontractor  
 8 or other person doing or contracting to do the whole or any part of the work contemplated by the  
 9 contract. When the prevailing rates of wage are available electronically or are accessible on the  
 10 Internet, the rates may be incorporated into the specifications by referring to the electronically  
 11 accessible or Internet-accessible rates and by providing adequate information about how to access  
 12 the rates.

13 (b) If a public agency is required under paragraph (a) of this subsection to include the state and  
 14 federal prevailing rates of wage in the specifications, the public agency also shall include in the  
 15 specifications information showing which prevailing rate of wage is higher for workers in each trade  
 16 or occupation in each locality, as determined by the Commissioner of the Bureau of Labor and In-  
 17 dustries under ORS 279C.815 (2)(c).

18 (c) Every contract and subcontract shall contain a provision that the workers shall be paid not  
 19 less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840.

20 (d) A public works project described in ORS 279C.800 [(6)(a)(B)] **(7)(a)(B)** or (C) is subject to the  
 21 existing state prevailing rate of wage or, if applicable, the federal prevailing rate of wage required  
 22 under the Davis-Bacon Act that is in effect at the time a public agency enters into an agreement  
 23 with a private entity for the project. After that time, the specifications for any contract for the  
 24 public works shall include the applicable prevailing rate of wage.

25 (2) The specifications for every contract for public works shall contain a provision stating that  
 26 the contractor and every subcontractor must have a public works bond filed with the Construction  
 27 Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (4), (7),  
 28 (8) or (9). Every contract awarded by a contracting agency shall contain a provision requiring the  
 29 contractor:

30 (a) To have a public works bond filed with the Construction Contractors Board before starting  
 31 work on the project, unless exempt under ORS 279C.836 (4), (7), (8) or (9).

32 (b) To include in every subcontract a provision requiring the subcontractor to have a public  
 33 works bond filed with the Construction Contractors Board before starting work on the project, un-  
 34 less exempt under ORS 279C.836 (4), (7), (8) or (9).

35 **SECTION 5.** ORS 279A.010 is amended to read:

36 279A.010. (1) As used in the Public Contracting Code, unless the context or a specifically ap-  
 37 plicable definition requires otherwise:

38 (a) "Bidder" means a person that submits a bid in response to an invitation to bid.

39 (b) "Contracting agency" means a public body authorized by law to conduct a procurement.  
 40 "Contracting agency" includes, but is not limited to, the Director of the Oregon Department of Ad-  
 41 ministrative Services and any person authorized by a contracting agency to conduct a procurement  
 42 on the contracting agency's behalf. "Contracting agency" does not include the judicial department  
 43 or the legislative department.

44 (c) "Days" means calendar days.

45 (d) "Department" means the Oregon Department of Administrative Services.

1 (e) "Director" means the Director of the Oregon Department of Administrative Services or a  
 2 person designated by the director to carry out the authority of the director under the Public Con-  
 3 tracting Code.

4 (f) "Emergency" means circumstances that:

5 (A) Could not have been reasonably foreseen;

6 (B) Create a substantial risk of loss, damage or interruption of services or a substantial threat  
 7 to property, public health, welfare or safety; and

8 (C) Require prompt execution of a contract to remedy the condition.

9 (g) "Energy savings performance contract" means a public contract between a contracting  
 10 agency and a qualified energy service company for the identification, evaluation, recommendation,  
 11 design and construction of energy conservation measures, including a design-build contract, that  
 12 guarantee energy savings or performance.

13 (h) "Executive department" has the meaning given that term in ORS 174.112.

14 (i) "Goods" includes supplies, equipment, materials, personal property, including any tangible,  
 15 intangible and intellectual property and rights and licenses in relation thereto, and combinations  
 16 of any of the items identified in this paragraph.

17 (j) "Goods and services" or "goods or services" includes combinations of any of the items iden-  
 18 tified in the definitions of "goods" and "services."

19 (k)(A) "Grant" means:

20 (i) An agreement under which a contracting agency receives moneys, property or other assist-  
 21 ance, including but not limited to federal assistance that is characterized as a grant by federal law  
 22 or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other  
 23 assets, from a grantor for the purpose of supporting or stimulating a program or activity of the  
 24 contracting agency and in which no substantial involvement by the grantor is anticipated in the  
 25 program or activity other than involvement associated with monitoring compliance with the grant  
 26 conditions; or

27 (ii) An agreement under which a contracting agency provides moneys, property or other assist-  
 28 ance, including but not limited to federal assistance that is characterized as a grant by federal law  
 29 or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other  
 30 assets, to a recipient for the purpose of supporting or stimulating a program or activity of the re-  
 31 cipient and in which no substantial involvement by the contracting agency is anticipated in the  
 32 program or activity other than involvement associated with monitoring compliance with the grant  
 33 conditions.

34 (B) "Grant" does not include a public contract for a public improvement, for public works, as  
 35 defined in ORS 279C.800, or for emergency work, minor alterations or ordinary repair or mainte-  
 36 nance necessary to preserve a public improvement, when under the public contract a contracting  
 37 agency pays, in consideration for contract performance intended to realize or to support the real-  
 38 ization of the purposes for which grant funds were provided to the contracting agency, moneys that  
 39 the contracting agency has received under a grant.

40 (L) "Industrial oil" means any compressor, turbine or bearing oil, hydraulic oil, metal-working  
 41 oil or refrigeration oil.

42 (m) "Judicial department" has the meaning given that term in ORS 174.113.

43 (n) "Legislative department" has the meaning given that term in ORS 174.114.

44 (o) "Local contract review board" means a local contract review board described in ORS  
 45 279A.060.

1 (p) “Local contracting agency” means a local government or special government body authorized  
 2 by law to conduct a procurement. “Local contracting agency” includes any person authorized by a  
 3 local contracting agency to conduct a procurement on behalf of the local contracting agency.

4 (q) “Local government” has the meaning given that term in ORS 174.116.

5 (r) “Lowest responsible bidder” means the lowest bidder who:

6 (A) Has substantially complied with all prescribed public contracting procedures and require-  
 7 ments;

8 (B) Has met the standards of responsibility set forth in ORS 279B.110 or 279C.375;

9 (C) Has not been debarred or disqualified by the contracting agency under ORS 279B.130 or  
 10 279C.440; and

11 (D) If the advertised contract is a public improvement contract, is not on the list created by the  
 12 Construction Contractors Board under ORS 701.227.

13 (s) “Lubricating oil” means any oil intended for use in an internal combustion crankcase,  
 14 transmission, gearbox or differential or an automobile, bus, truck, vessel, plane, train, heavy equip-  
 15 ment or machinery powered by an internal combustion engine.

16 (t) “Person” means a natural person capable of being legally bound, a sole proprietorship, a  
 17 corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-  
 18 profit or nonprofit unincorporated association, a business trust, two or more persons having a joint  
 19 or common economic interest, any other person with legal capacity to contract or a public body.

20 (u) “Post-consumer waste” means a finished material that would normally be disposed of as solid  
 21 waste, having completed its life cycle as a consumer item. “Post-consumer waste” does not include  
 22 manufacturing waste.

23 (v) “Price agreement” means a public contract for the procurement of goods or services at a set  
 24 price with:

25 (A) No guarantee of a minimum or maximum purchase; or

26 (B) An initial order or minimum purchase combined with a continuing contractor obligation to  
 27 provide goods or services in which the contracting agency does not guarantee a minimum or maxi-  
 28 mum additional purchase.

29 (w) “Procurement” means the act of purchasing, leasing, renting or otherwise acquiring goods  
 30 or services. “Procurement” includes each function and procedure undertaken or required to be  
 31 undertaken by a contracting agency to enter into a public contract, administer a public contract and  
 32 obtain the performance of a public contract under the Public Contracting Code.

33 (x) “Proposer” means a person that submits a proposal in response to a request for proposals.

34 (y) “Public body” has the meaning given that term in ORS 174.109.

35 (z) “Public contract” means a sale or other disposal, or a purchase, lease, rental or other ac-  
 36 quisition, by a contracting agency of personal property, services, including personal services, public  
 37 improvements, public works, minor alterations, or ordinary repair or maintenance necessary to pre-  
 38 serve a public improvement. “Public contract” does not include grants.

39 (aa) “Public contracting” means procurement activities described in the Public Contracting Code  
 40 relating to obtaining, modifying or administering public contracts or price agreements.

41 (bb) “Public Contracting Code” or “code” means ORS chapters 279A, 279B and 279C.

42 (cc) “Public improvement” means a project for construction, reconstruction or major renovation  
 43 on real property by or for a contracting agency. “Public improvement” does not include:

44 (A) Projects for which no funds of a contracting agency are directly or indirectly used, except  
 45 for participation that is incidental or related primarily to project design or inspection; or

1 (B) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a  
2 public improvement.

3 (dd) "Public improvement contract" means a public contract for a public improvement. "Public  
4 improvement contract" does not include a public contract for emergency work, minor alterations,  
5 or ordinary repair or maintenance necessary to preserve a public improvement.

6 (ee) "Recycled material" means any material that would otherwise be a useless, unwanted or  
7 discarded material except for the fact that the material still has useful physical or chemical prop-  
8 erties after serving a specific purpose and can, therefore, be reused or recycled.

9 (ff) "Recycled oil" means used oil that has been prepared for reuse as a petroleum product by  
10 refining, rerefining, reclaiming, reprocessing or other means, provided that the preparation or use  
11 is operationally safe, environmentally sound and complies with all laws and regulations.

12 (gg) "Recycled paper" means a paper product with not less than:

13 (A) Fifty percent of its fiber weight consisting of secondary waste materials; or

14 (B) Twenty-five percent of its fiber weight consisting of post-consumer waste.

15 (hh) "Recycled PETE" means post-consumer polyethylene terephthalate material.

16 (ii) "Recycled product" means all materials, goods and supplies, not less than 50 percent of the  
17 total weight of which consists of secondary and post-consumer waste with not less than 10 percent  
18 of its total weight consisting of post-consumer waste. "Recycled product" includes any product that  
19 could have been disposed of as solid waste, having completed its life cycle as a consumer item, but  
20 otherwise is refurbished for reuse without substantial alteration of the product's form.

21 (jj) "Secondary waste materials" means fragments of products or finished products of a manu-  
22 facturing process that has converted a virgin resource into a commodity of real economic value.  
23 "Secondary waste materials" includes post-consumer waste. "Secondary waste materials" does not  
24 include excess virgin resources of the manufacturing process. For paper, "secondary waste  
25 materials" does not include fibrous waste generated during the manufacturing process such as fibers  
26 recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips,  
27 sawdust or other wood residue from a manufacturing process.

28 (kk) "Services" mean services other than personal services designated under ORS 279A.055, ex-  
29 cept that, for state contracting agencies with procurement authority under ORS 279A.050 or  
30 279A.140, "services" includes personal services as designated by the state contracting agencies.

31 (LL) "Special government body" has the meaning given that term in ORS 174.117.

32 (mm) "State agency" means the executive department, except the Secretary of State and the  
33 State Treasurer in the performance of the duties of their constitutional offices.

34 (nn) "State contracting agency" means an executive department entity authorized by law to  
35 conduct a procurement.

36 (oo) "State government" has the meaning given that term in ORS 174.111.

37 (pp) "Used oil" has the meaning given that term in ORS 459A.555.

38 (qq) "Virgin oil" means oil that has been refined from crude oil and that has not been used or  
39 contaminated with impurities.

40 (2) Other definitions appearing in the Public Contracting Code and the sections in which they  
41 appear are:

- 42
- 43 (a) "Adequate" .....ORS 279C.305
- 44 (b) "Administering contracting
- 45 agency".....ORS 279A.200



1 (c) "Affirmative action" .....ORS 279A.100  
 2 (d) "Architect" .....ORS 279C.100  
 3 (e) "Architectural, engineering  
 4 and land surveying  
 5 services" .....ORS 279C.100  
 6 (f) "Bid documents" .....ORS 279C.400  
 7 (g) "Bidder" .....ORS 279B.415  
 8 (h) "Bids" .....ORS 279C.400  
 9 (i) "Brand name" .....ORS 279B.405  
 10 (j) "Brand name or equal  
 11 specification" .....ORS 279B.200  
 12 (k) "Brand name  
 13 specification" .....ORS 279B.200  
 14 (L) "Class special  
 15 procurement" .....ORS 279B.085  
 16 (m) "Consultant" .....ORS 279C.115  
 17 (n) "Contract-specific  
 18 special procurement" .....ORS 279B.085  
 19 (o) "Cooperative  
 20 procurement" .....ORS 279A.200  
 21 (p) "Cooperative procurement  
 22 group" .....ORS 279A.200  
 23 (q) "Donee" .....ORS 279A.250  
 24 (r) "Engineer" .....ORS 279C.100  
 25 (s) "Findings" .....ORS 279C.330  
 26 (t) "Fire protection  
 27 equipment" .....ORS 279A.190  
 28 (u) "Fringe benefits" .....ORS 279C.800  
 29 (v) "Funds of a public  
 30 agency" .....ORS [279C.810] **279C.800**  
 31 (w) "Good cause" .....ORS 279C.585  
 32 (x) "Good faith dispute" .....ORS 279C.580  
 33 (y) "Goods" .....ORS 279B.115  
 34 (z) "Housing" .....ORS 279C.800  
 35 (aa) "Interstate cooperative  
 36 procurement" .....ORS 279A.200  
 37 (bb) "Invitation to bid" .....ORS 279B.005  
 38 .....and 279C.400  
 39 (cc) "Joint cooperative  
 40 procurement" .....ORS 279A.200  
 41 (dd) "Labor dispute" .....ORS 279C.650  
 42 (ee) "Land surveyor" .....ORS 279C.100  
 43 (ff) "Legally flawed" .....ORS 279B.405  
 44 (gg) "Locality" .....ORS 279C.800  
 45 [(hh) "Nonprofit

1                    *organization* .....ORS 279C.810]  
2        [(ii)] (hh)    “Nonresident bidder” .....ORS 279A.120  
3        [(jj)] (ii)    “Not-for-profit  
4                    *organization* .....ORS 279A.250  
5        [(kk)] (jj)    “Original contract” .....ORS 279A.200  
6        [(LL)] (kk)    “Permissive cooperative  
7                    *procurement* .....ORS 279A.200  
8        [(mm)] (LL)    “Person” .....ORS 279C.500  
9                    .....and 279C.815  
10       [(nn)] (mm)    “Personal services” .....ORS 279C.100  
11       [(oo)] (nn)    “Prevailing rate of  
12                    *wage*” .....ORS 279C.800  
13       [(pp)] (oo)    “Procurement  
14                    *description*” .....ORS 279B.005  
15       [(qq)] (pp)    “Property” .....ORS 279A.250  
16       [(rr)] (qq)    “Public agency” .....ORS 279C.800  
17       [(ss)] (rr)    “Public contract” .....ORS 279A.190  
18       [(tt)] (ss)    “Public works” .....ORS 279C.800  
19       [(uu)] (tt)    “Purchasing contracting  
20                    *agency*” .....ORS 279A.200  
21       [(vv)] (uu)    “Regularly organized fire  
22                    *department*” .....ORS 279A.190  
23       [(ww)] (vv)    “Related services” .....ORS 279C.100  
24       [(xx)] (ww)    “Request for proposals” .....ORS 279B.005  
25       [(yy)] (xx)    “Resident bidder” .....ORS 279A.120  
26       [(zz)] (yy)    “Responsible bidder” .....ORS 279A.105  
27                    .....and 279B.005  
28       [(aaa)] (zz)    “Responsible proposer” .....ORS 279B.005  
29       [(bbb)] (aaa)    “Responsive bid” .....ORS 279B.005  
30       [(ccc)] (bbb)    “Responsive proposal” .....ORS 279B.005  
31       [(ddd)] (ccc)    “Retainage” .....ORS 279C.550  
32       [(eee)] (ddd)    “Special procurement” .....ORS 279B.085  
33       [(fff)] (eee)    “Specification” .....ORS 279B.200  
34       [(ggg)] (fff)    “State agency” .....ORS 279A.250  
35       [(hhh)] (ggg)    “Substantial  
36                    *completion*” .....ORS 279C.465  
37       [(iii)] (hhh)    “Surplus property” .....ORS 279A.250  
38       [(jjj)] (iii)    “Unnecessarily  
39                    *restrictive*” .....ORS 279B.405

40        **SECTION 6. The amendments to ORS 279A.010, 279C.800, 279C.810, 279C.827 and 279C.830**  
41 **by sections 1 to 5 of this 2011 Act apply to contracts for public works that a contracting**  
42 **agency advertises or otherwise solicits on or after the operative date specified in section 7**  
43 **of this 2011 Act or, if the contracting agency does not advertise or solicit the contract, to a**  
44 **contract that a contracting agency enters into on or after the operative date specified in**  
45 **section 7 of this 2011 Act.**

1       **SECTION 7.** (1) The amendments to ORS 279A.010, 279C.800, 279C.810, 279C.827 and  
2 279C.830 by sections 1 to 5 of this 2011 Act become operative 91 days after the effective date  
3 of this 2011 Act.

4       (2) The Commissioner of the Bureau of Labor and Industries, the Director of the Oregon  
5 Department of Administrative Services, the Attorney General and a contracting agency that  
6 adopts rules under ORS 279A.065 may take any action before the operative date specified in  
7 subsection (1) of this section that is necessary to enable the commissioner, the director, the  
8 Attorney General or the contracting agency to exercise, on or after the operative date  
9 specified in subsection (1) of this section, all the duties, functions and powers conferred on  
10 the commissioner, the director, the Attorney General and the contracting agency by the  
11 amendments to ORS 279A.010, 279C.800, 279C.810, 279C.827 and 279C.830 by sections 1 to 5 of  
12 this 2011 Act.

13       **SECTION 8.** This 2011 Act being necessary for the immediate preservation of the public  
14 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
15 on its passage.  
16

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# House Bill 2966

Sponsored by Representative DEMBROW (at the request of Oregon AFL-CIO) (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits contracting agency from awarding public contract for services to bidder or proposer that performs services outside United States. Requires contracting agency to state prohibition in solicitation documents and to provide in contract that contractor covenants to perform services within United States. Provides exceptions.

Becomes operative January 1, 2012.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public contracting for services; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 279A.**

5 **SECTION 2. (1) A contracting agency may not award a public contract for services to a**  
6 **bidder or proposer that will perform the services specified in the invitation to bid or request**  
7 **for proposals at or from a location that is outside the United States.**

8 **(2) A contracting agency shall state in the invitation to bid or request for proposals that**  
9 **the contracting agency may not award a public contract in the circumstances described in**  
10 **subsection (1) of this section.**

11 **(3) A bidder or proposer for a public contract shall certify in the bid or proposal that the**  
12 **bidder or proposer will perform the services specified in the invitation to bid or request for**  
13 **proposals within the United States.**

14 **(4) A contracting agency shall require as a covenant in each public contract for services**  
15 **that the contractor must perform the services specified in the contract within the United**  
16 **States. The contract shall provide that if the contractor breaches the covenant, the con-**  
17 **tracting agency is entitled to all or any one of the following remedies, as appropriate:**

18 **(a) To obtain liquidated damages in an amount specified in the contract;**

19 **(b) To obtain specific performance from the contractor; or**

20 **(c) To rescind or to terminate the contract.**

21 **(5) A contracting agency may commence and maintain an action in a circuit court of this**  
22 **state to seek a remedy for a breach of the covenant described in subsection (4) of this sec-**  
23 **tion. The court shall award reasonable attorney fees and costs to a contracting agency that**  
24 **prevails in the action.**

25 **(6) The provisions of subsections (1) to (5) of this section do not apply if the contracting**  
26 **agency determines that complying with the provisions of subsections (1) to (4) of this section**  
27 **would violate:**

28 **(a) A provision of federal law; or**

29 **(b) A provision of an international treaty or trade agreement to which this state is a**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 party or to which this state has agreed to be bound.

2 **SECTION 3.** Section 2 of this 2011 Act applies to contracts that a contracting agency first  
3 advertises or otherwise solicits on or after the operative date specified in section 4 of this  
4 2011 Act or, if the contracting agency does not advertise or solicit the contract, to contracts  
5 that the contracting agency first enters into on or after the operative date specified in sec-  
6 tion 4 of this 2011 Act.

7 **SECTION 4.** (1) Section 2 of this 2011 Act becomes operative on January 1, 2012.

8 (2) The Director of the Oregon Department of Administrative Services, the Attorney  
9 General or a contracting agency that adopts rules under ORS 279A.065 may take any action  
10 before the operative date specified in subsection (1) of this section that is necessary to enable  
11 the director, the Attorney General or the contracting agency to exercise, on and after the  
12 operative date specified in subsection (1) of this section, all of the duties, functions and  
13 powers conferred on the director, the Attorney General or the contracting agency by section  
14 2 of this 2011 Act.

15 **SECTION 5.** This 2011 Act being necessary for the immediate preservation of the public  
16 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
17 on its passage.

18

# House Bill 2602

Sponsored by Representative SCHAUFLEER (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates offense of unsafe operation of bicycle. Punishes by maximum fine of \$90.

## A BILL FOR AN ACT

1  
2 Relating to unsafe operation of a bicycle.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of the Oregon Vehicle**  
5 **Code.**

6 **SECTION 2. (1) A person commits the offense of unsafe operation of a bicycle if the**  
7 **person operates a bicycle on a highway while wearing a listening device that is capable of**  
8 **receiving telephonic communication, radio broadcasts or recorded sounds.**

9 **(2) The offense described in this section, unsafe operation of a bicycle, is a Class D vio-**  
10 **lation.**

11

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**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

# House Bill 2709

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs State Board of Pharmacy to classify certain synthetic cannabinoid compounds as Schedule I controlled substances.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to controlled substances; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. The State Board of Pharmacy shall classify as a controlled substance in Schedule I the following substances, including their isomers, homologues, esters, ethers, salts and salts of isomers, esters and ethers, except when in the possession of a manufacturer or research facility registered with the federal Food and Drug Administration, or of a person for the purpose of sale to a manufacturer or research facility registered with the federal Food and Drug Administration:**

(1) CP 47,497 and homologues:  
2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol.

(2) HU-210: [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-yl], also known as 6aR-trans-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol.

(3) JWH-018: 1-pentyl-3-(1-naphthoyl)indole, also known as Naphthalen-1-yl-(1-pentylindol-3-yl)methanone.

(4) JWH-073: 1-butyl-3-(1-naphthoyl)indole, also known as Naphthalen-1-yl-(1-butylindol-3-yl)methanone.

(5) JWH-200: 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole.

(6) JWH-081: 1-pentyl-3-(4-methoxy-1-naphthoyl)indole, also known as 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone.

(7) JWH-250: 1-pentyl-3-(2-methoxyphenylacetyl)indole, also known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone.

(8) Any other cannabinoid receptor agonist that is not listed in Schedules II to V or is not a drug approved by the federal Food and Drug Administration.

**SECTION 2. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.**

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in boldfaced type.

# House Bill 2352

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Business and Labor)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires city that reduces available prime industrial land within urban growth boundary to replace land or mitigate impact so that development capacity to satisfy need for prime industrial land is not reduced or compromised.

## A BILL FOR AN ACT

1  
2 Relating to prime industrial land.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Prime industrial land" has the meaning given that term by rule of the Land Con-**  
6 **servation and Development Commission.**

7 (b) **"Serviceable" has the meaning given that term by rule of the commission.**

8 (c) **"Short-term suitability" has the meaning given that term by rule of the commission.**

9 (2) **When a city takes action that reduces the amount or usability of prime industrial land**  
10 **within the urban growth boundary, the city shall take additional action to replace the prime**  
11 **industrial land or to mitigate the impact of the action to ensure that the development ca-**  
12 **capacity to satisfy the need for prime industrial land is not reduced or compromised.**

13 (3) **To satisfy this section, a city must replace prime industrial land with other prime**  
14 **industrial land that is similar in terms of its size and short-term suitability and is similarly**  
15 **serviceable.**

16  

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**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.



# House Bill 2609

Sponsored by Representative SCHAUFLEER (at the request of Oregon Home Builders Association) (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires metropolitan service districts and cities with population of 25,000 or more that are outside metropolitan service districts to provide rolling, five-year supply of shovel-ready buildable lands for needed housing and for industrial and commercial uses.

## A BILL FOR AN ACT

1  
2 Relating to buildable lands; creating new provisions; and amending ORS 197.295, 197.296 and 197.299.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 195.**

5 **SECTION 2. (1) As used in this section:**

6 (a) **“Buildable lands” means lands, including vacant lands and developed lands likely to**  
7 **be redeveloped, in urban and urbanizable areas that are suitable, available and necessary for**  
8 **industrial and commercial uses.**

9 (b) **“Shovel-ready buildable lands” means buildable lands that will be ready for con-**  
10 **struction within one year from the date an application for a building permit or for a request**  
11 **for extension of urban services, as defined in ORS 195.065, to the site is submitted.**

12 (2) **As part of an effort to comply with the requirement to provide an adequate supply**  
13 **of sites for a variety of industrial and commercial uses in a goal related to economic activity,**  
14 **a local government shall inventory and maintain a rolling, five-year supply of shovel-ready**  
15 **buildable lands for industrial and commercial uses. The short-term supply of shovel-ready**  
16 **buildable lands required by this section must include sites of suitable sizes, types, locations**  
17 **and urban services service levels for a variety of industrial and commercial uses.**

18 **SECTION 3. ORS 197.295 is amended to read:**

19 197.295. As used in ORS 197.295 to 197.314 and 197.475 to 197.490:

20 (1) **“Buildable lands” means lands, including vacant lands and developed lands likely to be**  
21 **redeveloped, in urban and urbanizable areas that are suitable, available and necessary for residen-**  
22 **tial uses. [*“Buildable lands” includes both vacant land and developed land likely to be redeveloped.*]**

23 (2) **“Manufactured dwelling park” has the meaning given that term in ORS 446.003.**

24 (3) **“Government assisted housing” means housing that is financed in whole or part by either a**  
25 **federal or state housing agency or a housing authority as defined in ORS 456.005, or housing that**  
26 **is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided**  
27 **by either a federal or state housing agency or a local housing authority.**

28 (4) **“Manufactured homes” has the meaning given that term in ORS 446.003.**

29 (5) **“Mobile home park” has the meaning given that term in ORS 446.003.**

30 (6) **“Periodic review” means the process and procedures as set forth in ORS 197.628 to 197.650.**

31 (7) **“Shovel-ready buildable lands” means buildable lands that will be ready for con-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **struction within one year from the date an application for a building permit or for a request**  
 2 **for extension of urban services, as defined in ORS 195.065, to the site is submitted.**

3 [(7)] (8) “Urban growth boundary” means an urban growth boundary included or referenced in  
 4 a comprehensive plan.

5 **SECTION 4.** ORS 197.296 is amended to read:

6 197.296. (1)(a) The provisions of this section apply to metropolitan service district regional  
 7 framework plans and local government comprehensive plans for lands within the urban growth  
 8 boundary of a city that is located outside of a metropolitan service district and has a population of  
 9 25,000 or more.

10 (b) The Land Conservation and Development Commission may establish a set of factors under  
 11 which additional cities are subject to the provisions of this section. In establishing the set of factors  
 12 required under this paragraph, the commission shall consider the size of the city, the rate of popu-  
 13 lation growth of the city or the proximity of the city to another city with a population of 25,000 or  
 14 more or to a metropolitan service district.

15 (2) At periodic review pursuant to ORS 197.628 to 197.650 or at any other legislative review of  
 16 the comprehensive plan or regional plan that concerns the urban growth boundary and requires the  
 17 application of a statewide planning goal relating to buildable lands for residential use, a local gov-  
 18 ernment shall demonstrate that, **commencing on the date initially scheduled for completion of**  
 19 **the periodic or legislative review**, its comprehensive plan or regional plan provides sufficient:

20 (a) Buildable lands within the urban growth boundary established pursuant to statewide plan-  
 21 ning goals to accommodate estimated housing needs for **the next 20 years; and**

22 (b) **Shovel-ready buildable lands for a rolling, five-year period.** [*The 20-year period shall*  
 23 *commence on the date initially scheduled for completion of the periodic or legislative review.*]

24 (3) In performing the duties under subsection (2) of this section, a local government shall:

25 (a) Inventory the supply of buildable lands, **including shovel-ready buildable lands**, within the  
 26 urban growth boundary and determine the housing capacity of the buildable lands, **including**  
 27 **shovel-ready buildable lands**; and

28 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS  
 29 197.303 and statewide **land use** planning goals and rules relating to housing, to determine the  
 30 number of units and amount of land needed for each needed housing type for the next 20 years **and**  
 31 **for the rolling, five-year period for which shovel-ready buildable lands must be provided.**

32 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable  
 33 lands” includes:

34 (A) Vacant lands planned or zoned for residential use;

35 (B) Partially vacant lands planned or zoned for residential use;

36 (C) Lands that may be used for a mix of residential and employment uses under the existing  
 37 planning or zoning; and

38 (D) Lands that may be used for residential infill or redevelopment.

39 (b) For the purpose of the inventory and determination of housing capacity described in sub-  
 40 section (3)(a) of this section, the local government must demonstrate consideration of:

41 (A) The extent that residential development is prohibited or restricted by local regulation and  
 42 ordinance, state law and rule or federal statute and regulation;

43 (B) A written long term contract or easement for radio, telecommunications or electrical facili-  
 44 ties, if the written contract or easement is provided to the local government; and

45 (C) The presence of a single family dwelling or other structure on a lot or parcel.

1 (c) Except for land that may be used for residential infill or redevelopment, a local government  
 2 shall create a map or document that may be used to verify and identify specific lots or parcels that  
 3 have been determined to be buildable lands.

4 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of  
 5 housing capacity and need pursuant to subsection (3) of this section must be based on data relating  
 6 to land within the urban growth boundary that has been collected since the last periodic review or  
 7 five years, whichever is greater. The data shall include:

8 (A) The number, density and average mix of housing types of urban residential development that  
 9 have actually occurred;

10 (B) Trends in density and average mix of housing types of urban residential development;

11 (C) Demographic and population trends;

12 (D) Economic trends and cycles; and

13 (E) The number, density and average mix of housing types that have occurred on the buildable  
 14 lands described in subsection (4)(a) of this section.

15 (b) A local government shall make the determination described in paragraph (a) of this sub-  
 16 section using a shorter time period than the time period described in paragraph (a) of this subsection  
 17 if the local government finds that the shorter time period will provide more accurate and reliable  
 18 data related to housing capacity and need. The shorter time period may not be less than three years.

19 (c) A local government shall use data from a wider geographic area or use a time period for  
 20 economic cycles and trends longer than the time period described in paragraph (a) of this subsection  
 21 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-  
 22 curate, complete and reliable data relating to trends affecting housing need than an analysis per-  
 23 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the  
 24 geographic area, time frame and source of data used in a determination performed under this para-  
 25 graph.

26 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than  
 27 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government  
 28 shall take one or more of the following actions to accommodate the additional housing need:

29 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate  
 30 housing needs for the next 20 years **and for the rolling, five-year period for which shovel-ready**  
 31 **buildable lands must be provided.** As part of this process, the local government shall consider the  
 32 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include  
 33 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The  
 34 need and inclusion of lands for new public school facilities shall be a coordinated process between  
 35 the affected public school districts and the local government that has the authority to approve the  
 36 urban growth boundary;

37 (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to in-  
 38 clude new measures that demonstrably increase the likelihood that residential development will oc-  
 39 cur at densities sufficient to accommodate housing needs for the next 20 years **and for the rolling,**  
 40 **five-year period for which shovel-ready buildable lands must be provided** without expansion of  
 41 the urban growth boundary. A local government or metropolitan service district that takes this  
 42 action shall monitor and record the level of development activity and development density by hous-  
 43 ing type following the date of the adoption of the new measures; or

44 (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

45 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government

1 shall determine the overall average density and overall mix of housing types at which residential  
 2 development of needed housing types must occur in order to meet housing needs [*over*] **for** the next  
 3 20 years **and for the rolling, five-year period for which shovel-ready buildable lands must be**  
 4 **provided.** If that density is greater than the actual density of development determined under sub-  
 5 section (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types de-  
 6 termined under subsection (5)(a)(A) of this section, the local government, as part of its periodic  
 7 review, shall adopt measures that demonstrably increase the likelihood that residential development  
 8 will occur at the housing types and density and at the mix of housing types required to meet housing  
 9 needs [*over*] **for** the next 20 years **and for the rolling, five-year period for which shovel-ready**  
 10 **buildable lands must be provided.**

11 (8)(a) A local government outside a metropolitan service district that takes any actions under  
 12 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use  
 13 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to  
 14 197.314.

15 (b) The local government shall determine the density and mix of housing types anticipated as a  
 16 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-  
 17 tual density and mix of housing types achieved. The local government shall compare actual and  
 18 anticipated density and mix. The local government shall submit its comparison to the commission  
 19 at the next periodic review or at the next legislative review of its urban growth boundary, which-  
 20 ever comes first.

21 (9) In establishing that actions and measures adopted under [*subsections*] **subsection** (6) or (7)  
 22 of this section demonstrably increase the likelihood of higher density residential development, the  
 23 local government shall at a minimum ensure that land zoned for needed housing is in locations ap-  
 24 propriate for the housing types identified under subsection (3) of this section and is zoned at density  
 25 ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of  
 26 this section. Actions or measures, or both, may include but are not limited to:

27 (a) Increases in the permitted density on existing residential land;

28 (b) Financial incentives for higher density housing;

29 (c) Provisions permitting additional density beyond that generally allowed in the zoning district  
 30 in exchange for amenities and features provided by the developer;

31 (d) Removal or easing of approval standards or procedures;

32 (e) Minimum density ranges;

33 (f) Redevelopment and infill strategies;

34 (g) Authorization of housing types not previously allowed by the **comprehensive plan or land**  
 35 **use** regulations;

36 (h) Adoption of an average residential density standard; and

37 (i) Rezoning or redesignation of nonresidential land.

38 **SECTION 5.** ORS 197.299 is amended to read:

39 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the  
 40 inventory, determination and analysis required under ORS 197.296 (3) not later than five years after  
 41 completion of the previous inventory, determination and analysis.

42 (2)(a) The metropolitan service district shall take [*such*] action [*as*] necessary under ORS 197.296  
 43 (6)(a) to accommodate one-half of a 20-year [*buildable land*] supply **of buildable lands** determined  
 44 under ORS 197.296 (3) within one year of completing the analysis.

45 (b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) neces-

1 sary to accommodate a 20-year [*buildable land*] supply **of buildable lands** determined under ORS  
 2 197.296 (3) within two years of completing the analysis.

3 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year  
 4 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable  
 5 [*land*] **lands** within the urban growth boundary to accommodate the estimated housing needs for 20  
 6 years **and for the rolling, five-year period for which shovel-ready buildable lands must be**  
 7 **provided** from the time the actions are completed. The metropolitan service district shall consider  
 8 and adopt new measures that the governing body deems appropriate under ORS 197.296 (6)(b).

9 (3) The Land Conservation and Development Commission may grant an extension to the time  
 10 limits of subsection (2) of this section if the Director of the Department of Land Conservation and  
 11 Development determines that the metropolitan service district has provided good cause for failing  
 12 to meet the time limits.

13 (4)(a) The metropolitan service district shall establish a process to expand the urban growth  
 14 boundary to accommodate a need for land for a public school that cannot reasonably be accommo-  
 15 dated within the existing urban growth boundary. The metropolitan service district shall design the  
 16 process to:

17 (A) Accommodate a need that must be accommodated between periodic analyses of urban growth  
 18 boundary capacity required by subsection (1) of this section; and

19 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four  
 20 months after submission of a complete application by a large school district as defined in ORS  
 21 195.110.

22 (b) At the request of a large school district, the metropolitan service district shall assist the  
 23 large school district to identify school sites required by the school facility planning process de-  
 24 scribed in ORS 195.110. A need for a public school is a specific type of identified land need under  
 25 ORS 197.298 (3).

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# House Bill 2518

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits local governments to impose real estate transfer tax or fee, provided tax or fee is structured progressively based on consideration paid for property, transfers in which buyer is first-time homebuyer are exempt, and marginal rate of tax or fee decreases as length of ownership by seller increases.

## A BILL FOR AN ACT

1  
2 Relating to real estate transfers; amending ORS 306.815.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 306.815 is amended to read:

5 306.815. (1) A city, county, district or other political subdivision or municipal corporation of this  
6 state [*shall*] **may** not impose, by ordinance or other law, a tax or fee upon the transfer of a fee es-  
7 tate in real property, or measured by the consideration paid or received upon transfer of a fee estate  
8 in real property, **unless:**

9 (a) **The tax or fee is structured progressively based on the amount of the consideration**  
10 **paid or received;**

11 (b) **Transfers in which the buyer is a first-time homebuyer are exempt from the tax or**  
12 **fee; and**

13 (c) **The marginal rate of the tax or fee decreases as the length of ownership by the seller**  
14 **increases.**

15 (2) A tax or fee upon the transfer of a fee estate in real property does not include any fee or  
16 charge that becomes due or payable at the time of transfer of a fee estate in real property, unless  
17 that fee or charge is imposed upon the right, privilege or act of transferring title to real property.

18 (3) Subsection (1) of this section does not apply to any fee established under ORS 203.148.

19 (4) Subsection (1) of this section does not apply to any tax if the ordinance or other law im-  
20 posing the tax is in effect and operative on March 31, 1997.

21 (5) Subsection (1) of this section does not apply to any tax or fee that is imposed upon the  
22 transfer of a fee estate in real property if the fee that is imposed under ORS 205.323, for the re-  
23 cording or filing of the instrument conveying the real property being transferred, is less than \$27.  
24

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**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

# House Bill 2563

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates and adjusts sunset dates for certain exemptions to property taxation. Adjusts certain other dates relating to exemptions to property taxation.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to exemptions to property taxation; creating new provisions; amending ORS 264.110,  
3 285C.255, 285C.406, 307.060, 307.095, 307.110, 307.175, 307.518, 307.529, 307.535, 307.637, 307.651,  
4 307.681, 308.236, 308.250, 308.256, 308.290, 308.450, 308.477, 308.481, 308.558, 308.565, 308.805,  
5 358.499, 478.430, 508.270, 622.290 and 830.790 and section 4, chapter 405, Oregon Laws 1981,  
6 section 6, chapter 660, Oregon Laws 1985, section 3, chapter 337, Oregon Laws 1995, sections  
7 4 and 7, chapter 957, Oregon Laws 1999, section 2, chapter 256, Oregon Laws 2001, section 7,  
8 chapter 637, Oregon Laws 2005, section 75, chapter 843, Oregon Laws 2007, and section 4,  
9 chapter 888, Oregon Laws 2007; repealing section 5, chapter 69, Oregon Laws 2010; and pre-  
10 scribing an effective date.

11 **Be It Enacted by the People of the State of Oregon:**

## ADJUSTMENTS BEFORE 2016

12  
13  
14  
15 **SECTION 1.** ORS 285C.255, as amended by section 22, chapter 76, Oregon Laws 2010, is  
16 amended to read:

17 285C.255. (1) Notwithstanding any other provision of ORS 285C.050 to 285C.250:

18 (a) An area may not be designated as an enterprise zone after June 30, [2013] **2014**;

19 (b) A business firm may not obtain authorization under ORS 285C.140 after June 30, [2013]  
20 **2014**; and

21 (c) An enterprise zone, except for a reservation enterprise zone or a reservation partnership  
22 zone, that is in existence on June 29, [2013,] **2014**, is terminated on June 30, [2013] **2014**.

23 (2) Notwithstanding subsection (1) of this section:

24 (a) A reservation enterprise zone may be designated, and a reservation partnership zone may  
25 be cosponsored, under ORS 285C.306 after June 30, [2013] **2014**; and

26 (b) A business firm may obtain authorization under ORS 285C.140 after June 30, [2013] **2014**:

27 (A) If located in a reservation enterprise zone or a reservation partnership zone; or

28 (B) As allowed under ORS 285C.245 (1)(b).

29 **SECTION 2.** ORS 285C.406 is amended to read:

30 285C.406. In order for a taxpayer to claim the property tax exemption under ORS 285C.409 or

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 a corporate excise or income tax credit under ORS 317.124:

2 (1) The written agreement between the business firm and the rural enterprise zone sponsor that  
 3 is required under ORS 285C.403 (3)(c) must be entered into prior to the termination of the enterprise  
 4 zone under ORS 285C.245; and

5 (2)(a) For the purpose of the property tax exemption, the business firm must obtain certification  
 6 under ORS 285C.403 on or before June 30, [2013] 2014; or

7 (b) For the purpose of the corporate excise or income tax credit, the business firm must obtain  
 8 certification under ORS 285C.403 on or before June 30, 2012.

9 **SECTION 3.** ORS 307.060 is amended to read:

10 307.060. Real and personal property of the United States or any department or agency of the  
 11 United States held by any person under a lease or other interest or estate less than a fee simple,  
 12 other than under a contract of sale, shall have a real market value determined under ORS 308.232,  
 13 subject only to deduction for restricted use. The property shall have an assessed value determined  
 14 under ORS 308.146 and shall be subject to tax on the assessed value so determined. The lien for the  
 15 tax shall attach to and be enforced against only the leasehold, interest or estate in the real or  
 16 personal property. [*This section does not apply to real property held or occupied primarily for agri-*  
 17 *cultural purposes under the authority of a federal wildlife conservation agency or held or occupied*  
 18 *primarily for purposes of grazing livestock.*] This section does not apply to real or personal property  
 19 held by this state or any county, municipal corporation or political subdivision of this state that is:

20 (1) In immediate use and occupation by the political body; or

21 (2) Required, by the terms of the lease or agreement, to be maintained and made available to  
 22 the federal government as a military installation and facility.

23 **SECTION 4. The amendments to ORS 307.060 by section 3 of this 2011 Act apply to**  
 24 **property tax years beginning on or after July 1, 2014.**

25 **SECTION 5.** ORS 307.110 is amended to read:

26 307.110. (1) Except as provided in ORS 307.120, all real and personal property of this state or  
 27 any institution or department thereof or of any county or city, town or other municipal corporation  
 28 or political subdivision of this state, held under a lease or other interest or estate less than a fee  
 29 simple, by any person whose real property, if any, is taxable, except employees of the state,  
 30 municipality or political subdivision as an incident to such employment, shall be subject to assess-  
 31 ment and taxation for the assessed or specially assessed value thereof uniformly with real property  
 32 of nonexempt ownerships.

33 (2) Each leased or rented premises not exempt under ORS 307.120 and subject to assessment and  
 34 taxation under this section which is located on property used as an airport and owned by and  
 35 serving a municipality or port shall be separately assessed and taxed.

36 (3) Nothing contained in this section shall be construed as subjecting to assessment and taxation  
 37 any publicly owned property described in subsection (1) of this section that is:

38 [(a) *Leased for student housing by a school or college to students attending such a school or col-*  
 39 *lege.*]

40 [(b) *Leased to or rented by persons, other than sublessees or subrenters, for agricultural or grazing*  
 41 *purposes and for other than a cash rental or a percentage of the crop.*]

42 [(c)] (a) Utilized by persons under a land use permit issued by the Department of Transportation  
 43 for which the department's use restrictions are such that only an administrative processing fee is  
 44 able to be charged.

45 [(d) *County fairgrounds and the buildings thereon, in a county holding annual county fairs, man-*



1 aged by the county fair board under ORS 565.230, if utilized, in addition to county fair use, for any  
 2 of the purposes described in ORS 565.230 (2), or for horse stalls or storage for recreational vehicles  
 3 or farm machinery or equipment.]

4 [(e) The properties and grounds managed and operated by the State Parks and Recreation Director  
 5 under ORS 565.080, if utilized, in addition to the purpose of holding the Oregon State Fair, for horse  
 6 stalls or for storage for recreational vehicles or farm machinery or equipment.]

7 [(f)] (b) State property that is used by the Oregon University System or the Oregon Health and  
 8 Science University to provide parking for employees, students or visitors.

9 [(g)] (c) Property of a housing authority created under ORS chapter 456 which is leased or  
 10 rented to persons of lower income for housing pursuant to the public and governmental purposes  
 11 of the housing authority. For purposes of this paragraph, "persons of lower income" has the meaning  
 12 given the phrase under ORS 456.055.

13 [(h) Property of a health district if:]

14 [(A) The property is leased or rented for the purpose of providing facilities for health care practi-  
 15 tioners practicing within the county; and]

16 [(B) The county is a frontier rural practice county under rules adopted by the Office of Rural  
 17 Health.]

18 (4) Property determined to be an eligible project for tax exemption under ORS 285C.600 to  
 19 285C.626 and 307.123 that was acquired with revenue bonds issued under ORS 285B.320 to 285B.371  
 20 and that is leased by this state, any institution or department thereof or any county, city, town or  
 21 other municipal corporation or political subdivision of this state to an eligible applicant shall be  
 22 assessed and taxed in accordance with ORS 307.123. The property's continued eligibility for taxation  
 23 and assessment under ORS 307.123 is not affected:

24 (a) If the eligible applicant retires the bonds prior to the original dates of maturity; or

25 (b) If any applicable lease or financial agreement is terminated prior to the original date of ex-  
 26 piration.

27 (5) The provisions of law for liens and the payment and collection of taxes levied against real  
 28 property of nonexempt ownerships shall apply to all real property subject to the provisions of this  
 29 section. Taxes remaining unpaid upon the termination of a lease or other interest or estate less than  
 30 a fee simple, shall remain a lien against the real or personal property.

31 (6) If the state enters into a lease of property with, or grants an interest or other estate less  
 32 than a fee simple in property to, a person whose real property, if any, is taxable, then within 30 days  
 33 after the date of the lease, or within 30 days after the date the interest or estate less than a fee  
 34 simple is created, the state shall file a copy of the lease or other instrument creating or evidencing  
 35 the interest or estate with the county assessor. This section applies notwithstanding that the prop-  
 36 erty may otherwise be entitled to an exemption under this section, ORS 307.120 or as otherwise  
 37 provided by law.

38 **SECTION 6. The amendments to ORS 307.110 by section 5 of this 2011 Act apply to**  
 39 **property tax years beginning on or after July 1, 2014.**

40 **SECTION 7.** ORS 307.175 is amended to read:

41 307.175. (1) Property equipped with solar, geothermal, wind, water, fuel cell or methane gas en-  
 42 ergy systems for the purpose of heating, cooling or generating electrical energy shall be exempt  
 43 from ad valorem taxation in an amount that equals any positive amount obtained by subtracting the  
 44 real market value of the property as if it were not equipped with such systems, from the real market  
 45 value of the property so equipped.

(2) This section applies to tax years beginning [*prior to July 1, 2012*] **before July 1, 2014.**

(3) Except as provided in subsection (4) of this section, this section does not apply to property owned or leased by any person whose principal business activity is directly or indirectly the production, transportation or distribution of energy, including but not limited to public utilities as defined in ORS 757.005 and people's utility districts as defined in ORS 261.010.

(4) This section applies to an alternative energy system that is owned or leased by a person whose principal business activity is directly or indirectly the production, transportation or distribution of energy if the system is a net metering facility, as defined in ORS 757.300, or other system primarily designed to offset onsite electricity use.

**SECTION 8.** ORS 308.236 is amended to read:

308.236. (1) The availability, usefulness and cost of using roads, including all roads of the owner of land or timber and all roads that the owner has the right to use, shall be taken into consideration in determining the real market value of land.

*[(2) Farm or grazing land roads and forest roads themselves, except principal exterior timber access roads, shall not be appraised, valued or assessed and they shall not be classed as improvements under ORS 308.215. The underlying land upon which roads are constructed shall be assessed if it is otherwise subject to assessment.]*

*[(3)]* (2) As used in this section,[:]

*[(a)]* "road" includes fills, ballast, bridges, culverts, drains, surfacing and other appurtenances of a like kind commonly associated with roads but excludes railroads.

*[(b)]* "Principal exterior timber access roads" means those portions of high standard main-line private roads that provide access from a conversion center or public way to the exterior boundary of the principal forest area served by the road. A high standard main-line private road is a permanent road of two lanes or more that is paved or macadamized or that has a fine-gravel surface that is permanently and continuously maintained.]

**SECTION 9. The amendments to ORS 308.236 by section 8 of this 2011 Act apply to tax years beginning on or after July 1, 2014.**

**SECTION 10.** ORS 308.250, as amended by section 1, chapter 69, Oregon Laws 2010, is amended to read:

308.250. (1) All personal property not exempt from ad valorem taxation or subject to special assessment shall be valued at 100 percent of its real market value, as of January 1, at 1:00 a.m. and shall be assessed at its assessed value determined as provided in ORS 308.146.

*[(2)(a) If the total assessed value of all taxable personal property required to be reported under ORS 308.290 in any county of any taxpayer is less than \$12,500 in any assessment year, the county assessor shall cancel the ad valorem tax assessment for property required to be reported under ORS 308.290 for that year.]*

*[(b)]* (2) If, in a county with a population of more than 340,000, the total assessed value of all manufactured structures taxable as personal property under ORS 308.875 of any taxpayer is less than \$12,500 in any assessment year, the county assessor shall cancel the ad valorem tax assessment for the manufactured structures for that year.

*[(3) In any assessment year or years following an assessment year for which taxes are canceled under subsection (2)(a) of this section, the taxpayer may meet the requirements of ORS 308.290 by filing, within the time required or extended under ORS 308.290, a verified statement with the county assessor indicating that the total assessed value of all taxable personal property of the taxpayer required to be reported under ORS 308.290 in the county is less than \$12,500. The statement shall contain*

1 *the name and address of the taxpayer, the information needed to identify the account and other perti-*  
 2 *nent information, but shall not be required to contain a listing or value of property or property addi-*  
 3 *tions or retirements.]*

4 [(4)(a)] **(3)(a)** For each tax year beginning on or after July 1, 2003, the Department of Revenue  
 5 shall recompute the maximum amount of the assessed value of taxable personal property in sub-  
 6 section [(2)(a) and (b)] **(2)** of this section for which ad valorem property taxes may be canceled under  
 7 this section. The computation shall be as follows:

8 (A) Divide the average U.S. City Average Consumer Price Index for the prior calendar year by  
 9 the average U.S. City Average Consumer Price Index for 2002.

10 (B) Recompute the maximum amount of assessed value for which taxes may be canceled under  
 11 subsection [(2)(a) or (b)] **(2)** of this section by multiplying \$12,500 by the appropriate indexing factor  
 12 determined as provided in subparagraph (A) of this paragraph.

13 (b) As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S. City  
 14 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of  
 15 Labor Statistics of the United States Department of Labor.

16 (c) If any change in the maximum amount of assessed value determined under paragraph (a) of  
 17 this subsection is not a multiple of \$500, the increase shall be rounded to the nearest multiple of  
 18 \$500.

19 **SECTION 11.** ORS 308.250, as amended by sections 1 and 2, chapter 69, Oregon Laws 2010, is  
 20 amended to read:

21 308.250. [(1)] All personal property not exempt from ad valorem taxation or subject to special  
 22 assessment shall be valued at 100 percent of its real market value, as of January 1, at 1:00 a.m. and  
 23 shall be assessed at its assessed value determined as provided in ORS 308.146.

24 [(2) *If the total assessed value of all taxable personal property required to be reported under ORS*  
 25 *308.290 in any county of any taxpayer is less than \$12,500 in any assessment year, the county assessor*  
 26 *shall cancel the ad valorem tax assessment for that year.]*

27 [(3) *In any assessment year or years following an assessment year for which taxes are canceled*  
 28 *under subsection (2) of this section, the taxpayer may meet the requirements of ORS 308.290 by filing,*  
 29 *within the time required or extended under ORS 308.290, a verified statement with the county assessor*  
 30 *indicating that the total assessed value of all taxable personal property of the taxpayer required to be*  
 31 *reported under ORS 308.290 in the county is less than \$12,500. The statement shall contain the name*  
 32 *and address of the taxpayer, the information needed to identify the account and other pertinent infor-*  
 33 *mation, but shall not be required to contain a listing or value of property or property additions or re-*  
 34 *tirements.]*

35 [(4)(a) *For each tax year beginning on or after July 1, 2003, the Department of Revenue shall re-*  
 36 *compute the maximum amount of the assessed value of taxable personal property for which ad valorem*  
 37 *property taxes may be canceled under this section. The computation shall be as follows:]*

38 [(A) *Divide the average U.S. City Average Consumer Price Index for the prior calendar year by*  
 39 *the average U.S. City Average Consumer Price Index for 2002.]*

40 [(B) *Recompute the maximum amount of assessed value for which taxes may be canceled by*  
 41 *multiplying \$12,500 by the appropriate indexing factor determined as provided in subparagraph (A) of*  
 42 *this paragraph.]*

43 [(b) *As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S. City*  
 44 *Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of*  
 45 *Labor Statistics of the United States Department of Labor.]*

1        *[(c) If any change in the maximum amount of assessed value determined under paragraph (a) of*  
 2 *this subsection is not a multiple of \$500, the increase shall be rounded to the nearest multiple of*  
 3 *\$500.]*

4        **SECTION 12. (1) The amendments to ORS 308.250 by section 10 of this 2011 Act apply to**  
 5 **property tax years beginning on or after July 1, 2011, and before July 1, 2016.**

6        **(2) The amendments to ORS 308.250 by section 11 of this 2011 Act apply to property tax**  
 7 **years beginning on or after July 1, 2016.**

8        **SECTION 13.** ORS 308.290, as amended by sections 3 and 4, chapter 69, Oregon Laws 2010, is  
 9 amended to read:

10        308.290. (1)(a) Except as provided in paragraph (b) of this subsection, every person and the  
 11 managing agent or officer of any business, firm, corporation or association owning, or having in  
 12 possession or under control taxable personal property shall make a return of the property for ad  
 13 valorem tax purposes to the assessor of the county in which the property has its situs for taxation.  
 14 As between a mortgagor and mortgagee or a lessor and lessee, however, the actual owner and the  
 15 person in possession may agree between them as to who shall make the return and pay the tax, and  
 16 the election shall be followed by the person in possession of the roll who has notice of the election.  
 17 Upon the failure of either party to file a personal property tax return on or before March 1 of any  
 18 year, both parties shall be jointly and severally subject to the provisions of ORS 308.296.

19        (b) Paragraph (a) of this subsection does not apply to personal property exempt from taxation  
 20 under ORS 307.162.

21        (2) Every person and the managing agent or officer of any business, firm, corporation or asso-  
 22 ciation owning or in possession of taxable real property shall make a return of the property for ad  
 23 valorem tax purposes when so requested by the assessor of the county in which the property is sit-  
 24 uated.

25        (3)(a) Each return of personal property shall contain a full listing of the property and a state-  
 26 ment of its real market value, including a separate listing of those items claimed to be exempt as  
 27 imports or exports. Each statement shall contain a listing of the additions or retirements made since  
 28 the prior January 1, indicating the book cost and the date of acquisition or retirement. Each return  
 29 shall contain the name, assumed business name, if any, and address of the owner of the personal  
 30 property and, if it is a partnership, the name and address of each general partner or, if it is a cor-  
 31 poration, the name and address of its registered agent.

32        (b) Each return of real property shall contain a full listing of the several items or parts of the  
 33 property specified by the county assessor and a statement exhibiting their real market value. Each  
 34 return shall contain a listing of the additions and retirements made during the year indicating the  
 35 book cost, book value of the additions and retirements or the appraised real market value of re-  
 36 tirements as specified in the return by the assessor.

37        (c) There shall be annexed to each return the affidavit or affirmation of the person making the  
 38 return that the statements contained in the return are true. All returns shall be in a form that the  
 39 county assessor, with the approval of the Department of Revenue, may prescribe. Prior to December  
 40 31 preceding the assessment year, the department or assessor shall cause blank forms for the returns  
 41 to be prepared and distributed by mail, but failure to receive or secure the form does not relieve the  
 42 person, managing agent or officer from the obligation of making any return required by this section.

43        (4) All returns shall be filed on or before March 1 of each year, but the county assessor or the  
 44 Department of Revenue may grant an extension of time to April 15 within which to file the return  
 45 as provided by subsection (6), (7) or (8) of this section.

1 (5)(a) In lieu of the returns required under subsection (1)(a) or (2) of this section, every person  
 2 and the managing agent or officer of any business, firm, corporation or association owning or having  
 3 in possession or under control taxable real and personal property that is either principal industrial  
 4 property or secondary industrial property as defined in ORS 306.126 (1) and is appraised by the  
 5 Department of Revenue shall file a combined return of the real and personal property with the de-  
 6 partment.

7 (b) The contents and form of the return shall be as prescribed by rule of the department. Any  
 8 form shall comply with ORS 308.297. Notwithstanding ORS 308.875, a manufactured structure that  
 9 is a part of an industrial property shall be included in a combined return.

10 (c) In order that the county assessor may comply with ORS 308.295, the department shall provide  
 11 a list to the assessor of all combined returns that are required to be filed with the department under  
 12 this subsection but that were not filed on or before the due date or within the time allowed by an  
 13 extension.

14 (d) If the department has delegated appraisal of the property to the county assessor under ORS  
 15 306.126 (3), the department shall notify the person otherwise required to file the combined return  
 16 under this subsection as soon as practicable after the delegation that the combined return is re-  
 17 quired to be filed with the assessor.

18 (e) Notwithstanding subsection (2) of this section, a combined return of real and personal prop-  
 19 erty that is industrial property appraised by the department shall be filed with the department on  
 20 or before March 1 of the year.

21 (6)(a) Any person required to file a return under subsection (5) of this section may apply to the  
 22 Department of Revenue for an extension of time to April 15, within which to file the return.

23 (b) Extensions granted under this subsection may be based on a finding by the department that:

24 (A) Good or sufficient cause exists for granting an extension for the property tax year of the  
 25 return; or

26 (B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term  
 27 voluntary compliance. An extension granted under this subparagraph shall continue in effect for  
 28 each subsequent property tax year until the taxpayer cancels the extension or the department re-  
 29 vokes the extension.

30 (c) An extension granted under this subsection shall apply to returns required to be filed under  
 31 subsection (5) of this section with either the county assessor or the department.

32 (d) The department shall notify assessors in affected counties when the department grants ex-  
 33 tensions under this subsection.

34 (7)(a) Except as provided in subsection (6) of this section, any person required to file a return  
 35 with the county assessor under this section may apply to the assessor for an extension of time to  
 36 April 15 within which to file the return.

37 (b) Extensions granted under this subsection may be based on a finding by the assessor that:

38 (A) Good or sufficient cause exists for granting an extension for the property tax year of the  
 39 return; or

40 (B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term  
 41 voluntary compliance. An extension granted under this subparagraph shall continue in effect for  
 42 each subsequent property tax year until the taxpayer cancels the extension or the assessor revokes  
 43 the extension.

44 (8)(a) Any person required to file returns in more than one county may apply to the Department  
 45 of Revenue for an extension of time to April 15 within which to file the returns. The department

1 may grant extensions to a person required to file returns in more than one county.

2 (b) Extensions granted under this subsection may be based on a finding by the department that:

3 (A) Good or sufficient cause exists for granting an extension for the property tax year of the  
4 return; or

5 (B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term  
6 voluntary compliance. An extension granted under this subparagraph shall continue in effect for  
7 each subsequent property tax year until the taxpayer cancels the extension or the department re-  
8 vokes the extension.

9 (c) Whenever the department grants an extension to a person required to file returns in more  
10 than one county, the department shall notify the assessors in the counties affected by the extensions.

11 (9) The Department of Revenue shall, by rule, establish procedures and criteria for granting,  
12 denying or revoking extensions under this section after consultation with an advisory committee  
13 selected by the department that represents the interests of county assessors and affected taxpayers.

14 (10) A return is not in any respect controlling on the county assessor or on the Department of  
15 Revenue in the assessment of any property. On any failure to file the required return, the property  
16 shall be listed and assessed from the best information obtainable from other sources.

17 (11)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 are  
18 confidential records of the Department of Revenue or the county assessor's office in which the re-  
19 turns are filed or of the office to which the returns are forwarded under paragraph (b) of this sub-  
20 section.

21 (b) The assessor or the department may forward any return received in error to the department  
22 or the county official responsible for appraising the property described in the return.

23 (c) Notwithstanding paragraph (a) of this subsection, a return described in paragraph (a) of this  
24 subsection may be disclosed to:

25 (A) The Department of Revenue or its representative;

26 (B) The representatives of the Secretary of State or to an accountant engaged by a county under  
27 ORS 297.405 to 297.555 for the purpose of auditing the county's personal property tax assessment  
28 roll (including adjustments to returns made by the Department of Revenue);

29 (C) The county assessor, the county tax collector, the assessor's representative or the tax  
30 collector's representative for the purpose of:

31 (i) Collecting delinquent real or personal property taxes; or

32 (ii) Correctly reflecting on the tax roll information reported on returns filed by a business op-  
33 erating in more than one county or transferring property between counties in this state during the  
34 tax year;

35 (D) Any reviewing authority to the extent the return being disclosed relates to an appeal  
36 brought by a taxpayer;

37 (E) The Division of Child Support of the Department of Justice or a district attorney to the  
38 extent the return being disclosed relates to a case for which the Division of Child Support or the  
39 district attorney is providing support enforcement services under ORS 25.080; or

40 (F) The Legislative Revenue Officer for the purpose of preparation of reports, estimates and  
41 analyses required by ORS 173.800 to 173.850.

42 (d) Notwithstanding paragraph (a) of this subsection:

43 (A) The Department of Revenue may exchange property tax information with the authorized  
44 agents of the federal government and the several states on a reciprocal basis, or with county  
45 assessors, county tax collectors or authorized representatives of assessors or tax collectors.

1 (B) Information regarding the valuation of leased property reported on a property return filed  
 2 by a lessor under this section may be disclosed to the lessee or other person in possession of the  
 3 property. Information regarding the valuation of leased property reported on a property return filed  
 4 by a lessee under this section may be disclosed to the lessor of the property.

5 *[(12) If the assessed value of any personal property in possession of a lessee is less than the max-*  
 6 *imum amount of the assessed value of taxable personal property for which ad valorem property taxes*  
 7 *may be canceled under ORS 308.250, the person in possession of the roll may disregard an election*  
 8 *made under subsection (1)(a) of this section and assess the owner or lessor of the property.]*

9 **SECTION 14. The amendments to ORS 308.290 by section 13 of this 2011 Act apply to**  
 10 **property tax years beginning on or after July 1, 2011.**

11 **SECTION 15.** ORS 308.256 is amended to read:

12 308.256. (1) Watercraft of water transportation companies shall be assessed as provided in ORS  
 13 308.505 to 308.665.

14 (2) Watercraft described in ORS 308.260 shall be assessed as provided in ORS 308.260.

15 (3) The following watercraft shall be exempt from taxation:

16 (a) Watercraft not owned or operated by water transportation companies, as described in ORS  
 17 308.515, and that are customarily engaged in the transportation of persons or property for hire  
 18 wholly outside the boundaries of this state.

19 (b) Watercraft owned or operated by water transportation companies, as described in ORS  
 20 308.515, and not assessed by the Department of Revenue, that are customarily engaged in the  
 21 transportation of persons or property for hire wholly or in part outside the boundaries of this state.  
 22 The exemption under this paragraph does not apply to watercraft that engage in the transportation  
 23 for hire of persons on offshore trips that originate and terminate at the same port, and that have  
 24 a valid marine document issued by the United States Coast Guard or any other federal agency that  
 25 succeeds the United States Coast Guard in the duty of issuing marine documents.

26 (c) The assessed value of the property of a water transportation company, as described in ORS  
 27 308.515, that is not subject to assessment by the Department of Revenue under the provisions of ORS  
 28 308.550 (3).

29 (4)(a) Watercraft over 16 feet in length in the process of original construction, or undergoing  
 30 major remodeling, renovation, conversion, reconversion or repairs on January 1 are exempt from  
 31 taxation. For the purposes of this subsection, the term "major" shall include all remodeling, reno-  
 32 vation, conversion, reconversion or repairs to a watercraft in which the expenditures for parts,  
 33 materials, labor and accessorial services exceed 10 percent of the market value of the watercraft  
 34 immediately prior to the remodeling, renovation, conversion, reconversion or repairs.

35 (b) Watercraft subject to assessment by the Department of Revenue under ORS 308.505 to  
 36 308.665 are exempt under paragraph (a) of this subsection only if on or before the due date for filing  
 37 the statement described in ORS 308.520 for the year for which exemption is claimed, the owner or  
 38 operator files with the department sufficient documentary evidence that the property qualifies for  
 39 the exemption.

40 (c) The owner or operator of watercraft subject to local assessment shall file the documentary  
 41 evidence required under paragraph (b) of this subsection with the county assessor on or before April  
 42 1 of the year for which exemption is claimed.

43 (5) All other watercraft not otherwise specifically exempt from taxation nor licensed in lieu  
 44 thereof shall be assessed in the county in which they are customarily moored when not in service  
 45 or if there is no customary place of moorage in the county in which their owner or owners reside

1 or, if neither situs applies, then in the county in which any one of the owners maintains a place of  
2 business.

3 (6) Watercraft described in subsection (5) of this section shall be assessed at assessed value,  
4 except as follows:

5 (a) Ships and vessels whose home ports are in the State of Oregon and that ply the high seas  
6 or between the high seas and inland water ports or terminals shall be assessed at four percent of  
7 the assessed value thereof.

8 (b) Vessels that are self-propelled, offshore oil drilling rigs whose home ports are in the State  
9 of Oregon shall be assessed at four percent of the assessed value thereof.

10 (c) All other ships and vessels whose home ports are in the State of Oregon shall be assessed  
11 at 40 percent of the assessed value thereof.

12 *[(7) The assessor shall cancel the assessment in whole or proportionate part on all parts and ma-*  
13 *terials in the inventory of shipyards and ship repair facilities as of January 1 of the assessment year,*  
14 *but only upon receipt prior to April 1 of the assessment year of sufficient documentary proof that prior*  
15 *to April 1 of the assessment year the parts or materials so assessed were physically attached to or in-*  
16 *corporated in watercraft undergoing major remodeling, renovation, conversion, reconversion or repairs*  
17 *as described in subsection (4) of this section, within the boundaries of this state.]*

18 **SECTION 16.** ORS 308.256, as amended by section 15 of this 2011 Act, is amended to read:

19 308.256. (1) Watercraft of water transportation companies shall be assessed as provided in ORS  
20 308.505 to 308.665.

21 (2) Watercraft described in ORS 308.260 shall be assessed as provided in ORS 308.260.

22 *[(3) The following watercraft shall be exempt from taxation:]*

23 *[(a) Watercraft not owned or operated by water transportation companies, as described in ORS*  
24 *308.515, and that are customarily engaged in the transportation of persons or property for hire wholly*  
25 *outside the boundaries of this state.]*

26 *[(b) Watercraft owned or operated by water transportation companies, as described in ORS 308.515,*  
27 *and not assessed by the Department of Revenue, that are customarily engaged in the transportation of*  
28 *persons or property for hire wholly or in part outside the boundaries of this state. The exemption under*  
29 *this paragraph does not apply to watercraft that engage in the transportation for hire of persons on*  
30 *offshore trips that originate and terminate at the same port, and that have a valid marine document*  
31 *issued by the United States Coast Guard or any other federal agency that succeeds the United States*  
32 *Coast Guard in the duty of issuing marine documents.]*

33 *[(c) The assessed value of the property of a water transportation company, as described in ORS*  
34 *308.515, that is not subject to assessment by the Department of Revenue under the provisions of ORS*  
35 *308.550 (3).]*

36 *[(4)(a)]* **(3)(a)** Watercraft over 16 feet in length in the process of original construction, or  
37 undergoing major remodeling, renovation, conversion, reconversion or repairs on January 1 are ex-  
38 empt from taxation. For the purposes of this subsection, the term “major” shall include all remod-  
39 eling, renovation, conversion, reconversion or repairs to a watercraft in which the expenditures for  
40 parts, materials, labor and accessorial services exceed 10 percent of the market value of the  
41 watercraft immediately prior to the remodeling, renovation, conversion, reconversion or repairs.

42 (b) Watercraft subject to assessment by the Department of Revenue under ORS 308.505 to  
43 308.665 are exempt under paragraph (a) of this subsection only if on or before the due date for filing  
44 the statement described in ORS 308.520 for the year for which exemption is claimed, the owner or  
45 operator files with the department sufficient documentary evidence that the property qualifies for



1 the exemption.

2 (c) The owner or operator of watercraft subject to local assessment shall file the documentary  
 3 evidence required under paragraph (b) of this subsection with the county assessor on or before April  
 4 1 of the year for which exemption is claimed.

5 [(5)] (4) All other watercraft not otherwise specifically exempt from taxation nor licensed in lieu  
 6 thereof shall be assessed in the county in which they are customarily moored when not in service  
 7 or if there is no customary place of moorage in the county in which their owner or owners reside  
 8 or, if neither situs applies, then in the county in which any one of the owners maintains a place of  
 9 business.

10 [(6)] (5) Watercraft described in subsection [(5)] (4) of this section shall be assessed at assessed  
 11 value, except as follows:

12 (a) Ships and vessels whose home ports are in the State of Oregon and that ply the high seas  
 13 or between the high seas and inland water ports or terminals shall be assessed at four percent of  
 14 the assessed value thereof.

15 (b) Vessels that are self-propelled, offshore oil drilling rigs whose home ports are in the State  
 16 of Oregon shall be assessed at four percent of the assessed value thereof.

17 (c) All other ships and vessels whose home ports are in the State of Oregon shall be assessed  
 18 at 40 percent of the assessed value thereof.

19 **SECTION 17. (1) The amendments to ORS 308.256 by section 15 of this 2011 Act apply to**  
 20 **property tax years beginning on or after July 1, 2014, and before July 1, 2016.**

21 **(2) The amendments to ORS 308.256 by section 16 of this 2011 Act apply to property tax**  
 22 **years beginning on or after July 1, 2016.**

23 **SECTION 18.** ORS 508.270 is amended to read:

24 508.270. [(1)] Either the commercial fishing license required by ORS 508.235 or the boat license  
 25 required by ORS 508.260 is in lieu of all [*taxes and*] licenses on crab pots used by a person so li-  
 26 censed or used in connection with a boat so licensed.

27 [(2) *Crab pots shall be reported to the county assessor by each owner and listed for ad valorem*  
 28 *taxation, but if the owner of such crab pots furnishes documentary proof to the assessor, not later than*  
 29 *August 1 of each year, that the owner possesses a current commercial fishing license under ORS*  
 30 *508.235 or that the boat of the owner is currently licensed under ORS 508.260, the assessor shall cancel*  
 31 *any assessment made by the assessor of crab pots used by such person or used in connection with such*  
 32 *person's licensed boat.*]

33 **SECTION 19.** The amendments to ORS 508.270 by section 18 of this 2011 Act apply to  
 34 **property tax years beginning on or after July 1, 2014.**

35 **SECTION 20.** ORS 263.290 applies to property tax years beginning before July 1, 2014.

36 **SECTION 21.** ORS 285C.350 to 285C.370 apply to property tax years beginning before July  
 37 **1, 2014.**

38 **SECTION 22.** ORS 307.120 applies to property tax years beginning before July 1, 2014.

39 **SECTION 23.** ORS 307.123 applies to property tax years beginning before July 1, 2014.

40 **SECTION 24.** ORS 307.125 applies to property tax years beginning before July 1, 2014.

41 **SECTION 25.** ORS 307.126 applies to property tax years beginning before July 1, 2014.

42 **SECTION 26.** ORS 307.168 applies to property tax years beginning before July 1, 2014.

43 **SECTION 27.** ORS 307.315 applies to property tax years beginning before July 1, 2014.

44 **SECTION 28.** ORS 307.320 applies to property tax years beginning before July 1, 2014.

45 **SECTION 29.** ORS 307.325 applies to property tax years beginning before July 1, 2014.

- 1     **SECTION 30.** ORS 307.330 applies to property tax years beginning before July 1, 2014.
- 2     **SECTION 31.** ORS 307.390 applies to property tax years beginning before July 1, 2014.
- 3     **SECTION 32.** ORS 307.391 applies to property tax years beginning before July 1, 2014.
- 4     **SECTION 33.** ORS 307.394 applies to property tax years beginning before July 1, 2014.
- 5     **SECTION 34.** ORS 307.397 applies to property tax years beginning before July 1, 2014.
- 6     **SECTION 35.** ORS 307.398 applies to property tax years beginning before July 1, 2014.
- 7     **SECTION 36.** ORS 307.400 applies to property tax years beginning before July 1, 2014.
- 8     **SECTION 37.** ORS 307.405 applies to property tax years beginning before July 1, 2014.
- 9     **SECTION 38.** ORS 307.580 applies to property tax years beginning before July 1, 2014.
- 10    **SECTION 39.** ORS 308.115 applies to property tax years beginning before July 1, 2014.
- 11    **SECTION 40.** ORS 308.559 applies to property tax years beginning before July 1, 2014.
- 12    **SECTION 41.** ORS 308.665 applies to property tax years beginning before July 1, 2014.
- 13    **SECTION 42.** ORS 308A.350 to 308A.383 apply to property tax years beginning before July  
14    1, 2014.
- 15    **SECTION 43.** ORS 321.272 applies to property tax years beginning before July 1, 2014.
- 16    **SECTION 44.** ORS 321.829 applies to property tax years beginning before July 1, 2014.
- 17    **SECTION 45.** Section 4, chapter 957, Oregon Laws 1999, is amended to read:
- 18    **Sec. 4.** ORS 307.827 applies to tax years beginning on or after July 1, 2000, and before July 1,  
19    [2018] 2014.
- 20    **SECTION 46.** Section 7, chapter 957, Oregon Laws 1999, is amended to read:
- 21    **Sec. 7.** ORS 307.831 applies to tax years beginning on or after July 1, 2000, and before July 1,  
22    [2018] 2014.
- 23    **SECTION 47.** Section 7, chapter 637, Oregon Laws 2005, is amended to read:
- 24    **Sec. 7.** [Notwithstanding section 3 of this 2005 Act,] Property may not qualify for a first year of  
25    exemption under [section 3 of this 2005 Act] **ORS 307.455** for a tax year beginning [on or after July  
26    1, 2011] **before July 1, 2014.**
- 27    **SECTION 48.** Section 75, chapter 843, Oregon Laws 2007, is amended to read:
- 28    **Sec. 75.** [Section 70 of this 2007 Act] **ORS 307.462** applies to tax years beginning on or after July  
29    1, 2007, and before July 1, [2012] **2014.**
- 30    **SECTION 49.** Section 4, chapter 888, Oregon Laws 2007, is amended to read:
- 31    **Sec. 4.** Section 3 [of this 2007 Act], **chapter 888, Oregon Laws 2007**, is repealed on June 30,  
32    [2016] **2014.**

33

34                                   **ADJUSTMENTS IN 2016**

35

- 36    **SECTION 50.** ORS 264.110 is amended to read:
- 37    264.110. A domestic water supply district may be formed for the purpose of supplying inhabitants  
38    of the district with water for domestic purposes as provided by this chapter; and, in connection  
39    therewith, may supply, furnish and sell for any use any surplus water over and above the domestic  
40    needs of its inhabitants to persons living outside the district, or to other water districts, school  
41    districts or other local governments as defined in ORS 174.116. All railroad rights of way or im-  
42    provements thereon or rolling stock moving thereover shall be excluded from districts organized  
43    after June 9, 1943, and for purposes of ORS 264.210 to 264.320, 264.410, 264.420, 264.430, 264.470 and  
44    this section shall not be considered as property within the boundaries of such districts, **except for**  
45    **the purposes of assessing, levying and collecting taxes under ORS 264.300**, unless the owner

1 of the railroad property expressly consents to its inclusion.

2 **SECTION 51. The amendments to ORS 264.110 by section 50 of this 2011 Act apply to**  
 3 **property tax years beginning on or after July 1, 2016.**

4 **SECTION 52.** ORS 307.518, as amended by section 6, chapter 29, Oregon Laws 2010, is amended  
 5 to read:

6 307.518. (1) Property or a portion of property that meets all of the following criteria shall be  
 7 exempt from taxation as provided under ORS 307.515 to 307.523:

8 (a) If unoccupied, the property:

9 (A) Is offered for rental solely as a residence for low income persons; or

10 (B) Is held for the purpose of developing low income rental housing.

11 (b) If occupied, the property is occupied solely as a residence for low income persons.

12 (c) An exemption for the property has been approved as provided under ORS 307.523, pursuant  
 13 to an application filed before January 1, [2020] **2016**.

14 (d) The property is owned or being purchased by a nonprofit corporation organized in a manner  
 15 that meets the criteria for a public benefit corporation, as described under ORS 65.001 (37) or for  
 16 a religious corporation, as described under ORS 65.001 (39).

17 (e) The property is owned or being purchased by a nonprofit corporation that expends no more  
 18 than 10 percent of its annual income from residential rentals for purposes other than the acquisition,  
 19 maintenance or repair of residential rental property for low income persons or for the provision of  
 20 on-site child care services for the residents of the rental property.

21 (2) For the purposes of this section, a nonprofit corporation that has only a leasehold interest  
 22 in property is considered to be a purchaser of that property if:

23 (a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem  
 24 taxes on the real and personal property used in the rental activity on that property; or

25 (b) The rent payable has been established to reflect the savings resulting from the exemption  
 26 from taxation.

27 (3) A partnership shall be considered a nonprofit corporation for purposes of this section if:

28 (a) A nonprofit corporation is a general partner of the partnership; and

29 (b) The nonprofit corporation is responsible for the day-to-day operation of the property that is  
 30 the subject of the exemption under ORS 307.515 to 307.523.

31 **SECTION 53.** ORS 307.529, as amended by section 7, chapter 29, Oregon Laws 2010, is amended  
 32 to read:

33 307.529. (1) Except as provided in ORS 307.531, if, after an application for exemption under ORS  
 34 307.517 has been approved under ORS 307.527, the governing body finds that construction or devel-  
 35 opment of the exempt property differs from the construction or development described in the appli-  
 36 cation for exemption, or is not completed on or before January 1, [2020,] **2016**, or that any provision  
 37 of ORS 307.515 to 307.523 is not being complied with, or any provision required by the governing  
 38 body pursuant to ORS 307.515 to 307.523 is not being complied with, the governing body shall give  
 39 notice of the proposed termination of the exemption to the owner, by mailing the notice to the  
 40 last-known address of the owner, and to every known lender, by mailing the notice to the last-known  
 41 address of every known lender. The notice shall state the reasons for the proposed termination and  
 42 shall require the owner to appear at a specified time, not less than 20 days after mailing the notice,  
 43 to show cause, if any, why the exemption should not be terminated.

44 (2) If the owner fails to appear and show cause why the exemption should not be terminated, the  
 45 governing body shall notify every known lender, and shall allow any lender not less than 30 days

1 after the date the notice of the failure to appear and show cause is mailed to cure any noncompli-  
 2 ance or to provide assurance adequate to the governing body that all noncompliance shall be reme-  
 3 died.

4 (3) If the owner fails to appear and show cause why the exemption should not be terminated,  
 5 and the lender fails to cure or give adequate assurance of the cure of any noncompliance, the gov-  
 6 erning body shall adopt an ordinance or resolution stating its findings terminating the exemption.  
 7 A copy of the ordinance or resolution shall be filed with the county assessor, and a copy shall be  
 8 sent to the owner at the owner’s last-known address and to the lender at the last-known address of  
 9 the lender within 10 days after its adoption.

10 **SECTION 54.** ORS 307.535, as amended by section 8, chapter 29, Oregon Laws 2010, is amended  
 11 to read:

12 307.535. Notwithstanding any provision of ORS 307.515 to 307.523:

13 (1) If the governing body finds that construction of the housing unit otherwise entitled to ex-  
 14 emption under ORS 307.517 was not completed by January 1, [2020,] **2016**, due to circumstances be-  
 15 yond the control of the owner, and that the owner had been acting and could reasonably be expected  
 16 to act in good faith and with due diligence, the governing body may extend the deadline for com-  
 17 pletion of construction for a period not to exceed 12 consecutive months.

18 (2) If property granted exemption under ORS 307.515 to 307.523 is destroyed by fire or act of  
 19 God, or is otherwise no longer capable of owner-occupancy due to circumstances beyond the control  
 20 of the owner, the exemption shall cease but no additional taxes shall be imposed upon the property  
 21 under ORS 307.531 or 307.533.

22 **SECTION 55.** ORS 307.637 is amended to read:

23 307.637. An exemption for multiple-unit housing may not be granted under ORS 307.600 to  
 24 307.637 unless:

25 (1) In the case of multiple-unit housing described in ORS 307.603 (5)(a), the application for ex-  
 26 emption is made to the city or county on or before January 1, [2012] **2016**.

27 (2) In the case of multiple-unit housing described in ORS 307.603 (5)(b), the construction, addition  
 28 or conversion is completed on or before January 1, [2012] **2016**.

29 **SECTION 56.** ORS 307.651 is amended to read:

30 307.651. As used in ORS 307.651 to 307.687, unless the context requires otherwise:

31 (1) “Distressed area” means a primarily residential area of a city designated by a city under  
 32 ORS 307.657 which, by reason of deterioration, inadequate or improper facilities, the existence of  
 33 unsafe or abandoned structures, including but not limited to a significant number of vacant or  
 34 abandoned single or multifamily residential units, or any combination of these or similar factors, is  
 35 detrimental to the safety, health and welfare of the community.

36 (2) “Governing body” means the city legislative body having jurisdiction over the property for  
 37 which an exemption may be applied for under ORS 307.651 to 307.687.

38 (3) “Qualified dwelling unit” means a dwelling unit that, upon completion, has a market value  
 39 (land and improvements) of no more than 120 percent, or a lesser percentage as adopted by the  
 40 governing body by resolution, of the median sales price of dwelling units located within the city.

41 (4) “Single-unit housing” means a newly constructed structure having one or more dwelling units  
 42 that:

43 (a) Is, or will be, at the time that construction is completed, in conformance with all local plans  
 44 and planning regulations, including special or district-wide plans developed and adopted pursuant  
 45 to ORS chapters 195, 196, 197 and 227.

1 (b) Is constructed on or after January 1, 1990, and is completed within two years after applica-  
 2 tion for exemption is approved under ORS 307.674 or before July 1, [2015,] **2016**, whichever is earlier.

3 (c) Upon completion, is designed for each dwelling unit within the structure to be purchased by  
 4 and lived in by one person or one family.

5 (d) Upon completion, has one or more qualified dwelling units within the single-unit housing.

6 (e) Is not a floating home, as defined in ORS 830.700, or a manufactured structure, as defined  
 7 in ORS 446.561, other than a manufactured home described in ORS 197.307 (5)(a) to (f).

8 (5) "Structure" does not include the land, nor any site development to the land, as both are  
 9 defined under ORS 307.010.

10 **SECTION 57.** ORS 307.681 is amended to read:

11 307.681. (1) Except as provided in ORS 307.684, if, after an application has been approved under  
 12 ORS 307.674, the city finds that construction of single-unit housing was not completed within two  
 13 years after the date the application was approved or on or before January 1, [2015,] **2016**, whichever  
 14 is earlier, or that any provision of ORS 307.651 to 307.687 is not being complied with, or any pro-  
 15 vision required by the city pursuant to ORS 307.651 to 307.687 is not being complied with, the city  
 16 shall give notice to the owner, mailed to the owner's last-known address, of the proposed termination  
 17 of the exemption. The notice shall state the reasons for the proposed termination and shall require  
 18 the owner to appear at a specified time, not less than 20 days after mailing the notice, to show  
 19 cause, if any, why the exemption should not be terminated.

20 (2) If the owner fails to show cause why the exemption should not be terminated, the city shall  
 21 adopt an ordinance or resolution stating its findings and terminating the exemption. A copy of the  
 22 ordinance or resolution shall be filed with the county assessor and a copy sent to the owner at the  
 23 owner's last-known address within 10 days after its adoption.

24 **SECTION 58.** ORS 308.450 is amended to read:

25 308.450. As used in ORS 308.450 to 308.481:

26 (1) "Distressed area" means a primarily residential area of a county or city that is designated  
 27 as a distressed area by the county or city because the area is detrimental to the safety, health and  
 28 welfare of the community due to the following factors:

29 (a) Deterioration;

30 (b) Inadequate or improper facilities;

31 (c) The existence of unsafe or abandoned structures, including but not limited to a significant  
 32 number of vacant or abandoned single or multifamily residential units; or

33 (d) Any combination of these or similar factors.

34 (2) "Governing body" means the city or county legislative body having jurisdiction over the  
 35 property for which a limited assessment may be applied for under ORS 308.450 to 308.481.

36 (3) "Rehabilitated residential property" means land and the improvements thereon:

37 (a) That are either single or multifamily residential units or are not residential units but that  
 38 will become residential units through rehabilitation improvements;

39 (b) That fail to comply with one or more standards of the state or local building or housing  
 40 codes applicable at the time the application is filed;

41 (c)(A) That are not less than 25 years of age on January 1 in the year the application is filed  
 42 with the governing body, and on which sums have been expended after September 13, 1975, and prior  
 43 to January 1, [2017,] **2016**, for the purpose of making rehabilitation improvements, and which sums  
 44 in the aggregate equal or exceed five percent of the assessed value of the land and improvements  
 45 thereon as reflected in the last certified assessment roll next preceding the date on which the ap-

1 plication for limited assessment is filed with the governing body pursuant to ORS 308.462; or

2 (B) On which, regardless of the age of the residential property, sums have been expended or the  
3 renovation completed after October 3, 1989, and prior to January 1, [2017,] **2016**, for the purpose of  
4 making rehabilitation improvements, and which sums in the aggregate equal or exceed 50 percent  
5 of the assessed value of the land and improvements thereon as reflected in the last certified as-  
6 sessment roll next preceding the date on which the applications for limited assessment is filed with  
7 the governing body pursuant to ORS 308.462;

8 (d) In which at least 50 percent of accommodations are for residential use and not for transient  
9 occupancy;

10 (e) If owner-occupied, that are located within a distressed area; and

11 (f) For which an application is filed with the governing body prior to January 1, [2015] **2014**.

12 (4) "Rehabilitation improvements" means modifications to existing structures that are made to  
13 achieve a condition of substantial compliance.

14 (5) "Substantial compliance" means compliance with local building or housing code require-  
15 ments. It does not mean that all heating, plumbing and electrical systems must be replaced with  
16 systems meeting current standards for new construction, notwithstanding that the cost of rehabili-  
17 tation may exceed 50 percent of the value of the structure before rehabilitation.

18 **SECTION 59.** ORS 308.477 is amended to read:

19 308.477. (1) Except as provided in ORS 308.479, if, after a certificate of qualification has been  
20 filed with the county assessor under ORS 308.466, the governing body finds that the rehabilitation  
21 improvements were not completed on or before January 1, [2017,] **2016**, or that any provision of ORS  
22 308.450 to 308.481 is not being complied with, or any provision required by the governing body  
23 pursuant to ORS 308.450 to 308.481 is not being complied with, it shall give notice in writing to the  
24 owner, mailed to the owner's last-known address, of the proposed termination of the limited assess-  
25 ment. The notice shall state the reasons for the proposed termination and shall require the owner  
26 to appear at a specified time, not less than 20 days after mailing the notice, to show cause, if any,  
27 why the limited assessment should not be terminated.

28 (2) If the owner does not appear or appears and fails to show cause why the limited assessment  
29 should not be terminated, the governing body shall terminate the limited assessment. A copy of the  
30 termination shall be filed with the county assessor and a copy sent to the owner at the owner's  
31 last-known address, within 10 days after its adoption.

32 (3) The owner may appeal the termination to the circuit court, and from the decision of the  
33 circuit court to the Court of Appeals, as provided by law.

34 (4) If no appeal is taken as provided in subsection (3) of this section, or upon final adjudication,  
35 the county officials having possession of the assessment and tax rolls shall correct the rolls in the  
36 manner provided for omitted property under ORS 311.216 to 311.232 to provide for the assessment  
37 and taxation of any value not included in the valuation of the rehabilitation improvements during  
38 the period of limited assessment prior to termination by the governing body or by a court, in ac-  
39 cordance with the findings of the governing body or the court as to the assessment year in which  
40 the limited assessment is to terminate. The county assessor shall make the valuation of the property  
41 necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner  
42 provided under ORS 311.216 to 311.232. Where there has been a failure to comply, as provided in  
43 subsection (1) of this section, the property shall be revalued beginning January 1 of the assessment  
44 year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable  
45 without interest if paid in the period prior to the 16th day of the month next following the month

1 of correction. If not paid within such period, the additional taxes shall thereafter be considered  
 2 delinquent on the date they would normally have become delinquent if timely extended on the roll  
 3 or rolls in the year or years for which the correction was made.

4 **SECTION 60.** ORS 308.481 is amended to read:

5 308.481. Notwithstanding any provision of ORS 308.477, if the governing body finds that the re-  
 6 habilitation improvements were not completed by January 1, [2017,] **2016**, due to circumstances be-  
 7 yond the control of the owner, and that the owner had been acting and could reasonably be expected  
 8 to act in good faith and with due diligence, the governing body may extend the deadline for com-  
 9 pletion for a period not to exceed 12 consecutive months.

10 **SECTION 61.** ORS 308.558 is amended to read:

11 308.558. (1) Aircraft shall be subject to [*assessment, taxation and exemption,*] **assessment and**  
 12 **taxation** as provided in this section.

13 (2) Any aircraft used or held for use by an air transportation company that is operating pursu-  
 14 ant to a certificate of convenience and necessity issued by an agency of the federal government shall  
 15 be assessed and taxed under ORS 308.505 to 308.665.

16 (3) Any aircraft used or held for use by an air transportation company to provide scheduled  
 17 passenger service, whether or not the company is operating pursuant to a certificate of convenience  
 18 and necessity issued by a federal agency, shall be assessed and taxed under ORS 308.505 to 308.665.

19 [(4) Any aircraft that is required to be registered under ORS 837.040 for all or any part of the  
 20 calendar year is exempt from ad valorem property taxation for the tax year beginning in the calendar  
 21 year.]

22 [(5) Any aircraft that is used or held for use by a foreign-owned carrier is exempt from ad valorem  
 23 property taxation.]

24 [(6)] (4) Subject to allocation or apportionment for out-of-state service, all [*other aircraft not*  
 25 *otherwise specifically exempt from taxation or licensed in lieu thereof, and not*] **aircraft** subject to  
 26 assessment by the Department of Revenue under ORS 308.505 to 308.665[,] shall be assessed in the  
 27 county from which they are customarily operated when not in service, or if there is no customary  
 28 place from which operated, then in the county in which their owner or owners reside, or if neither  
 29 situs applies, then in the county in which any one of the owners maintains a place of business.

30 **SECTION 62. The amendments to ORS 308.558 by section 61 of this 2011 Act apply to**  
 31 **property tax years beginning on or after July 1, 2016.**

32 **SECTION 63.** ORS 308.565 is amended to read:

33 308.565. (1) For the purpose of determining the amount of the assessment of any centrally as-  
 34 sessed company that is to be apportioned to those counties in this state in which the rail lines of  
 35 the company are located, the Department of Revenue shall multiply the values per mile, as ascer-  
 36 tained pursuant to ORS 308.570, of main and branch lines by the number of miles of main and branch  
 37 lines in each county, including miles of main tracks, spurs, yard tracks and sidetracks, as reported  
 38 by the company or as otherwise determined by the department.

39 (2) The department shall apportion values distributed over wire, pipe or pole lines or operational  
 40 routes to those counties in which the lines or routes are located by multiplying the rate per mile  
 41 in each case, determined pursuant to ORS 308.575, by the number of miles of the wire, pipe or pole  
 42 lines or operational routes in each county.

43 (3) If the property of any company assessable under ORS 308.505 to 308.665 is of such a char-  
 44 acter that its value cannot reasonably be apportioned on the basis of rail, wire, pipe, pole line or  
 45 operational route mileage, the department may adopt any other method or basis of apportionment

1 to each county in which the property is located that the department determines to be feasible and  
 2 proper.

3 (4) As determined by the department, values of electric power plants and water powers, con-  
 4 nected with or used in the operation and business of any company, assessable under ORS 308.505  
 5 to 308.665, may be apportioned to each county in which power plants and water powers are located  
 6 in a manner the department deems reasonable and fair.

7 (5) Assessments of the mobile property of air transportation companies shall be allocated and  
 8 apportioned only to those counties in which the air transportation companies make service landings.  
 9 [*For aircraft less than 75,000 pounds gross taxi weight, the department shall allocate and apportion to*  
 10 *the counties 60 percent of the value which would otherwise be allocated and apportioned.*]

11 (6)(a) Assessments of water transportation companies shall be allocated and apportioned to those  
 12 counties in which such companies use or maintain ports or termini, including off-shore anchorages.

13 (b) For purposes of ORS 308.505 to 308.665, the taxing districts to which assessments are ap-  
 14 portioned by the county assessor shall be deemed to extend to the center of any river channel or  
 15 to the ocean bar.

16 **SECTION 64. The amendments to ORS 308.565 by section 63 of this 2011 Act apply to**  
 17 **property tax years beginning on or after July 1, 2016.**

18 **SECTION 65.** ORS 478.430 is amended to read:

19 478.430. (1) A district board shall ascertain and levy annually, in addition to all other taxes, an  
 20 ad valorem tax on all the taxable property in the district, sufficient to pay the interest accruing and  
 21 the principal maturing on the bonds promptly as they become due.

22 (2) **Notwithstanding ORS 478.010 (2)(d), a district may levy a tax on railroad rights of way,**  
 23 **improvements to railroad rights of way and rolling stock moving over railroad rights of way**  
 24 **under this section.**

25 **SECTION 66. The amendments to ORS 478.430 by section 65 of this 2011 Act apply to**  
 26 **property tax years beginning on or after July 1, 2016.**

27 **SECTION 67.** ORS 830.790 is amended to read:

28 830.790. (1) The biennial fee for the original or renewal certificate of number or registration is:

29 (a) \$3 per foot, or portion thereof, for all sailboats 12 feet in length or more and for all  
 30 motorboats.

31 (b) \$6, for boats that are assessed by the Department of Revenue under ORS 308.505 to 308.665.

32 (c) \$6, for amphibious vehicles that are licensed by the Department of Transportation.

33 (2) Notwithstanding subsection (1) of this section, no fee is required for boats owned by  
 34 eleemosynary organizations which are operated primarily as a part of organized activities for the  
 35 purpose of teaching youths scoutcraft, camping, seamanship, self-reliance, patriotism, courage and  
 36 kindred virtues.

37 (3) [*Except for the assessment referred to in subsection (1)(b) of this section,*] The fees provided  
 38 by this section are in lieu of any other [*tax or*] license fee.

39 (4) The operator of a boat livery holding five or more boats ready for hire may pay a biennial  
 40 certificate of number fee of \$55 plus \$6 for each boat instead of the fee otherwise provided in this  
 41 section.

42 **SECTION 68. The amendments to ORS 830.790 by section 67 of this 2011 Act apply to**  
 43 **property tax years beginning on or after July 1, 2016.**

44 **SECTION 69.** ORS 307.092 applies to property tax years beginning before July 1, 2016.

45 **SECTION 70.** ORS 307.183 applies to property tax years beginning before July 1, 2016.



**SECTION 71.** ORS 307.184 applies to property tax years beginning before July 1, 2016.

**SECTION 72.** ORS 307.195 applies to property tax years beginning before July 1, 2016.

**SECTION 73.** ORS 307.205 applies to property tax years beginning before July 1, 2016.

**SECTION 74.** ORS 307.242 applies to property tax years beginning before July 1, 2016.

**SECTION 75.** ORS 307.250, 307.260, 307.262, 307.270, 307.280 and 307.283 apply to property tax years beginning before July 1, 2016.

**SECTION 76.** ORS 307.286 and 307.289 apply to property tax years beginning before July 1, 2016.

**SECTION 77.** ORS 307.370, 307.375, 307.380 and 307.385 apply to property tax years beginning before July 1, 2016.

**SECTION 78.** ORS 307.485, 307.490 and 307.495 apply to property tax years beginning before July 1, 2016.

**SECTION 79.** ORS 307.651 to 307.687 apply to property tax years beginning before July 1, 2016.

**SECTION 80.** ORS 372.190 applies to property tax years beginning before July 1, 2016.

**SECTION 81.** ORS 803.585 applies to property tax years beginning before July 1, 2016.

**SECTION 82.** Section 4, chapter 405, Oregon Laws 1981, is amended to read:

**Sec. 4.** ORS 307.182 applies to tax years beginning on or after July 1, 1981, and prior to July 1, [2012] 2016.

**SECTION 83.** Section 6, chapter 660, Oregon Laws 1985, is amended to read:

**Sec. 6.** ORS 307.540 to 307.548 apply to tax years beginning on or after January 1, 1985, and before July 1, [2014] 2016.

**ADJUSTMENTS IN 2018**

**SECTION 84.** ORS 307.095 is amended to read:

307.095. (1) Any portion of state property that is used during the tax year for parking on a rental or fee basis to private individuals is subject to ad valorem taxation.

(2) The real market value of such portion shall be computed by determining that percentage which the total of receipts from private use bears to the total of receipts from all use of the property. The assessed value of such portion shall be computed as provided in ORS 308.146. However, receipts from any use by a state officer or employee in the performance of the official duties of the state officer or employee shall not be considered as receipts from private use in computing the portion subject to ad valorem taxation.

*[(3) This section and ORS 276.592 do not apply to state property that is used by the Oregon University System or the Oregon Health and Science University solely to provide parking for employees, students or visitors.]*

**SECTION 85.** The amendments to ORS 307.095 by section 84 of this 2011 Act apply to property tax years beginning on or after July 1, 2018.

**SECTION 86.** ORS 308.805 is amended to read:

308.805. (1) Every association of persons, wholly mutual or cooperative in character, whether incorporated or unincorporated, the principal business of which is the construction, maintenance and operation of an electric transmission and distribution system for the benefit of the members of such association without intent to produce profit in money and which has no other principal business or purpose shall, in *[lieu of]* **addition to** all other taxes on the transmission and distribution

1 lines, pay a tax on all gross revenue derived from the use or operation of transmission and distrib-  
 2 ution lines (exclusive of revenues from the leasing of lines to governmental agencies) at the rates  
 3 prescribed by ORS 308.807. The tax shall not apply to or be in lieu of ad valorem taxation on any  
 4 [*property, real or personal, which is not part of the transmission and distribution lines*] **real or per-**  
 5 **sonal property** of such association.

6 (2) [*The Department of Revenue, pursuant to ORS 308.505 to 308.665, shall assess for ad valorem*  
 7 *taxation all the real and personal property of such associations which is not a part of "transmission*  
 8 *and distribution lines," as defined in subsection (3) of this section.*] All [*other*] property subject to ad  
 9 valorem taxation shall be assessed [*in the manner otherwise provided by law,*] by the assessor of the  
 10 county in which such property has a tax situs.

11 (3) As used in ORS 308.805 to 308.820:

12 (a) "Transmission and distribution lines" shall include all property that is energized or capable  
 13 of being energized or intended to be energized, or that supports or is integrated with such property.  
 14 This includes, but is not limited to, substation equipment, fixtures and framework, poles and the  
 15 fixtures thereon, conductors, transformers, services, meters, street lighting equipment, easements for  
 16 rights of way, generating equipment, communication equipment, transmission lines leased to gov-  
 17 ernmental agencies, construction tools, materials and supplies, office furniture and fixtures and of-  
 18 fice equipment. This shall not include such property as parcels of land, buildings, and merchandise  
 19 held for resale.

20 (b) "Wire mile" means a single conductor one mile long installed in a line, but not including  
 21 service drops.

22 **SECTION 87. The amendments to ORS 308.805 by section 86 of this 2011 Act apply to**  
 23 **property tax years beginning on or after July 1, 2018.**

24 **SECTION 88.** ORS 358.499 is amended to read:

25 358.499. (1) Property first classified and specially assessed as historic property for a tax year  
 26 beginning on or before July 1, 1994, shall continue to be so classified, specially assessed and re-  
 27 moved from special assessment as provided under ORS 358.487 to 358.543 as those sections were in  
 28 existence and in effect on December 31, 1992.

29 (2) Property may be classified and specially assessed under ORS 358.487 to 358.543 pursuant to  
 30 application filed under ORS 358.487 on or after September 9, 1995, and first applicable for the tax  
 31 year 1996-1997 or any tax year thereafter.

32 (3) Property may not be classified and specially assessed pursuant to application filed under ORS  
 33 358.487 or 358.540 if the application is filed on or after July 1, [2020] **2018**.

34 **SECTION 89.** ORS 622.290 is amended to read:

35 622.290. (1) Persons using state lands for cultivating oysters, clams or mussels shall pay annual  
 36 cultivation fees and use taxes quarterly to the State Department of Agriculture. Fees and taxes be-  
 37 come delinquent 30 days after the end of the quarter.

38 (2) Use taxes shall be in the amount of 10 cents per gallon of oysters if sold by the gallon, 10  
 39 cents per bushel of oysters if sold in the shell by the bushel or one cent per dozen oysters if sold  
 40 by the dozen.

41 (3) Use taxes shall be in the amount of one-half cent per pound of clams or mussels sold.

42 (4) The annual cultivation fee shall be in the amount of \$4 for each acre claimed pursuant to  
 43 chapter 675, Oregon Laws 1969, or claimed pursuant to a plat made subsequent thereto.

44 (5) Annual cultivation fees and use taxes shall be assessed in lieu of [*property taxes,*] lease fees  
 45 or rental charges for the use of lands upon which oysters, clams or mussels are grown and har-

1 vested.

2 **SECTION 90.** The amendments to ORS 622.290 by section 89 of this 2011 Act apply to tax  
 3 years beginning on or after July 1, 2018.

4 **SECTION 91.** ORS 307.022 applies to property tax years beginning before July 1, 2018.

5 **SECTION 92.** ORS 307.080 applies to property tax years beginning before July 1, 2018.

6 **SECTION 93.** ORS 307.107 applies to property tax years beginning before July 1, 2018.

7 **SECTION 94.** ORS 307.112 applies to property tax years beginning before July 1, 2018.

8 **SECTION 95.** ORS 307.115 applies to property tax years beginning before July 1, 2018.

9 **SECTION 96.** ORS 307.118 applies to property tax years beginning before July 1, 2018.

10 **SECTION 97.** ORS 307.130 applies to property tax years beginning before July 1, 2018.

11 **SECTION 98.** ORS 307.136 applies to property tax years beginning before July 1, 2018.

12 **SECTION 99.** ORS 307.140 applies to property tax years beginning before July 1, 2018.

13 **SECTION 100.** ORS 307.145 applies to property tax years beginning before July 1, 2018.

14 **SECTION 101.** ORS 307.147 applies to property tax years beginning before July 1, 2018.

15 **SECTION 102.** ORS 307.150 applies to property tax years beginning before July 1, 2018.

16 **SECTION 103.** ORS 307.160 applies to property tax years beginning before July 1, 2018.

17 **SECTION 104.** ORS 307.166 applies to property tax years beginning before July 1, 2018.

18 **SECTION 105.** ORS 307.171 applies to property tax years beginning before July 1, 2018.

19 **SECTION 106.** ORS 307.210 applies to property tax years beginning before July 1, 2018.

20 **SECTION 107.** ORS 307.220 applies to property tax years beginning before July 1, 2018.

21 **SECTION 108.** ORS 307.230 applies to property tax years beginning before July 1, 2018.

22 **SECTION 109.** ORS 307.240 applies to property tax years beginning before July 1, 2018.

23 **SECTION 110.** ORS 307.402 applies to property tax years beginning before July 1, 2018.

24 **SECTION 111.** ORS 307.471 applies to property tax years beginning before July 1, 2018.

25 **SECTION 112.** ORS 307.804 and 307.806 apply to property tax years beginning before July  
 26 1, 2018.

27 **SECTION 113.** ORS 307.808, 307.811 and 307.815 apply to property tax years beginning be-  
 28 fore July 1, 2018.

29 **SECTION 114.** Section 3, chapter 337, Oregon Laws 1995, is amended to read:

30 **Sec. 3.** [Section 10 of this 2001 Act] **ORS 307.111** applies to property tax years beginning on or  
 31 after July 1, 1995, and before July 1, [2010] **2018.**

32 **SECTION 115.** Section 2, chapter 256, Oregon Laws 2001, is amended to read:

33 **Sec. 2.** (1) Section 1 (1), chapter 256, Oregon Laws 2001, applies to tax years beginning on or  
 34 after July 1, 1998, and before July 1, [2021] **2018.**

35 (2) Section 1 (2), chapter 256, Oregon Laws 2001, applies to tax years beginning on or after July  
 36 1, 1999, and before July 1, [2021] **2018.**

37  
 38 **REPEALED PROVISIONS**  
 39

40 **SECTION 116.** Section 5, chapter 69, Oregon Laws 2010, is repealed.  
 41

42 **UNIT CAPTIONS**  
 43

44 **SECTION 117.** The unit captions used in this 2011 Act are provided only for the conven-  
 45 ience of the reader and do not become part of the statutory law of this state or express any

1 legislative intent in the enactment of this 2011 Act.

2

3

**EFFECTIVE DATE OF ACT**

4

5 **SECTION 118.** This 2011 Act takes effect on the 91st day after the date on which the  
6 session of the Seventy-sixth Legislative Assembly adjourns sine die.

7

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