

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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## Ratification of Intergovernmental Relations Committee Actions of February 20, 2013

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Meeting Date: February 25, 2013  
Department: City Manager's Office  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: 3  
Staff Contact: Lisa Gardner  
Contact Telephone Number: 541-682-5245

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### ISSUE STATEMENT

This is an action item to ratify the recommendations of the Intergovernmental Relations (IGR) Committee meeting of February 20, 2013.

### BACKGROUND

As a matter of procedure, the City Council is routinely asked to ratify the actions taken by the Intergovernmental Relations (IGR) Committee. This is done by submitting the minutes of each committee meeting to the council.

Actions on which the committee is not unanimous are brought before the full City Council for consideration. These bills must be addressed by the full council in order to provide direction to staff.

On February 11, 2013, the City Council approved a "pilot process" for the 2013 Legislative Session, aimed at streamlining the IGR review process, and creating a more focused and effective legislative lobby agenda. With the goal of reducing the total number of bills to be lobbied, IGR staff will be asked to take positions on significantly fewer bills this session.

The IGR Committee held its first meeting of the 2013 Legislative session on February 20, 2013. The minutes for these meetings are included as Attachment A.

The IGR Committee discussed four bills that were referred by IGR Staff for their consideration. The bill report of referred bills is included as Attachment B. Unanimous action was taken on two bills; however, the vote on two 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.

*HB 2448: Requires issue subject to collective bargaining during term of collective bargaining agreement that is not resolved through negotiation or mediation to be resolved through binding arbitration. Prohibits public employees from striking when issue subject to collective bargaining during term of collective bargaining agreement is subject to binding arbitration.*

*Relating to: Relating to matters subject to collective bargaining during term of collective bargaining agreement.*

Staff Recommendation: Priority 2, Oppose (By Tom Patterson)

IGR Committee Vote: Priority 2, Oppose with Amendments (Clark voting Yes / Poling, Taylor, No)

Councilor Clark expressed concerns regarding long-term costs to the City. Councilor Poling related his experience as a union leader when binding arbitration was considered an incentive to work harder towards a resolution. Councilor Taylor did not support the motion to oppose the bill.

*HB 2677: 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 the project.*

*Relating to: Relating to the application of a prevailing rate of wage to public works projects*

Staff Recommendation: Priority 2 Oppose (By Denny Braud)

IGR Committee Vote: Priority 2, Oppose (2/1, Clark, Poling Yes/ Taylor, No)

## **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 as set forth in the minutes of the committee's meeting and that there be a discussion on the decisions that were not unanimous, as well as discussion on the grant request and the letter of support to ban field burning.

## **SUGGESTED MOTION**

Move to ratify the IGR Committee's unanimous actions on bills at the February 20, 2013 IGR Committee meeting.

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

**ATTACHMENTS**

- A. IGR Committee Minutes of February 20, 2013
- B. Bill Report for February 20, 2013 IGR Meeting

**FOR MORE INFORMATION**

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Staff E-Mail: [lisa.a.gardner@ci.eugene.or.us](mailto:lisa.a.gardner@ci.eugene.or.us)

MINUTES

Eugene Council Committee on Intergovernmental Relations  
Bob Straub Conference Room—Public Service Building  
125 East 8<sup>th</sup> Avenue—Eugene, Oregon

February 20, 2012  
1:30 p.m.

PRESENT: Betty Taylor, George Poling, Mike Clark (conference call), Mayor Piercy, members; Intergovernmental Relations Director Lisa Gardner, Jenna McCulley, City Manager's Office; Tom Patterson, Central Services Department; Eric Wold, Public Works Department; Denny Braud, Planning and Development Department.

**1. Call to Order and Review Agenda**

Mr. Poling called the meeting of the Council Committee on Intergovernmental Relations (CCIGR) to order. Ms. Gardner outlined the agenda for the meeting, and introduced Jenna McCulley, who will be providing administrative support for the IGR program. At the suggestion of Councilor Taylor, the first item was to elect a new chair, which had been postponed from the 2012 session.

**2. Election of Chair**

Mr. Poling, seconded by Ms. Taylor moved to elect Councilor Clark as Chair of the CCIGR. The motion passed unanimously, 3:0. Mr. Poling agreed to chair the remainder of the meeting since Mr. Clark was attending by phone.

**3. Review Pending Legislation**

The committee reviewed a list of bills recommended for CCIGR discussion and action. Committee votes, if any, are recorded below:

*House Bill 2173*

Mr. Poling, seconded by Ms. Taylor, moved to change the City's position on House Bill 4020 from Oppose to Monitor, pending potential amendments to the bill. The motion passed unanimously, 3:0.

*House Bill 2448*

Ms. Taylor, seconded by Mr. Poling, moved to change the City's position on House Bill 2448 from Oppose to Monitor. The motion passed unanimously, 3:0.

*House Bill 2418*

Mr. Poling, seconded by Mr. Clark, moved to approve the staff recommended Priority 2 oppose position. The vote on the motion was 2:1; Ms. Taylor voted no.

Mr. Poling indicated the bill would go to the full council for resolution of the City's position.

*House Bill 2677*

Mr. Poling, seconded by Mr. Clark, moved to support the staff recommended Priority 2 Oppose position on House Bill 2677. The vote on the motion was 2:1; Ms. Taylor voted

Mr. Poling indicated the bill would go to the full council for resolution of the City's position.

### **3. Items from Members and Staff**

Ms. Gardner indicated, that as part of the pilot process for the 2013 session, CCIGR meetings will not be scheduled on a weekly basis, but will be held as needed. The next CCIGR meeting is tentatively scheduled for March 6, 2013, as needed. Staff will confirm by email.

Mr. Poling adjourned the meeting at 2:03 p.m.

*(Recorded by Lisa Gardner)*

**Legislative Tracking**

**Bills and Response Detail Report**

Comments Selected by Date - 2/20/2013

<u>Bills</u>	<u>Sent</u>	<u>Due Date</u>	<u>Subject</u>	<u>Priority</u>	<u>Recommendation</u>
<b>HB 2173</b>	2/19/2013	2/20/2013	Natural Resources	Pri 2	Oppose

*Relating Clause:* Relating to water projects; declaring an emergency.

*Title:* Changes status of activities conducted to create, restore or enhance wetlands on land zoned for exclusive farm use from outright permitted use to conditional use.  
 Exempts land zoned for exclusive farm use from limitation on liability for damage, injury or death for certain fish and wildlife habitat improvement projects and watershed or stream restoration or enhancement programs. Declares emergency, effective on passage.

*Sponsored By:* Representatives Clem, Krieger

<u>Contact</u>	<u>Respondent</u>	<u>Dept</u>	<u>Updated</u>	<u>Priority</u>	<u>Policy</u>	<u>Pol Num</u>	<u>Recommendation</u>
Eric Wold	Eric Wold	PW-POS	2/20/2013	Pri 1			Oppose
Comments:	House Bill 2173 would make "creation, restoration or enhancement of wetlands" a conditional use in the Exclusive Farm Use (EFU) zone. Currently, these activities are outright permitted on EFU land.						

The City of Eugene should OPPOSE this bill.

Since the mid 1990's, the City of Eugene and its partners in the West Eugene Wetlands Program have restored and enhanced wetlands and we continue to do so. These wetland restoration projects meet multiple objectives for the City, including helping the City meet its goals for the broader Stormwater Program and meet water quality standards set by the U.S. Environmental Protection Agency and the Oregon Department of Environment Quality.

Adding the requirement to obtain a Conditional Use Permit would add substantial COST and TIME to the City to enhance and restore wetlands. Conditional Use Permits are subject to substantial public process and the potential for appeals to the Land Use Board of Appeals.

This bill would make it harder for the City of Eugene, private landowners, non-profit organizations, and farmers to engage in voluntary restoration activities. The bill is also opposed by multiple partner organizations of the City, including The Nature Conservancy.

<b>HB 2418</b>	2/19/2013	2/20/2013	Human Resources	Pri 2	Oppose
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*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:* Representative Matthews & Witt

<u>Contact</u>	<u>Respondent</u>	<u>Dept</u>	<u>Updated</u>	<u>Priority</u>	<u>Policy</u>	<u>Pol Num</u>	<u>Recommendation</u>
Tom Patterson		CS-HR	2/20/2013				

*Comments:* This bill would create significant issues our Public Safety Departments, especially EPD. The objective of the bill is to limit the definition of a "supervisory" employee by adding the requirement that the supervisor have "the authority to impose economic discipline on those employees". This provision would only apply to our strike prohibited employees. However, the current disciplinary process utilized by the Eugene Police Department could be interpreted to mean that only the Chief of Police has the authority to impose economic discipline on employees. The consequence would be that all other EPD employees, from Captains through Sergeants, would no longer be deemed to be supervisors. The impact on the Fire and EMS Department would be less drastic but still undesirable.

**Legislative Tracking  
Bills and Response Detail Report**

Bills                      Sent                      Due Date                      Subject                      Priority                      Recommendation

**HB 2448**                      2/19/2013                      2/20/2013                      Human Resources                      Pri 2                      Oppose

*Relating Clause:* Relating to matters subject to collective bargaining during term of collective bargaining agreement.

*Title:* Requires issue subject to collective bargaining during term of collective bargaining agreement that is not resolved through negotiation or mediation to be resolved through binding arbitration.  
Prohibits public employees from striking when issue subject to collective bargaining during term of collective bargaining agreement is subject to binding arbitration.

*Sponsored By:* Representative Doherty

Contact                      Respondent                      Dept                      Updated                      Priority                      Policy                      Pol Num                      Recommendation  
Tom Patterson                                           CS-HR                      2/20/2013

*Comments:* The issue with this bill is that it eliminates a fundamental component of the collective bargaining process, the option for a bargaining unit to strike the employer, and replaces that with binding arbitration. This is effectively "blending" the process for resolving issues in bargaining for non-strike prohibited employees with the process for strike prohibited employees. This change would be limited to unresolved issues during so called interim bargaining. In those instances the employees would lose their right to strike and the employer would no longer be able to implement the proposed change after bargaining and mediation have failed to resolve the issue. Binding arbitration is a time consuming and expensive process and arbitrators are required to select in total the proposal of the employer or union with no option to select a mix between the two proposals. One drawback to binding arbitration is that unions and employees, and employers to some degree, have less motivation to bargain to conclusion if a strike is not the ultimate outcome when an agreement is not reached.

**HB 2677**                      2/19/2013                      2/20/2013                      Finance and Taxation                      Pri 2                      Oppose

*Relating Clause:* Relating to the application of a 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.

Becomes operative 91 days after effective date of Act. Declares emergency, effective on passage.

*Sponsored By:* Representative Hoyle

Contact                      Respondent                      Dept                      Updated                      Priority                      Policy                      Pol Num                      Recommendation  
Amanda Nobel                      Denny Braud                      PDD-ADM                      2/20/2013                      Pri 1                                           Oppose

*Comments:*

- On Average, the 3-year EZ tax exemption equals approx. 3% of the eligible project investment. For many EZ projects, I would expect that the impact (additional construction costs) of applying prevailing wage to an EZ project could actually be greater than 3% of the project. In other words, the relatively small tax exemption incentive could be eroded to the point that the EZ program could become a disincentive.
- This appears to be an unfunded mandate. Monitoring construction payrolls for prevailing wage compliance is very labor intensive, especially for large projects. We have no resources to pay for that work.
- It is not clear how we would mitigate the Zone Sponsor's (Eugene/Lane County) liability for future claims resulting from a company's failure to pay prevailing wages, and it is hard to quantify our legal exposure given lack of specificity in the bill.

**Legislative Tracking  
Bills and Response Detail Report**

<u>Bills</u>	<u>Sent</u>	<u>Due Date</u>	<u>Subject</u>	<u>Priority</u>	<u>Recommendation</u>
	Paul Klope		PWE	2/20/2013	

Comments: From a public contracting standpoint, this bill is a non-issue, and would be a "drop" priority because all of our projects are required to be prevailing wage now, and we never have projects involving tax credits or tax abatements. However, from an economic development standpoint, the City may want to take a different position, since this would significantly increase the cost of privately funded projects receiving tax credits or abatements. I am not informed enough to weigh in from that perspective, so I will defer to someone from Planning.

**SB 421**      2/20/2013      2/20/2013      Public Safety      Pri 1      Support

*Relating Clause:* Relating to civil commitments

*Title:* Authorizes district attorney to initiate commitment proceeding when person charged with certain crimes lacks capacity to stand trial and is dangerous and in need of commitment.  
 Authorizes court to establish commitment period of up to five years. Declares emergency, effective on passage

*Sponsored By:* Senator Prozanski

<u>Contact</u>	<u>Respondent</u>	<u>Dept</u>	<u>Updated</u>	<u>Priority</u>	<u>Policy</u>	<u>Pol Num</u>	<u>Recommendation</u>
Lisa Gardner		CMO-IGR	2/20/2013	Pri 1	Yes		Support

Comments: Note: this bill was approved by unanimous vote by the IGR committee via email, a new mechanism for IGR action as part of the pilot process. Below is the information that was emailed to IGR:

These bills are sponsored by Senator Prozanski, and the IGR committee provided a priority 1 support position last year on the bill concepts. Per previous IGR committee direction, we have been actively working on the bill language, and lobbying for the introduction of these bills. These bills have been scheduled for hearing at the Senate Judiciary Committee on Tuesday, February 19th. Officer Kicullen's widow, Kristie Kicullen will be testifying, as will Chief Kerns and Captain Bills. For the sake of consistency in our pilot process, I would like to request your formal endorsement of a continued Priority 1 Support position for these bills. I have attached the full text of both bills for anyone interested. Please indicate your position by replying to this email.

**SB 426**      2/20/2013      2/20/2013      Public Safety      Pri 1      Support

*Relating Clause:* Relating to commitment of persons with mental illness.

*Title:* Increases from 180 days to two years maximum period of indefinite commitment of persons who lack capacity to stand trial due to mental illness and have been charged with certain crimes.  
 Updates terminology.

*Sponsored By:* Senator Prozanski

<u>Contact</u>	<u>Respondent</u>	<u>Dept</u>	<u>Updated</u>	<u>Priority</u>	<u>Policy</u>	<u>Pol Num</u>	<u>Recommendation</u>
Lisa Gardner		CMO-IGR	2/20/2013	Pri 1			Support

Comments: These bills are sponsored by Senator Prozanski, and the IGR committee provided a priority 1 support position last year on the bill concepts. Per previous IGR committee direction, we have been actively working on the bill language, and lobbying for the introduction of these bills. These bills have been scheduled for hearing at the Senate Judiciary Committee on Tuesday, February 19th. Officer Kicullen's widow, Kristie Kicullen will be testifying, as will Chief Kerns and Captain Bills. For the sake of consistency in our pilot process, I would like to request your formal endorsement of a continued Priority 1 Support position for these bills. I have attached the full text of both bills for anyone interested. Please indicate your position by replying to this email.



**Legislative Tracking**  
**Bills and Response Detail Report**

<u>Bills</u>	<u>Sent</u>	<u>Due Date</u>	<u>Subject</u>	<u>Priority</u>	<u>Recommendation</u>
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