



## **2015 Legislative Session Final Report**



# TABLE OF CONTENTS

<b>2015 LEGISLATIVE SESSION IN REVIEW</b> .....	1
<b>NOTABLE ACTIONS TAKEN THIS SESSION</b> .....	3
<b>LOOKING AHEAD</b> .....	4
<b>DYNAMICS OF THE 78<sup>th</sup> LEGISLATURE</b> .....	5
<b>ENERGY</b> .....	7
Bills that Passed.....	7
HB 2187 – Transmission of Ocean Renewable Energy.....	7
SB 319 – Ocean Renewable Energy Facilities.....	7
SB 324 – Low Carbon Fuel Standard.....	7
Bills that Did Not Pass.....	8
HB 2216 – Offshore Wind.....	8
HB 3470 – Carbon Tax/Cap & Dividend/Greenhouse Gas Emission Standard.....	8
<b>GENERAL</b> .....	9
Bills that Passed.....	9
HB 2460 – DSL Easement Fees for Submerged and Submersible Lands.....	9
HB 2461 – Exemptions to Department of State Lands Leasing Requirements.....	9
HB 3315 – Oregon Department of Fish and Wildlife Fees to Other State Agencies.....	9
SB 249 – Mitigation Credits on Removal-Fill Projects.....	10
<b>INVASIVE SPECIES</b> .....	10
Bills that Passed.....	10
HB 2207 – Ballast Water.....	10
SB 209 – Invasive Species Council and Coordinator.....	10
SJM 9 – Aquatic Invasive Species Joint Memorial to Congress.....	10
<b>LABOR</b> .....	11
Bills that Passed.....	11
HB 2007 – Private Right of Action for Wage Inequality.....	11

HB 3025 – Criminal History Checks for Employment Purposes.....	11
SB 185 – Unlawful Employment Practice Related to Social Media.....	11
SB 454 – Paid Sick Leave.....	12
SB 492 – Assault Victim Leave.....	12
SB 968 – Preemption on Local Flexible Work Schedule.....	12
 Bill That Did Not Pass.....	 13
 HB 2004 – Lifting Preemption on Setting Minimum Wage.....	 13
HB 2012 – Minimum Wage Increase.....	13
HB 2646 – Parental Leave for School-Related Activities.....	13
SB 888 – Flexible Work Schedules.....	13
 <b>PORTS/MARINE.....</b>	 <b>13</b>
 Bills That Passed.....	 13
 HB 2009 – Shell Fish Task Force.....	 13
HB 2278 – Coos Bay Channel Project.....	14
HB 2459 – Fee Increases on Registered Vessels.....	14
HB 2463 – Abandoned and Derelict Structures.....	14
SB 131 – Willamette Falls Locks.....	14
SB 262 – Oil Spill Fee Increase.....	15
SB 412 – Upland Placement of Dredged Materials is Productive.....	15
SB 912 – Ownership of Historically Filled Submerged and Submersible Lands.....	15
SB 935 – Maritime Insurance.....	15
SB 5522 – Oregon Marine Board Budget.....	16
 <b>TRANSPORTATION.....</b>	 <b>17</b>
 Bills That Passed.....	 17
 HB 2274 – ConnectOregon VI.....	 17
HB 3225 – Oil Train Safety.....	17
 Bills That Did Not Pass.....	 17
 HB 3302 – Transportation Funding Package.....	 17
HB 3310 – Clean Diesel Requirements.....	18
SB 824 – Clean Diesel Standards.....	18

## 2015 LEGISLATIVE SESSION IN REVIEW

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The 78<sup>th</sup> Oregon Legislature convened a three-day “organizational session” on January 12, 2015, adjourned for two weeks and then reconvened in full session on February 2, 2015. During the organizational days, nearly 1,500 bills were introduced and printed. During the subsequent two weeks, those measures were referred to various policy committees that allowed committees to conduct hearings on bills as soon as the full session began. This was the third full Legislative Session constitutionally limited to 160 days under Ballot Measure 71 (2010). Legislative Leadership created an ambitious legislative calendar under HCR 15 and set a *Sine Die* target date of June 26<sup>th</sup> (145 days). However, the Legislature ultimately adjourned on July 6<sup>th</sup> at 6:04 p.m. after a 154-day session.

House Democrats picked up one additional seat in November 2015, giving them a 35-25 majority. Democrats re-elected Tina Kotek (D-Portland) as the House Speaker making her the first Speaker in a decade to serve consecutive sessions and Val Hoyle (D-Eugene) was elected as the Majority Leader. Mike McLane (R-Powell Butte) was re-elected as the House Minority Leader. There were 16 new legislators in the House this session—seven Democrats and nine Republicans.

The Senate Democrats increased their majority by two in this election, going into the 2015 Session with 18 Democrats and 12 Republicans. The Senate elected Peter Courtney (D-Salem) to an unprecedented 7<sup>th</sup> term as President of the Senate and Diane Rosenbaum (D-Portland) as the Majority Leader for a consecutive third time. Ted Ferrioli (R-John Day) was re-elected as the Senate Minority Leader. All of the new Senators (three Democrats and one Republican) had previously served in the Oregon House. Governor Kitzhaber, serving as the 4<sup>th</sup> term governor in Oregon’s history, entered his seventh regular legislative session as the chief executive for only the second time with Democratic majorities in both chambers. Notably, female leadership was second only to Colorado with four women holding high leadership positions (Kotek, Hoyle, Rosenbaum and Burdick) and making up 31% of the Legislative body.

In December, Governor Kitzhaber presented his recommended budget to the Legislature. In contrast to previous budgets, it proposed new investments using increased revenues rather than budget cuts. With \$18.6 billion (compared to \$15.9 billion the previous session -- an 11% increase), Kitzhaber’s proposed budget emphasized greater investment in early childhood education, working families tax credit expansion, rural job creation, water and transportation infrastructure, extension of the clean fuels program, and expansion of firearm background check requirements.

Both parties were skeptical about the proposed budget. One of the Co-Chairs of the powerful Ways and Means Committee was very public about his concerns, labeling the proposed ending balance as inadequate and that depending on the Supreme Court’s ruling on previous PERS reforms and the potential for a personal income tax kicker could create significant pitfalls. Additionally, the Governor’s budget actually resulted in a cut in K-12 education funding. As a result, the Senate President and House Speaker directed the Ways and Means

Committee Co-Chairs to produce a different budget framework that avoided the perceived flaws of the one proposed by the Governor.

In mid-January, two weeks before session began, the Ways and Means Co-Chairs revealed this plan. This was the earliest that a legislative budget plan had ever been issued. The plan served as the Legislature's framework for expenditures and balancing the budget for the upcoming biennium. This was important because: 1) it was based on the same revenue forecast used for the Governor's proposed budget; 2) significant additional funds were allocated for education while some cuts were proposed for social services and public safety and; 3) it provided additional time for the public and Ways and Means Subcommittees to discuss the details of all the agency budgets and priorities.

As the session began, both parties outlined their broad agendas. Democrats made clear that investing in education and workforce development, creating family wage jobs, supporting rural Oregon, fighting for working families, and investing in infrastructure were at the top of their agenda. The Republican agenda included creating jobs in struggling communities, increasing economic security for working families, and expanding educational opportunities.

Complicating matters was the increased media scrutiny of the failure of Governor Kitzhaber's Cover Oregon program and his fiancée's personal and business dealings in her role as a policy advisor to the Governor. Very early in the session, President Courtney and Speaker Kotek asked the Governor to step down. Rumors increased when the media reported that the Governor had called Secretary Kate Brown to come back to Oregon from a conference in D.C. Despite several state and federal investigations, the Governor denied he would be resigning. Ultimately, on February 14<sup>th</sup>, Governor Kitzhaber announced the end of his 37-years of public service, resigning his office effective February 18<sup>th</sup>.

At 9:56 a.m. on February 18<sup>th</sup>, only 17 days into the legislative session, and 38 days into Governor Kitzhaber's fourth term, Kate Brown was sworn in as the 38<sup>th</sup> Governor of the State of Oregon as John Kitzhaber's resignation became effective. Not since 1956 has a governor been sworn in mid-term; Elmo Smith was sworn in after the death of Governor Paul Patterson. With 24 years of public service, Brown's biggest challenge, besides assembling a new staff, was to restore the public's faith in state government. In her address to a joint meeting of the two legislative chambers, Governor Brown made it clear that her family and her staff would not accept or seek outside compensation for any work related to the business of the State of Oregon. She also committed to strengthening the Government Ethics Commission and ensuring the timely release of public documents in order to hold public officials accountable and to foster a culture of transparency. She subsequently appointed Jeanne Atkins (former staff to U.S. Senator Jeff Merkley) as Oregon's Secretary of State.

In late March, Democrats advanced a \$7.25 billion dollar K-12 education budget on a party line vote. This was the earliest date that an education budget had been adopted in nearly a quarter century. Despite the inclusion of full-day kindergarten for every Oregon child, Republicans widely criticized the budget as inadequate. However, leadership made it clear that the approved funding would be used as a floor and that they would try to bolster the funding if additional revenue was raised or if the economy led to stronger revenue projections. In the end, more than a \$100 million was added to the K-12 budget along with \$300 million for seismic and other safety improvements.

In her April State of the State address, Governor Brown called on the Legislature to pass a comprehensive transportation funding package. She convened a small bicameral and bipartisan group, called the “Gang of Eight,” who met behind closed doors to construct a viable package. However, despite the Senate’s agreement on modifying the previously approved low carbon fuel standards, the House refused to do so, thereby killing any chance for comprehensive transportation funding. Further complicating matters, the Supreme Court declared the 2013 PERS reforms unconstitutional, largely wiping out future anticipated retirement savings at the state and local level.

The May revenue forecast that is typically used to balance the upcoming biennial budget brought both good and challenging news. The Office of Economic Analysis estimated that the next biennium’s revenue would be up an additional \$463 million. The challenging news was that the state’s kicker would result in \$473 million being returned to individual taxpayers. This final forecast set the stage for the legislature to complete the remaining budgets and enact the remaining measures having budgetary impacts.

In the end, the legislatively adopted budget was nearly \$18.9 billion in General Fund and Lottery resources—an increase of 13% over the previous biennium. Democrats hailed the session as largely a success, while Republicans complained bitterly that their voice was largely ignored. There is little doubt that relationships were strained during the session, not only between the political parties, but also between the leadership in the House and Senate. Only time will tell whether those relationships can be mended.

## **NOTABLE ACTIONS TAKEN THIS SESSION**

- Low Carbon Fuels Standard intended to reduce the carbon intensity of transportation fuels by 10% over the next 10 years (and effectively killing a comprehensive transportation package).
- Paid sick leave requiring businesses with ten or more employees to provide up to five days of paid sick leave per year.
- Universal background checks for firearm transfers.
- Creation of retirement accounts for all Oregonians lacking access to a retirement plan at their place of employment.
- \$45 million for the sixth iteration of the Connect Oregon transportation funding program.
- Nearly \$7.4 billion for K-12 education.
- Three measures implementing Oregon’s recreational marijuana law.
- Class Action Lawsuits – sending unclaimed damage awards to the state’s legal aid fund.
- \$300 million to retrofit schools and emergency responder buildings to improve earthquake preparedness.
- \$50 million for water infrastructure.
- Self-service gasoline in counties with fewer than 40,000 residents only between 6 p.m. & 6 a.m.

- Motor Voter – automatically registering voters and potentially adding hundreds of thousands of new voters in Oregon.
- New investments in affordable housing.
- Toxic Free Kids Act requiring manufacturers to track and incrementally phase out potentially toxic chemicals in products used by children.
- A balanced budget of approximately \$18.9 billion.

The Governor got the ethics reforms she called for, as well as new investments in affordable housing. However, a few notable issues did not successfully pass this session. The failure to enact a transportation funding package remains as a blow to her administration.

Other issues that failed to move forward included an increase in the minimum wage, inclusionary zoning, authority for the impeachment of statewide elected officials, and compulsory vaccination requirements for children entering public schools.

## **LOOKING AHEAD**

Under Senate Concurrent Resolution 20 (SCR 20), 2015 “Legislative Days” will be held on September 28 – 30, November 16 – 18, and January 13 – 15 leading up to the short legislative session that will begin on February 1, 2016. Each member of the House and Senate will be permitted to introduce up to two bills, each legislative committee will be allowed to introduce up to three bills, and the Governor and Chief Justice of the Supreme Court will each be permitted to introduce up to five bills.

Under Oregon law, Governor Brown is required to run for election in 2016 to serve out the remaining two years of the former Governor’s term. Candidates seeking to serve the remaining two years of the term can officially file for the election beginning on September 10, 2015. To date, only Salem physician Bud Pierce has announced his intention to run for the Republican nomination.

The Legislature referred only one measure to the voters for their consideration. Senate Joint Resolution 4 would repeal the state’s current mandatory retirement age for judges (75). It is also likely that voters will decide on a host of other ballot measures through the initiative petition process. In order to qualify, 88,184 signatures must be collected to make a statutory change; revisions to the Constitution require 117,578 signatures. The deadline to submit the required signatures is July 8, 2016.

Some likely initiatives include: raising the minimum wage, repeal of the low carbon fuel standard, increasing taxes on large corporations and the wealthy, limiting the ability of public unions to enforce compulsory dues for employees who don’t want to join the union, establishing English as the state’s official language, requiring employers to verify that their workers are in the country legally, limits on attorney fees in class action law suits, and estate tax reform. However, it is likely that there will be additional initiatives filed, potentially making the 2016 election one of the most expensive in Oregon’s history.

# DYNAMICS OF THE 78<sup>th</sup> LEGISLATURE

Session Length:	154	Bills Introduced:	2,799
Date Convened:	February 2, 2015	Bills Signed by Governor:	846
Date Adjourned:	July 6, 2015	Bills Vetoed:	0

## **OREGON SENATE**

Democrats: 18  
Republicans: 12

### **Senate Caucus Leadership:**

Senate President Peter Courtney (D-Salem)  
Senate Majority Leader Diane Rosenbaum (D-Portland)  
President Pro Tempore Ginny Burdick (D-Portland)  
Deputy Majority Leader Arnie Roblan (D-Coos Bay)  
Majority Whip Mark Hass (D-Beaverton)  
Majority Whip Elizabeth Steiner Hayward (D-NW Portland/Beaverton)  
Assistant Majority Leader Michael Dembrow (D-Portland)  
Assistant Majority Leader Sara Gelser (D-Corvallis)

Senate Republican Leader Ted Ferrioli (R-John Day)  
Deputy Republican Leader Chuck Thomsen (R-Hood River)  
Deputy Republican Leader Jeff Kruse (R-Roseburg)  
Deputy Republican Leader Tim Knopp (R-Bend)  
Deputy Republican Leader Herman Baertschiger (R-Grants Pass)

## **OREGON HOUSE OF REPRESENTATIVES**

Democrats: 35  
Republicans: 25

### **House Caucus Leadership:**

Speaker of the House Tina Kotek (D-Portland)  
Majority Leader Val Hoyle (D-Eugene)  
Speaker Pro Tempore Tobias Read (D-Beaverton)  
Majority Whip Jessica Vega Pederson (D-Portland)  
Deputy Majority Whip Jennifer Williamson (D-Portland)  
Assistant Majority Leader Nancy Nathanson (D-Eugene)  
Assistant Majority Leader Ann Lininger (D-Lake Oswego)  
Assistant Majority Leader Barbara Smith Warner (D-Portland)

Republican Leader Mike McLane (R-Powell Butte)  
Deputy Republican Leader Carl Wilson (R-Grants Pass)

Republican Whip Sherrie Sprenger (R-Scio)  
Assistant Republican Leader Cliff Bentz (R-Ontario)  
Assistant Republican Leader John Davis (R-Wilsonville)  
Assistant Republican Leader Gene Whisnant (R-Sunriver)  
Republican Whip Sherrie Sprenger (R-Scio)  
Assistant Republican Leader Cliff Bentz (R-Ontario)  
Assistant Republican Leader John Davis (R-Wilsonville)  
Assistant Republican Leader Gene Whisnant (R-Sunriver)

I am grateful to the CRSOA Board of Directors and Kate Mickelson for their support and guidance. I am looking forward to facing the opportunities and challenges ahead and I am honored to represent the Columbia River Steamship Operators' Association, Inc. Mark Landauer – MJL Consulting, LLC.

# ENERGY

## **Bills that Passed**

### **HB 2187 – Transmission of Ocean Renewable Energy**

Effective January 1, 2015 Chapter 311 (2015 Laws)

Oregon's territorial sea, defined as the ocean and seafloor area from mean low water seaward three nautical miles, are favorable locations for siting renewable energy projects, including wave energy. These options for such facilities vary and may require structures and equipment to be anchored to the seafloor in order to transfer energy to on-shore substations. This law makes it a policy position of the State of Oregon that regional transmission planning processes should adequately consider the transmission of ocean renewable energy from Oregon's territorial sea and adjacent federal waters.

### **SB 319 – Ocean Renewable Energy Facilities**

Effective June 11, 2015 Chapter 386 (2015 Laws)

In 1994, Oregon adopted a Territorial Sea Plan as a detailed guide to evaluating the uses of these waters consistent with state land use policy and other policies and statutes, through the Land Conservation and Development Commission (LCDC). The plan was amended in 2009 to provide state and federal agencies with specific standards for siting and regulating ocean renewable energy facilities in the territorial sea and in 2013 with the adoption of maps designating areas that are and are not appropriate for locating these facilities. Under current law, an ocean renewable energy facility must also obtain a water right and a hydroelectric license from the Water Resources Department. This law exempts an ocean renewable energy facility from regulation as a hydroelectric project and requires the Department of State Lands to develop a proprietary authorization to construct or operate an ocean renewable energy facility in Oregon's territorial sea. It also requires a permit for removal or fill activities in the territorial sea related to an ocean renewable energy facility.

### **SB 324 – Low Carbon Fuel Standard**

Effective March 12, 2015 Chapter 4 (2015 Laws)

In 2009, the Oregon Legislature passed HB 2186 authorizing the Oregon Environmental Quality Commission (Commission) to adopt rules to reduce average greenhouse gas emissions of gasoline, diesel, and substitutes for those fuels by 10% below 2010 levels by the year 2020. However, that authorization was due to sunset at the end of 2015. Among other things, SB 324 repeals the sunset provisions related to those low carbon fuel standards and makes adoption of standards by the Commission mandatory. It also extends the deadline for the greenhouse gas emission reduction to 2025 or later date, if the Commission determines that an extension is appropriate. The measure also authorizes the use of liquefied petroleum gas to meet the low carbon fuel standard. This measure was one of the most contentious of the entire session.

## **Bills That Did Not Pass**

### **HB 2216 - Offshore Wind**

In committee upon adjournment

Principle Power announced plans for the west coast's first offshore wind farm to be located within 16 nautical miles of Coos Bay. The State has jurisdiction to regulate offshore uses up to three nautical miles off its coastline, Oregon's Territorial Sea. According to Principle Power, the project would consist of five units at a water depth of about 1,400 feet using floating wind turbine technology in use or under development in Europe and Asia. They planned to connect turbines by electrical cables and have a single power cable transmitting electricity to the mainland.

This bill would have opened the door for investor-owned utility customers to purchase power from Principle Power's offshore wind project. Investor-owned utilities, the Citizens Utility Board, and Industrial Customers of the Northwest all opposed the bill. They argued that power generated by offshore wind is extremely expensive, costing three-to-four times what utilities pay for onshore wind. They successfully argued that HB 2216 was an inefficient way for utilities to buy renewable resources.

### **HB 3470 - Carbon Tax/Cap & Dividend/Greenhouse Gas Emission Standards**

(SB 21, SB 965, HB 2082, HB 2086, HB 2159, HB 3176, HB 3250, HB 3252, HJR 10)

In committee upon adjournment

With the increase in the number of Democrats in the Oregon House and Senate from the November 2014 General Election, environmental advocates were encouraged to introduce a variety of legislative concepts that had not been politically feasible in past sessions. With that came a plethora of carbon-reduction concepts including carbon tax, carbon cap and dividend programs, and greenhouse gas emission standards.

House and Senate Environment Committee Chairs held numerous hearings on these carbon reduction concepts. However, in spite of their increased political power, these concepts failed to pique the interest of the majority of legislators. The Oregon Legislature has already adopted non-binding carbon reduction goals in 2007, limiting 2020 carbon output by 10% below 1990 carbon levels and 2050 carbon levels 75% below 1990 carbon levels. One 2015 bill (HB 3470) would have required the Environmental Quality Commission (which oversees the Department of Environmental Quality) to make those goals binding, enforce them, and set fees accordingly.

In 2013, the Legislature authorized funding for a study of a carbon tax in Oregon. Portland State University conducted the study and found that a carbon tax might not negatively affect the state's economy, depending on how it was structured. Still, these proposals all failed in 2015 as questions lingered about cost to the state versus uncertain benefits. Environmental coalitions vowed to put initiatives on these issues on the November 2016 ballot.

# GENERAL

## Bills that Passed

### **HB 2460 – DSL Easement Fees for Submerged and Submersible Lands**

Effective June 2, 2015 Chapter 204 (2015 Laws)

The State owns submerged and submersible land (beds and banks) under the navigable and tidally influenced waters in Oregon. Typically, ownership extends to the line of ordinary high water or high tide. The State Land Board and the Department of State Lands (DSL) oversee the land under the territorial sea, tidally influenced land, and the non-tidally influenced beds and banks of 12 rivers and a number of lakes in the state. The revenue from leases and authorizations for waterway uses (marinas, docks, floating homes, wharfs, etc.) are deposited into the Common School Fund for K-12 public schools throughout the state. HB 2460 authorizes DSL to establish and impose a one-time application fee on persons applying for an easement to construct water, gas, electric, or communication service lines, fixtures, or other facilities on state lands. It requires the easement application to include all the crossings of state land within a county. In cases where an easement is needed in area involving two counties, the measure permits one application and one application fee.

### **HB 2461 – Exemptions to Department of State Lands Leasing Requirements**

Effective June 2, 2015 Chapter 205 (2015 Laws)

In 2011, the Legislature passed SB 600, which included creating new exemptions to leasing requirements. It also removed authority for the Department of State Lands (DSL) to establish lower-cost registrations through rulemaking, including state-owned submersible lands. HB 2461 reinstates the authority for DSL to adopt rules providing for additional exemptions to such leasing requirements.

### **HB 3315 – Oregon Department of Fish and Wildlife Fees to Other State Agencies**

Effective June 25, 2015 Chapter 566 (2015 Laws)

The Oregon Department of Fish and Wildlife (ODFW) has traditionally received its largest source of funding from hunting and fishing licenses, tags, and associated fees. Recently, license and fee revenue have not adequately funded ODFW operations. However, the agency provides a variety of services to other state agencies, with no compensation (e.g. determining water rights for the Oregon Water Resources Department or assisting the Department of State Lands with removal/fill permits). The Ways and Means Natural Resources Subcommittee Co-Chair introduced this measure to require ODFW to track and report on the hours their staff are spending assisting other state executive department agencies, including the applicable hourly rates. This collection will begin on July 1, 2015, and continue for four fiscal years. On July 1, 2019, the agency will begin invoicing other state agencies for services projected in next biennium. By January 1, 2017, ODFW must report to the Legislature on the types of permit review work to be invoiced and a list of statutes and rules applicable to the department's permit review work.

## **SB 249 – Mitigation Credits on Removal-Fill Projects**

Effective June 10, 2015 Chapter 343 (2015 Laws)

SB 249 allows the Oregon Department of State Lands (DSL) to sell credits for a state wetland mitigation bank. This provides a technical fix to address a situation where the state has developed a mitigation bank and a private mitigation bank subsequently enters the same area. This will allow DSL to sell credits through the Oregon Removal-Fill Mitigation Fund until all state costs are recouped.

# **INVASIVE SPECIES**

## **Bills That Passed**

### **HB 2207 – Ballast Water**

Effective January 1, 2015 Chapter 704 (2015 Laws)

The Shipping Transport of Aquatic Invasive Species Task Force produced this legislation. Ocean going vessels pick up and discharge ballast water to improve ship stability. Because ballast tanks may have been filled with water from foreign ports, ballast discharge in Oregon ports and harbors has the potential to introduce aquatic non-indigenous species into state waterways. This has the potential to cause ecological damage, economic costs, and/or human health concerns. Because of these threats, the Department of Environmental Quality has had dedicated resources to implement and enforce ballast water management regulations since 2007. House Bill 2207 authorizes the Environmental Quality Commission to adopt standards and procedures for implementing alternative ballast water management including appropriate use of treatment technology and strategies to mitigate risks from vessels with empty ballast tanks that enter waters of the state. Specifically, the bill requires salt water flushing for empty ballast tank vessels, referred to as “No Ballast On Board” vessels. Use of this flushing process is consistent with existing Environmental Protection Agency (EPA) Vessel General Permit regulations. It will also enable Oregon state inspectors to provide technical assistance and enforcement efforts, and will make Oregon’s ballast water regulations consistent with those of Washington State.

### **SB 209 – Invasive Species Council and Coordinator**

Effective January 1, 2016 Chapter 486 (2015 Laws)

The Oregon Invasive Species Council is a 17-member body established by the Legislature in 2001. It is made up of local, state, federal, tribal, and private entities that work to combat the threat posed by invasive species. This law requires the appointment of a State Invasive Species Coordinator to serve as a nonvoting, ex officio member of the Council and clarifies the voting roles of other members.

### **SJM 9 – Aquatic Invasive Species Joint Memorial to Congress**

Secretary of State Filed

The Water Resources Reform and Development Act that was signed into law on June 10, 2014, authorizes \$20 million for the Secretary of the Army to establish watercraft inspection stations in the Columbia River Basin to prevent the introduction of dreissenid mussels and other aquatic invasive species. Senate Joint Memorial 9 urges Congress to expedite the appropriation of funds to enhance efforts to monitor and prevent the spread of aquatic invasive species and to implement the Water Resources Reform and Development Act.

## **LABOR**

### **Bills That Passed**

#### **HB 2007 – Private Right of Action for Wage Inequality**

Effective January 1, 2016 Chapter 307 (2015 Laws)

In 2013, the Legislature passed Senate Bill 744, directing the Oregon Council on Civil Rights to study wage inequality and the factors that contribute to it. In January 2014, the Council issued its formal recommendations to address pay inequality in Oregon and this session, HB 2007 was introduced to address one of its recommendations. This law will protect employees who inquire about, discuss, or disclose information about their wage or the wage of another employee. The measure also protects an employee who makes a charge, files a complaint, or institutes any proceeding based on the disclosure of wage information by the employee. A violation is an unlawful employment practice that allows an aggrieved employee to file a private right of action.

#### **HB 3025 – Criminal History Checks for Employment Purposes**

Effective January 1, 2016 Chapter 559 (2015 Laws)

This law stipulates when it is an unlawful employment practice for an employer to exclude an applicant from an initial interview. It prohibits this exclusion solely because of a past criminal conviction (if the employer requires disclosure of convictions on an employment application or prior to an initial interview) or, if no interview is conducted, prior to a conditional offer of employment. HB 3025, however, does not prevent an employer from considering an applicant's conviction history when making a hiring decision. It also creates exceptions for employers subject to federal, state, or local law that require that the applicant's criminal history be considered. It also exempts law enforcement agencies, employers in the criminal justice system, and nonemployee volunteers. The Bureau of Labor and Industries is given enforcement authority; there is no private right of action.

#### **SB 185 – Unlawful Employment Practice Related to Social Media**

Effective January 1, 2016 Chapter 229 (2015 Laws)

In 2013, the Legislature passed House Bill 2654 to prohibit employers from pressuring employees or job applicants to provide access to their social media accounts or to add the employer as a social media contact as a condition of employment. It also prohibited retaliation based on refusal to disclose such information about an employee or job applicant's social media account. SB 185 makes it an unlawful employment practice for an employer to require an employee or job applicant to authorize the employer to advertise on the personal social media account of the employee or applicant. A "personal social media account" is

defined to clarify that such an account is unrelated to any business purpose of the employer and it is not provided by or paid for by the employer.

### **SB 454 – Paid Sick Leave**

Effective January 1, 2016 Chapter 537 (2015 Laws)

Oregon became the fourth state in the nation to adopt a paid sick leave requirement. SB 454 requires most employers with ten or more employees to implement a sick leave policy allowing an employee to earn, accrue, donate, or use up to 40 hours of paid sick time per year. Most employers with fewer than ten employees are also required to implement an unpaid sick leave policy. The new law requires employers to maintain certain records related to the accrual and use of sick leave by employees and to provide written notice to employees of the requirements of the sick leave law. Employers are allowed to require medical verification in certain circumstances and to prohibit retaliation or discrimination against an employee who asks about or uses sick leave.

Employers located in Portland are required to comply with the same provisions, but are required to provide up to 40 hours of paid sick leave if they have six or more employees. All other local government regulations related to sick leave are preempted. The Bureau of Labor and Industries is responsible for processing and investigating complaints regarding the measure and for enforcement with employers found to be out of compliance. This law also provides for a private right of action.

### **SB 492 – Assault Victim Leave**

Effective January 1, 2016 Chapter 352, (2015 Laws)

Under current law, any employer with at least six employees is required to allow an eligible employee to take reasonable leave to seek services, assistance, or treatment if they are a victim of domestic violence, harassment, sexual assault, or stalking. The employer may limit the amount of leave if the absence would create an undue hardship on the business. An employee is allowed to use any paid accrued vacation leave or paid leave offered in lieu of vacation leave, but the employee does not have the right to use accrued sick leave when taking domestic violence leave. SB 492 allows employees to use accrued sick leave or personal business leave for the purpose of handling matters related to domestic violence, harassment, sexual assault, or stalking.

### **SB 968 – Preemption on Local Flexible Work Schedule**

Effective June 25, 2015 Chapter 591 (2015 Laws)

In an effort to improve efficiency and reduce labor costs, some employers are increasingly scheduling optimal staffing levels through use of part-time employees and requiring employees to remain on-call. This law preempts all local government authority to set requirements relating to work schedules before sine die of the Legislature's 2017 regular session. It creates an exemption that allows local governments to set such work schedule requirements for public employers and public contractors and subcontractors.

## **Bills That Did Not Pass**

### **HB 2004 – Lifting Preemption on Setting Minimum Wage**

In committee upon adjournment

This bill would have repealed the preemption of local government authority to set minimum wage requirements. Similar measures were introduced but also did not pass (HB 2956 and SB 130).

### **HB 2012 – Minimum Wage Increase**

In committee upon adjournment

In 2002, Oregon voters enacted Measure 25, setting the Oregon minimum wage at \$6.90 an hour and directing the Bureau of Labor and Industries to adjust the Oregon minimum wage annually for inflation, as determined by the annual change in the U.S. Department of Labor's Consumer Price Index. The current Oregon minimum wage is \$9.25 an hour. House Speaker Kotek strongly supported HB 2012 that would have raised Oregon's minimum wage to \$13.50 by 2017. It would have also adjusted it annually for inflation in years thereafter. None of the many other bills introduced to increase the state's minimum wage were passed. (See HB 2008, 2009, SB 332, 597, 610, 682).

### **HB 2646 – Parental Leave for School-Related Activities**

In committee upon Adjournment

This bill would have made it an unlawful employment practice for an employer to fail to grant an employee unpaid leave in order to attend a child's school-related activity.

### **SB 888 – Flexible Work Schedules**

In committee upon adjournment

SB 888 would have required employers to notify employees of their work schedule 21 days in advance and would have permitted employees to request flexible or predictable work schedules from their employers. It would have required employers to grant flex schedule requests subject through a process that attempted to establish a mutually acceptable work schedule. The measure would also have required employers to provide notice of schedule changes and to compensate employees for changes in certain circumstances and would have made retaliation against employees who requested a flex or predictable schedule an unlawful employment practice. A similar bill - HB 2010 - was introduced in the House.

## **PORTS/MARINE**

### **Bills That Passed**

#### **HB 2209 – Shell Fish Task Force**

Effective August 12, 2015 Chapter 814 (2015 Laws)

This law creates an 11 member Task Force on Shellfish to study how to restore and expand shellfish resources in Oregon. The Task Force is required to produce a draft Oregon Shellfish Initiative outlining priorities and implementation strategies to enhance shellfish production. The Oregon Department of Agriculture is required to conduct a pilot project of increased water quality monitoring in Tillamook Bay. It also appropriates funding and requires studies by Oregon State University.

### **HB 2278 – Coos Bay Channel Project**

Effective August 12, 2015 Chapter 815 (2015 Laws)

HB 2278 provides lottery-backed bonding for the Coos Bay Channel Project to support development of an intermodal container terminal.

### **HB 2459 – Fee Increases on Registered Vessels**

Effective January 1, 2016 Chapter 627 (2015 Laws)

This law includes a fee increase on registered vessels, from \$3 per foot to \$4.50 per foot, effective November 2015, and approved increases for a variety of user-specific fees, including:

- Boat Rentals Business of five boats biennial setup fee \$55 to \$90
- Boat Rental biennial per-boat fee \$6 to \$10
- Duplicate Registration or Certificate of Number \$10 to \$15
- Duplicate Decals \$10 to \$15
- Boat Certificate of Title original or transfer \$30 to \$50
- Duplicate Title with no changes \$15 to \$25

### **HB 2463 – Abandoned and Derelict Structures**

Effective January 1, 2016 Chapter 715 (2015 Laws)

There are derelict and abandoned structures, vessels, and other debris throughout Oregon. They pose a danger to the public and may interfere with the public's ability to use waterways safely. Prior to this law, the Department of State Lands (DSL) only had statutory authority to pursue these situations as trespasses and to remove the structures. HB 2463 authorizes DSL to seize and remove derelict or abandoned structures on, under, or over state-owned submerged land or submersible lands. DSL must determine that the structure is abandoned or derelict and the owner has failed to correct any problems within 20 days or longer, and must provide notice and an opportunity for a hearing. HB 2463 also establishes the Submerged Lands Enhancement Fund to assist in paying for the removal of derelict or abandoned structures. Removal of marine debris may also be paid for from this fund. DSL is required to adopt rules and a process for funding requests and evaluation by DSL. The law makes the owner liable for costs of removal, salvage, storage, and disposal of any seized structure.

### **SB 131 – Willamette Fall Locks**

Effective July 27, 2015 Chapter 770 (2015 Laws)

SB 131 creates an intergovernmental work group to identify federal and other sources of funding for the repair, reopening, and operation of the Willamette Falls Locks. The work group is required to report to the Legislature on a quarterly basis.

**SB 262 – Oil Spill Fee Increase**

Effective October 5, 2015 Chapter 663 (2015 Laws)

The Department of Environmental Quality (DEQ) administers the oil spill prevention program. It is responsible for collecting fees for the program and civil penalties for oil spills. SB 262 increases the fees for the oil spill prevention program and allows funds in the Oil Spillage Control Fund to be used for planning and preparedness activities. The law also requires DEQ to report the civil penalties recovered by the department for the willful and negligent discharge of oil and the activities of the department in collecting penalties for oil spills.

**SB 412 – Upland Placement of Dredged Materials is Productive**

Effective June 18, 2015 Chapter 494 (2015 Laws)

The Port of Portland introduced this law. Dredged materials may be put in upland placement rather than sent to a landfill, if the Department of Environmental Quality concludes that the material in question has: 1) a productive use and; 2) will not create an adverse impact to human health or the environment. Material must have been sampled and tested sufficiently to allow the DEQ to make those determinations. SB 412 changes the first category by declaring that the upland placement of dredged materials by port districts is productive. As a result, port districts will no longer have to demonstrate additional uses and provide a timeframe for use of the dredged material. Ports will still have to characterize the material and demonstrate to DEQ’s satisfaction that there will be no adverse impact to human health or the environment.

**SB 912 – Ownership of Historically Filled Submerged and Submersible Lands**

Effective July 27, 2015 Chapter 804 (2015 Laws)

To address confusion regarding certain land ownership, in 2013 the Legislature asked the Department of State Lands (DSL) work with stakeholders to develop a fair, transparent, and reasonable process to resolve state ownership interests in historically filled submerged and submersible lands. DSL formed the Filled Lands Advisory Group (FLAG). SB 912 codifies the FLAG’s recommendations, clarifying the distinction between “historically filled lands” and “new lands” for determining ownership and transfer of ownership of lands. It authorizes the State Land Board (SLB) to adopt rules to create a process for DSL to sell, lease, or trade these historically filled lands. It establishes a process for SLB to identify and declare the state’s interest in historically filled lands and prohibits the board from asserting title to such lands unless certain procedures are met by December 31, 2025. DSL is also required to submit a progress report by September 15, 2017.

**SB 935 – Maritime Insurance**

Effective June 18, 2015 Chapter 505 (2015 Laws)

Wet marine and transportation insurance covers transportation risks for blue water ships,

railroads, tugs and barges, terminal operators, vessel construction, and repairers, as well as for aircraft engaged in interstate commerce. Non-admitted insurers often provide coverage for risks that licensed insurers are either unable or unwilling to write. The types of risks getting coverage from the non-admitted market often have atypical underwriting characteristics and may require very large limits of liability. SB 935 makes a technical clarification to the Oregon Insurance Code to make it clear that wet marine and transportation insurance may be sold by insurers that do not have a certificate of authority (license) in Oregon.

### **SB 5522 – Oregon Marine Board Budget**

Effective July 1, 2015 Chapter 601(2015 Laws)

The Oregon State Marine Board (OSMB) is funded by three major revenue sources - business licenses and fees, motor boat fuel tax revenues, and federal grant funds. On average, licenses, fees, and taxes (Other Funds), have accounted for nearly 80% of revenue and Federal Funds have accounted for the remaining 20%; fees from boat registrations and titling account for more than 50% of all OSMB revenue. Registration fees are set in statute and vary based on the type and size of vessel. Just over 23% of all revenue, approximately \$8 million comes from the fuel tax. The Oregon Motorboat Fuel Use Survey that is conducted every four years determines these fees. The last one was done September 2014. OSMB also collects fees that are used to support the aquatic invasive species program, charging \$5 for motorboats, \$5 for manually propelled boats over 10 feet in length, and \$20 for nonresidents and annual fees for operators of boat liveries. Federal Funds to OSMB come from the U.S. Coast Guard's Recreation Boating Safety grant program, the Boating Infrastructure Grant program, and the Clean Vessel Act program.

The Boating Facilities program provides grants and technical assistance for maintenance and improvement of public recreational boating facilities statewide. Boating facilities grants are available to cities, counties, ports and park districts, state agencies, and federal agencies. These grants can be used for acquisition, development, or improvement of public boating access. Eligible projects include boat launch ramps, parking, restrooms, courtesy docks, transient tie-up facilities, and other boating-related facilities. Grants rely on partnerships and typically leverage other financial resources such as federal funds, private funds and donations, or other local and state funds. The Legislature approved a total funds budget of \$11,112,220 and 9 FTE.

The Aquatic Invasive Species (AIS) Protection Program makes efforts to mitigate the effects of invasive species on native waters through inspecting and decontaminating watercraft. The program became an independent budget structure during the 2011 Legislative session; previously it was under the agency's Education Section. The program was created in 2009 and manages the permitting process and education and outreach efforts which impact non-motorized boaters, motorized boaters, and out of state visitors bringing their boats to recreate on Oregon waterways. The Oregon Department of Fish and Wildlife also funds this program through an interagency agreement to perform roadside boat inspections for AIS. For 2015-2017, this program has an Other Funds budget of \$1,994,348 and 1.6 FTE. This is a continuation of current services under the 2013-15 biennium.

# TRANSPORTATION

## **Bills That Passed**

### **HB 2274 – ConnectOregon VI**

Effective July 20, 2015 Chapter 707 (2015 Laws)

This law changes the name of the Multimodal Transportation Fund to the Connect Oregon Fund. The bill expands the definition of a “transportation project” to include marine projects and clarifies that this does not include operating costs or the purchase of vehicles (as defined by ORS 801.590). It deletes provisions relating to loans and increases the requirement for local project funding from 20% to 30% of project cost. The bill also includes as part of the project selection criteria related to whether a project has a useful life expectancy that offers the maximum benefit to the State. HB 2274 prohibits the Director of Oregon Department of Transportation from appointing members of final project review committee who represents an entity that has an application under consideration or a direct financial interest in an application under final review. HB 5030 included \$45 million in lottery-backed bonds for this program.

### **HB 3225 – Oil Train Safety**

Effective July 20, 2015 Chapter 739 (2015 Laws)

This law is in response to a number of high profile crude oil train derailments and increasing concern about the shipment of crude oil and other hazardous materials. It requires the Oregon State Fire Marshal to develop plans for coordinated responses to materials spills occurring during rail transport. They must submit an annual report on their planning to the Legislature by February 1<sup>st</sup>. It must include the following: resource inventories, recommended structural changes to the coordinated response program, reviews and possible revision of the response roles of the state and local governments and between the state and industry (railroads), and strategies for ensuring adequate funding for training, equipment acquisition, and administration at the state and local level. An Oil and Hazardous Materials Transportation by Rail Action Fund must be established by January 1, 2016, to accept revenue from gifts, grants, donations, endowments, or bequests from public or private sources. The Oregon State Police will manage the use of the funds by the State Fire Marshal.

## **Bills That Did Not Pass**

### **HB 3302 – Transportation Funding Package**

In committee upon adjournment

This bill, introduced at the request of the Oregon Transportation Forum as a possible vehicle for a comprehensive, multimodal transportation funding package. It contained several elements the Forum agreed should be included in a funding package. As drafted, it proposed an increase and indexing of the state gas tax, funding for the next iteration of *ConnectOregon*, and would have required the Oregon Department of Transportation to conduct a multimodal transportation needs assessment.

**HB 3310 – Clean Diesel Requirements**

In committee upon adjournment

This bill would have required the Oregon Environmental Quality Commission (EQC) to conduct rulemaking to develop a phased-in requirement for public and privately owned diesel trucks and buses to be upgraded, repowered, or retrofitted to reduce diesel emissions. It also would have required the EQC to adopt a phased-in implementation of the use of best available control technology for on-road diesel vehicles owned by a municipality or public utility.

**SB 824 – Clean Diesel Standards**

In committee upon adjournment

Originally, SB 824 would have required the Environmental Quality Commission (EQC) to adopt standards that would be at least equivalent to the California standards for non-road diesel vehicles. The proposed bill would also have required certain public improvement contracts to reserve one percent of the total contract price for performing qualified retrofits or repowers on non-road diesel engines used under the contract. Facing an outburst of concerns, the bill was amended to create a 19-member task force to investigate the establishment of a statewide clean diesel program.