CITY OF PORTLAND

LEGISLATIVE REPORT

2005
SESSION

CITY OF PORTLAND COUNCIL:

MAYOR TOM POTTER
COMMISSIONER SAM ADAMS
COMMISSIONER RANDY LEONARD
COMMISSIONER DAN SALTZMAN
COMMISSIONER ERIK STEN

CITY OF PORTLAND

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Prepared by the Office of Government Relations:

Mark Landauer, Acting Director
Susan Schneider, Lobbyist (Retired)
Martha Pellegrino, Lobbyist
Lesley Kelley, Director's Executive Assistant

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INTRODUCTION

The 2005 Legislative Session

At 6:22 a.m. on August 5, 2005, the 73rd Legislative Assembly adjourned, drawing to a close the second-longest session in Oregon history. In 208 days, the legislature considered 2,952 bills and 184 resolutions.

Republicans controlled the House with a 33-27 majority, despite losing two seats in the 2004 election. Speaker Karen Minnis (R-Wood Village) and Majority Leader Wayne Scott (R-Oregon City) were united in their leadership of the majority party. Representative Jeff Merkley (D-Mid-Multnomah County), in his first term as House Democratic Leader, struggled with building bipartisan support in a chamber where few members were willing to break ranks. Since over a third of the House members were newly elected, members demonstrated a broad range of experience. Early in the session, Representative Dan Doyle, co-chair of the Joint Ways and Means Committee, was investigated for misuse of campaign funds and under increasing pressure resigned his seat. Kevin Cameron, a small business owner, was tapped as his replacement. While the scandal attracted a significant amount of negative media attention early on, it also catalyzed successful reforms of state campaign finance laws.

For the first time in a decade, Senate Democrats took control of the Senate with an 18-12 majority. As compared to their colleagues in the House, the Senate was more seasoned – all but five members had served out a full session. Second-term President Peter Courtney (D-Salem) presided over the Senate. Senator Kate Brown (D-Portland) served as Majority Leader and Senator Margaret Carter (D-Portland) was chosen as President Pro Tempore. The Senate Republican Caucus was led by Senator Ted Ferrioli (R-John Day). To fill the vacancy left by former Senator Joan Dukes, Senator Betsy Johnson (D-Scappoose) moved from the House to the Senate. At times during the session, even though the Democrats held a clear majority, they experienced less success uniting their caucus.

In an effort to make state government more accessible to Oregon citizens, both chambers held hearings throughout the state for the first time. House and Senate committees held hearings in 22 of Oregon's 36 counties in the evenings and on weekends.

In his second session as the state's chief executive, Governor Ted Kulongoski vetoed nine bills, plus a line-item veto of HB 5135 that, if signed, would have hindered adoption of stricter automobile emissions standards. While communication between the Governor and the leadership in both chambers was said to be lacking at times, the Governor managed to win some major victories. He saw his $100 million "Connect Oregon" transportation bill (SB 71) through to

fruition, which will upgrade air, rail and marine transportation systems throughout the state. The Governor also continued to press his statewide goals for sustainability, and introduced a variety of bills regarding energy efficiency, conservation, and renewable resources. In line with his Oregon Principles Budget priorities, the Governor emphasized both the need for fiscal stability and social responsibility, and his budget as introduced did not include any new taxes.

The Legislature's only constitutional requirement, to pass a balanced budget, was contentious even though Republicans and Democrats agreed early on that the spending level would be $12.4 billion and that they could balance the state budget without raising taxes. Some argued that this agreement tied the state's hands too early, particularly since the economy was showing signs of recovery. In fact, the May 2005 forecast showed an additional $200 million of projected revenue, improving the state's economic outlook. While the state's projected revenues weren't as desperate as the previous biennium, budget negotiations devolved into partisan stalemates. The Joint Ways & Means Committee was dissolved in favor of separate budget committees – a move some blame for drawing out the legislative session into August. In the end, both parties reached an eleventh-hour compromise on the $12.4 billion budget, which included $5.24 billion in state aid for K-12 schools with the possibility of additional school funding if state revenues exceed projections.

As with the balanced budget, some of the legislature's greatest achievements came at the end of session. Mental health parity (SB 1), a bold statewide strategy to combat methamphetamine (HB 2485/SB 907), and tougher campaign finance laws (HB 3458) all required bi-partisan compromise.

Due largely to escalating partisan acrimony, both parties lost many opportunities and left important issues unresolved. Issues that the legislature left on the table included: clarification of property rights following voter-approved Measure 37 and subsequent court decisions (SB 1037/HB 3120), civil unions and civil rights for gay and lesbian Oregonians (SB 1000), expansion of the state prescription drug program (SB 329), regulation of the payday loan industry (SB 545), and incentives for biofuel production (HB 3481).

Another major issue left unresolved as a result of the Governor's veto was the fate of Portland General Electric (PGE). After a failed bid by the Oregon Electric Company (Texas Pacific Group) to purchase PGE, the legislature proposed two options, including SB 671, a proposal to turn PGE into a mutual utility and SB 1008, authorizing the state to purchase the utility. The Governor vetoed both SB 671 and SB 1008, thus leaving the future ownership of PGE in doubt.

Cities throughout Oregon celebrated legislative victories this session, including the passage of HB 3038 – a water rights protection bill. In addition, local officials were pleased about preserving shared revenue, urban renewal, and system development charges (SDCs). However, the Joint Ways and Means Committee

included a note in the OLCC budget commissioning a review of city and county revenues from statewide liquor sales. Thus, in the interim, cities need to develop measures that track their costs in dealing with alcohol-related incidents. This may be the only way for cities to preserve and perhaps even increase shared revenues in the future. For SDCs, a number of bills were introduced, including HB 2523 that would have added schools, public safety, and library capital costs to the list of facilities for which SDCs could be charged, though no new legislation was passed.

As with previous sessions, there was no shortage of preemptive legislation to limit local governments' authority. SB 3505, aiming to restrict local government's use of eminent domain, did not advance in the Senate, but may appear as a measure on the 2006 ballot. Similarly, pressure from cities stymied repeated attempts by the telecom industry to add a required public vote on new telecom taxes and bills (HB 2445).

The City of Portland successfully passed three of its major initiatives: Building Codes, Distracted Drivers, and Affordable Housing. The most significant victory for affordable housing was the almost doubling of the Oregon Affordable Housing Tax Credit (OAHTC) Program that will assist in lowering the rents of families below half the median income and the expansion of the earned income tax credit. Moreover, SB 839 (Multi Unit Housing Tax Exemption) and SB 847 (Distressed Urban Housing Tax Exemption) extends the local option tax exemption programs that have been used to spur development in distressed areas, urban cores and close to transit. In addition, HB 3441 passed, which will include five members on the City's Budget Review Committee.

Disappointments for the City include:

- HB 2056 – Passage of the Time, Place, and Manner Restrictions (vetoed by the Governor)

- No substantial increase in school funding

- No substantial increase in funding for affordable housing

In the interim, much will be done in Salem and Portland. Several committees, commissions, and task forces will meet before the next session to conduct studies and develop recommendations for the next legislative assembly. One of those groups, the Public Commission on the Oregon Legislature, was charged with examining the legislature's structure, rules and policies, and developing recommendations that will improve public confidence in the state legislature. Legislative pay raises, rule changes, and annual sessions are major issues on the table. In addition, task forces on land use reform and annexation will meet and wade through the murky waters left by this legislature and the courts in the wake of Measure 37.

The City's priorities in the interim include developing a rural legislative strategy and shaping our legislative priorities for the 2007 session earlier. Outreach to legislators and local government officials by the Mayor, Commissioners, and the Office of Government Relations have been and will continue to be of key importance to our legislative success.

We are grateful to the Mayor, members of the City Council, and our Bureau Legislative Liaisons for your tireless support during this challenging session. We thank you for your efforts and we are very proud to represent the City of Portland.

Mark Landauer, Acting Director
Susan Schneider, Lobbyist (Retired)
Martha Pellegrino, Lobbyist
Lesley Kelley, Director's Executive Assistant

BILL SUMMARIES

BENEFITS

HB 2498 – CLINICAL BREAST EXAMINATIONS

HB 2498 requires health insurers to cover clinical breast examinations for women ages 18 years and older. It clarifies that an insurance policy covers breast examinations regardless of whether the health care provider performs other women's health examinations. Lastly, the bill eliminates existing sunset provisions.

Effective: January 1, 2006
Chapter 482

HB 2950 – CHILD CARE EXEMPTION FROM UNEMPLOYMENT INSURANCE PAYROLL TAX

This bill specifies that an employer's dependent care assistance to its employees should not be included in wages for unemployment compensation purposes. Under current Oregon law, benefits to employees for child care costs are included in the definition of wages and subject to Oregon's unemployment insurance payroll tax. This Act would exempt employees' child care benefits from being subject to Oregon's unemployment insurance payroll taxes, up to $5,000 per employee, and conform Oregon to federal law for this employee benefit component.

Effective: January 1, 2006
Chapter 283

SB 20 – SCOPE OF PRACTICE: EYE CARE SERVICES

This bill prevents an Independent Practice Association that has a contract with a health care service contractor from limiting their coverage of eye care services to services provided by physicians when the services provided are within the lawful scope of practice of a licensed optometrist. It also clarifies the requirement that hospital associations, an insurer, and health care service contractors provide payment or reimbursement for services performed by a physician or licensed optometrist when services in the contract or agreement provide for payment or reimbursement for a service that is within the legal scope of practice of a licensed optometrist.

Effective: January 1, 2006
Chapter 442

SB 1026 – PROSTATE HEALTH SCREENINGS

This bill requires an insurer that covers hospital, medical or surgical expenses to provide biennial, or upon a physician's recommendation, prostate cancer screening examinations. It requires coverage of the tests for men who are 50 years of age or older, and for men younger than 50 who are at risk for prostate cancer as determined by the treating physician. Under the bill, health care contractors and multiple employer welfare arrangements are required to provide coverage. The bill includes a provision to sunset after six years.

Effective: January 1, 2005
Chapter 477

BONDING

HB 2041 – ISSUERS OF PRIVATE ACTIVITY BONDS

Filed at the request of State Treasurer Randall Edwards, this bill expands the definition of the issuer of tax-exempt bonds, by removing the specification that a government unit is the only entity eligible to issue bonds. While state bonding caps still apply, the state does not back the bonds by state revenues and taxes.

Effective: January 1, 2006
Chapter 113

SB 23 – PUBLIC BONDS – TECHNICAL FIXES

This bill makes numerous technical changes to procedures for issuing, selling and maintaining bonds issued by public issuers. It repeals Broker commission statues and clarifies termination payments for interest rate swap statutes. It also allows local governments to use reserve funds for payments for debt without needing supplemental requests. The bill gives rule making authority to the Debt Management Advisory Council (DMAC).

Effective: July 7, 2005
Chapter 632

BUILDING CODES

HB 2078 – TASK FORCE ON CONSTRUCTION CLAIMS

This bill was pre-session filed by the Governor at the request of the Construction Contractors Board. It creates the Task Force on Construction Claims and specifies membership and duties of the task force. The task force is required to present their findings to the next legislative assembly.

Effective: July 27, 2005
Chapter 647

HB 2181 – LICENSING BOARDS

This bill authorizes the Department of Consumer and Business Services and the following regulatory boards to adopt rules to govern the certification of persons regulated by the agency, including continuing education requirements: the Manufactured Structures and Parks Advisory Board; the State Plumbing Board; the Electrical and Elevator Board; and the Board of Boiler Rules. It also authorizes the agency and the regulatory boards to deny or sanction licensees and to set a period of up to five years for disqualification of a certification. Though the bill does not authorize the same authority over inspectors, plan reviewers, local agencies, master builders, or persons manufacturing prefabricated structures or recreational vehicles.

Effective: August 23, 2005
Chapter 758

HB 2303 – EXPEDITED PROCESS FOR REVISING BUILDING CODES

Changes to the state building code are required to keep pace with changes in national standards and local conditions. HB 2303 establishes an expedited revision process for the limited purpose of conforming mechanical or structural codes to the residential dwelling code. The expedited process would still require consultation between the Building Codes Division of DCBS and the Mechanical Board or Building Code Structures Board.

Effective: January 1, 2006
Chapter 435

HB 2525 – WINERIES CONSTRUCTION/DISPUTE RESOLUTION

This bill represents the collaboration of Oregon wine growers and advocacy groups to modify statutes governing the state building code and construction standards. It provides a process for resolving disputes if the first owner of a home rejects a contractor's offer to remedy construction defects. In addition, among several other provisions, it defines "winery" for purposes of state building code, correcting a prior definition which was inconsistent with general construction practices.

Effective: August 17, 2005
Chapter 734

HB 3016 – NOTICE REQUIREMENTS FOR BUILDING CODE FEE ADOPTION

Current law requires local jurisdictions to notify the Oregon Department of Consumer and Business Services (DCBS) prior to the adoption of local fees. Fees of local jurisdictions that complied with the notice requirement could be challenged. However, due to a glitch in the law, those jurisdictions that failed to comply with the notice of fees could not be challenged. This bill corrects this problem by requiring local jurisdictions to send DCBS notice of fee changes as they send notice to citizens under existing local government financial administration statutes.

Effective: January 1, 2006
Chapter 193

HB 3092 – PLAN REVIEW FOR COMPLEX STRUCTURES

This bill was brought forward by plumbing contractors who argued that the definition of complex structure as adopted by the state's plumbing board was too strict and required far too many plan reviews for simple structures. As filed, this bill exempted complex structure plumbing system plans designed and stamped by a professional engineer or a registered architect from review for plumbing specialty code compliance. The bill was amended and as passed by the House would have prohibited local governments from requiring that plumbing system plans be reviewed.

In the Senate, a compromise was reached that will allow jurisdictions that elect to provide electrical and/or plumbing plan review to continue to require plan review for "complex" structures. A person in any jurisdiction may voluntarily request plumbing or electrical plan review on a complex structure from an inspecting jurisdiction for a fee. The bill strips the plumbing board of the authority to define "complex structure," and vests that authority in the Department of Consumer and

Business Services – a place where most interest groups felt would develop a more workable definition.

Effective: January 1, 2006
Chapter 435

HB 3097 – E-PERMITTING /TRI-COUNTY SERVICE CENTER

Oregon law previously authorized the Oregon Department of Consumer and Business Services (DCBS) to identify and investigate the resources necessary for electronic access to building code information and services ("e-permitting") until January 31, 2005. The law also authorized the creation of a limited e-permitting program in the Tri-County area. The department was required to report back to the Legislature on January 31, 2005 on the status of the pilot e-permitting program.

HB 3097 allows DCBS to continue to advance e-permitting. The bill also allows the department to expand the scope of the e-permitting program statewide. The department must report to the legislature on January 31, 2007 on the status of the expanded program. Finally, the bill authorizes the department to use Tri-County resources on a statewide basis to assist with the administration and enforcement of the state building code.

Effective: January 1, 2006
Chapter 56

HB 3273 – LICENSE REVOCATIONS AND REINSTATEMENTS

This bill allows the Director of the Department of Consumer and Business Services (DCBS) to adopt rules regarding trades license revocations and reinstatements. It allows the director or an appropriate advisory board to disqualify a person from obtaining or renewing a license or other certification for specified reasons including civil penalties and other sanctions. Moreover, it specifies that the disqualification applies to persons who were sanctioned when serving in various capacities within another business or under a previous license as well. Under the bill, incomplete or misleading application statements are grounds for revocation. Lastly, it allows imposition of a civil penalty for acts that are grounds for revocation of a medical gas system installation specialty registration.

Effective: January 1, 2006
Chapter 416

HB 3304 – ALTERNATIVE PERMIT AND INSPECTION PROGRAMS

The City of Portland introduced this bill which allows the Department of Consumer and Business Services (DCBS) to apply optional alternative permit and inspection programs to some jurisdictions within the Tri-County building area without being applied to all jurisdictions. Under the bill, jurisdictions may apply to DCBS for approval of forms, procedures, review criteria, permits, inspections, and methods for setting the fees under a special alternative permit program. It also adds agricultural grading to the list of agriculture-based buildings exempted from application of the state structural specialty code.

Effective: January 1, 2006
Chapter 288

SB 3 – SEISMIC REHABILITATION GRANTS

This bill requires the director of the Office of Emergency Management (OEM) to develop a grant program for seismic rehabilitation of critical public buildings, including police stations and other public safety and school buildings. It creates a grant committee, specifies membership of committee (including city representatives) and requires the grant committee to review applications and make funding determinations based on a scoring system directly related to the statewide needs assessment performed by the Oregon Department of Geology and Mineral Industries.

Effective: August 29, 2005
Chapter 813

SB 5 – EMERGENCY BUILDINGS SEISMIC REHABILITATION

State law requires the evaluation of seismic vulnerability of public schools and emergency response facilities, such as hospitals, fire stations and police stations. It also requires the rehabilitation of such buildings. Additionally, Ballot Measures 15 and 16, approved by the voters in 2001, amended the constitution to allow the state to use its bonding authority for seismic rehabilitation of public schools and emergency facilities. This bill authorizes the state treasurer to issue Article XI-N bonds for the seismic rehabilitation of emergency services buildings. (SB 4 addresses bonding for schools.) These bonds will be issued after 2007.

Effective: January 1, 2006
Chapter 815

SB 79 – SEISMIC SAFETY SURVEYS

This bill changes the standards for conducting seismic safety surveys and evaluations using governmental or professional handbooks identified by statute or latter editions of such publications as provided by rule adopted by the state Department of Geology and Mineral Industries (DOGAMI).

Current law requires evaluation of the seismic vulnerability of public schools and critical response facilities such hospitals, fire and police stations and the rehabilitation of such facilities to meet certain seismic safety standards. The law references the need to use certain government handbooks in performing these evaluations. Since enactment of the current law in 2001, one of the referenced handbooks has been updated and another has been replaced by a publication issued by the American Society of Engineers. The bill updates the statutory references to include these new publications and authorizes DOGAMI to adopt the use of revised versions of the publications by administrative rule.

Effective: January 1, 2006
Chapter 248

SB 83 – ENGINEERING CERTIFICATION TECHNICAL FIX

This bill modifies the definition of "significant structure" for purposes of determining when engineering services require a certified professional structural engineer. It deletes an obsolete provision regarding obtaining a certificate of registration as a professional structural engineer without examination.

Current law provides that a person may not provide engineering services for significant structures unless the engineer possesses a valid professional structural engineer certificate of registration issued by the Oregon State Board of Examiners for Engineering and Land Surveying. SB 83 makes the definition of significant structure internally consistent in regards to the dimensions of a structure. The statute subsections were originally based on similar size limitations from the Oregon State Structural Specialty Code and current laws affecting architects and engineers.

Effective: January 1, 2006
Chapter 144

SB 421 – ADMINISTRATIVE REGIONS

This bill requires the Director of Department of Consumer and Business Services to establish building code administrative regions for all areas of state. It provides for the appointment of department employees for each region to administer and

enforce state building code within the regions. Moreover, it imposes a surcharge on permit fees and hourly charges to defray costs of administering and enforcing state building code.

Effective: September 2, 2005
Chapter 833

CAMPAIGN FINANCE

HB 3458 – CAMPAIGN FINANCE REFORM

Shortly after news of an investigation into possible campaign finance irregularities in former Rep. Dan Doyle's election funds, House speaker Karen Minnis (R-Wood Village) and House Democratic Leader Rep. Jeff Merkley (D-Portland) announced an effort to reform campaign finance laws. HB 3458 was one result of their efforts.

The campaign finance reform provisions in HB 3458 include: increasing the fine for converting campaign funds for personal use; establishing a Web-based reporting system for campaign contributions and expenditures; and prohibiting candidates from paying themselves for services provided to their own campaigns. Cities and counties are authorized to adopt more stringent filing requirements provided that they are filed with the Secretary of State and may also adopt electronic filing.

HB 3458 enacts the following reforms:

- The fine for converting excess campaign funds to personal use is increased to $1,000 plus the amount converted to personal use.
- Political committees will be required to establish an exclusive campaign account, in the committee's name, in a financial institution, for campaign expenditures and deposit of contributions. The co-mingling of campaign and personal funds in that account is prohibited and the Secretary of State is authorized to review contribution and expenditure statements filed with the Secretary's office.
- Requires candidates and political committees, when submitting reports to Secretary of State, to accompany political campaign contribution and expenditure statements with copies of financial institution account statements.
- Prohibits candidates from paying themselves for professional services provided to their campaigns. Prohibits a member of the legislative assembly from using campaign contributions to pay expenses for which they are already reimbursed by the Legislature.
- The reporting threshold for campaign contributions and expenditures is increased to $100 from $50.
- A web-based reporting system for campaign contributions and expenditures will be established by January 1, 2007. Within 42 days before an election, candidates and political committees will have seven calendar days to file electronic statements after a contribution is

received or expenditure is made. At other times, they will have 30 days to file contributions and expenditures.

Effective: August 29, 2005
Chapter 809

ECONOMIC DEVELOPMENT

SB 1098/HB 2174 – OECDD TECHNICAL CORRECTIONS

SB 1098 reorganizes and simplifies the Special Public Works Fund (SPWF) statutes of the Oregon Economic and Community Development Department (OECDD) and updates other statutory references affected by these revisions.

This bill began as HB 2174. However, because of its broad relating clause, the bill was held until session's end, where it stalled due to potential amendments. The bill was re-drafted with a narrower relating clause (industrial development), and quickly passed both chambers.

Key provisions include:

- Clarification of OECDD's authority to fund early stage planning work that may be needed before a specific development or construction project is identified.

- Two eligible construction project types are combined into one: Community facility projects and Infrastructure projects are now termed "Development projects."

- Two eligible planning project types are combined into one: Planning projects and Technical assistance projects are now termed "Planning projects."

- The definition of Emergency Projects eligible for grants under the $2.5 million biennial cap is broadened to include municipally owned water and wastewater systems and transportation and telecommunications facilities.

- Standardization of the maximum loan term length (25 years from project completion) for three programs including SPWF, Water fund and the Port Revolving fund.

- Elimination of the state requirement for public hearing and notice.

- Addition of two non-voting members to the Economic and Community Development Commission.

- Addition of Airport districts organized under ORS 838 as eligible applicants.

- Some navigation improvement projects can receive loans to be used as match.

Currently, the Oregon Economic and Community Development Department provides assistance to communities for energy-related projects under the Special Public Works Fund. SB 1098 states that for projects involving an energy system, the city and the utility which owns the infrastructure (poles and wires for electric systems and pipeline for gas) will execute an ownership and operating agreement for the proposed energy system. The provision does not apply when the system is located within the recognized service territory of the city.

Effective: November 4, 2005
Chapter 835

EDUCATION

HB 2450 – GRANTS FOR SPECIAL EDUCATION AND SMALL SCHOOLS

The 2003 Legislature established the High Cost Disabilities Account and the Small School District Supplement Fund with a July 1, 2005 sunset date. These grants are intended to help districts with very high-cost special education students and are designed to help small high schools provide comprehensive education programs, respectively. This bill makes both grants permanent by repealing the July 1, 2005 sunset date and includes funding limitations and distribution schedules for both programs.

Effective: August 29, 2005
Chapter 803

HB 2560 – INTEGRATION OF PSU AND OHSU

House Bill 2560 would have created the Portland Metropolitan Universities Board of Directors, who would develop a plan for the merger of OHSU and PSU. It would have established Portland State University as a public corporation under the control of the Portland Metropolitan Universities Board of Directors and removed Portland State University from the Oregon University System. Further, it would have changed the name of the Oregon Health and Science University Board of Directors to Portland Metropolitan Universities Board of Directors.

This bill received three hearings in the House, but never made it out of the Budget committee.

In committee upon adjournment

HB 3482 – AED's IN SCHOOLS AND LIMITATION OF LIABILITY

This bill prohibits a person from bringing cause of action for damages that result from use of automated external defibrillator (AED) under certain circumstances. It also allows the Department of Education to award grants to school districts and public charter schools to provide AED's in public school facilities.

According to the American Heart Association, there have been no known lawsuits against lay rescuers providing CPR as Good Samaritans, nor any against AED users. However, the perceived potential for a suit against a lay rescuer using an AED has in some cases been a deterrent for companies or

organizations considering establishing a public access defibrillation (PAD) program.

Effective: July 20, 2005
Chapter 551

SB 841 – EDUCATION RESERVE FUND

This bill would have established the General Fund as an additional revenue source for the Education Stability Fund and set up the Fund's requirements. The Fund is capped at 5% of the previous biennial budget. Once the cap is reached additional revenue flows into the school capital matching sub-account.

In September 2002, Measure 19 created the Education Stability Fund. The Fund has been used extensively to balance both the 2001-03 and the 2003-05 General Fund budgets. Transfers from the Education Stability Fund can only be used for public education purposes. Under current law, the only source of revenue for the fund is 18% of Lottery net proceeds.

The bill passed the Senate and received a public hearing in the House, but did not make it out of the Budget Committee.

In committee upon adjournment

SB 1032 – SCHOOL SITING

Oregon's statewide land use regulations require that schools serving urban students be located within urban areas. Currently, some school districts in Oregon have experienced difficulty finding suitable sites for new schools within either their urban growth boundaries or their urban reserve areas. The inability of a high growth school district to provide for new facilities in a timely manner can become a contributing factor to over-crowding in some schools.

This bill requires a metropolitan service district to establish a process to expand the urban growth boundary to accommodate a public school that cannot be accommodated within the existing urban growth boundary. Additionally, it requires that a metropolitan service district, at the request of a high-growth school district, assist the school district in identifying school sites that are required by a city or county facility planning process.

Effective: July 15, 2005
Chapter 546

EMERGENCY COMMUNICATIONS

HB 3341 – PROTECTION OF 9-1-1 AUDIO RECORDINGS

Introduced by Representative Diane Rosenbaum (D-Portland), this bill would have exempted from disclosure, under public records law, audio recordings of 9-1-1 calls subject to certain exceptions. However, transcripts of the audio recordings would be made available upon request. This bill received a hearing, but did not pass out of committee.

In committee upon adjournment

SB 817 – PUBLIC SAFETY WIRELESS INFRASTRUCTURE

In order to help public safety officers communicate more effectively with one another, this bill would have required the Office of Emergency Management (OEM) to work with others to develop a Public Safety Wireless Infrastructure Replacement plan. It would have appropriated moneys to the Office of Emergency Management to carry out provisions and established a limit on related federal fund expenditures for payment of expenses.

The bill passed the Senate but did not receive a hearing in the House.

In committee upon adjournment

(For other bills related to Emergency Communications, please see SB 3, SB 5, and SB 79 under Building Codes and HB 3443 under Telecommunications.)

EMINENT DOMAIN

HB 2268 – CONDEMNATION APPRAISAL

This bill requires that if an appraisal in a condemnation action relies on the written document of a person who is not an appraiser, then that appraisal must have an attached copy of the document. It also requires that if an appraisal relies on the unwritten opinion of a person who is not an appraiser, then the name and address of the person who provided that information must also be included. This bill was the product of a work group of the Oregon Law Commission, a law improvement commission in which several city and county attorneys participate.

Effective: January 1, 2006
Chapter 433

HB 2269 – CONDEMNATION PROCESS

Prior to this legislation, Oregon law provided no guidance for cities or counties regarding the taking of immediate possession of condemned property. Not surprisingly, there was inconsistency in how courts dealt with the issue. HB 2269 sets out a procedure public condemners may follow to ensure an expedited and efficient condemnation process. It establishes an optional procedure allowing a public condemner to give notice that it will take immediate possession. The condemner is required to give notice and the condemnee may object and request a hearing. The issues the court may consider are limited to the legality of the condemnation and whether the proceedings were the result of fraud, bad faith, or abuse of discretion. If there is no objection, the condemner may obtain an enforceable order. The bill also clarifies that failing to file an objection does not inhibit the ability of the condemnee to assert other legal defenses.

Effective: January 1, 2006
Chapter 565

HB 3505 – EMINENT DOMAIN LIMITATION

The House State and Federal Affairs Committee drafted HB 3505 late in the legislative session in response to the U.S. Supreme Court's decision in *Kelo v. New London, Connecticut* – a decision that upheld municipal condemnation authority. HB 3505 would have prohibited a government's ability to condemn property from one private party and transfer it to another private party, with

certain exceptions. The House passed the bill by a 40-19 margin on August 1. It never received a hearing in the Senate.

HB 3505 provided that a public body could only exercise its condemnation authority if its primary purpose was to own and use the property. This bill would have allowed condemnation only for purely "publicly-owned" projects, such as a city hall or a library. It called into question the ability of government to responsibly condemn property for projects in which the government partners with the private or non-profit sectors, even if these projects provide a broader benefit to the entire community. For example, affordable housing projects owned and operated by a non-profit, public conference centers or private lodging partnerships, and apartment or public greenway developments would not have been considered "publicly-owned" for the purpose of condemnation.

The exceptions to condemnation and transfer to a private owner contained in the bill included:

- Condemnations done by port districts, or for certain industrial lands;
- Health and safety conditions created by blight or environmental contaminants;
- Condemnations executed by ODOT;
- The allowance of a title transfer for the purpose of obtaining financing; and
- A provision that would have discouraged real estate speculation by allowing condemnation and private conveyance if a property was purchased after notice of an urban renewal plan was given.

The bill also directed the courts to disregard any legislative findings or other legislative statements relating to whether the property would be owned or used by the public or whether the condemnation was subject to one of the exceptions above.

Initiatives for the November 2006 ballot have been filed on this issue. Initiative 49 is a statutory amendment similar to HB 3505, and Initiative 25 amends the constitution and is an outright prohibition with no exceptions.

In committee upon adjournment

ENERGY

HB 3363 – ENERGY EFFICIENCY STANDARDS

HB 3363 establishes minimum efficiency standards for certain new commercial appliances and prohibits the sale or installation of products that do not meet the standards. Manufacturers are directed to test and certify products as meeting the standards. Current federal law does not provide any efficiency standards governing commercial clothes washers, commercial ice makers, commercial refrigerators and freezers, digital television adapters, certain illuminated signs, certain types of lamp fixtures, and other appliances and electronics subject to this bill. Therefore, the State of Oregon can regulate energy efficiency in those areas. HB 3363 will eventually make Oregon's efficiency standards consistent with those of California and Washington.

Effective: January 1, 2006
Chapter 437

HB 3479 – TROJAN NUCLEAR POWER PLANT LIABILITY

This bill clarifies that any entity which may acquire all or a portion of Portland General Electric Company or its allocated service territory must assume a proportionate share of the obligations and liabilities related to the decommissioned Trojan Nuclear Power Plant. The assumption of such obligation occurs whether the acquisition happens through market transactions, purchase, condemnation or any other means.

Effective: July 22, 2005
Chapter 630

HB 3481 – BIOFUELS PACKAGE

This bill would have combined House Bills 3030 through 3035, HB 3001, HB 2949, and SB 736. SB 736 (see below) ultimately passed as a stand-alone bill. Combined, these bills were the "biofuel package" because they would have made several changes to Oregon law regarding the taxation and production of biofuel in order to provide incentives for its production.

Specifically, the bill outlines a new property tax exemption for biofuel production or fuel additive production facilities and extends the sunset on the renewable energy production facilities to July 1, 2012. In addition to detailed production guidelines, it would have established a biodiesel standard for Oregon and required the state to reach a biodiesel production level of at least 5 million

gallons annually. Furthermore, it would have required that diesel fuel contain at least 2% biodiesel and required the state to reach a biodiesel production level of 15 million gallons annually.

Ultimately, HB 3481 did not pass because agreement could not be reached on a provision relating to Oregon's Pollution Control Tax Credit Program.

In committee upon adjournment

SB 31/HB 3454 – ENERGY TAX CREDIT

SB 31 (previously HB 3454) deals with a variety of tax issues including the residential energy tax credit. This credit applies to taxpayers who purchase large solar electric systems. The bill increases the limit on the residential energy tax credit per solar electric system to $3 per watt of installed output, up to 2,000 watts ($6,000). It limits the total amount of the tax credit for the electric solar systems to not exceed 50% of the installed cost of the solar electric system. The bill retains the current annual limit on the residential energy tax credit of $1,500. SB 31 applies to tax credits beginning in tax year 2006 and places a 10 year sunset on the tax credits.

Effective: November 4, 2005
Chapter 832

SB 84 – NET METERING

Oregon's net metering law is amended by this bill. Previously only solar, wind, fuel cells and hydroelectric power up to 25 kilowatts were eligible for net metering. The bill adds biomass energy including landfill gas, digester gas, dedicated energy crops, and low-emission energy from wood, forest or field residues. While Portland will probably still use all the power from the Columbia Blvd. Wastewater Treatment Plant on site, the bill provides options for others. Senate Bill 84 also allows the Oregon Public Utility Commission to raise the size of net metering projects by rule for customers of investor-owned utilities.

Effective: January 1, 2006
Chapter 145

SB 408 – INVESTOR-OWNED ELECTRIC UTILITY TAXES

SB 408 limits investor-owned utilities when collecting payments for taxes from their customers to the amount of taxes actually paid. Current statute requires consolidated entities to file corporate income taxes as a consolidated group instead of a separate subsidiary of the parent corporation. Because of this, there is often a difference between the hypothetical calculation used to set rates and the taxes actually paid. SB 408 addresses this inconsistency.

Effective: September 2, 2005
Chapter 845

SB 472 – STRINGENCY

The issue of whether the state may make any rules more stringent than federal laws or rules is a perpetual one. The issue arises every session particularly around environmental laws. This bill would have limited what rules state agencies may adopt.

In committee upon adjournment

SB 671 – OREGON MUTUAL/PGE

Although SB 671 passed in the Senate (19-9) and in the House (43-14), it was vetoed by the governor. SB 671 would have enabled private parties organized as Oregon Mutual to finance the purchase of Portland General Electric (PGE) through acquisition bonds.

In his veto letter, the governor said he "could not support SB 671 because it fails to address the basic principles I set forth [that:] any plan should provide rate relief and access to safe and reliable power for PGE customers; maintain appropriate support for low income energy assistance, energy efficiency and investments in renewables; protect communities that rely on revenue from PGE as it exists today; and keep PGE local and whole."

The governor also said, "While the mutual utility concept is in part motivated by a desire to bring PGE under local, consumer control, SB 671 itself does not provide any certainty around how a mutual utility would meet my core principles…. [And] it is not clear how SB 671 helps move us forward toward the goals of economic prosperity and security for all Oregonians."

Governor vetoed

SB 735 – SMALL ENERGY LOAN PROGRAM

This bill expands the small scale local energy project loan program to make it easier to fund renewable energy projects. In its 24-year history, the program has funded nearly $200 million in renewable energy projects.

SB 735 authorizes loans for renewable energy projects to intergovernmental agencies. It will allow more than one county or other local government entities to co-sponsor a project. SB 735 also makes projects that are located partially inside and outside of Oregon, such as wind farms eligible for the Energy Loan Program. In addition, the new law provides flexibility for improvements to small hydro projects, clarifies the definition of wastes eligible for energy recycling projects, and makes sustainable building practices eligible for energy loans.

Effective: January 1, 2006
Chapter 201

SB 1008 – STATE PURCHASE OF PGE

This bill would have established Oregon Community Power (OCP), a public corporation to acquire and operate Portland General Electric. OCP would have had the authority to issue and sell revenue bonds to purchase the electric utility. A seven-member board of directors responsible for overseeing the utility would have been appointed by the governor and confirmed by the Senate. The board would have also set the rates for the utility.

SB 1008 passed the Senate 17-7 and the House 45-11. In the end, the governor vetoed the bill stating, “I have been clear from the beginning of this process that I would not support the State of Oregon becoming financially entangled in the purchase of PGE. My primary goal over the last several months has been to ensure that PGE, under any ownership model, continues to provide reliable and affordable power to its customers and remains an economic asset for communities throughout the state, which can be achieved without creating the option for the state to acquire a private utility company.”

Governor vetoed

EMPLOYMENT

HB 2126 – COMBINING EMPLOYMENT DECISIONS

This bill allows the Employment Department to jointly issue or combine an unemployment benefits overpayment decision with a decision that disqualifies previously paid benefits.

When an individual is determined to be ineligible for previously-paid unemployment benefits, the Employment Department issues a disqualifying decision. The disqualifying decision does not include repayment information because the overpayment decision is made separately. Under current law, the issuance of the overpayment decision cannot be made until after the disqualifying decision becomes final. Both decisions are subject to appeal. One result of not combining these decisions is that claimants must go through consecutive appeals processes. In some cases, the claimants are not informed of the amount of repayment that will be required (in the overpayment decision) until after the deadline for appealing the disqualifying decision. HB 2126 allows the two decisions to be combined and applies in cases where the disqualification was due to fraud (ORS 657.310) or to error (ORS 657.315).

Effective: January 1, 2006
Chapter 182

HB 2157 – FINGER PRINT-BASED BACKGROUND CHECKS

This bill provides certain state agencies with the authority to request nationwide fingerprint-based background checks from the Federal Bureau of Investigation (FBI) for employees who deal with vulnerable populations or sensitive information and materials, such as computer specialists and those that handle hazardous waste. It streamlines the process for background checks performed by the Oregon State Police (OSP). Further, it requires all agencies to adopt administrative rules that fully address circumstances when nationwide background checks will be required. To ensure privacy, it directs the FBI and OSP to destroy fingerprint cards and facsimiles following background check. University faculty are exempt from these fingerprint checks.

Currently, state agencies cannot request national fingerprint identification and confidential criminal history records for public employees, prospective employees or contractors unless it is for law enforcement or criminal justice purposes. State government agencies have requested this type of information from the OSP when filling sensitive jobs that manage funds, provide security, work with vulnerable populations or deal in hazardous materials. In past legislative

sessions, similar legislation was drafted and in some cases passed by the Oregon Legislature, but the measures have conflicted with FBI requirements. During the 2004-2005 interim, the OSP worked with the FBI, law enforcement organizations, state agencies and interested groups to draft legislation that meets the requirements and needs of those concerned.

Effective: August 17, 2005
Chapter 730

HB 2662 – EMPLOYMENT PROTECTION FOR VICTIMS OF DV, SA, AND STALKING

This bill prohibits the Employment Department from disqualifying individuals who are victims, or parents of victims, of domestic violence, sexual assault, or stalking from receiving unemployment benefits if those individuals leave work or avoid other available work in order to protect themselves or their minor children from further incidents of violence.

Under current law, individuals are automatically disqualified from receiving unemployment benefits if, without good cause, they voluntarily leave work, fail to apply for available suitable work when referred by the employment office or director, or fail to accept suitable work when offered. While there is an exception for victims of domestic violence, the exception is somewhat narrow. This bill expands the exception to apply to a wider set of workplace circumstances and to include victims of sexual assault and stalking as well as the parents or guardians of minor children who are victims of domestic violence, sexual assault, or stalking.

Effective: June 20, 2005
Chapter 278

HB 2687 – EXPANDING DEFINITION OF "VETERAN"

This bill modifies the definition of veteran under certain circumstances. Qualifying as a "veteran" under ORS Chapter 408 renders a person eligible for a wide range of benefits including certain health benefits, educational stipends, home loans and public employment preferences. Many of these benefits are governed by federal law, but some are not. Current state and federal definitions of "veteran" require a soldier to have been deployed for a minimum of 180 days, unless wounded. As a result, proponents assert that the federal government has begun to order 179-day activations.

Effective: January 1, 2006
Chapter 99

SB 218 – PUBLIC OFFICIAL INJUNCTIVE RELIEF FROM CRIMINAL CONDUCT

SB 218 allows a public servant or a public servant's employer to seek an injunction or restraining order against a person engaging in conduct constituting: obstruction of governmental or judicial administration; assault; menacing; criminal trespass in the first degree; disorderly conduct; harassment; and telephonic harassment. It permits a person, against whom such an injunction or restraining order is issued, to petition the court for a hearing within 30 days of the issuance of such an order. The order is valid for one year or until vacated by the court. The bill requires the public employee seeking the order to prove its need by a preponderance of the evidence.

Effective: January 1, 2006
Chapter 158

SB 238 – STATUTE OF LIMITATIONS IN EMPLOYMENT SAFETY LAWSUIT

This bill sets the statute of limitations in an employment safety lawsuit at one year after the employee or prospective employee has reasonable cause to believe a violation has occurred.

Effective: June 9, 2005
Chapter 198

SB 319 – MODIFICATIONS TO CRITERIA USED BY ARBITRATORS

SB 319 was the first of a series of bills introduced to make changes to the reforms to collective bargaining for public safety personnel that were enacted by Senate Bill 750 in the 1995 session. This series of bills (SB 319, 320 and 321) was identical to trios introduced in the last two sessions. SB 319 sought to change the criteria used by interest arbitrators to award either labor or management's last best offer package. Specifically, it lowered the importance of the interest and welfare of the public in determining an award. The bill also deleted the consideration and weight to other services provided by the government unit criteria. Finally, SB 319 also expanded the definition of comparable community beyond communities of the same or nearest population range.

In committee upon adjournment

SB 320 – DEFINITION OF A SUPERVISORY EMPLOYEE

This was the second of three bills on collective bargaining that were hotly debated during the session. Specifically, this measure placed public safety officers in a bargaining unit unless they had the authority to impose economic discipline on other public safety personnel.

In committee upon adjournment

SB 321 – BARGAINING STAFFING AND SAFETY ISSUES

SB 321 was the third bill of the package related to public safety collective bargaining. It sought to change the definition of employment relations to include certain staffing levels and safety issues for public safety personnel who are prohibited from striking. Current law requires bargaining over staffing levels and safety issues that have a direct and substantial effect on the on-the-job safety of employees. Specifically, this measure required government entities to bargain over staffing levels and safety issues that had the potential to impact on-the-job safety and the workload of employees who are strike-prohibited.

If labor and management could not reach an agreement under this bill, an outside interest arbitrator would determine staffing levels and safety standards and equipment. This measure passed the Senate by one vote, but stalled in the House.

In committee upon adjournment

SB 323 – REDEFINITION OF INDEPENDENT CONTRACTOR

This bill redefines “independent contractor” for laws relating to income tax, unemployment insurance, and certain professions. It requires under the definition that an independent contractor be free from direction and control over the means and manner of providing services, that the person be engaged in an independently established business, and that the person be responsible for obtaining necessary licenses to provide the services. Further, the bill specifies five criteria, three of which the person must meet in order to show that they have independently established a business: maintenance of a business location; bearing the risk of loss of the business; providing contracted service to two or more persons; significant investment in the business; and authority to hire other persons.

Effective: January 1, 2006
Chapter 533

SB 426 – ESTABLISHMENT OF LABOR UNIONS BY SIGNATURE CARDS

SB 426 would have established labor union representation once cards were signed by more than 50 percent of employees. This bill would have eliminated a government's ability to voluntarily recognize a union and secret ballot elections administered by the Oregon Employment Relations Board. The existing process would have remained in effect if cards were submitted by 30 percent of employees, but by less than a majority. This system is in effect in four states.

Filed by the Senate Committee on Rules, the bill was backed by a wide array of unions and opposed by many public sector employers. The bill passed the Senate on a vote of 17-13 and died in a House Committee.

In committee upon adjournment

SB 576 – RN VERIFICATION OF ELIGIBILITY FOR FAMILY LEAVE

This bill adds licensed registered nurses to the list of health care providers who may sign to verify eligibility for an employee under the family leave law. It clarifies that a professional verifying eligibility is required to be working within the scope of their license.

Effective: January 1, 2006
Chapter 171

SB 610 – COLLECTIVE BARGAINING CONDUCTED IN PUBLIC

This bill would have required public bodies to conduct collective bargaining in public. It did not receive a hearing.

In committee upon adjournment

SB 618 – ACCOMMODATIONS FOR WORKPLACE BREASTFEEDING

This bill allows employers to provide unpaid rest periods to accommodate employees who are nursing and wish to express milk. Among the many permissive provisions, employers may make reasonable accommodations for a room or location, other than a rest room or toilet stall, where employees can express milk in private. It applies to employers who employ 25 or more persons.

Effective: January 1, 2006
Chapter 466

SB 975 – UNION ORGANIZING

Current law provides that it is an unfair labor practice for a public employer to interfere with, restrain or coerce employees who exercise their rights to organize, to dominate, interfere with or assist in the formation, existence or administration of any employee organization. This bill would have prohibited public employers, recipients of state grant funds, and businesses that receive more than 50 percent of their revenue from state contracts from using state funds, to assist, promote, or deter union organizing. In addition, this measure also imposed certain reporting and record keeping requirements on recipients of state funds to ensure compliance. Finally, SB 975 would have expanded what is currently actionable in the context of an unfair labor practice. This bill had a hearing in the Senate, and there was an amendment to strip out private agencies that received state funds, due to a court ruling. No further action was taken and the bill died in committee.

In committee upon adjournment

SB 1000 – CIVIL UNIONS AND NONDISCRIMINATION

Introduced at the request of the Governor with bi-partisan sponsors in the Senate, SB 1000 turned out to be one of the most controversial bills heard this session. As introduced, SB 1000 would have created civil unions for same-sex couples and added sexual orientation to the state's anti-discrimination laws. Most church institutions were exempted from provisions relating to sexual orientation discrimination.

The bill passed the Senate (19-10) but was "gut and stuffed" in the House with the House reciprocal beneficiaries bill. The House version of the bill would have allowed most unmarried adults to register as reciprocal beneficiaries and receive 11 of the benefits accorded to married couples, including hospital visitation and intestate succession.

In committee upon adjournment

ENTERPRISE ZONES

HB 3143 – 10 NEW ENTERPRISE ZONES

HB 3143 as originally drafted would have created 10 new enterprise zones and removed the economic hardship criteria that govern zone designation.

Enterprise zones are set up by cities and counties in economically distressed regions of the state. The zones provide for a three-to-five-year property tax exemption for companies that locate or expand in the zones, provided the companies create a certain number of jobs. The House Trade and Economic Development Committee amended the bill to reinsert the hardship criteria, and to allow single service districts defined in ORS 198.010 to "opt out" of providing their portion of the three-to-five year property tax abatement available under the program in the newly created zones.

The League of Oregon Cities (LOC) and the Association of Oregon Counties (AOC) argued against the "opt out" in the House, stating that it would set up a sub-class of new zones with less of an incentive, potentially putting communities with new zones at a disadvantage relative to zones that provide a total temporary exemption. Single service districts that opt out get the benefit of tax revenue on new investment that the program brings in without having to contribute to bringing that investment to the community. In addition, opt outs would have been difficult for the assessors to set up and the Oregon Economic and Community Development Department to administer while making the entire E-zone program harder to market. These arguments failed to persuade the House, which referred to the new opt out provisions as a "pilot program."

When the bill came before the Senate Revenue Committee, Senators thoroughly discussed the opt-out issue. The Senate Revenue Committee removed the opt-out provisions, and the Senate passed the bill as amended.

Still more changes were added in conference committee. The opt-out provisions were never reinserted, but the conference committee passed amendments that:

- Forgave repayment of the tax exemptions granted to a company that experienced a catastrophe (the amendment was narrowly drafted to apply to one company for a single instance);
- Required that any future zone designated within a port territory include joint sponsorship or the official consent of an affected city or county; and

- Gave specific direction for “consultation” with all other taxing districts inside an enterprise zone sought by a city, port and/or county. This will in effect mean “beefing up” the notice and comment period that the Oregon Administrative Rules have demanded since 1999.

This final version of the bill passed both chambers. The Oregon Economic and Community Development Department embarked on a rule-making process in the fall of 2005 to spell out these additional consultation requirements.

Effective: November 4, 2005
Chapter 704

ENVIRONMENT

HB 2592 – REVIEW OF STATEWIDE RECYCLING GOALS

Waste Management Company asked that this bill be introduced. It would have required a review of the state's recycling goals and directed that the review assess the "total cost of reaching percentage rates or goals". While the bill received a hearing it was seen as an effort to weaken the state's recycling laws and it did not have broad support.

In committee upon adjournment

HB 2814 – RECYCLING OF WINE BOTTLES

This bill was introduced at the request of Willamette Valley Vineyards. It would have required a 10 cent credit toward future purchases at a winery for the return of undamaged bottles. The bill received a hearing in the House but no further action.

In committee upon adjournment

HB 3033 – BIODIESEL

Renewable fuels help reduce air pollution. This bill would have required diesel fuel sold in the state to contain a certain percentage of biodiesel. Although the bill had several hearings, it did not move out of committee.

In committee upon adjournment

HB 3455 – POLLUTION CONTROL TAX CREDITS

The issue of Pollution Control Tax Credits swirled around the legislature all session. The majority in the House wanted to expand its applicability. That position was a high priority for the Association of Oregon Industries as necessary to keep industries competitive with those in other states. House and Senate Democrats were opposed to increases and wanted to narrow its applicability. Generally, the Democrats saw it as rewarding people for complying with the existing law. The issue was fought and discussed in many forums and in many bills. The fight over Pollution Control Tax Credits ultimately resulted in the demise of most of the biofuels legislation (See HB 3481) for which there was broad support in both parties.

In committee upon adjournment

HB 3481 – BIOFUELS

A casualty of the Pollution Control Tax Credit fight, this bill would have provided a new property tax exemption for biofuel production or fuel additive production facilities. Local governments had an "opt out" if they didn't want to provide the credit. Oregon agricultural producers would have received a new personal income tax credit for the plant or animal materials they provide for biofuel production. This bill passed both houses and was in conference committee at the end of the session. See discussion of HB 3455 above.

In committee upon adjournment

SB 290 – PESTICIDE USE REPORTING

A major priority for the Oregon Environmental Council (OEC) was to reinstitute Oregon's pesticide tracking system. Since its creation two sessions ago, the system had been ineffective due to a lack of funding. SB 290, introduced by OEC, would have imposed a fee on pesticide purchases as well as released existing funds to run the program. The bill remained controversial throughout the session, but a compromise was reached late in the final days of session. In exchange for funding the program, there was language added to ensure private pesticide applicators would only have to report by watershed or zip code instead of section, township, and range.

Effective: August 17, 2005
Chapter 743

SB 291 – REMOVAL OF RECYCLABLES

SB 291, the so-called "dumpster diving bill", would have allowed anyone access to certain solid waste disposal receptacles. In many communities a company has been going around to apartment complexes offering a lower fee, then reducing the cost of solid waste service by removing recyclables, compacting the solid waste and transporting it to a different solid waste receptacle. While the city of Eugene allows this practice, many cities, including Salem, Beaverton and Woodburn, have disallowed it as a violation of the city's franchise agreement with the solid waste operators. SB 291 was an attempt to override those franchise agreements so this company could operate in those cities. The League of Oregon Cities, Association of Oregon Counties and the Oregon Refuse and Recycling Association opposed the bill.

In committee upon adjournment

SB 736 – ETHANOL EXEMPTION

The state site certificate exemption for ethanol is expanded by this bill to include oil seed, waste oil, grass, straw, forest material and other organic material. It also provides a similar exemption for biodiesel production facilities. A developer must request the exemption from the Energy Facility Siting Council, which will review the proposed facility for compliance with the exemption criteria.

To qualify for the exemption the developer must have local land use approval; the facility cannot have a new jurisdictional transmission line or gas pipeline as a related facility; and 90 percent of the fuel product must be transported by rail or barge or be used in an industrial or refueling facility within one mile of the production facility.

Effective: August 23, 2005
Chapter 768

SB 740 – ELECTRONICS RECYCLING

Another bill with broad support, SB 740, would have addressed the issue of recycling electronics. There is growing concern over the amount of electronic equipment (computers, TVs, stereos, etc.) that is thrown away and ends up in landfills. This bill was modeled after the recycled tire program in the Oregon Department of Environmental Quality (DEQ), and would have established an Electronic Product Stewardship Account in DEQ to begin an electronic recycling program. The bill would have required a fee to be paid upon purchase of electronic equipment to fund the program.

In committee upon adjournment

FIRE SERVICES

HB 2154 – DISASTER RESPONSE ACROSS JURISDICTIONS

This bill enables the Governor to assign county, city and special district resources across jurisdictional lines if needed to respond to collapse, or threat of collapse, of structures. It gives all Oregon communities access to specially trained and equipped structural collapse responders to supplement local resources. Moreover, it authorizes the State Fire Marshal to manage resources made available by the Governor and requires that the Marshal plan for responses and advise the Governor on use of assigned resources. The bill also provides for reimbursement of responding agencies' costs.

Currently, Oregon communities are limited to local first responder capability for a structural collapse, or threat of imminent structural collapse, due to earthquake, domestic or foreign terrorist acts, tsunami, flooding or mud slides. Federal teams with the capacity, equipment and training for structural collapse search and rescue must respond from areas outside of Oregon. The State Fire Marshal indicated it could take these teams up to four days to be on-site and operational. According to emergency responders, the first 24 to 36 hours are the most critical to rescue survivors in structural collapse situations. Utilizing federal Homeland Security grant funds, the State Fire Marshal, nine fire departments from the Willamette Valley, the Oregon Department of Transportation and others have developed a team of trained and equipped responders to handle rescue activities during the first days of a structural collapse. The fire departments represented are Portland, Hillsboro, Tualatin Valley, Gresham, Clackamas County #1, Salem, Marion County #1, Eugene and Springfield. Under current state law, this team, called the Urban Search and Rescue Task Force (USAR), may only respond to emergencies occurring within those nine jurisdictions. This bill eliminates this response problem.

Effective: January 1, 2006
Chapter 651

HB 2155 – "GOOD NEIGHBOR" ASSISTANCE FOR FIRE DISTRICTS

Filed by the Governor at the request of the State Police, HB 2155 makes firefighting forces and equipment available in response to a heightened danger of fire or during a significant reduction in available fire-fighting resources. It gives fire departments and districts the authority and liability coverage afforded by the Conflagration Act to provide "good neighbor" assistance outside usual mutual aid agreements.

The Office of State Fire Marshal assists and supports Oregon fire services during major emergency operations through the Conflagration Act (ORS 476.510). The Conflagration Act allows the State Fire Marshal to mobilize firefighters and equipment from around the state and provides funding from state resources. Presently, the Conflagration Act can only be used for fires that involve or threaten life and structures, and only after local resources are exhausted. In November 2002, three Coos Bay firefighters died while fighting a commercial structure fire. Neighboring mutual aid fire departments immediately reacted by sending personnel to staff the Coos Bay fire stations and assist in responding to emergencies; however, the need for replacement staff exceeded the resource capacity of those neighboring departments. The Portland Fire Bureau provided staff and equipment to Coos Bay in this effort.

HB 2155 provides authority for fire districts without a mutual aid agreement to step in and assist when directed to do so through the Conflagration Act.

Effective: January 1, 2006
Chapter 16

HB 2327 – STATEWIDE FIRE PROTECTION FUNDING

The 2003 Legislative Assembly directed the Oregon Department of Forestry (ODF) by budget note (HB 5022) to form a work group for the purpose of examining the funding mechanisms for emergency forest fires and enhancing the firefighting capacity of the department. HB 2327 was a product of that work group.

This bill creates the Oregon Fire Protection Contingency Fund, specifies the source of monies for the fund, places a cap on the fund, and provides for use of monies from the fund. It also prohibits state agencies from interfering with landowners taking action to suppress fire on the owners' land except in cases where such action would increase risk of injury to persons or equipment. Further, it appropriates $900,000 from the General Fund for payment of catastrophic fire insurance and requires future purchases of catastrophic fire insurance to be paid 50% by public general funds and 50% by landowner funds. Lastly, it eliminates statutory language providing that the State Forester or other agency may prohibit a landowner from fighting a fire on his or her own property if the forester or agency determines that a fire should continue to burn at a particular location.

Effective: August 29, 2005
Chapter 802

HB 3083 – NEWSCASTER EXCEPTION

This bill specifies that a person working for a news organization does not commit the offense of refusing to assist in firefighting operations if a person disobeys a lawful order of a firefighter or peace officer in order to report on a fire.

Under current Oregon law, a person can commit a Class B violation if the person unreasonably refuses or fails to assist in extinguishing a fire or protecting nearby property threatened by the fire or if they disobey a lawful order by a police officer or firefighter in the vicinity of a fire. The bill would make an exception for a person employed by a news organization.

Effective: January 1, 2006
Chapter 626

(For other bills related to Fire Services, please see SB 3, SB 5, and SB 79 under Building Codes and SB 106 under Public Safety.)

FINANCIAL ADMINISTRATION

HB 2166 – MUNICIPAL AUDITS

HB 2166 was requested by the Oregon Secretary of State's office. The bill would have deleted two provisions of existing law: 1) allowing municipalities to request the Secretary of State to revise or install municipal accounting systems (this provision is not used because municipalities contract with private vendors for accounting systems and software); and 2) the requirement that certified public accountant firms file copies of their municipal audit contracts with the Secretary of State's office. It would also have eliminated the requirement that municipal auditors be selected from a roster of municipal auditors kept by the Oregon Board of Accountancy. Testimony in committee suggested that Oregon was the only state that restricted who could perform municipal audits, and did not have reciprocity with other states. Instead, the House committee added a requirement that municipal audits be conducted according to generally accepted auditing standards issued by the American Institute of Certified Public Accountants and the Comptroller General of the United States. The bill was passed by the House but failed to receive a hearing in the Senate.

In committee upon adjournment

HB 2395 – DEFERRED COMPENSATION INVESTMENTS

HB 2395 authorizes local governments to invest deferred compensation moneys in shares of corporate stock, including shares of mutual funds. ORS 294.035 lists the types of investments that local government fund managers may make with deferred compensation set-asides. The list does not currently include shares of stock or mutual funds.

A 1996 change in federal tax law required government deferred compensation funds to be held in trust, instead of as an asset of the government employer, which eliminated the federal barrier to investing those funds in stocks on behalf of the employee. Oregon law was changed in 1997 to allow the state treasurer to invest state deferred compensation funds in common stock. The same authority was not given to local governments at that time.

Local government fund managers indirectly invest deferred compensation funds in mutual funds through some of their permitted investments, but they have to do so through a third party such as an insurance company or annuity provider, which incurs additional fees. HB 2395-A would allow direct investment of local deferred compensation funds in mutual funds.

Effective: January 1, 2006
Chapter 91

GENERAL GOVERNMENT

HB 2055 – OLCC PERMIT APPEALS

This bill allows certain applicants for alcohol service permits an additional 15 days to request a hearing for review of an Oregon Liquor Control Commission decision to refuse a permit. It applies to applicants who were refused for a reason other than failure to complete an alcohol server education course and test.

Effective: January 1, 2006
Chapter 12

HB 2056 – LIQUOR LICENSING: TIME, PLACE, AND MANNER RESTRICTIONS

This bill, amended in the latter part of the session in response to Portland's ordinance, would have limited city and county authority to adopt reasonable time, place and manner ("TPM") regulations on businesses that sell alcohol. ORS 471.164 gives cities and counties the authority to adopt TPM regulations to control "nuisance aspects" of businesses that sell alcohol. The amended bill would have changed the wording of the statute to refer to "nuisances occurring *on* licensed premises."

The bill would have also required local governments to allow neighborhood associations at least 45 days to provide public comment on a license application and established a one-time, non-refundable initial application fee of $400 for Oregon Liquor Control Commission licenses, in addition to the current license fee. Applicants could have sought a waiver of the new fee by the commission. Lastly, the bill would have changed the renewal period for licenses from one year to two years; doubled license fees to cover the longer period; expanded eligibility for temporary letter of authority privileges to any licensee; and extended the period of authority from 90 to 180 days.

While the Governor supported the original version of the bill which would have increased OLCC's administrative capacity, he did not support the eleventh-hour amendment by the Oregon Restaurant Association (ORA) that restricted local governments' ability to regulate nuisance aspects of alcohol selling establishments.

In his letter to the Secretary of State, the Governor expressed his discontent for the lack of "effective collaboration and communication between the City, OLCC, law enforcement and business owners." As a result, he requested that "OLCC

work with the City of Portland, the League of Oregon Cities, law enforcement, community members, ORA and business representatives to examine the current system for licensing and regulating businesses that serve alcohol" and asked that they report back to the next legislative assembly.

Governor vetoed

HB 2094 – STATE AGENCY EXTENDED TERM LICENSES

Several hundred state licenses, permits, and certifications are required by law to be renewed every year or every other year. This bill authorizes most state agencies that issue these licenses to adopt rules allowing extended license renewal terms for a period of two to five years. It provides that the agencies offering extended renewal terms shall allow the applicant to choose between the annual or biannual license term and the extended term. However, an agency may not offer an extended term license if an authorized local government makes a recommendation against the issuance of the license, and the recommendation is based on established licensing criteria.

Effective: January 1, 2006
Chapter 76

HB 2238 – OLCC CONSOLIDATED APPLICATIONS

This bill would have required the Oregon Liquor Control Commission (OLCC) to offer applicants, who seek both a liquor sales licenses (new or renewal) and a lottery game retailer contract, the option of a consolidated application. The applications for the OLCC license and Lottery contract require much of the same information about the applicant and the place of business. The bill would have ensured that fees were submitted, identified, and transferred from the OLCC to the Lottery Commission and that both agencies' need for information on the applicant is met.

In committee upon adjournment

HB 2545 – PROHIBITION ON CHARGING FOR PUBLIC RECORDS

This bill started out as an outright prohibition on charging any fees for public records requests. It now prohibits a public body from charging a record requester for government attorney time spent researching or determining whether the public records law applies to a particular situation. The bill does, however, authorize public bodies to recover the cost of attorney fees for the

following: reviewing public records, redacting the public records, and segregating public records into exempt and nonexempt records. (As before, the public body may still establish fees reasonably calculated to reimburse it for the actual cost of making public records available, including the costs for summarizing, compiling or tailoring the material.) The bill also requires public bodies to provide cost estimates to requesters before producing the records if the fee is in excess of $25.

Effective: January 1, 2006
Chapter 272

HB 2599 – PUBLIC RECORDS EXEMPTION FOR WATER SERVICES AND PERSONAL COMPUTER INFORMATION

Oregon law provides, subject to certain exceptions, that every person has a right to inspect any public record of a public body in Oregon. In 1999, the legislature added to those exceptions records that contained "personally identifiable information" about customers of a municipal electric utility or people's utility district. This bill expands that exception to records containing personal information of the customers of publicly operated water, sewer or storm drain service providers. Specifically, the bill exempts from public disclosure "personally identifiable information" about a water, sewer, or storm drain customer. Exempted information includes: a customer's name, date, social security number, driver's license number, telephone number or electronic mail. The exemption does *not* include the residence address.

The bill also exempts from disclosure a writing that does not relate to the conduct of the public's business and is contained on a privately owned computer. Lastly, it clarifies that personal information may be released if state or federal law requires.

Effective: January 1, 2006
Chapter 659

HB 2649 – BUDGET SUMMARIES ON THE INTERNET

HB 2649 would have allowed certain municipal corporations to publish budget summaries on their websites. Further, it would have required municipalities electing to publish a web summary also to publish certain information in a newspaper of general circulation.

The bill passed the House, but did not make it out of the Senate.

In committee upon adjournment

HB 2912 – FREE EXERCISE OF RELIGION

HB 2912 would have prohibited a government from "substantially burdening" a person's exercise of religion, even if that burden resulted from the imposition of a reasonable law that applies equally to every citizen, such as a noise ordinance, licensing requirement or zoning ordinance. In effect, the bill encouraged cities to grant special waivers to people claiming religious beliefs. It also failed to define what constituted a religious belief.

Specifically, the bill would have created a "strict scrutiny" legal standard for a court to follow when reviewing any city action that may have impinged upon someone's religious freedom—even if the action being regulated was not central to that person's religious belief system. If this bill had become law, a city would have had to show to a judge that its regulations were: meant to address a "compelling" governmental interest and were the "least restrictive means" they could have used. Currently, a city must show only that its actions were rational and reasonable.

The bill received two hearings in the House, but never made it out of committee. There will likely be a workgroup established on this subject over the interim.

In committee upon adjournment

HB 3121 – DISPOSAL OF VEHICLES UNDER $500

HB 3121 allows a city or county authority to dispose of a vehicle with an appraised value of $500 or less at the request of a person in lawful possession of the vehicle. Further, it allows a person holding a valid wrecker certificate to tow and dispose of a vehicle appraised at $500 or less. The bill directs the authority to document the transaction, and allows the authority to issue a junk slip to have the vehicle removed by a certified wrecker. The bill also allows the authority to charge a fee to the person requesting the removal of the vehicle

Effective: January 1, 2006
Chapter 738

HB 3317 – ATTORNEY'S FEES IN CASES INVOLVING THE ATTORNEY GENERAL

This bill would have required that local government pay the Attorney General's attorney fees and costs in judicial proceedings related to unlawful action by local government. Conversely, it would have required the Attorney General to pay attorney fees and costs of local government in judicial proceedings challenging

the legality of an action by a local government if a court determines that action was legal.

The bill was assigned to the Ways & Means subcommittee on Civil Law, but never received a hearing.

In committee upon adjournment

HB 3441 – PORTLAND BUDGET COMMITTEE

Introduced at the request of the City of Portland, HB 3441 allows the Portland City Council to establish a public budget committee separate from the Multnomah County Tax Supervising and Conservation Commission (TSCC), a statutory entity with volunteer members appointed by the governor. The TSCC has jurisdiction over all local governments that are required to follow local budget law and which have more than half of their real market value within Multnomah County. The Commission presently oversees the budgeting and taxing activities of 36 municipal corporations, reviewing their budgets and holding hearings on the municipalities' behalf. This bill gives Portland the option of adopting the same type of citizen budget committee used in other cities throughout the state.

Effective: January 1, 2006
Chapter 417

HB 5148 – DHS BUDGET

The Department of Human Services (DHS) provides a broad array of social services through over 200 programs. These services are delivered to Oregonians through a network of state offices, county and local governments, private non-profit entities, and health plans. The Department is responsible for services to Oregon's low income and vulnerable citizens. Those services include public assistance, protective services, public health, health care, mental health, vocational rehabilitation, long term care for seniors and people with physical and/or other disabilities, and alcohol and other drug abuse treatment. HB 5148 provides appropriations and expenditure limitations for the Department at the cluster level, with a separate Capital Improvements appropriation.

DHS is funded with a mix of General Fund, Other Funds and Federal Fund revenues. Federal Funds, which support 62 percent of the Department's expenditures, include Medicaid, child welfare, vocational rehabilitation, the Temporary Assistance for Needy Families (TANF) block grant, food stamps, and various other block and categorical grants.

The approved budget is $9,793,475,245 which includes 9,418 positions (9,092.68 full-time equivalent positions). This is 2.4 percent higher than the Governor's recommended budget and a 4.8 percent increase from the 2003-05 Legislatively Approved Budget. The House Subcommittee also approved a $2.5 million special purpose appropriation to the Emergency Board for child welfare staffing and legal representation issues.

Effective: August 17, 2005
Chapter 713

SB 236 – LIMITATIONS PERIOD IN PUBLIC ACCOMMODATIONS SUITS

This bill clarifies that a civil action for discrimination in a place of public accommodation or a civil action for aiding and abetting discrimination in a place of public accommodation must be commenced within one year of the occurrence of the unlawful practice.

Effective: January 1, 2006
Chapter 452

SB 489 – PUBLIC UTILITIES COMMISSION APPEALS

This bill repeals provisions allowing appeal of Public Utility Commission (PUC) orders to Circuit Court and requires review under the Administrative Procedure Act (APA). It permits the petitioner to seek a stay of a PUC final order directly from the Court of Appeals so long as cause is shown.

This bill was needed to correct conflict amendments in SB 600, which the governor signed. SB 600 updates and reorganizes PUC statutes and addresses the issue of a request for a stay of a final order of the PUC. As amended, a party could seek a stay from a PUC order directly from the Court of Appeals but without being required to show irreparable injury or colorable claim of error as would be required under the original measure. The amendment permits the court to require a bond or other security that the court deems appropriate. A stay may only be granted after notice to the PUC and the opportunity for a hearing. The Court of Appeals may grant a stay for cause shown. The amendments make additional conforming changes consistent with this issue and resolves internal conflicts.

Effective: January 1, 2006
Chapter 638

SB 545 – REGULATION OF PAYDAY LOAN INDUSTRY

In an effort to address the overwhelming debt burden of many Oregonians, the Senate Committee on Commerce introduced this bill that would have regulated certain aspects of the payday loan industry. It would have capped the rate of interest payday lenders can charge at 15 percent for original loans or renewals. In addition, it would have established a maximum loan limit of $1000 or 25 percent of the consumer's monthly gross income. This bill also would have prohibited renewals of payday loans under certain circumstances and required a lender to allow consumers to enter into a payment plan. Moreover, it would have allowed a consumer same day loan cancellations. The bill passed the Senate but never received a hearing in the House.

In committee upon adjournment

SB 623 – ADMINISTRATIVE RULE CHANGES TO OREGON PRESCRIPTION DRUG PROGRAM

This bill repeals the requirement that the Legislative Assembly approve rules adopted by Department of Human Services (DHS) for the Oregon Prescription Drug Program. It requires DHS to give notice to individual members of any interim or session committee with authority over the program if DHS proposes to adopt program rules. This bill includes a sunset date for the notice requirement on January 2, 2008.

Effective: June 28, 2005
Chapter 314

SB 660 – SPECIAL DISTRICT FORMATION

This bill requires the county board or the local boundary commission to approve a petition for formation of a special district if the petition meets specified legal requirements.

The purpose of SB 660 is to delineate the extent of a county board or boundary commission's discretion in approving or rejecting petitions for the formation of a special district. Current statute enumerates specific criteria for counties to consider in reviewing petitions for the formation of a special district. Some counties have interpreted those statutes to provide counties with a measure of discretion to deviate from statutory criteria in deliberating on a special district petition. However, a recent opinion from the Linn County Circuit Court construed the statute more narrowly. SB 660 codifies the decision of the Linn County Court

and requires counties to adhere closely to statutory criteria in evaluating special district petitions.

Effective: January 1, 2006
Chapter 747

SB 837 – REQUIREMENTS FOR PUBLIC SELF-INSURANCE PROGRAMS

This bill establishes requirements for public bodies that self-insure for tort liability or property damage. It requires certain disclosures and institutes basic financial management standards. It also requires a minimal reserve account, annual independent audits, and adequate reinsurance requirements against catastrophic losses. Further, the bill stipulates that a program or a third party administrator of a program may not collect commissions or fees from an insurer and establishes a public body's right of action against a self insurance program that fails to comply with the requirements. Essentially, SB 837 institutes a higher degree of public disclosure and ensures compliance with basic financial requirements regarding operation of a self-insured public body insurance program.

Effective: January 1, 2006
Chapter 175

SB 5622 – GOVERNMENT STANDARDS AND PRACTICES COMMISSION BUDGET

The Government Standards and Practices Commission administers the regulatory provisions of Oregon's Government Standards and Practices laws, Lobby Regulations, and Oregon Public Meetings laws. The Commission received a 13 percent budget increase from the previous biennium, but 16 percent less than what was provided for in the Governor's budget.

Effective: July 20, 2005
Chapter 587

(For other bills related to General Government, please see SB 3, SB 5, and SB 79 under Building Codes and HB 3443 under Telecommunications.)

HOUSING

HB 2052 – HCSD REVENUE BONDS

This bill increases the revenue bond limit for the Housing and Community Services Department (HCSD) to $2.5 billion from $2.0 billion, and deletes provisions relating to obsolete Internal Revenue Code references.

In order to provide below-market financing to low and moderate-income homebuyers and to developers who use related savings to provide affordable rents, HCSD issues direct revenue bonds. Unlike General Obligation bonds, revenue bonds do not have a pledge of the full faith and credit of the state. These revenue bonds are self-supporting through mortgage repayments, interest, and fees.

Effective: January 1, 2006
Chapter 643

HB 2054 – HCSD LOAN PROGRAM

The Housing and Community Service Department currently runs loan programs to encourage home ownership and affordable housing. This bill reorganizes the statutes to give the Housing Department an administrative ability to set the threshold of the price (currently in statutes at $150,000) of an eligible single family home. These rules are to be subject to the review of the Housing Council. In addition, the bill requires a public hearing and review by the Housing Council for loans or grants that exceed the threshold. The bill also guides the rule making process to identify and distinguish the programs of community service programs from housing programs, as well as establishing criteria and the establishment of fees. Finally, the bill extends the maturity period on housing bonds from 42 years to 47 years.

Effective: May 25, 2005
Chapter 74

HB 2197 – TRANSIENT LODGING TAX

This bill modifies the definition of “transient lodging” for transient lodging tax purposes to include houses, cabins, condominiums, apartment units, tent spaces and other dwelling units that are used for temporary occupancy. It exempts nonprofit facilities from state transient lodging tax as well as units in health care

facilities or facilities licensed and registered or certified by DHS. Further, the bill authorizes the Department of Revenue to adopt rules for implementation.

Effective: November 4, 2005
Chapter 187

HB 2199 – VERTICAL HOUSING DEVELOPMENT ZONES

The vertical housing program was established by law (the "Vertical Housing Development Zone" legislation) in 2001. The vertical housing program was designed to encourage mixed-use (commercial and residential) developments to promote the growth of downtown areas and the use of light rail and other public transportation. Originally under the auspices of the Oregon Economic and Community Development Department, the program allows counties or cities to sponsor a vertical housing development zone with department approval that the proposed housing project satisfies certain criteria. The vertical housing program was the first incentive program to allow individual local taxing jurisdictions to "opt out" of participation – that is, if a city sponsors a zone and an overlapping special service district does not want to provide an exemption for their portion of property taxes, the special district need only inform the assessor that they "opt out." In that case, the property taxes attributable to the special district will continue to be collected and remitted.

HB 2199 transfers the vertical housing development zone program from the Oregon Department of Economic and Community Development to the Oregon Housing and Community Services Department, and provides an additional property tax exemption based on the value of the land adjoining the project, if the project includes low income residential housing units. The bill also provides assessors with more direction in determining the ratio of housing to other space, which will result in minor changes in how the exemption is calculated.

Effective: November 4, 2005
Chapter 119

HB 2202 – RUNAWAY AND HOMELESS YOUTH REPORT

This bill directs the State Commission on Children and Families to work with certain state agencies, nonprofit organizations, and advisory committees to develop a state policy regarding runaway and homeless youth and their families. It requires that the policy be developed by January 1, 2007, and that a report to the legislature on implementation of the policy be made prior to January 1, 2007.

Effective: July 13, 2005
Chapter 495

HB 2247 – MANUFACTURED HOUSING REGULATIONS

The Manufactured Housing Landlord/Tenant Coalition reached a consensus on HB 2247, revising the regulations governing manufactured dwelling parks, floating home moorages, mobile parks and recreational vehicle parks.

Among the many changes proposed in the bill, HB 2247 requires manufactured dwelling parks and floating home moorages to register with the Housing and Community Services Department. It also requires that at least one owner, manager or person for each manufactured dwelling park or floating home moorage complete continuing education relating to management of facilities. The bill prohibits a state agency or local government from placing a limit on placement of, or length of occupancy of, a recreational vehicle, if solely on the grounds that the occupancy is in a recreational vehicle, if the recreational vehicle is: located in a manufactured dwelling park, mobile home park or recreational vehicle park; occupied as a residential dwelling; and lawfully connected to water and electrical supply systems and a sewage disposal system. However, the bill does not limit the authority of a state agency or local government to impose other conditions on recreational vehicle use or placement. Moreover, it deletes local government prohibitions on assessing a system development charge as a result of the installation of submeters. Lastly, a tenant is limited to recovering only actual damages if termination of a tenancy results from a landlord failing to provide required written notice, or if a state agency or local government requires the tenant to move from the space for noncompliance with regulations if noncompliance is not caused by tenant.

Effective: January 1, 2006
Chapter 619

HB 2276 – SUPPLEMENTAL AID TO ELDERLY, BLIND, AND DISABLED PERSONS

HB 2776 is the result of the Oregon Law Commission's review and update of ORS Chapters 412 (Aid to Blind and Disabled Persons) and 413 (Old Age Assistance). In 1972, the Social Security Administration assumed responsibility for the public assistance programs for the aged and disabled that were previously administered by the states. This initiative became the Supplemental Security Income Program (SSI). SSI provides monthly payments to persons who are 65 years of age or older or are blind or have a disability and have limited personal assets.

This bill requires the Oregon Supplemental Income Program to provide supplemental cash payments to recipients of Supplemental Security Income and

special need allowances for one-time or ongoing needs to eligible persons. It also repeals obsolete provisions of ORS Chapters 412 and 413.

Effective: January 1, 2006
Chapter 381

HB 2389 – MANUFACTURED HOUSING OWNERS ASSISTANCE

The potential closure of two manufactured home parks and the displacement of their residents was the catalyst for this last-minute legislation.

HB 2389 started out addressing safety standards for manufactured housing and was "gutted and stuffed" the first time with provisions relating to trip permits and dealer licensure. In the final few days of the session, it was "gutted and stuffed" again with a package of reforms aimed at helping tenants of manufactured home parks to remain in their homes or find alternative sites.

As passed, HB 2389 includes tax credits up to $10,000 to help tenants pay for relocation costs and elimination of capital gains taxes for park owners who sell to their residents. It would also ban ordinances that would prohibit older homes from moving to another park. Another provision of the bill requires the state to set up a special clearinghouse to give residents information about vacancies in other parks.

Effective: January 1, 2006
Chapter 826

HB 2520/HB 3309 – REPEAL OF PROHIBITION OF REAL ESTATE TRANSFER TAX

Rep. Peter Buckley (D-Ashland) filed HB 2520 to repeal the prohibition contained in ORS 306.815 on a real estate transfer taxes (RETT) at the request of the City of Ashland. Representative Steve March (D-Portland) filed a similar bill, HB 3309, that would have directed the revenue to affordable housing; neither bill received a public hearing.

In committee upon adjournment

HB 3110 – LOW INCOME RENTAL ASSISTANCE PROGRAM

HB 3110 would have created the low income rental assistance program and would have been administered by the Department of Revenue. The bill never received a hearing.

In committee upon adjournment

HB 3358 – TAX CREDIT FOR IDA CONTRIBUTIONS

This bill creates a personal income tax credit for taxpayers who contribute to an individual development account (IDA) under certain conditions. It requires a taxpayer who has contributed to an IDA to have purchased a primary residence during the tax year and used all or part of an IDA to pay for settlement, financing or other closing costs. Further, it specifies that the tax credit is equal to the lesser of either the amount of money withdrawn from the IDA for purchase of a primary residence, the amount of reasonable settlement, financing and other closing costs incurred or $2,000. The tax credit is limited to the tax liability of the taxpayer and may not be carried forward. This credit applies to tax years beginning on or after January 1, 2006.

Effective: January 1, 2006
Chapter 575

HB 5122 – HCSD BUDGET

The Housing and Community Services Department (HCSD) provides financing and support for the development of affordable housing in the state and for the delivery of services for economically needy Oregonians. The Department administers federal and state programs to alleviate homelessness and poverty. The Department also directs the state's mobile home park ombudsman program. The Department works with public, nonprofit and for-profit organizations, and community-based organizations to deliver its services. The seven-member State Housing Council, appointed by the Governor, provides program and policy oversight to the Department.

The Budget Subcommittee approved a budget of $2,494,240,886 total funds and 148.08 full-time equivalent positions which reflects a General Fund increase of $1.1 million, but a net $1.6 million decrease in total funds, from the Governor's budget.

Effective: July 22, 1005
Chapter 598

SB 222 – COMMUNITY HOUSING FOR MENTALLY ILL PERSONS

Current statute limits housing options for people with severe and persistent mental illness to certain types of housing units. This bill defines single family housing in relationship to housing for people with chronic mental illness and allows care providers of residents with chronic mental illness to occupy community housing. Further, it allows the Department of Human Services to sell

or otherwise dispose of community housing when it is no longer deemed suitable for use as housing.

Effective: January 1, 2006
Chapter 11

SB 574 – WARRANTY AGREEMENTS AND RECORDING

This bill authorizes a building contractor to present warranty agreements between the contractor and the original building owner for recording in the deed record. It specifies the content of the filing including any express warranties, legal description of the property, and the names and signatures of the contractor and original owner. It also specifies that the warranties in recorded agreements apply to subsequent owners of the structure and cease to affect the title ten years after the warranty is recorded.

Effective: January 1, 2006
Chapter 169

SB 996 – OREGON AFFORDABLE HOUSING TAX CREDIT

This bill, a major priority of the Housing Alliance, will reduce rents for low income renters in affordable housing through a partnership between the Oregon Housing and Community Services Department (OHCSD) and Oregon banks and financial institutions. The bill passed both chambers unanimously.

The bill increases the annual cap on the amount of affordable housing tax credits that OHCSD can certify from $5 to $11 million as part of the Oregon Affordable Housing Tax Credit (OAHTC) Program. The OAHTC allows banks to reduce interest rates on loans for affordable housing by 4 percent and claim a state income tax credit equal to the lost interest income caused by the lower interest rate. Property owners must agree to pass through all of the interest savings to low income tenants in the form of permanent rent reductions

Nearly all households that benefit from this program earn less than half of the Area Median Income (AMI), and in many cases, they earn below 30 percent of AMI.

Finally, the bill extends the sunset on the affordable housing tax credit program by 10 years from December 31, 2009 to December 31, 2019.

Effective: November 4, 2005
Chapter 476

SB 706 – NONDISCRIMINATION IN HOUSING

This bill would have prohibited a facially neutral housing policy that adversely impacted disabled persons or other persons due to their race, color, sex, marital status, source of income, familial status, religion or national origin to a greater extent than it adversely impacted persons generally.

The federal Fair Housing Act (42 U.S.C. 3601) addresses access issues for persons with disabilities. SB 706 attempted to modify state law to match federal Fair Housing Act requirements.

The bill passed the Senate, but never received a hearing in the House.

In committee upon adjournment

LAND USE / MEASURE 37

HB 2176 – BROWNFIELDS

This bill establishes a revolving fund for the Oregon Coalition Brownfields Cleanup Fund Program. "Brownfields" are defined as "real property where expansion or redevelopment is complicated by actual or perceived environmental contamination." The Fund is a direct loan and grant program that exists to provide assistance to private persons and local governments to evaluate, clean up, and redevelop brownfields.

The bill also authorizes the Economic and Community Development Department to adopt rules necessary to implement the program and authorizes the department to use Brownfields Redevelopment Funds to pay for administrative costs of environmental actions.

Effective: May 25, 2005
Chapter 81

HB 2356 – SUBDIVISION PLAT APPEALS

HB 2356 modifies the procedure for approval of a subdivision or partition plat to clarify that a county surveyor's approval of a subdivision plat is not a land use decision that can be appealed to the Land Use Board of Appeals (LUBA). The bill was filed in response to the Oregon Court of Appeals decision in *Hammer v. Clackamas County,* where the court found that the county surveyor's approval of a subdivision plat was a land use decision that could be appealed to LUBA. The court's decision was contrary to historical interpretation and practice.

Effective: June 16, 2005
Chapter 239

HB 2484 – VOTING PROCESS FOR URBAN SERVICE PROVIDER ANNEXATIONS

HB 2484 requires a majority of votes cast in a city and a territory to pass urban service provider annexations. Urban service provider annexations (ORS 195.205) are one of 13 methods that cities have to annex territory. This methodology was established in 1993 to address the orderly and efficient provision of urban services and is utilized once cities have concluded urban services agreements with all providers within a territory proposed for annexation. These annexations are unique because cities must develop an annexation plan

in conjunction with service agreements and because of the voting requirement requiring a combined territorial and city election. Although this method of annexation is not widely used, it was initiated to provide better support to the land use planning system and foster less competitive relationships between cities and special districts. Since 1993, there have been three urban service provider annexations: in Bend, Redmond, and the Bend Park and Recreation District. Over the course of the last several sessions, Oregonians for a Voice in Annexation has made this issue one of its priorities, seeking to have the voting requirement changed to a dual majority vote.

Effective: January 1, 2006
Chapter 388

HB 2549 – ZONING REGULATIONS APPLICABLE TO CONSTRUCTION OF DWELLINGS

One of the bills seeking to codify land use regulations in wake of Ballot Measure 37, HB 2549, would have authorized the construction of a single family dwelling on a lot or parcel on which a land use restriction prevented construction of a dwelling, so long as the dwelling could have been constructed when the owner acquired the lot or parcel. It also provided that the city or county would have had to approve or deny an application from a landowner within 120 days of the date of which an application was submitted. The bill provided for judicial review of denial of such applications. It also specified regulations that would have applied to siting and construction of a dwelling.

The bill passed the House, but did not receive a hearing in the Senate.

In committee upon adjournment

HB 2722 – THREE MILE INCORPORATION OPTION

HB 2772 eliminates the requirement that a city must be provided with notice of a proposed incorporation within three miles of its border. The bill also eliminates any required action by a city. However, if a county court wishes to deny the incorporation petition, the current requirements for evidentiary sufficiency and non-adverse affect to a nearby city located within three miles still exist.

Effective: January 1, 2006
Chapter 396

HB 2755 – SUBDIVIDING OR PARTITIONING LAND

House Bill 2755 contains language that clarifies a number of provisions within ORS chapter 92 relating to the surveying requirements required in the subdivision of property. The bill makes no substantive changes to the process of subdividing land. Specifically, it deletes the requirement that a public utility provider certify its approval of the final plat. Moreover, it defines "utility easement" for the purposes of ORS chapter 92 to include cable TV and other telecommunication services. Lastly, the bill authorizes cities to contract with private surveyors to serve in lieu of a county surveyor.

Effective: January 1, 2006
Chapter 399

HB 3081 – UNLAWFULLY DIVIDED TRACT

This measure allows a county to approve an application for formation of one parcel if the county issued a land use decision approving the parcel prior to January 1, 1994, and if certain conditions are met.

Under current law, County Assessors' offices are authorized to create tax lots that are not reviewed by a planning department and are not themselves legally created lots. These tax lots exist only for the purpose of segmenting the calculation and payment of property taxes, and may not be legally sold separately from the remainder of the property. In order to sell a part of a parcel for which a new tax lot has been created, the owner most go through a formal property division process. Nonetheless, there are a large number of these tax lots which, whether through error or fraud, have been created and illegally sold in this manner in Oregon. This creates a cloud on the title, and may make development of such properties significantly more complicated for future owners.

Effective: June 16, 2005
Chapter 240

HB 3120 – MEASURE 37 CLARIFICATION

(See SB 1037 below.)

HB 3474 – MEASURE 37 EXEMPTIONS

HB 3474 exempted right-to farm protections and state-imposed plant and animal quarantines from Measure 37 claims.

The bill received hearings in both chambers, but the House refused to concur with the Senate amendments and the bill remained on the Speaker's desk at sine die.

In committee upon adjournment

SB 82 – LAND USE REVIEW TASK FORCE

The 2005 session was the second one in which a "land use review" bill was introduced. Last session, HB 2912 failed in the final days due to a lack of funding and concerns about how the reform committee members would be appointed. The passage of SB 82 establishes the 10-member Oregon Task Force on Land Use Planning. The members are to be knowledgeable about Oregon's land use system and familiar with Oregon's economic and employment base. The task force will study the following areas and make recommendations to the 2007 and the 2009 legislatures:

- The effectiveness of Oregon's land use planning program in meeting current and future needs of Oregonians in all parts of the state;

- The respective roles and responsibilities of state and local governments in land use planning; and

- Land use issues specific to areas inside and outside urban growth boundaries and the interface between areas inside and outside urban growth boundaries.

The task force is directed to conduct public meetings, survey citizens and gather comprehensive information necessary to carry out its purpose. The Department of Land Conservation and Development will provide staff support to the task force and may, as necessary, hire staff or consultants to assist the task force in the performance of its duties. To support this effort, $600,000 was included in the Department's budget.

Effective: August 9, 2005
Chapter 703

SB 96 – LAND CONSERVATION AND DEVELOPMENT (LCDC) PUBLIC HEARING REQUIREMENT

SB 96 allows the Oregon Land Conservation and Development Commission (LCDC) to amend land use planning goals and guidelines after only one public

hearing, if a change is required by a legislative enactment or ballot measure. Under existing law, LCDC was required to hold at least 10 public hearings any time it considered a change to land use planning goals or guidelines.

Effective: January 1, 2006
Chapter 147

SB 353 – NOTICE OF POTENTIAL MEASURE 37 CLAIMS

SB 353 adds notice to the deed disclosure statement in title transfer documents that Measure 37 provisions may affect the property or neighboring property. The added language notifies the seller and purchaser of the possibility that governments may modify or not apply land use regulations to the subject property or to neighboring properties in order to avoid such compensation claims.

Since 1983, a disclosure statement has been required on deeds and earnest money agreements. The current statement informs the signers that they should inquire about laws or conditions relating to land use, fire protection, and farming or forest practices that affect uses of the property. With the passage of Ballot Measure 37 in 2004, land use regulations may give rise to claims for compensation due to diminishment of the value of properties. Such claims may result in payment of compensation in certain circumstances, or may result in modification or non-application of such land use regulations.

Effective: January 1, 2006
Chapter 311

SB 431 – LAND USE BOARD OF APPEALS

This bill clarifies exceptions to exclusive jurisdiction of the Land Use Board of Appeals (LUBA) to review land use decisions. Under current statute, LUBA has exclusive jurisdiction to review most land use decisions of local governments. There is some ambiguity surrounding situations when LUBA does not have jurisdiction because the Department of Land Conservation and Development (DLCD) or the Land Conservation and Development Commission (LCDC) are granted review authority by statute. This confusion has resulted in the need to file dual appeals with both entities, adding costs for both local governments and for citizen appellants. SB 431 clarifies that appeals of individual periodic review work tasks will go only to the LCDC, but gives the Director of DLCD discretion to transfer an appeal to LUBA if the director deems it to be appropriate. The measure also authorizes LUBA to accept any appeals that are transferred from the LCDC.

Effective: January 1, 2006
Chapter 245

SB 688 – DEVELOPMENT AGREEMENTS

SB 688 changes the maximum length of time that a city or county may choose to enter into a development agreement. A development agreement is essentially a contract between a developer and a city or county regarding the terms under which a development is permitted. For cities, SB 688 allows development agreements for up to 15 years and for counties, up to seven years.

Effective: January 1, 2006
Chapter 315

SB 699 – JACKSON COUNTY INDUSTRIAL ANNEXATION EXEMPTION

The annexation or incorporation of developed industrial lands results in those lands becoming subject to local regulations, including property taxes. There are circumstances in which owners of industrial facilities may not be eligible to vote in an election for annexation or incorporation, or refuse consent. SB 699 requires that the incorporation or annexation of specific properties within the unincorporated community of White City or within Medford's urban growth boundary west of Oregon Highway 99 can only proceed with the written consent of the landowners in question. The bill sunsets June 30, 2016.

Effective: July 15, 2005
Chapter 539

SB 887 – ISLAND ANNEXATIONS

SB 887 was the "grand daddy" of the annexation bills this session, and at one point the House Land Use Committee was considering up to 25 proposed amendments to the bill. The bill that eventually passed has four major provisions:

- An exemption on industrial annexation until 2035 for four corporations including: NIKE, Columbia Sportswear, Tektronix and ESI, all located in unincorporated Washington County. An additional five-year exemption extension option after 2035 for NIKE and Columbia Sportswear is also included.

- A moratorium on island annexations for the city of Beaverton for two years.

- The creation of an interim annexation work group that will report back changes to the various annexation methodologies to the next Legislative Assembly.

- A territorial vote requirement for urban service provider annexations for two years.

During the many hearings and work sessions that both chambers held on this bill, considerable testimony was presented on how island annexations are used by cities throughout the state and specifically by the city of Beaverton. Concerns were raised by some legislators and citizens that annexation authority could be abused, although the opinions about what constituted abuse varied. To some it was annexation without consent; to others it was annexation of a road or right of way to create an island with the intent of later annexation. Even though 90 percent of island annexations proceed seamlessly, and recent court decisions favor city authority regarding island annexation methods to achieve urbanization, it is clear that the subject of island annexation authority will continue to be a "hot button" issue for cities during the next session.

Effective: September 2, 2005
Chapter 844

SB 1037/HB 3120 – MEASURE 37 CLARIFICATION

These two bills attempted to clarify the statutory Measure 37 language, passed by voters in the November 2004 election. Although both bills received significant public testimony in their respective committees, only a scaled-back version of SB 1037 moved forward, and eventually passed the Senate. That version contained a tract of record provision and a claims and judicial review process (SB 1037-B). The House then deleted many of the Senate-passed provisions and replaced it with their own version of the bill (SB 1037-C), which contained the claims and judicial review components, and added language that expanded the definition of "owner" to include corporations, partnerships and LLCs. It also extended the ability to transfer a waiver of land use rules to business interests as well as individual property owners.

SB 1037-C then went to the House Budget Committee, where it was again amended after negotiations between Oregonians in Action, the Governor's office, and the Department of Justice to delete the expanded ownership provision but still allow a provision for valid claims involving waivers of land use regulations to be transferred to successor owners. With these amendments in place, the Governor's staff testified in support of the bill and 1037-D passed the House and went to the Senate for concurrence. During the last two days of session there was a political tug of war on this issue, and even though representatives from the

Governor's office, the Department of Land Conservation and Development and the Department of Justice met with Senate Democratic caucus members to garner support, the bill failed when the Senate, in a partisan vote, did not concur with the House amendments.

Senator Charlie Ringo (D-Beaverton), chairman of the Senate Environment and Land Use Committee, spent a great deal of time meeting with interested parties, which often included the League of Oregon Cities, the Association of Oregon Counties, Oregonians in Action, the Oregon Homebuilder's Association, Metro, Department of Land Conservation and Development, the Farm Bureau, 1,000 Friends and other business and conservation interests.

Representative Bill Garrard (R-Klamath Falls), chairman of the House Land Use Committee, held hours of public hearings on the issue in his committee, asking fellow House and Senate members to take action on the issue before sine die.

Despite all of these efforts, the bill died. The following is a summary of the provisions of the amendments.

SB 1037-A, as initially amended by the Senate Environment and Land Use Committee:

- Distinguished between different types of land for purposes of developing the land under Measure 37;
- Authorized tract of record dwellings under certain circumstances;
- Narrowed applicability of Measure 37 claims on each of three types of farmland, on forest land, inside urban growth boundaries, and on the "urban fringe";
- Specified claims process;
- Specified judicial review process; and
- Provided a small compensation mechanism for disqualified property taxes.

SB 1037-B, as passed by the Senate:

- Created a uniform claims process including specific filing requirements, and a $1,000 maximum cap for claim applications;
- Created a judicial review process that was based on the record of the public entity in which the claim had been filed;

- Clarified that interveners had to meet the normal “adversely affected” test in order to meet the court’s standing requirements;

- Revised definitions and exemption language;

- Removed public entity’s responsibility for a claimant’s attorney or court’s fees;

- Gave state agencies the authority to waive statutory regulations for Measure 37 claims; and

- Revised voluntary tract of record provision for a single family dwelling on land zoned exclusive farm use.

SB 1037-C, as amended by the House State and Federal Affairs Committee:

- Expanded the definition of “owner” to include corporations, partnerships and LLCs, and extended transferability to business interests as well as individual property owners;

- Provided that property transferred to a business entity by a shareholder would be considered to have the same date of acquisition as the date of acquisition by the shareholder;

- Provided that if a public entity waived a land use regulation, the waiver would be transferable and remain effective until:
  (a) ten years after the date of the final decision in which the waiver was approved if the claim was filed on or before December 2, 2006, or
  (b) two years after the date of the final decision in which the waiver was approved if the claim was filed after December 2, 2006;

- Restored compensation allowance for attorney fees and expenses to claimants;

- Restored original Measure 37 language for definitions and exemptions;

- Restored $1,000 maximum cap for claim applications; and

- Gave state agencies authority to waive statutory regulations for Measure 37 claims.

SB 1037-D, as passed by the House and rejected by the Senate:

- Restored original Measure 37 language for definitions and exemptions;

- Gave state agencies authority to waive statutory regulations for Measure 37 claims;

- Provided that property transferred to a business entity by a shareholder would be considered to have the same date of acquisition as the date of acquisition by the shareholder;

- Provided that if a public entity waived a land use regulation, the waiver would be transferable and remain effective until:
  (a) ten years after the date of the final decision in which the waiver was approved if the claim was filed on or before December 2, 2006, or
  (b) two years after the date of the final decision in which the waiver was approved if the claim was filed after December 2, 2006;

- Added county service districts to definition of public entity;

- Contained the same claims and judicial review processes as in SB 1037-C;

- Established a $1,000 maximum cap for claim applications; and

- Removed public entity's responsibility for a claimant's attorney or court fees.

In committee upon adjournment

SB 5581 – BUDGET FOR THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

While the rest of the state's budget was tight, the Oregon Department of Land Conservation and Development's (DLCD) budget increased considerably. DLCD was appropriated $1.5 million for 14 additional FTEs for Measure 37 claims, $600,000 for the SB 82 land use review work, and $375,000 for computer infrastructure. The local government grant allocation in DLCD's budget was comparable to the last biennium.

Effective: August 17, 2005
Chapter 722

PARKS

HB 2704 – MANAGEMENT OF FOREST PARK AND BALCH CREEK WATERSHED

This bill would have required the Land Conservation and Development Commission to review Portland's Forest Park and its Balch Creek watershed for possible designation as an area of state concern. Moreover, the bill would have recommended a management plan.

The bill never made it out of the House Agriculture and Natural Resources Committee.

In committee upon adjournment

HB 2097 – LICENSING ARBORISTS

This bill would have created an arborist license and consolidated the licensing of arborists under the Oregon Landscape Contractors Board (LCB). The bill defined arborist, established examination, experience, and certification requirements for the arborist license, and provided exemptions. It specified that an arborist would have been authorized to perform arboriculture only as a licensed, bonded landscape contractor or as an employee of a licensed, bonded contractor.

The bill passed the House less than 24 hours before sine die, and did not receive a committee assignment in the Senate.

At the President's desk upon adjournment

PROPERTY TAXATION

HB 2047 – PUBLIC/PRIVATE ENERGY INTANGIBLES

This bill would have exempted a private company from intangible personal property taxes on its contract to operate a publicly-owned energy facility. There is only one such arrangement currently in the state, the city of Klamath Falls contracts the operation of its co-generation facility to PPM Energy. The bill was drafted in response to a pending tax court decision. The bill received only one hearing in the House, but was reintroduced as HB 3453 (see below).

In committee upon adjournment

HB 2349 – STRATEGIC INVESTMENT PROGRAM

HB 2349 would have reduced the threshold level of new investment necessary to qualify for property and other tax exemptions under the Strategic Investment Program. Currently, the minimum new investment needed to qualify is $100 million in an urban area and $50 million in a rural area. HB 2349 would have reduced these levels to $50 million and $12.5 million respectively. The House Trade and Economic Development Committee passed the bill with a subsequent referral to House Revenue, where the bill never made it out of committee.

In committee upon adjournment

HB 2511 – FRATERNAL CLUB EXEMPTION

HB 2511 added four additional fraternal organizations to the list of those that are exempt from property taxes under Oregon law: the Lions, Soroptimists, Rotary and the Kiwanis clubs (see ORS 307.134). The revenue impact for this bill is minimal (less than $20,000 estimated in 2005-07; the city portion of that impact would be only $4,400) because the majority of property owned by these organizations is already exempt – likely because it is being rented by not-for-profit organizations at or below cost, which is a separate exemption already allowed under law.

Effective: January 1, 2006
Chapter 389

HB 2659 – REFUNDS

This bill retains the 6-year limit for filing a refund claim. However, the approval process for a claim is simplified. Following the submission of a claim to the

county governing authority on or before the end of the 6-year expiration period, an order from the Department of Revenue, the Oregon Tax Court, or the Supreme Court will constitute a final determination of the matter. In addition, a county assessor or tax collector may issue a written stipulation that constitutes a final determination of the matter. It applies to taxes imposed in tax years beginning on or after July 1, 1991, that are the subject of a property tax appeal, including a supervisory appeal under ORS 306.115, for which a final determination or stipulated judgment had not been issued prior to April 1, 2004.

Effective: November 4, 2005
Chapter 394

HB 2776 – HISTORIC RESIDENTIAL PROPERTY TAX EXEMPTION

This bill gives cities or counties the option of granting a second 15-year special assessment to owners of historic residential property. At the termination of the initial 15-year special assessment period, the residential property will be re-assessed. In order to qualify for a second 15-year special assessment period under the new amount, the property owner must file a new preservation plan with the Oregon Historic Preservation Office.

The bill specifies that the second 15-year special assessment period will be terminated on the sale or transfer of the residential property, unless the new owner expressly assents to the preservation plan in effect for the property and continues to implement the preservation plan.

Effective: January 1, 2006
Chapter 549

HB 2945 – VETERANS' RESIDENTIAL EXEMPTION

House Bill 2945 was one of a package of Veterans bills which passed in 2005. It modifies the existing property tax exemption for residences of disabled veterans. The bill increases the maximum amount of the allowable exemption from assessed value from $10,460 to $15,000 for disabled veterans, and from $13,930 to $18,000 for veterans with a service-related disability. These exemption thresholds were last amended in the late 1990s.

Effective: November 4, 2005
Chapter 520

HB 3334 – NATIONAL GUARD EXEMPTION

This bill would have exempted up to $60,000 of assessed value of a homestead for members of the Oregon National Guard, military reserve forces, or organized militia of another state called into active service, for the period of that service.

In committee upon adjournment

HB 3453 – PUBLIC/PRIVATE ENERGY INTANGIBLES EXEMPTION

HB 3453 would have provided a property tax exemption on tangible and intangible property arising from qualified local governments and energy companies. This bill was initiated by Pacific Power Marketing (PPM) because of a Tax Court decision involving the City of Klammath Falls that is currently pending before the Oregon Supreme Court. In the case of PPM vs. the Department of Revenue (DOR), the Tax Court ruled in the DOR's favor with respect to a property tax assessment of roughly $.9 million for TY 2002. The assessment was based upon the DOR's position that PPM's use of tangible or intangible real or personal property, owned by a qualified governmental entity, was subject to tax. When the City of Klamath Falls' contract with PPM transferred rights to PPM to use the City's property, the City's property tax exemption was not transferable to PPM.

The Governor vetoed the bill because he felt that it was a matter best left to the Oregon Supreme Court to decide.

Governor vetoed

HB 3359 – INTERNATIONAL AIRCRAFT EXEMPTION

HB 3359 is intended as a clarification of current law. The Oregon Department of Revenue and the Attorney General sought this legislation to specify that the assessment of property tax under ORS 308.515(1)(a) does not apply to aircraft owned by foreign airlines and used solely in international passenger service. No taxes against such aircraft have been assessed or paid.

Effective: January 1, 2006
Chapter 135

SB 29 – PROPERTY TAX ASSESSMENT

SB 29 clarifies how property taxes are to be assessed and calculated. When the maximum assessed value of either a new structure or improvements to an

existing structure must be determined, assessors multiply the value of the property by the appropriate changed property ratio (CPR), which is defined as the average maximum assessed value relative to the average real market value of similar properties located within the same geographic area and property classification as the subject property. SB 29 clarifies that a property's real market value, not some other type of value such as assessed value, will be multiplied by the changed percent ratio (CPR) in order to determine that property's maximum assessed value.

Effective: January 1, 2006
Chapter 213

SB 267 – TAX COURT DETERMINATIONS

SB 267 allows the tax court to determine the real market value of specially assessed property for property tax appeals based on evidence before the court, not solely on the values being pleaded by the parties. In 1997, major changes were undertaken to restructure the appeals process. When ORS 305.435 was repealed to create a magistrate division, one section of this statute that was inadvertently repealed addressed the tax court's ability to determine the real market value of property, without regard to the values pled by parties. SB 267 reinstates this authority.

Effective: January 1, 2006
Chapter 224

SB 273 – HOMESTEAD EXEMPTION

ORS 18.345 sets out a list of property that is exempt from enforcement of a creditor's civil judgment. This is essentially the list of property that the legislative assembly has determined may not be taken as a result of a civil judgment. Under current law, a judgment debtor's vehicle is exempt up to a value of $1,700 and the debtor's homestead is exempt up to a value of $25,000, or up to $33,000 when two or more members of the same household are joint debtors.

This measure amends the statute that sets out the exemptions to civil judgments by increasing the exemption for a vehicle to $2,150, and also increases the exemption for a home to $33,000 for an individual debtor, or $39,600 in the case of joint debtors who are members of the same household. The increases represent a 20 percent increase from the current amounts. These exemptions were last increased in 1993 and in 1981.

Effective: January 1, 2006
Chapter 465

SB 283 – NOT FOR PROFIT LLC

This bill enables a limited liability company (LLC) to qualify for property tax exemption or special assessment if the LLC is wholly owned by one or more nonprofit corporations and the property would qualify for exemption or special assessment if it were directly owned by the non-profit corporation. This portion of the bill has a minimal revenue impact of $130,000 statewide for all property taxing entities in 2005-07; the city portion would be roughly $28,000.

The bill's broad relating clause ("relating to taxation") resulted in a series of amendments that were incorporated into the final bill, including tax provisions for long term care facilities, and allows the Oregon Department of Revenue to prosecute for unpaid withholding taxes.

Effective: January 1, 2006
Chapter 668

SB 839 – MULTI-UNIT HOUSING TAX EXEMPTION

SB 839 extends the expiration, from January 2006 to January 2012, for a statute that allows local governments to provide a voluntary 10-year property tax exemption for multi-family rental units that are located in: light rail station areas; in transit-oriented areas; or in designated areas in which the units are subject to a low income housing contract with an agency or subdivision of this state or the United States. The exemption is limited to the housing units themselves, not the land on which they sit.

Portland, Gresham, and Eugene have active programs for qualified multi-family rental units that are exempt from property tax. Salem also has active programs, but the exemptions expired last year. The Oregon Department of Revenue's published expenditure report for 2005-07 estimates that the FY 2005-2007 revenue impact for existing projects is $8.4 million, with the city portion of that impact being $0.9 million per year.

Effective: January 1, 2006
Chapter 176

SB 847 – DISTRESSED URBAN HOUSING EXEMPTION

SB 847 revives a voluntary property tax exemption that was allowed to expire in 2003. The exemption allows cities to voluntarily provide a 10 year property tax exemption to single unit, owner occupied housing located in a designated economically distressed area. To qualify for the exemption, the housing unit

must have a market value that is no more than the lesser of 120 percent of the city's median housing value or a percentage adopted by the city. A "distressed geographic area" is defined by statute as a deteriorated residential area that is unsafe and may contain a significant number of vacant or abandoned dwellings in it. Distressed areas can occupy no more than 20 percent of the total area of the city.

The City of Portland has been the principle user of this exemption, using home ownership as a catalyst to turning around economically challenged areas.

Effective: November 4, 2005
Chapter 470

SJR 14/HJR 14 – DOUBLE MAJORITY MODIFICATION

Resolutions were filed in the House and Senate to modify the double majority requirement for property tax elections. Filed in the Senate by Sen. Richard Devlin (D-Tualatin), SJR 14 would have eliminated the double majority requirement for a taxing district placing a property tax measure on the ballot in a November general election during even-numbered years or during special elections in May of any year. This resolution passed the Senate 20 to 8. HJR 14, filed by Rep. David Hunt (D-Clackamas), would have allowed two elections a year not subject to the double majority requirement. Both resolutions received hearings in the House State and Federal Affairs Committee, which took no further action.

Measures 47/50 imposed a new voter turnout requirement for property tax elections, commonly referred to as double majority. Beyond the standard yes vote majority (simple majority), tax measures must achieve at least a 50 percent voter turnout in order to pass. The double majority applies only to local government property tax measures, and not to any state tax increase.

The League of Oregon Cities published the "Local Property Tax Election Study". The study found that since 1997, 122 out of 936 property tax measures failed due to the double majority requirement. In many of these cases, those who voted overwhelmingly said yes, but voter turnout slightly lower than the required 50 percent resulted in the failure of the tax measures. In fact, half of the measures that failed under double majority (61) would have passed if all the needed votes for a 50 percent turnout had been cast as no. In those cases where measures failed due to double majority, non-votes were given greater weight than the actual votes cast in the election.

The two resolutions progressed farther than similar legislation in previous sessions.

In committee upon adjournment

PUBLIC CONTRACTING

HB 2214 – PUBLIC CONTRACTING TECHNICAL CORRECTIONS

A loose thread from the 2003 Legislative Session, this bill makes technical corrections to the public contracting code that became operative on March 1, 2005. It clarifies that public improvement contracts may be entered into under a joint cooperative agreement, but not under a permissive cooperative agreement. The bill requires a public contracting agency to define the characteristics of a class of contracts in order to exempt projects from competitive bidding. It also disallows using a particular funding source as the sole characteristic of such a class. Finally, it adds a formal declaration of emergency requirement to exempt contracts from competitive bidding for emergency reasons.

HB 2214 exempts public improvement contracts of less than $50,000 from performance and payment bond requirements; allows bond amounts to be adjusted to reflect work that is performed in phases; and maintains the exemption for energy savings performance contracts from competitive bidding requirements, but makes a correction to reflect current law by subjecting them to the remainder of the Public Contracting Code.

Other provisions of the bill clarify that it is the contracting agency that makes the estimate of contract value for purposes of whether the project reaches the threshold value which requires first tier subcontractor disclosure submissions. This bill also makes other reference corrections and clarifies the applicability of the code. The bill is retroactive to March 1, 2005.

Effective: May 31, 2005
Chapter 103

HB 2259 – PROCUREMENT CONTRACTS TECHNICAL FIX

An error occurred during the 2003 Legislative Session in the drafting of HB 2341-B, which revised the Public Contracting Code. An amendment adopted by the Senate Rules Committee was not captured on the final, engrossed version of the measure. The language requiring contracting agencies to enter into small procurement contracts “in accordance with small procurement procedures established by rules adopted under ORS 279A.070” should have been omitted. HB 2259 amends the statute to reflect correctly the intention of the 2003 Oregon Legislative Assembly.

Effective: May 18, 2005
Chapter 64

HB 3272 – QUALIFICATIONS BASED SELECTIONS PROCESS

Qualifications Based Selection ("QBS") is a nationally-promoted method for choosing a contractor or consultant. Under a mandatory QBS system, a contractor must be chosen from a list of applicants by reviewing only the "qualifications." Only after the initial "qualifications-based" selection is made can the government negotiate the price and scope of the project. If the agency and the consultant cannot negotiate reasonable compensation, the contracting agency must then go through the lengthy process of terminating the contract and selecting other consultants using the same process. Many smaller cities and government bodies find this process cumbersome and needlessly expensive.

In 1997, due to a lobby effort from national professional engineering and architect groups, the Legislature required state agencies to use QBS for architectural, engineering, and land surveying services. This mandate did not extend to local governments. The 2001 Legislature expanded the mandatory QBS requirement to local governments for projects over $400,000 that had at least 35 percent of their funding from the state. The 2001 bill set a 2008 sunset on the local requirement.

HB 3272 represents a negotiated agreement between QBS proponents and local governments. It more than doubles the project cost threshold for QBS to $900,000, and lowers the state-participation level to 10 percent. Thus, if locally contracted projects are over $900,000 and contain at least 10 percent state-funded monies, local governments must now follow the QBS process for architect, land surveyor, and engineering services. (If both total value and the state fund thresholds are not met, the mandate does not apply.) The bill also removes the 2003 Legislature's 2008 sunset on local QBS requirements.

Effective: January 1, 2006
Chapter 509

SB 136 – PREVAILING WAGE AND FLAGGERS

This bill deletes an obsolete reference to prevailing wage rates for flaggers on federally funded prevailing wage projects. Prior to 1995, flaggers were not covered on such projects. Because they were not covered under federal law, Oregon enacted legislation to cover flaggers under state prevailing wage rate laws. In 1995, flaggers first became covered under the federal Davis-Bacon law. As a result, Oregon's law specifically covering flaggers is no longer necessary.

Effective: January 1, 2006
Chapter 153

SB 150 – PUBLIC WORKS CONTRACTS / APPRENTICESHIP TRAINING

SB 150 would have prohibited employers from entering into public works contracts for which the contract price exceeds $350,000 unless the employer was an approved apprenticeship training agent, subject to certain exceptions. It would also have directed the Bureau of Labor and Industries Commissioner to appoint a work group to evaluate inclusion of subcontractors and to report back to the next Legislative Assembly. The bill passed the Senate but never received a hearing in the House.

In committee upon adjournment

SB 173 – "TWO TIER" CERTIFICATION OF SMALL BUSINESSES

This bill creates a two-tier system for certification of emerging small businesses and modifies the qualifications by increasing the employee and gross-receipts thresholds. It defines a "tier one firm" as one that employs fewer than 20 full-time equivalent (FTE) employees and has average annual gross receipts that do not exceed $1.5 million for a construction firm or $600,000 for a non-construction firm. It defines a "tier two firm" as one that employs fewer than 30 FTE and has average annual gross receipts below $3 million for a construction firm or $1 million for a non-construction firm. Further, it increases the limit on participation from seven to twelve years, six years at each tier. It allows reinstatement of a formerly certified business if the business still qualifies as an emerging small business and has eligibility remaining. Lastly, it transfers the Emerging Small Business Account from the Consumer and Business Services Fund to the State Highway Fund.

Effective: January 1, 2006
Chapter 683

SB 477 – PREVAILING WAGE OMNIBUS PACKAGE

SB 477 represents the first significant update to the prevailing wage law in years – a negotiated agreement between multiple parties. Most significantly, it doubles the dollar threshold for the determination of which projects fall under the prevailing wage requirements, increasing the threshold from $25,000 to $50,000.

For governments seeking more private-public partnerships and greater neighborhood involvement, the bill clarifies that volunteer labor and donated materials are not included in calculating a public project's value for purposes of the prevailing wage threshold. Additionally, it clarifies that fees paid for or waived by a public agency, and government staff resources used for design,

management, or inspection of the project are not counted as part of the project value.

The bill also requires: a public agency to retain 25 percent of contract payments until the contractor files payroll statements; specifications for subcontracts for public works to contain provisions on prevailing rates of wage; the payment of the higher of state or federal prevailing wages when a project includes both state and federal funds; the Bureau of Labor and Industries to determine and publish the federal and state rates for each trade and locality; and the contractors and subcontractors working on public works to file a one-time $30,000 “public works bond” with some exceptions.

Effective: January 1, 2006
Chapter 360

SB 1006 – LOWEST RESPONSIBLE BIDDER FORM

This bill requires public contracting agencies to document their determination of lowest responsible bidder on a form submitted to the Construction Contractors Board and specifies the contents of the form.

Effective: January 1, 2006
Chapter 376

(For another bill related to Public Contracting, please see HB 2077 under Transportation.)

PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

HB 2189 – ACCRUAL OF BENEFITS

Under Oregon's wage law, an employer must pay the final wages of a deceased employee to the employee's "survivor," a term defined by statute. Historically, the state payroll system has calculated and paid PERS contributions that included the final wages paid to an employee's survivor on death. However, a PERS statute (ORS 283.005) specifies that "payments made on account of an employee's death" are not PERS-subject earnings. HB 2189 resolves the apparent conflict between the statutory language and the payroll system's standard operating procedure by amending the statutory definition of PERS-subject salary to include "wages of a deceased member paid to a surviving spouse or dependent children."

Thus, HB 2189 specifies that final wages earned by an employee, but paid to employee's spouse or dependent child on death, are considered wages for purposes of calculating benefits under the Public Employee Retirement System (PERS). It provides that Oregon Health Sciences University (OHSU) full time teaching faculty accrue a year of retirement service credit under the Oregon Public Service Retirement Plan (OPSRP) for each regular teaching year. It also addresses issues related to break-in-service, by allowing employees returning to qualifying employment after a break-in-service to put years in service under PERS toward certain benefits in ORSRP.

Effective: June 29, 2005
Chapter 332

HB 2925 – CLASSIFICATION OF CERTAIN EMPLOYEES AS POLICE OFFICERS

This bill would have reclassified certain public employees as police officers for purposes of benefits under the Public Employees Retirement System. The reclassification would have applied to: Oregon military that are classified as force protection, patrol leaders or as investigators; campus security personnel at OHSU; and some juvenile case and detention workers.

This bill was referred to State and Federal Affairs and never received a hearing.

In committee upon adjournment

HB 3262 – OMNIBUS PERS BILL

HB 3262 contains additional technical changes to PERS, as well as some policy provisions with no or indeterminately small costs to employers.

Importantly, HB 3262 clarifies that, consistent with federal income tax qualifications, PERS is a single retirement plan with multiple component programs. This designation will allow movement of employer reserve surpluses to cover liabilities in any component program. Another significant item of interest to cities covers the inactive police and firefighter retirement age. An inactive police or firefighter member is eligible for full retirement allowance at age 50, with a combined total of 25 years or more of creditable service. HB 3262 also changed the final average salary calculations back to "earned when paid" (instead of when the salary is earned) for Tier Two and OPSRP employees of the state, schools, community colleges, and the Oregon University System; local government Tier Two and OPSRP employees' salaries will still be considered "earned when earned" so as to eliminate differences in employee benefits based simply on when their employer's payroll happens to fall.

Other provisions of the bill:

- Allow a person who purchases retirement credits for active military service to have their service retirement allowance calculated under any method for which the person is eligible.

- Invalidate a PERS member's beneficiary designation when the membership is terminated and the account withdrawn.

- Clarify that a PERS member has no interest in benefits payable to an alternate payee, unless provided by judgment, order or agreement and that an alternate payee award is property that may be passed on to heirs.

- Pro-rate benefit eligibility for part time OPSRP School Employees - Part time Oregon Public Service Retirement Plan (OPSRP) school employees, while still only eligible for reduced benefits based on their hours, receive a year of service credit for purposes of calculating normal retirement age if they work at least 600 hours in the year. Part time OPSRP school employees who have worked at least 600 hours in ten or more calendar years before they become disabled may be eligible for disability benefits.

- Exempt retired employees of Black Butte Ranch Rural Fire Protection District and Service District and the Sunriver Service District from the

limitation that retirees can work no more than 1,039 hours in a year and still receive PERS retirement benefits.

Effective: November 4, 2005
Chapter 808

SB 54 – DEATH BENEFIT

SB 54 modifies the date on which an increased monthly benefit would be payable to a retired member of PERS if they select a retirement option that provides for an increased benefit if their designated beneficiary dies prior to themselves. This "pop-up benefit" also applies in the case of divorce. The bill establishes the date of death or the date of a divorce judgment – as opposed to a member's written application – as the triggering event for purposes of commencing such payments, and allows for retroactive lump sum payment dating back to the triggering event, but exempts retroactive payments from interest. This bill had no fiscal impact, because actuaries have always figured the date of the event into their calculations.

Effective: January 1, 2006
Chapter 138

SB 108 – PERS AND OPSRP DEFINITIONS

SB 108 provides a consistent definition of the terms "inactive member" and "qualifying position" across the PERS and OPSRP pension programs. In addition, the bill makes provisions for lump sum or installment payments for certain types of accounts. It requires some retirees to receive program benefits for certain smaller accounts in a lump sum or on an installment schedule other than a monthly schedule. And PERS members who are 55 or younger, but who have accrued 30 years or more of service, can now receive individual account program benefits according to a monthly or other installment schedule, rather than continuing the requirement that these benefits be available by a lump sum payment only.

Effective: January 1, 2006
Chapter 152

SB 5559 – FEE FOR ESTIMATING RETIREMENT BENEFITS

This bill provides legislative ratification of a $60 fee imposed by the Public Employees Retirement Board for the third and subsequent retirement benefit

estimate requests submitted in one year by members that are within two years of eligibility for service retirement. There is no fee for the first and second retirement benefit estimate requests submitted in one year.

Legislation passed in 2003 mandated that the Public Employees Retirement Board assess fees for services requested beyond what the Board would consider reasonable. The Board, through the rulemaking process adopted a $60 fee to compute retirement benefit estimates a third time or more. The Board felt two benefit estimates in one year would provide sufficient information to members to make a reasoned determination about their retirement. Members more than two years from retirement cannot request retirement benefit estimates.

Effective: July 1, 2005
Chapter 332

PUBLIC SAFETY

HB 2020 – DUAL CRIMES FOR ASSAULTS AGAINST PREGNANT WOMEN

Drawing from California's Lacy Peterson law, HB 2020 would have created the crime of "assault of an unborn child", making the assault of a pregnant woman two separate crimes, thus subjecting the defendant to an enhanced sentence. The bill included "unborn child" in the definition of "human being" for the purposes of Oregon's criminal homicide statutes. The Senate introduced SB 712 that would have provided similar protections for pregnant women without creating two crimes, but the House and Senate were unable to reach a compromise.

In committee upon adjournment

HB 2050 – THREE MILE SAFETY RADIUS

This bill requires a court, post-prison supervisory authority, or parole board to require the sex offender to move outside of a three mile radius of the victim's home. Under current law, nothing prohibits a defendant who has sexually abused or otherwise assaulted a minor from living near his or her victim. The bill creates exceptions for offenders living in halfway houses, for offenders living in smaller counties, for crimes committed under certain circumstances, and for circumstances wherein the victim is the one to move to a location within three miles of the offender.

Effective: January 1, 2006
Chapter 642

HB 2156 – INTERSTATE CRIMINAL RECORDS SHARING

HB 2156 ratifies the National Crime Prevention and Privacy Compact. This compact allows participating states to share criminal records information in accordance with each state's own public records law. By becoming a "party state" in ratifying the compact, Oregon agrees to maintain detailed databases of their criminal history records, including arrests and disposition, and to make them available to the federal government and party states for authorized purposes.

Effective: January 1, 2006
Chapter 479

HB 2223 – ROADSIDE SOLICITATION

To bring the statutes in line with the Oregon Constitution, this bill repeals ORS 814.090 and 814.092 restricting solicitation of funds or employment along a highway. The statutory provisions proposed for repeal were enacted in 1983 to address those who position themselves along highways and onramps and hold up signs seeking employment or money due to their alleged homeless or indigent condition. The law was subsequently amended in 1995 to allow specific types of charitable fundraising activities. Then, in *Springfield v. Aquizap* (1996), the Oregon Court of Appeals declared the entire statute unconstitutional as an infringement on the right to free speech provisions of the state constitution.

Effective: January 1, 2006
Chapter 63

HB 2282 – ELECTRONIC FILINGS AND VIDEO APPEARANCES

This bill modifies the complaint in criminal and violation citations and expands use of electronic appearances in criminal cases. The City of Portland introduced an amendment that provides peace officers authority to electronically file criminal citations.

In 1999, the legislature changed the law so that police officers could reduce the number of citation books needed to issue citations by combining criminal and violation citations on the same form. However, language on the form did not match statutory language regarding grounds for issuing a citation, leading courts to express concern about inconsistency of application. HB 2282 remedies this problem.

Effective: July 20, 2005
Chapter 566

HB 2297 – PUBLIC INDECENCY

HB 2297 expands circumstances under which public indecency is a felony. Currently, if a person has a prior conviction for Public Indecency (or other enumerated sex offenses) then a second offense is a felony. The statute does not, as written, contemplate prior convictions for similar offenses from out-of-state. This bill adds the out-of-state provisions. A person commits the crime of public indecency if while in, or in view of, a public place the person performs an act of sexual intercourse, an act of deviate sexual intercourse, or an act of

exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.

Effective: January 1, 2006
Chapter 434

HB 2299 – SEX OFFENDER REPORTING REQUIREMENTS

Under certain circumstances, a person required to register as a sex offender can be relieved of their reporting requirements. A court makes the determination and orders the relief. This bill requires individuals relieved of their reporting duties to send a certified copy of the court's order to the Department of State Police. It also expands sex offender reporting requirements by requiring a sex offender to report when the sex offender works at, carries on vocation at, or attends an institution of higher education, and makes Failure to Report as a Sex Offender a crime.

Effective: January 1, 2006
Chapter 567

HB 2313 – SENTENCE ENHANCEMENT FOR GANG INVOLVEMENT

Introduced as a result of the 2003 Joint Interim Judiciary Committee research into gang activities in Multnomah County, this measure would have added participation in a street gang as an enhancement factor for certain crimes.

The bill passed the House, but stalled in the Senate Budget committee.

In committee upon adjournment

HB 2316 – SEX CRIMES STATUTE OF LIMITATIONS

Currently, Oregon law provides that when a victim of the felonies listed below occurs when the victim is under 18 years of age, the statute of limitations runs out either at the victim's twenty-fourth birthday or within six years of being reported to a law enforcement agency. The bill changes the law to provide that prosecution can be commenced by the victim's 30th birthday or within 12 years of being reported to a law enforcement agency.

The felonies included are: Criminal Mistreatment I; Rape I, II, and III; Sodomy I, II, and III; Unlawful Sexual Penetration I and II; Sexual Abuse I and II; Using a

Child in Display of Sexual Conduct; Encouraging Child Sexual Abuse; Incest; Promoting Prostitution; and Compelling Prostitution.

Effective: January 1, 2006
Chapter 839

HB 2322 – ASSAULTS AGAINST CHILDREN

This bill expands Assault in the First Degree to include intentionally or knowingly causing serious physical injury to a child under 6 years of age. In the hearing, the Senate Judiciary Committee took note of several examples of "Shaken Baby Syndrome."

Currently, a person is guilty of Assault in the First Degree if they intentionally cause serious physical injury to another by means of a deadly or dangerous weapon. Assault in the First Degree carries a mandatory minimum sentence of 90 months.

Effective: January 1, 2006
Chapter 513

HB 2335 – CHILD ABUSE REVIEW

Starting out this session as a bill that required all child abuse investigations to be complete within 45 days, this bill was amended to require a multidisciplinary team review of child abuse cases in situations where a parent has voluntarily removed himself or herself from the home. Among others, the City of Portland negotiated the amendment, because as written, it would have required the City to triple the number of detectives investigating child abuse cases in order to comply with the 45 day requirement.

Effective: January 1, 2006
Chapter 499

HB 2361 – LICENSE REVOCATION FOR MULTIPLE DUII'S

This bill clarifies an ambiguity from a law passed during 2003 Legislative Session regarding revocation requirements when a person is convicted of misdemeanor driving under influence of intoxicants for third or subsequent time.

Effective: January 1, 2006
Chapter 436

HB 2485 – EXPANSION OF METH CRIMES AND PENALTIES

House Bill 2485-C is one-half of the methamphetamine package developed by a work group of legislators from both parties and chambers. See SB 907 for the other half of the package.

This bill creates several crimes regarding the use, distribution, and production of methamphetamine and its precursor substances. Specifically, it clarifies that public nuisance and abatement laws apply to homes used as meth labs; expands the crimes of arson to include fires caused by meth labs; creates a crime of possessing or disposing of meth manufacturing waste; provides for civil immunity for people who report certain meth crimes to the authorities; and creates and expands crimes involving precursor substances. The bill also directs the Oregon Board of Pharmacy to adopt rules classifying products containing ephedrine, pseudoephedrine, and phenylpropanolamine as Schedule III controlled substances by July 1, 2006. This will require a prescription to purchase drugs containing these ingredients. HB 2485 directs the Oregon Criminal Justice Commission to receive grant applications to start or continue drug court programs.

An affirmative defense is created by this bill for pseudoephedrine possession under certain circumstances and expands recording requirements for sales or transfers of iodine in its elemental form and as iodine matrix.

Lastly and most controversially, HB 2485 authorizes the Oregon Department of Human Services, under certain conditions, to suspend food stamp benefits of a person who has been convicted of the manufacture or delivery of a controlled substance.

Effective: August 16, 2005
Chapter 706

HB 2510 – EXPANSION OF FORGERY CRIMES

HB 2510 expands the types of forged instruments to which crime of criminal possession of a forged instrument applies to include retail sales receipts, Universal Product Code labels, and EAN-8 and EAN-13 labels. The bill also adds that 15 or more of the labels or receipts will elevate the offense to a Class C felony.

Universal Product Code labels, EAN-8 labels, and EAN-13 labels are on products and contain bar codes. Individuals can defraud a merchant by switching the label of a less expensive product with the label for a more expensive product and then purchase the product at the lower price. The label for the less expensive

product is removed and the more expensive product is returned at another store where the higher price is refunded.

Effective: January 1, 2006
Chapter 761

HB 2569 – POLICE REPORTING EXEMPTION

This bill exempts law enforcement officials acting in the course of their official duty from motor vehicle accident reporting requirements. It clarifies that the exception applies to all intervention technique maneuvers, whether it is to end a criminal chase or to assist an out-of-control vehicle that may not result in any criminal charges.

Effective: June 29, 2005
Chapter 405

HB 2723 – BPSST MANDATED LEAVE

HB 2723 requires an employer to grant a leave of absence to any public safety officer who is on the Board on Public Safety Standards and Training, or on any committee established by the board, to allow the officer to attend meetings and perform duties of the board or committee.

Effective: January 1, 2006
Chapter 279

HB 2724 – PUBLIC SAFETY OFFICER PUBLIC RECORDS EXEMPTION

HB 2724 provides that the home address, home telephone number, and electronic mail address of public safety officers be exempt from disclosure if the public safety officer requests. (Public safety employees are defined by statute as certified reserve officers, corrections officers, parole and probation officers, police officers or youth correction officers. These terms are further defined in ORS 181.610.)

Effective: January 1, 2006
Chapter 397

HB 2811 – VIDEO DEVICES IN MOTOR VEHICLES

The City of Portland, driven by a concern about distracted drivers, introduced HB 2811 to expand the types of equipment or devices that may not be used in a

motor vehicle to include televisions and DVD players if the equipment is located forward of the back of the driver's seat or is visible to the driver. The bill provides exceptions for emergency vehicles and navigation systems.

Effective: January 1, 2006
Chapter 572

HB 2840 – 7 TO 5 SCHOOL DAY SCHOOL SPEED ZONES

This bill is the "fix" to the 2003 Legislature's imposition of what many critics dubbed "the 24/7" school speed zone legislation. During the interim period between sessions, many legislators stated that they received more calls on this issue than any other. This bill represents an attempt by several legislators to strike a difficult balance between traffic safety and traffic flow. It provides that school zone speed limits apply on roads adjacent to schools when flashing yellow lights are illuminated or between 7:00 a.m. and 5:00 p.m. on a day when school is in session. It also provides that school speed zone limits apply at crosswalks marked as a school zone when flashing yellow lights are illuminated or when children are present as described in ORS 811.124 (meaning that children are in the crosswalk, waiting on the curb or shoulder, or that a traffic patrol member is present to assist children). The bill sets a delayed effective date of July 1, 2006 to allow cities and counties to make any needed sign changes.

Effective: July 1, 2006
Chapter 573

HB 2965 – DISCIPLINARY ACTION AGAINST PUBLIC SAFETY OFFICER

This bill would have permitted disciplinary action against a public safety officer only for just cause. It also would have established protections and procedures for investigating, interrogating, and disciplining public safety officers. Lastly, it would have protected public safety officers from a search of their lockers or storage spaces. The bill did not receive a hearing.

In committee upon adjournment

HB 2982 – DISCLOSURE OF BANK RECORDS

The records of bank customers are not public and not available to law enforcement except through subpoena or as provided in other specialized statutes. This can pose a problem in the investigation of identity theft. To assist

law enforcement officials in their investigations of identity theft crimes, this bill increases the time period for which certain law enforcement agencies may obtain limited customer account information from banks and other financial institutions from 15 days to three months before or after a transaction. The bill also expands the information available to include whether the bank has an account for a particular customer and copies of deposit slips. The bill applies to criminal investigations and includes trust companies within the definition of "financial institutions."

Effective: January 1, 2006
Chapter 130

HB 3106 – VEHICLE THEFT PROTECTION BOARD

This bill would have created the Vehicle Theft Protection Board and established the Vehicle Theft Prevention Fund. The bill was referred to the House Subcommittee on Criminal Law but did not receive a hearing.

In committee upon adjournment

HB 3379 – EXPANDING DEFINITION OF PEACE OFFICERS

This bill amends ORS 161.015 to include parole and probation officers in the definition of peace officers. The definitions apply throughout the criminal code and include the ability to use physical force, conduct arrests, and similar responsibilities and duties. The bill does not set aside funding for any additional training that may be necessary as a result of the expansion of the duties, nor does it affect Public Employees Retirement System eligibility. Moreover, the bill creates a task force on parole and probation officer authority and will report to the next legislative session.

Effective: July 29, 2005
Chapter 668

HB 3457 – CIVIL PROPERTY FORFEITURE

Forfeiture laws authorize and outline a process for a government to take property from someone who gained it or used it illegally. In 2000, voters approved Ballot Measure 3 (BM 3), which drastically changed Oregon's asset forfeiture laws and limited a government's use of forfeiture. These laws are an important public safety tool in fighting drug trafficking and other crimes in Oregon. This bill reestablishes the use of criminal forfeiture in Oregon.

BM 3 has been challenged as unconstitutional and the case is pending before the Oregon Supreme Court. This 2005 Legislature had a choice to make: wait for the Supreme Court to decide the constitutionality and risk reverting to the pre-BM 3 forfeiture standards or forge a forfeiture compromise before the case was decided and before the current laws expired.

This bill represents a hard-fought but successful compromise. It reenacts the criminal forfeiture statutes and attempts to strike a balance between BM 3 supporters and public safety needs. It provides that in civil forfeiture cases, the burden will be on the government to prove that the property was the proceeds of illegal conduct. Additionally, the state must prove that the property is owned by a person who was convicted, and that the property was a proceed of some crime the owner committed. It establishes that the burden of proof for personal property (money, vehicles, etc) is a "preponderance of evidence," while the burden of proof for real property (i.e. land or homes) would be the stronger "clear and convincing" standard. The bill also states that if the property is owned by a person other than the one who has been convicted, the burden is on the state to show that the person took the property when they knew or should have known that it was the proceeds of a crime. Further, the measure creates a rebuttable presumption of illegality if the property is found in close proximity to controlled substances. HB 3457 also gives the court discretion to enter a default judgment upon findings that the owner has fled the jurisdiction to avoid prosecution and declares an emergency making the bill effective upon its passage.

Effective: September 2, 2005
Chapter 830

HB 3469 – SEX OFFENDER: NEW CRIMES

This bill creates the crime of unlawfully being in a location where children regularly congregate and the crime of unlawful contact with a child if an individual in question is a designated predatory sex offender, sexually violent dangerous offender, or dangerous offender who has been convicted of a sex crime.

Effective: January 1, 2006
Chapter 811

HB 3491 – FALSE REPORTING TO POLICE

This bill creates a new crime for situations where a person initiates or circulates a false report concerning an alleged hazardous substance, or alleged or impending fire, explosion, catastrophe or other emergency that is in or upon a school. The measure makes the first offense for Disorderly Conduct in the First Degree a

Class A misdemeanor and the second or subsequent offense a Class C felony. The measure also separately provides the juvenile court with the authority under ORS 419C.145 to order the preadjudication detention of a youth alleged to be in violation of the misdemeanor offense created by this measure. The bill makes conforming changes to the disorderly conduct statute.

Effective: January 1, 2006
Chapter 631

HB 3497 – CRIMINAL FINE AND ASSESSMENT ACCOUNT

HB 3497 eliminates the Criminal Fine and Assessment Public Safety Fund, transfers those moneys into the Criminal Fine and Assessment Account (CFAA), and requires CFAA monies to be allocated according to the following (new) priority:

(1) Public safety standards, training, and facilities
(2) Compensation and assistance to crime victims
(3) Forensic services of the Oregon State Police
(4) Maintenance and operation of the Law Enforcement Data System

HB 3497 prohibits the Legislative Assembly from paying debt service obligations with CFAA monies or from using CFAA monies for any purpose that is not specifically enumerated above.

Effective: January 1, 2007
Chapter 700

HB 5136 – DPSST BUDGET

The Department of Public Safety Standards and Training (DPSST) is responsible for standards, certification and accreditation, and training of public safety personnel in law enforcement, corrections, parole and probation, telecommunications, emergency medical dispatch, fire fighting, and private security.

The House Subcommittee approved a budget for DPSST of $8,515,784 General Fund, $39,779,289 total funds and 133.34 full-time equivalent positions (FTE increase of 3.6 percent). Excluding debt service, the approved budget is increased by nearly 46 percent from the 2003-05 Legislatively Approved Budget, due to costs to open the new training facility in Salem and expand the basic police training course from 10 to 16 weeks.

The House Subcommittee adopted budget notes directing the agency to report to the Emergency Board by October 15, 2006 on its progress in completing construction of the new academy, expanding the basic police training course, integrating Department of State Police training into DPSST's police academy, and other issues.

Effective: August 17, 2005
Chapter 712

HB 5167 – OREGON DEPARMENT OF STATE POLICE BUDGET

The Oregon Department of State Police's General Fund appropriation provides substantial funding for the following divisions: Patrol Services, Criminal Investigation, Forensic Services, State Medical Examiner, Office of Information Management, and Human Resources (Administrative Services). The House Subcommittee approved a budget of $172.9 million General Fund, $6.4 million Lottery Funds, and $518.6 million total funds. Total funds are increased by 124.7 percent, primarily due to reincorporating the divisions that would have made up Oregon Homeland Security. The House Subcommittee approved 1,139.78 full-time-equivalent (FTE) positions, an increase of 13.7 percent from the Governor's budget due primarily to the reincorporation of OEM, SFM, and CJSD. The House Subcommittee budget includes approved packages from the Governor's budget that establish positions for the Governor's methamphetamine initiative, provide a morgue attendant for the Medical Examiner, expand the High Intensity Drug Trafficking Area federal partnership, issue Certificates of Participation (COPs) to purchase Intoxilyzers, approve certain position reclassifications, and make certain reductions.

Federal Funds are received from a variety of federal criminal justice agencies as well as some natural resource and homeland security agencies. In a separate bill – House Bill 5168 – the House Subcommittee ratified fee increases for several fingerprinting and background check services that are provided by the Identification Services Section. The added revenues from those fee increases are included in this budget. The House Subcommittee noted and approved the agency's need to adjust various revenue beginning balances, transfers, and forecasts as a result of new information since the publication of the Governor's budget.

Effective: August 17, 2005
Chapter 718

SB 57 – FEES FOR NEW DPSST TRAINING FACILITY

This bill allows the Department of Public Safety Standards and Training to establish fees and guidelines for the use of its facilities including its training

academy. Currently, the Department of Public Safety Standards and Training is located in Monmouth on the campus of Western Oregon University. The agency is building a new facility in Salem and would like to be able to charge those who want to use its facilities; currently, it is not clear whether it has the statutory authority to do so.

Effective: January 1, 2006
Chapter 446

SB 62 – DPSST GRANTS

This bill allows the Department of Public Safety Standards and Training to provide grants to public or private entities to, among other things, conduct studies and research relating to public safety. Moreover, it sets out rules and procedures relating to background checks and licensing. Lastly, it resolves a conflict with SB 63.

Effective: January 1, 2006
Chapter 524

SB 63 – DPSST TRAINING DENIAL AUTHORITY

This bill allows the Oregon Department of Public Safety Standards and Training to deny an application for training, as well as to deny or revoke the certification, of any public safety instructor or public safety officer. It also requires the Department of Public Safety Standards and Training, through the Board on Public Safety Standards and Training, to adopt rules specifying the circumstance under which a public safety officer or instructor may not reapply, and setting forth the procedure by which a denial of certification may be reviewed.

Effective: January 1, 2006
Chapter 448

SB 65 – PENALTIES FOR UNCERTIFIED PUBLIC SAFETY PERSONNEL

Public safety agencies are required by law to employ DPSST certified employees for positions such as emergency medical dispatchers, corrections officers, and parole and probation officers. This bill authorizes the Oregon Department of Public Safety Standards and Training (DPSST) to impose civil penalty not to exceed $1,500 on a public safety agency for violation of statutes prohibiting employment of uncertified employees and directs DPSST to establish schedule of civil penalties and requires any penalties recovered to be paid into the general

fund. In addition, this bill creates a presumption that a public safety agency that terminates or reassigns an employee solely because the employee fails to meet certification standards is acting in good faith and is immune from civil liability for the termination or reassignment unless the lack of good faith is shown by clear and convincing evidence.

Effective: January 1, 2006
Chapter 586

SB 89 – CUSTODIAL SEXUAL MISCONDUCT

Introduced by the Governor at the request of DHS, this bill creates the crimes of Custodial Sexual Misconduct in the First and Second Degree. The purpose of the measure is to prohibit sexual contact between corrections/probation staff and inmate/supervisees. As amended, the bill also prohibits sexual contact between a person employed by the arresting agency and the person who is in custody of that agency following arrest. Under the measure, consent by the arrested person, inmate or supervisee is not a defense to prosecution.

Effective: July 13, 2005
Chapter 219

SB 94 – CHILD ABUSE CROSS-REPORTING

SB 94 modifies Oregon's statutory system mandating the immediate cross-reporting of child abuse between law enforcement agencies and the Oregon Department of Human Services ("DHS"). It requires DHS to adopt rules establishing which reports of child abuse require cross-reporting within 24 hours. DHS rules will also specify that all other reports of child abuse require cross-reporting no later than 10 days after receipt. The bill eliminates the statutory requirement that an entity receiving a report of child abuse immediately notify all other entities eligible to receive the report.

Effective Date: June 20, 2005
Chapter 250

SB 106 – ELDER ABUSE REPORTING

This bill amends Oregon law regarding elder abuse and the abuse of disabled persons. It includes firefighters and emergency medical technicians within the definition of officials subject to mandatory reporting requirements of abuse of elderly or disabled persons. It extends the definition of abuse for reporting and restraining order purposes to include wrongful taking or appropriating of money

or property and non-consenting sexual contact of elderly persons and persons with disabilities, and specifies the types of relief available. Lastly, it prohibits elderly or disabled people from filing a restraining order against a guardian or conservator, and contains other provisions regarding state agency and residential care facility sex offender notification requirements.

Effective: July 29, 2005
Chapter 670

SB 153 – PHOTO RED LIGHT/RADAR SUNSET

Photo red light and photo radar have become important public safety tools for cities. According to the Oregon Department of Transportation, drivers who run red lights are responsible for an estimated 260,000 crashes nationally each year. In Oregon, during the period from 1999 to 2003, there were 26 fatal crashes and 5,659 injury crashes that resulted from drivers who disregarded a red traffic signal.

This bill also addresses how a car owner may assert that he or she was not the driver at the time the ticket was issued. Presently, if the owner of the car receives a ticket and if the owner claims that he or she was not driving the car at the time of the violation, the owner may elect to send a "certificate of innocence" with a copy of their driver license photo. This bill clarifies the requirements for citation reissuance and for dismissals of citations based on certificates of innocence. This bill also provides the following: requires each city operating a photo red light camera or mobile photo radar system to present a biennial report to the legislature on its program and outcomes; and specifies that the required sign indicating operation of a photo red light or photo radar camera be placed before the location of the photo unit.

The City of Portland was responsible for shaping many of the key modifications to the bill.

Effective: January 1, 2006
Chapter 686

SB 198 – VICTIM'S PERSONAL REPRESENTATIVE

Introduced on behalf of the Attorney General's Sexual Assault Task Force, this bill allows the alleged victim of a person crime to select a personal representative to accompany him or her to virtually all phases of the investigation and prosecution.

Effective: January 1, 2006
Chapter 490

SB 203 – CHILD ABUSE REPORTING STATUTE OF LIMITATIONS

This bill specifies that the six-year statute of limitations for enumerated felony offenses and the four-year statute of limitations for enumerated misdemeanor offenses, are triggered following a report to a law enforcement agency or to the Department of Human Services, and not by a report to other governmental agencies or actors.

The measure was introduced in response to an Oregon Court of Appeals case, *State v. Walker*, in which the court held that the "other governmental agency" language meant a government agency that has a child abuse reporting obligation under ORS 419B.010. This change is designed to ensure that the statute of limitations for the enumerated offenses only runs from the time a report is made to law enforcement or the Department of Human Services, as opposed to another non-enforcement government agency or official, such as a public school teacher.

Effective: January 1, 2006
Chapter 252

SB 240 – CRIMINAL JUSTICE RESEARCH AND POLICY INSTITUTE

This bill creates the Criminal Justice Research and Policy Institute within the Mark O. Hatfield School of Government at Portland State University. Further, it creates the Oregon Criminal Scientific Advisory Committee for the purposes of providing assistance and advice to the Institute.

Effective: July 7, 2005
Chapter 453

SB 243 – SEX OFFENDER GEOGRAPHIC RESTRICTIONS

SB 243 modifies conditions of post prison supervision and parole for individuals convicted of sex crimes to prohibit such persons from being present at or on property adjacent to the grounds of a school, child care center, playground or other place intended for use primarily by children without prior written approval. In addition, it modifies conditions to prohibit such persons from being present more than one time at a place where persons under 18 regularly congregate without prior written approval.

This measure makes clear that a person convicted of a sex offense may not be present at or near a school, child care or playground at all.

Effective: January 1, 2006
Chapter 532

SB 265 – ELECTRONIC RECORDINGS DURING CUSTODIAL INTERROGATION

This bill would have required that a statement made during custodial interrogation be recorded electronically and be admissible as evidence against the defendant. The bill received a hearing and work session in the Senate Judiciary Committee but did not pass out of committee.

In committee upon adjournment

SB 295 – TRAFFIC FINE REDISTRIBUTION

SB 295 would have stripped cities of a portion of the fines collected in traffic offense cases. It attempted to redistribute this money to the Oregon State School Fund for driver's education and to the Police Standards and Training Account for police officer training.

In committee upon adjournment

SB 301 – USE OF DEADLY FORCE/GRAND JURY RECORDING

Senate Bill 301 contained several provisions regarding police officer use of deadly force (UDF) and grand jury proceedings, including: the creation of county-wide intergovernmental agencies charged with the duty to create county-wide standards regarding city, county, and state police use of deadly force; the creation of a mandated minimum 72 hour leave time for officers directly involved in the use of deadly force; and the directive to release grand jury testimony to the public in instances where deadly force resulted in the death of an individual.

Regarding the creation of UDF Planning Authorities, the bill mandated that the planning authorities create plans addressing education, outreach, training, investigation, district attorney discretion, collection of information and fiscal impacts regarding officer UDF. The bill also provided a mechanism to fund these efforts.

The City of Portland worked with the bill's proponents to ensure that cities participating in the creation of deadly force policies have several options open to them regarding the UDF plans. These options were crafted to protect city home rule authority and limit potential liability, and would have required the Planning Authority to: consist of at least one city police representative; submit the UDF plan to a vote of each governmental body with a law enforcement agency within the county; and receive approval of at least two-thirds of all governmental bodies

with law enforcement agencies within the county. Further, the bill included a provision which stated that a governing body within the planning authority jurisdiction is not subject to the UDF plan if the plan conflicts with the government's charter or ordinances.

In committee upon adjournment

SB 493 – BICYCLE STOPS AT RED LIGHTS

This bill would have allowed a person lawfully using a bicycle or other specified vehicle to proceed through a red light at the top of the T intersection after stopping under certain circumstances. The measure would have also made improper stop at a T intersection a Class B traffic violation. The bill passed the Senate, but stalled in the House Transportation Committee.

In committee upon adjournment

SB 546 – TRAFFIC CITATION QUOTAS

SB 546 would have prohibited law enforcement departments from requiring officers to issues a minimum number of traffic citations. The bill never received a hearing.

In committee upon adjournment

SB 547 – CRIMINAL IMPERSONATION OF PEACE OFFICER

This bill expands the crime of criminal impersonation of peace officer to prohibit wearing a law enforcement uniform with the intent to obtain a benefit, or to injure or defraud another. The amendment in the Senate required that the defendant acted with the intent to obtain a benefit or to injure or defraud another person. The amendment also required proof that the person did in fact act in the assumed character of a peace officer. The definition of "law enforcement uniform" was also changed to include clothing that is an official uniform or substantially similar to an official uniform such that it would be reasonably likely that a person would believe the wearer is a peace officer.

Effective: January 1, 2006
Chapter 259

SB 548 – INTERFERING WITH PEACE OFFICER

In 2004, the Oregon Supreme Court decided that portions of the Interfering with a Peace Officer statute were constitutionally overbroad. *State v. Illig-Renn* 196 Or

App 765 (2004). The bill was introduced to remove those portions and clarify when officers had authority to control a crime or accident scene. It further stated that when an individual was engaged solely in constitutionally protected activity that they could not be arrested under the statute.

The original version of the bill would have deleted the unconstitutional language and created two new ways that a person could be convicted of interfering with a peace officer. The bill passed the Senate, but was heavily amended in the House, including adding "unborn child" to the definition of "human being" within the criminal statutes. The House passed the bill as amended, but the Senate refused to concur in the House amendments.

At President's desk upon adjournment

SB 568 – SUPER SPEEDERS

This bill allows a court to suspend a person's driving privileges for up to 30 days if a person exceeds a speed limit by more than 30 miles an hour and has had one or more speeding violations within 12 months of the current offense. If the person drives 100 miles per hour or greater, the bill requires the court to impose a fine of $1,000 and suspend the person's license for not less than 30 days nor more than 90 days.

Effective: January 1, 2006
Chapter 491

SB 581 – DISCRETION FOR REDUCING TRAFFIC FINES

This bill would have expanded the court's discretion in reducing fines for traffic violations. It received a hearing in Senate Judiciary, but did not move out of committee. The City of Portland testified in opposition to this bill.

In committee upon adjournment

SB 591 – CROSSWALK LANES

SB 591 repeals three pedestrian cross walk statutes and replaces them with one law that addresses when and how long vehicles must stop for pedestrians crossing in both signaled and unsignaled cross walks. It clarifies that a bicycle lane or the part of the roadway where a vehicle stops, stands or parks is considered part of the adjacent lane of travel.

Prior to this law, there were three main statutes that governed when a car had to stop for a pedestrian in a cross walk: ORS 811.010, 811.040, and 811.045.

Under this measure, a driver must stop for a pedestrian who is lawfully proceeding per a traffic control device or who is crossing in a marked or unmarked cross walk when the pedestrian is in the following locations: in the lane of travel; in a lane adjacent to the lane of travel (bike and parking lanes next to the lane of travel would be considered part of that lane of travel); in the lane into which the vehicle is turning; in the lane adjacent to the lane into which the vehicle is turning if the intersection does not have a traffic control device for the pedestrian; or less than six feet from the lane into which the vehicle is turning if there is no traffic control device for the pedestrian.

The City of Portland played a lead role in getting this bill passed.

Effective: January 1, 2006
Chapter 746

SB 599 – PROOF OF INSURANCE

All Oregon drivers must carry in their car proof that the car is insured. It is a Class B traffic violation to fail to carry this proof. Pursuant to ORS 153.018, a driver who fails to have proof of insurance can be fined not more than $360.

This bill requires a court to dismiss a charge of failing to carry proof of insurance if the person charged delivers to the clerk of the court proof of insurance showing that the driver was insured at the time of the offense.

Effective: January 1, 2006
Chapter 361

SB 641 – DOGFIGHTING PARAPHERNALIA

Under current law, it is a Class C felony to promote, conduct or participate in dogfighting. A “dogfight” is defined by ORS 167.360 as a fight arranged by any person between two or more dogs for which the purpose or probable result is the infliction of injury by one dog upon another.

This measure creates the Class A misdemeanor of possessing or owning dogfighting paraphernalia if the person owns or possesses such items with the intent that it be used to train a dog as a fighting dog or be used in furtherance of a dogfight.

Effective: January 1, 2006
Chapter 467

SB 712 – MURDER OR ASSAULT OF PREGNANT WOMEN

This bill was introduced at the request of JoeAnn and Ron Johnson in memory of their daughter Kerry Repp. The bill would have created sentence enhancements if the victim of a murder or assault was a pregnant woman and, at the time of the murder or assault, the defendant knew or reasonably should have known that the victim was pregnant. Notably, this bill added pregnant women to the class of persons who already receive these protections, rather than creating two separate crimes as in the House version (HB 2020). The bill received a hearing in the Senate.

In committee upon adjournment

SB 850 – ADDRESS CONFIDENTIALITY PROGRAM

This bill creates the Address Confidentiality Program (ACP) within the Department of Justice (DOJ) for victims of domestic violence, sexual assault, and stalking who have relocated because of threats to their safety and desire to have their addresses be confidential. Under this measure, the Attorney General (AG) shall designate a substitute address for certified program participants and act as the participants' agent for purposes of all legal processes and receiving and forwarding of first class, certified, or registered mail. It also creates a new criminal violation (Class C misdemeanor) under section §11 for person(s) attempting to obtain actual address or telephone number of ACP participant through fraud or misrepresentation or for a public employee to intentionally disclose this information of a known participant.

Effective: January 1, 2006
Chapter 821

SB 907 – METH-RELATED CHILD ABUSE REPORTING

Senate Bill 907-B is one-half of the successfully-passed "methamphetamine package." A methamphetamine work group reviewed over 30 bills dealing with Oregon's methamphetamine problem. (House Bill 2485 is the other half of the package.) This bill modifies the crimes of Criminal Mistreatment in the First Degree and Child Neglect in the First Degree to include leaving a child or individual in a place where methamphetamine is manufactured. It also modifies the definition of abuse to include exposure to controlled substances and clarifies a court's ability to suspend child visitation due to a parent's abuse of a controlled substance. Lastly, the bill addresses sentencing and treatment plans, specifically creating a new sentencing scheme for certain repeat methamphetamine

offenders and authorizing the Oregon Department of Corrections to modify programs based on the need for drug treatment.

Effective: August 16, 2005
Chapter 708

SB 924 – EXPANSION OF "UNINSURED VEHICLE" DEFINITION

If an insurance policyholder is injured by his or her own car when it is operated by a thief, the policyholder does not receive compensation under his or her own uninsured motorist coverage. However, individuals who are injured from other stolen vehicles do receive compensation from the uninsured motorist coverage of their own policy.

This bill corrects this anomaly in insurance coverage by including stolen vehicles in the definition of "uninsured vehicle." Though it requires, as a condition of coverage, that any policyholder making a claim involving theft of the insured vehicle to report the theft to law enforcement.

Effective: January 1, 2006
Chapter 246

SB 956 – FIREARMS IN PUBLIC BUILDINGS

Introduced by the Senate Judiciary Committee, this bill would have allowed school boards to prohibit persons with concealed handgun licenses from carrying firearms in certain public buildings. The bill received the support of Portland Police Chief, Derrick Foxworth.

SB 956 received a hearing and a work session, but never moved out of committee.

In committee upon adjournment

SB 978 – PERSONAL IDENTIFIER DISCLOSURE LIMITATION

SB 978 expands a district attorney's authority to limit the disclosure of "personal identifier information." It further defines "personal identifiers" as a person's address, telephone number, social security number, date of birth, depository account at a financial institution, or a credit card number. Prior to this bill, this disclosure limitation applied only to the victim's or witness's address and telephone number. The bill also prohibits a defense attorney from supplying his

or her client with such “personal identifiers” of a victim or a witness absent a court order.

Effective: January 1, 2006
Chapter 546

SB 1047 – LPSCC’S STUDY OF DV FATALITIES

This bill authorizes Local Public Safety Coordinating Counsels (LPSCCs) in each county to convene a fatality review team to study domestic violence fatalities and make systemic recommendations for the purpose of preventing future fatalities.

Effective: January 1, 2006
Chapter 547

SB 1068 – VIOLATIONS OF NO CONTACT PROVISIONS OF RELEASE AGREEMENT

Currently, ORS 133.310 requires a peace officer to arrest a person where there is probable cause that the person has violated a no contact provision of a release agreement in domestic violence case. This measure would amend this statute to require a peace officer to arrest a person if there is probable cause that the person is in violation of a no contact provision of a release agreement regardless of the nature of the charged offense.

Effective: January 1, 2006
Chapter 753

SB 1085 – MEDICAL MARIJUANA

SB 1085 makes several revisions to Oregon’s Medical Marijuana law. First, it eliminates provisions that allow a cardholder or caregiver to posses, deliver or produce excessive amounts of marijuana. It also requires that a cardholder possess a registry card when using or transporting marijuana and establishes that an authorized medical marijuana grower is excepted from criminal law for possession of marijuana. Under certain circumstances, a health care professional may administer marijuana to a cardholder in a licensed health care facility. Moreover, it prohibits law enforcement from using or releasing information other than for certain reasons. Under the bill, a cardholder may posses up to six mature plants and 24 ounces of usable marijuana and a grower may possess the same amounts, per cardholder, for up to four cardholders. A cardholder may also possess up to 18 marijuana seedlings as defined by DHS

and a grow site operator may possess up to 18 marijuana seedlings per each cardholder. Law enforcement may only confiscate amounts of marijuana in excess of the authorized amounts. Among other provisions, it allows “choice of evils” affirmative defense for a person who claims a medical benefit provided that the amount does not exceed the authorized amount. Lastly, it establishes a crime for growing marijuana in an area other than authorized site, and eliminates the affirmative defense for grower.

Effective: January 1, 2006
Chapter 822

(For other bills related to Public Safety, please see SB 3, SB 5, and SB 79 under Building Codes and HB 2157 under Employment.)

REVENUE

HB 2345 – "KICKER" SURPLUS CHANGES

HB 2345 would have implemented changes to Oregon's "kicker" law in order to conform to the Oregon Constitution.

The bill received a public hearing, but did not pass out of the House Revenue Committee.

SYSTEM DEVELOPMENT CHARGES

HB 2523 – SDC'S FOR SCHOOLS, PUBLIC SAFETY AND LIBRARIES

HB 2523 would have added schools, public safety and library capital costs to the list of facilities for which SDCs could be charged. Existing law only allows SDCs for capital costs related to water, wastewater, storm water, parks and transportation facilities. The bill was referred to State and Federal Affairs with a subsequent referral to Ways and Means, but never made it out of committee.

In committee upon adjournment

HB 2757 – PARKS SDC CAP

HB 2757 would have limited the amount of SDCs that could be charged for parks to $2,500 per single family dwelling, and $1,500 per dwelling unit in a multi-family dwelling. The bill never got a hearing, but local governments were concerned about this arbitrary amount. It's important that system development charges continue to be tied to the cost of facilities that are built. HB 2757 would have been a radical departure from the SDC statute which was negotiated between homebuilders and local governments. A version of this bill may reappear in the 2007 Legislative Session, or could be the subject of a ballot measure during the interim.

In committee upon adjournment

SB 307 – SCHOOL IMPACT FEE

SB 307 would have authorized school districts to impose a school impact fee on new residential development for school capital improvements or construction. It would have added K-12 schools to the definition of capital improvement for which SDC's could have been imposed.

The bill received one hearing in the Senate, but never made it out of the Environment & Land Use committee.

In committee upon adjournment

TAXATION

HB 2396 – INDUSTRY SPECIFIC SALES TAX

This bill would have banned local taxes on a specific item, service or industry, such as telecom, restaurant or lodging taxes.

In committee upon adjournment

HB 2452 – PASS THROUGH ENTITIES – COMPOSITE TAX RETURNS

HB 2452 provides guidelines for allowing pass through entities to file a composite personal income or corporate excise tax return with the Department of Revenue on behalf of the nonresident owners who choose to be part of the composite return. Essentially, this bill will make it easier for Oregon to collect the income tax liability of pass through entities' distributive income.

Effective: January 1, 2006
Chapter 54

HB 2454 – PASS THROUGH ENTITIES FORMULA

This bill specifies the allocation procedure in statute for pass through entities' income, gain, loss, deduction or credit for part-year residents and non-residents. Under current law through a Department of Revenue rule, income from pass through entities is allocated to part-year Oregon residents based on the percent of the total days in the tax year that the taxpayer was a resident of Oregon. This allocation procedure is consistent with the allocation of other types of income to Oregon for part-year residents. Similarly, nonresidents, who have Oregon source income, gain, loss, deductions or credit from pass through entities, have these amounts allocated to Oregon based on the percent of total days throughout the tax year that the taxpayer was an Oregon nonresident.

This Act does not change the tax treatment of income, gain, loss, deductions or credits from pass through entities for nonresidents and part-year residents from current law. This Act codifies in law the Department of Revenue administrative rule on this issue that is based on a court ruling.

Effective: November 4, 2005
Chapter 55

HB 2721 – SCHOOLS' PROCESS TO ENACT LOCAL OPTION TAXES

This bill would have established procedures by which a school district may obtain voter approval to enact local option income, sales and other taxes. It also would have excepted local option tax revenues from offset against State School Fund grants.

The measure was referred to Revenue with a subsequent referral to Ways and Means, but never received a hearing.

In committee upon adjournment

HB 3393 – LOCAL TAXES ON INSURANCE

HB 3393 would have removed an existing preemption on taxing insurers. The bill was assigned to the House State and Federal Affairs Committee to ensure its ultimate demise. No hearing was ever held.

In committee upon adjournment

TELECOMMUNICATIONS

HB 2445 – PREEMPTING LOCAL GOVERNMENT FROM PROVIDING SERVICES

This bill reprised efforts in the past several sessions to make it difficult for local governments to provide telecommunications and broadband services in their communities, even if there was no private company providing those services. The City of Portland's IRNE is always a particular target. These services are essential to economic development in communities like Ashland and The Dalles. The telecom industry proposed restrictions requiring elections and imputing of indirect costs. Testimony from city, county and business officials from The Dalles and Sherman County highlighted how it was government stepping in to provide high speed broadband when the private sector wouldn't that attracted Google to site a facility there. When it became clear that the coalition of rural, urban, consumer, public power and municipal representatives would oppose this and similar bills, they died in committee.

In committee upon adjournment

HB 3136 – TELECOM CUSTOMER "BILL OF RIGHTS"

This bill sought to establish a bill of rights for telecommunications consumers. Among its provisions was the establishment of rights to: privacy; understandable bills; and clear and complete rate information. HB 3136 received no action.

In committee upon adjournment

HB 3353 – PREEMPTING LOCAL GOVERNMENTS FROM CHARGING FEES

As filed, this bill would have banned cities from imposing any new or increased taxes or fees on telecom providers, not only for their provision of telecom services but in general. As it became clear that there weren't the votes to move the bill from the House Revenue Committee, the industry attempted to build support for a series of amendments to this bill, and when they were not able to pick up additional votes, to amend it onto other bills.

Among the amendments that the industry shopped around was one that would have required a public vote any time a local government sought to increase or impose a new telecom tax or fee. If a city hadn't been but wanted to charge a franchise fee to other phone companies that used their right of way, they would have had to go to the ballot. The same applied to any fees or taxes on wireless.

Cities fought off an onslaught of legislation and amendments that sought to preempt local government authority to charge any fees or taxes to telecom providers including wireless. When the industry's bill, HB 3353, failed to get enough votes to make it out of committee, the industry tried to "gut and stuff" it into SB 162 in another committee. However, there were still not enough votes to get the bill out of committee. Then in the final days and hours, attempts were made to amend SB 31and HB 2449. A true bipartisan effort kept any of these bills from advancing despite intense lobbying from industry stakeholders which included Verizon, Nextel, T-Mobile, Qwest, Sprint, the Oregon Telecommunications Association, and the Oregon Cable and Telecommunications Association.

In committees upon adjournment

HB 3443 – 2-1-1

On July 21, 2000 the Federal Communications Commission designated the 2-1-1 dialing code for public access to information about and referral to health and human services. This bill creates 2-1-1 as the Oregon statewide telephone number for access to health and human services information, as well as information after an emergency. The Oregon Office of Emergency Management (OEM) is charged with establishing the 2-1-1 system.

Effective: July 15, 2005
Chapter 526

SB 15 – OREGON TELECOM COORDINATING COUNCIL

The Oregon Telecommunications Coordinating Council (ORTCC) was established by the 2001 Oregon Legislature (SB 765). Made up of volunteers, its mission is to provide all Oregonians with affordable access to broadband digital applications that will improve the quality of life in Oregon communities and reduce the economic gap between well-served and under-served areas of the state. In 2003, the Legislature passed HB 2577, which modified the name, membership and duties of the Council and changed the Council sunset date from January 2, 2004 to January 2, 2006.

SB 15 continues the ORTCC's current projects and expands its work in the education and telemedicine arenas by determining the best methods of providing distance learning and information exchange. The extension of the commission until 2009 was opposed by the Oregon Telecommunications Association.

Effective: June 29, 2005
Chapter 350

SB 16 – PUC PROMOTION OF BROADBAND

As filed, this bill required that the Oregon Public Utility Commission to administer laws relating to telecommunications in a manner consistent with the goal of promoting access to broadband services. This would have been a shift from their normal role as a regulatory agency. The bill was "gut and stuffed" with language that sought to appropriate moneys from the state's School Technology Account to the Department of Education. It would have required the Department to annually transfer appropriated amounts to the Oregon Public Education Network for the purpose of increasing school district access to broadband services.

In committee upon adjournment

SB 17 – INTERIM TASK FORCE ON TELECOM

This bill establishes a 10-member task force on telecommunications law revision. The chair of the Oregon Public Utilities Commission and many telecommunications companies saw a need to review and revise Oregon laws to reflect changing technologies, pending federal law, and the scope of the Public Utility Commission's current authority to regulate telecommunications.

The task force will consist of six members appointed by the governor, two members appointed by the Senate President, and two members appointed by the Speaker of the House. The Public Utility Commission will be responsible for providing the necessary staff support to the task force and reimbursing the six non-legislative members for expenses. The authority for the task force will sunset with the convening of the next regular biennial legislative session.

Effective: January 1, 2006
Chapter 742

SB 600 – TECHNICAL UPDATE

This bill reorganizes and makes technical changes to sections of ORS Chapter 759 for consistency in language and use of the appropriate terminology. No substantive changes were made by this 22-page bill.

Effective: January 1, 2006
Chapter 232

SB 1030 – SUBSTITUTE SALES TAX FOR FRANCHISE FEES

A bill was filed in the Senate at the request of Qwest which would have prohibited new franchise fees and agreements and phased out the existing ones. The bill would also have limited city right-of-way management authority. It would have preempted city authority to levy any taxes and fees that are specific to telecom, except for a sales tax of up to 5 percent on consumers and right-of-way permitting fees of no more than $300. While in the long run this may prove to be the way to protect city services from cuts in revenue, the industry and cities were not able to reach any agreements around these issues.

In committee upon adjournment

TRANSPORTATION

HB 2077 – STEEL IN CONSTRUCTION

Construction contracts awarded by the Oregon Department of Transportation sometimes take several years to complete. During that time, contractors assume the risk of material and labor cost increases. In 2003 and 2004, the price of steel more than doubled nationwide. Suppliers were not honoring price quotes and prices were passed on to contractors. For contracts awarded prior to the price increase, there is no legal way for the department to make payments to cover the increase. Contractors argued that the issue was an economic development issue for the state to keep contractors in business.

HB 2077 provides a legal mechanism to reimburse contractors for steel price escalation over ten percent. Under the bill, for contracts signed after April 1, 2003, the contractor would absorb ten percent of the cost increases and the agency would be required to make up the rest. On future contracts, the agency would be required to include escalation clauses for the price of steel material. The escalation clauses could cover both escalation and de-escalation scenarios. After the impact of this bill on local government was discussed, an exception for local agency federally funded projects in the Statewide Transportation Program was added.

Effective: July 20, 2005
Chapter 557

HB 2163 – INTER-CITY BUS SERVICE

During the interim, Representative Alan Brown (R-Newport) pulled together a task force to look at inter-city bus service. Representative Brown has a constituent who owns an inter-city bus company with service to the Portland airport. The constituent was concerned about local governments charging fees for inter-city bus service. HB 2163 was introduced on this constituent's behalf which would have prohibited a city, county, district, or other political subdivision from imposing taxes, fees, or driver vehicle standards on intrastate or inter-city routes.

In committee upon adjournment

HB 2164 – CITY/COUNTY MEMBERS OF OTC

HB 2164 is one of two transportation-related priority bills for the Association of Oregon Counties (AOC). For some time, county officials have expressed

concern over the Oregon Transportation Commission's (OTC) lack of recognition of all the partners of the Oregon highway and road system. Specifically, the OTC proposed to require a 25 percent match from local governments for state projects under OTIA III. HB 2164 attempted to address this issue by adding two new local government members to the OTC, one representing cities and one representing counties.

In committee upon adjournment

HB 2165 – LOCAL OFFICIALS ADVISORY COMMITTEE

HB 2165 was the other AOC transportation related priority bill. This bill would have institutionalized the ad hoc ODOT appointed Local Officials Advisory Committee in statute. While initially there was support for the bill in the House, ODOT and the governor adamantly opposed the bill.

In committee upon adjournment

HB 2670 – 2% FUEL TAX

In response to higher usage of credit cards at gasoline pumps, the Oregon Gasoline Dealers Association introduced HB 2670. The bill would have allowed gasoline dealers to retain 2 percent of the fuel tax collected to offset the costs associated with credit card payments for gas. The League of Oregon Cities, ODOT, and counties opposed the bill based on the fiscal impacts to the Highway Trust Fund. The bill did not move but the opposition agreed to work with gasoline dealers on the issue in the interim.

In committee upon adjournment

HB 2742 – SAFE ROUTES TO SCHOOLS

HB 2742 establishes a "Safe Routes to Schools" fund and requires the Oregon Department of Transportation to establish a "Safe Routes to Schools" program. The bill authorizes the Department of Transportation to apply for, accept, receive and disburse gifts, grants and donations from the federal government or any other sources. The fund provides assistance to local communities to eliminate hazards or barriers to children walking or biking to and from school and could include grants, technical services advice and evaluation of local programs.

Effective: January 1, 2006
Chapter 484

HB 2869/SB 842 – STUDDED TIRES

Representative Teri Beyer (D-Springfield) led a task force during the interim to find consensus on the issue of a fee for studded tires. ODOT estimates that studded tires cause $11 million of damage to Oregon's roads and highways every year. Representatives of Les Schwab tire dealers would not agree to any fee or limitation on studded tires and the task force failed to reach any consensus. HB 2869 and SB 842 were introduced to establish a fee on studded tires, but neither bill moved.

In committee upon adjournment

HB 2946 – DISABLED PARKING PLACARDS/PRIVACY

Current law requires holders of disabled parking permits to display state issued placards in their vehicles. The placard must contain the driver's license, or certain other identifying information. In order to retain the requirement to be able to identify the driver and protect their privacy the bill provides that only the last four digits of the identification number must be on the placard. Since the use and the abuse of these placards on downtown Portland streets is a big local issue, this workable compromise was important.

Effective: January 1, 2006
Chapter 406

HB 3415 – ODOT BRIDGE REPAIR

HB 2041 from the 2003 session authorized ODOT to issue bonds for highway projects including $1.3 billion to finance the replacement and repair of bridges. A 2004 study by Oregon State University indicated that some of the bridge problems originally identified were not as serious as first believed, and that some of the bridges would last longer than originally estimated or would cost less to repair. HB 3415 says that 75 percent of the bond proceeds earmarked for bridge repair that are not used for that purpose must be used instead for highway projects of statewide significance as adopted by the Oregon Transportation Commission. The remaining 25 percent must be spent on road freight projects outlined by the Freight Advisory Committee.

Effective: January 1, 2006
Chapter 486

SB 71 – CONNECT OREGON

This is the governor's multimodal transportation funding package. The original bill authorized $100 million in lottery backed bonds to fund improvements to air, rail, marine and transit facilities. The original bill also split the funding among Oregon's five congressional districts.

By the time this Senate bill got to the House, several changes had been made. The House limited private investment from the funds to $40 million. Representatives also deleted transit as an approved use. The House amendments dispersed the funds among the five ODOT regions instead of congressional districts, requiring a minimum of $15 million and a maximum of $30 per region. Finally, the House prohibited the Port of Portland from using the funding for improvements on a site in Troutdale known as the Reynolds Aluminum property.

The Senate did not agree with the House and stalled the bill. However, in the waning hours of the legislative session, a compromise was reached and SB 71 passed both chambers. The final bill allows ODOT to allocate $100 million in lottery backed bonds for non-highway related projects. It requires a minimum of 15 percent of the total funds to be spent in each congressional district. Projects must have at least a 20 percent local match. Transit projects are also eligible under the final bill. The prohibition on the Port of Portland using any of the funds for improvements to the former Reynolds Aluminum property in Troutdale remained in the bill.

Effective: August 29, 2005
Chapter 816

SB 78 – ACCIDENT REPORTS

Under certain circumstances drivers are required to complete an accident report within 72 hours of an accident and submit that report to either the Department of Transportation (ODOT), the sheriff of the county in which the accident occurs, the chief of police of the city in which the accident occurs, or any other agency the department establishes for the purposes of receiving accident reports. In turn, the sheriff, chief of police or other designated agency must forward accident reports to ODOT within seven days of receipt. This bill requires the driver to submit the accident report directly to ODOT.

This should save law enforcement agencies time and eliminate driver license suspensions when a law enforcement agency has not forwarded the accident report in a timely manner to the ODOT.

Effective: January 1, 2006
Chapter 195

SB 566 – FREIGHT ROUTES

ODOT sparked a controversy by proposing to designate additional highways as freight routes through a rulemaking in the interim. Freight routes are designed as primary roads for large trucks and receive priority in funding decisions. Many communities across the state opposed the rulemaking and ODOT delayed enacting any changes. SB 566 was introduced to block the designation of certain highways as freight routes. Highways 101 and 126 received the most opposition. SB 566 would have exempted those highways by prohibiting ODOT from designating a historic and scenic highway as a freight route.

In committee upon adjournment

SB 806 – LIABILITY LIMITS FOR NONPROFIT TRANSPORTATION PROVIDERS

Oregon's Tort Actions Against Public Bodies statutes, ORS 30.260 to ORS 30.300, limit the liability of "public bodies" for the torts committed by their employees. "Public bodies" has traditionally included the State of Oregon, cities, counties, special districts and other similar entities. This bill adds a private, nonprofit organization providing transportation services to the definition of "public body." However, the limitations extend to the nonprofit organization only for its public transportation services.

Specifically, the bill caps the liability of the organization providing transportation services as follows: (1) $50,000 to any claimant for claims arising out of a single incident; (2) $100,000 to any claimant as general or special damages for all other claims arising out of a single incident unless those damages exceed $100,000, in which case the claimant may recover additional special damages but in no event shall the total award of special damages exceed $100,000; (3) $500,000 for any number of claims arising out of a single incident or occurrence. In order to qualify, the nonprofit corporation providing transportation must receive more than 50% of its funding for transportation services from the State of Oregon or a political subdivision.

Effective: January 1, 2006
Chapter 684

SB 894 – FREIGHT ROUTE CAPACITY

In response to the controversy surrounding ODOT's inability to designate additional highways as freight routes, the Oregon Trucking Association introduced SB 894, which would prohibit ODOT from reducing capacity on freight

routes. Many saw the bill as an attempt to actually designate additional freight routes. This generated significant opposition and after three public hearings, the bill ultimately failed.

In committee upon adjournment

SB 938 – BICYCLE EXCLUSIONS

This bill amends two specific sections of the vehicle code with respect to bicycles: passing on the right; and exceptions to the violation of failure to use a bike lane. Prior to the bill, under ORS 811.415(2)(c), it was a traffic violation for a bicycle to pass a vehicle on the right. The statute did not differentiate between motor vehicles and bicycles. This bill allows cyclists to pass another vehicle on the right if the bicycle may safely do so. The bill also amends ORS 814.420, which makes it a violation to fail to use an existing road bicycle lane. This bill creates an exception stating a cyclist is not in violation if the person is safely able to move out of the lane for purposes of passing, turning under certain circumstances, avoiding debris, or going straight when the bike lane is to the right of the car lane.

Effective: January 1, 2006
Chapter 316

SB 1096 (HB 2908) – GRESHAM ROAD TRANSFER

The subject of this bill was also in HB 2908. It transfers jurisdiction over county roads within the City of Gresham from Multnomah County to the City of Gresham. The bill stipulates that unless another fund transfer formula is agreed to by the parties by December 31, 2005, Multnomah County is directed to transfer annually to Gresham a share of State Highway Fund moneys equal to the total road funds of the county that are not already transferred to jurisdictions under intergovernmental agreements, multiplied by the percentage share of county center-line miles transferred to Gresham. This includes in total road funds those State Highway Fund moneys allocated to Multnomah County and fuel taxes imposed by Multnomah County. This method of calculation protects the interests of the City of Portland in its preexisting agreement with the County. With this provision the City of Portland took no position on the bill. The transfer is effective, July 1, 2006.

The bill also creates an advisory committee to make recommendations relating to the allocation of road funds to the cities of Troutdale, Fairview, and Wood Village. Membership will be one representative from Multnomah County and one each from the cities of Gresham, Troutdale, Wood Village, and Fairview.

The legislature and cities around the state struggled with this bill. Cities are always reluctant to get the legislature involved in a local matter. Gresham felt it had no choice. Negotiations with the County have dragged on since the City of Portland agreement 20 years ago. In the end legislators of both parties were convinced that Multnomah County would not act without being pushed by the legislature.

Effective: January 1, 2006
Chapter 773

URBAN RENEWAL

HB 2440 – SCHOOL DISTRICT URBAN RENEWAL AGENCIES

HB 2440 would have allowed school districts to activate urban renewal agencies and adopt urban renewal plans for constructing and improving school facilities. Proponents of this bill saw it as a way to provide additional funding to high-growth school districts. Because these facilities are tax exempt, there was some concern that they would not generate the necessary revenue to pay off bonds issued for the purpose. In addition, there are statutory limits on how much land can be in an urban renewal zone at any one time, and a number of school districts mentioned in conjunction with this bill already had city-sponsored urban renewal agencies. HB 2440 received one hearing before the House Revenue Committee.

In committee upon adjournment

HB 3056 – MUNICIPAL APPROVAL OF URBAN RENEWAL

HB 3056 would have required any new or substantially amended urban renewal proposals to be approved by each city or county with tax revenue that would be affected by the adoption of an urban renewal plan. The bill could have allowed a jurisdiction other than the urban renewal plan sponsor to determine whether the plan could be implemented, despite existing requirements in statute that sponsors "consult and confer" with affected taxing districts, sharing information and gathering input on the plan, boundaries, projects and other aspects.
HB 3056 was introduced at the request of Lane County and never received a hearing.

In committee upon adjournment

HB 3380 – FIRE DISTRICT OPT OUT OF URBAN RENEWAL

HB 3380 was requested by fire districts and would have exempted the portion of tax increment that would otherwise go to the fire districts in urban renewal areas. Fire district taxes would have been exempt from urban renewal division of tax in any of the following ways: for any plan enacted or new or substantially amended plan after the effective date of date of the bill; in urban renewal areas located wholly or partially in counties with a population between 340,000 and 450,000 in population; or if the municipality sponsoring the plan or fire district governing body adopts a finding that the urban renewal area would impact the delivery of services by the fire district. The Fire District Association testified in support of

these concepts in SB 412. The Fire District Association managed to amend a variation of these ideas into SB 412A, but HB 3380 never received a hearing.

In committee upon adjournment

SB 412 – SCHOOL DISTRICT EXEMPTION FROM URBAN RENEWAL

SB 412 began as a bill that would have exempted school districts from the urban renewal division of tax financing. The bill was introduced by Senator Kurt Schrader (D-Canby) as a service to a constituent who had no fondness for urban renewal. The Senate Revenue Committee, chaired by Ryan Deckert (D-Beaverton), heard the bill, set up a work group and eventually adopted controversial amendments that limited the duration and would have allowed districts to opt out. These became the subject of months of contention. Local government managed to turn the tide of the bill by engendering enough opposition to return it to committee. Additional amendments were adopted to remove provisions of the bill that were opposed by cities, and the bill was later passed by the full Senate. It was never heard in the House.

A number of concerns were raised about urban renewal in hearings on this bill. The individual who requested the bill questioned the effectiveness of urban renewal generally, suggesting that most city officials did not have the expertise to devise a plan that could significantly improve their communities. Sen. Deckert indicated that state budget pressures necessitated careful evaluation of programs that impact school funding at the state and local level. And the fire districts argued for their ability to opt out of an urban renewal agency's division of tax after 15 years, suggesting that the urban renewal agencies should be given the option to excuse fire districts from participation. In attempting to state their case for "opting out" of urban renewal, fire district personnel maintained that urban renewal areas impeded their ability to provide services because of revenue that was deferred to pay off the bonds. They also stated that the projects of urban renewal areas provided little or no tangible benefit to fire district areas. Instead they argued that urban renewal encouraged additional development while diverting the revenue needed to serve new development. Lastly, they maintained that "urban renewal districts never go away" or terminate, despite evidence to the contrary.

Representatives for cities and the Association of Oregon Redevelopment Agencies were given a limited amount of time to explain the mechanics of how urban renewal works. They provided examples of where urban renewal has resulted in significant successes and job creation, and data demonstrating the value added to all taxing districts, pointing out that in several circumstances value can be returned to the tax rolls before completion of an urban renewal plan. Relations between urban renewal agencies and other taxing districts were

likened to an investor relationship: through participation, taxing districts are investing in the probability of greater assessed value than would otherwise have occurred, and districts who don't participate should not be allowed a "free ride" at the expense of those who do participate.

A workgroup consisting of the requestor of the bill, a representative from the fire districts, a representative from the Portland Development Commission (the largest urban renewal agency in the state), and Senators Floyd Prozanski (D-Eugene) and Charles Starr (R-Hillsboro) was appointed to consider changes to the urban renewal statute. The workgroup came to consensus on a couple of minor points: 1) provisions which would establish a more formal process around notification, consultation and conferring with affected taxing districts, and 2) allowing urban renewal districts to have the option of an "underlevy" in any given year, as a means to return tax increment revenue to the tax rolls. However, when the Senate Revenue Committee met again, they adopted additional provisions that were not agreed on by cities and urban renewal agencies. These provisions included language to allow single service districts as defined by ORS 198.010 to petition not to participate in urban renewal that brings private investment and jobs to local communities, and a requirement that urban renewal agencies pick a termination date for the district. The latter provision was problematic because unforeseen circumstances could result in insufficient tax increment to complete the projects by the termination date.

The City of Portland, the League of Oregon Cities, and Clackamas County mounted an an intense lobbying campaign with the full Senate and key Representatives, alerting them to the problems associated with these provisions and demonstrating that urban renewal was the single most effective local tool with which to target economic development efforts, revitalize communities and create jobs. They pointed out that allowing an "opt out" creates inequities among taxing jurisdictions, and would lead to instability for communities that use it, undermining or delaying infrastructure investments that are needed by private sector investors. A coalition was developed with some private sector interests, which succeeded in undermining support for the bill in the full Senate. SB 412-A was returned to the Senate Revenue Committee without a vote by the full Senate.

The bill sat for a month, and eventually was revisited by committee members. By a vote of 3-2, committee members removed the opt-out provisions from SB 412, and the full committee removed the duration limitation as well. The bill was passed by the full Senate in June and never received a hearing in the House.

Fire districts will likely introduce legislation in the 2007 legislative session to allow for "opt-outs" or other means of undermining urban renewal. In the interim, urban renewal agencies should educate their legislators about the benefits of urban renewal, collect data regarding the number of jobs that have been created as

result of local improvements funded through urban renewal, and encourage private sector partners (developers, businesses, etc.) to provide statements of support for the infrastructure and other projects they need that are funded through urban renewal.

In committee upon adjournment

SB 425/HB 3369 – URBAN RENEWAL AFFORDABLE HOUSING REQUIREMENT

These bills would have required a percentage of the total cost of urban renewal projects to be dedicated to affordable housing. SB 425 received a hearing before the Senate General Government Committee, where representatives from the League of Oregon Cities and the Association of Oregon Redevelopment Agencies argued that the bill was a poor fit for urban renewal and Oregon communities. The League noted that urban renewal plans are based on the specific needs of the individual communities which implement the program, and those needs may or may not include housing. Housing may not be an appropriate component of commercial or industrial area revitalization. SB 425 allowed the required housing projects to be located outside the urban renewal area, but in such instances, the housing would not contribute to the revitalization of the targeted area, resulting in delays to plan completion and value added to overlapping taxing districts. HB 3369 never got a hearing, and SB 425 was not scheduled for a work session.

In committee upon adjournment

WATER

HB 2025/SB 539 – FLUORIDATION

For the past three sessions, the Oregon Dental Association has introduced legislation that would require water systems serving more than 10,000 people to fluoridate. While the bill did not move out of committee in the past, this session the House looked favorably on a fluoride mandate. The House Water Committee conducted many hours of hearings on the bill that was opposed by local governments, environmental groups, and anti fluoride groups. As introduced, HB 2025 would have required the state to reimburse water systems for implementing a fluoride system. However, the committee amended the bill in order to avoid a fiscal impact on the state to only require fluoridation if funding became available from a source other than the ratepayers of the water system. The bill passed the House on a close vote and the Senate Committee on Environment & Land Use conducted two hearings on the bill but did not hold a work session.

In committee upon adjournment

HB 2083 – WATER RIGHT NOTIFICATION

One of the governor's streamlining measures, HB 2083, eliminates several paperwork provisions associated with water right transactions. Sellers are no longer required to notify the Oregon Water Resources Department (WRD) of real estate transactions involving water rights. In addition, well information is no longer recorded on deed records. Finally, the bill eliminated certain provisions relating to water use registration when the use is for a wetland, stream or riparian restoration, or storm water management.

Effective: January 1, 2006
Chapter 14

HB 2123 – GROUNDWATER REGISTRATION

Currently there is no process for modifying the place of use, type of use, or point of appropriation of ground water use claimed in the registration of rights to appropriate ground water. Certificates of registration are not final determinations of the water use. This bill authorizes the Water Resources Department (WRD) to adopt administrative rules for developing a process to modify existing water uses, and deletes unconfined aquifers as well as the sunset provision on the consent to injury to provide greater flexibility.

Effective: July 22, 2006
Chapter 614

HB 2171 – SANITARY SURVEY FEE

In the 2003 session, to address critical funding issues in the Oregon Drinking Water Program, the Department of Human Services introduced legislation in the 2003 session (HB 2255) which would have allowed the department to collect a fee on local water utility bills. Water suppliers opposed the bill, but supported an amendment that established an interim task force to address the funding issues in the department. The task force developed a proposal which included full cost recovery for services provided by the department. In order to achieve full cost recovery HB 2171 was introduced which would have allowed the department to charge a fee for sanitary surveys. While all members of the task force, including water suppliers who would pay the fee, supported HB 2171, the Chairwoman of the House Budget Committee would not allow the bill to move unless it was amended to exempt any utility serving 300 connections or less from the fee. Water utilities could not support the amendment due to the inherent inequities and the bill did not move forward.

In committee upon adjournment

HB 2178 – STORAGE RIGHTS

A water right is required to store water and then an additional water right to use the stored water. This bill allows a person to apply to the Water Resources Department for a secondary water right to use stored water in an expedited manner.

Effective: January 1, 2006
Chapter 37

HB 2186 – WRD RECEIPTS AUTHORITY

Last session the Legislature passed HB 2551 that granted the Water Resources Department (WRD) receipts authority. WRD has a huge backlog in issuing permits, certificates, and processing transfers. Fees are charged to applicants to process these requests, however, given the department's backlog it may be years before an applicant's request is processed. Under receipts authority, an applicant can pay for a private party, approved by the department, to process the applicant's request in order to avoid the backlog. HB 2551 had a sunset of July 1, 2005. HB 2186 removes the sunset and makes the program permanent.

Effective: January 1, 2006
Chapter 617

HB 2600 – PARTIAL PERFECTION

Introduced by the League of Oregon Cities, HB 2600 would have allowed a municipal water supplier to partially perfect water rights in minimum increments of 5 percent. Current law allows for partial perfections in increments of 25 percent. However, late in the session, when the fate of HB 3038 in the Senate was in doubt, HB 2600 was amended to delete the partial perfection provisions and inserted the language in HB 3038 as it passed the House. HB 2600 was then sent to the House Budget Committee. This maneuver was used to ensure HB 3038 would remain alive by having a different bill number if HB 3038 died in the Senate Environment & Land Use Committee.

In committee upon adjournment

HB 2664 – MIXING ZONES: MARKERS

Mixing zones received more attention than any other water quality issue by far this session. Introduced by Senate President Peter Courtney (D-Salem) and Senator Charlie Ringo (D-Beaverton) at the request of the Sierra Club, Willamette Riverkeepers, and OSPIRG, SB 555 would have substantially changed the way the Clean Water Act is implemented in Oregon. See SB 555 and SB 532 below.

The House version, HB 2664, was introduced to address aspects of the mixing zone issue by requiring mixing zones to be marked with buoys paid for and maintained by the applicant. If buoys proved to be unfeasible, the applicant would have been required to erect signs that described the parameters of the mixing zone on the shore of the body of water being discharged into. This bill received only one hearing in the House; however, the concept was carried forward in SB 532.

In committee upon adjournment

HB 2812 – WATER LAW REFORM

Oregon's water code is one of the most complicated in all of the state's statutes. Proponents of the bill described the code as "an arcane, anachronistic and complex conglomerate of policy and procedure." HB 2812 would have created a 12-member task force to reform Oregon's water law and report back to the 2009 Legislature. The bill passed the House Water Committee, but died in the House Budget Committee due to a lack of funding.

In committee upon adjournment

HB 2882 – WATER QUALITY STANDARDS

This bill was introduced at the request of the Oregon Cattlemen's Association. It would have required that water quality standards established by the Environmental Quality Commission meet certain scientific criteria and required the Commission consider natural factors in developing quality standards and purity standards for the waters of the state.

The Federal Clean Water Act directs states to review their water quality standards at least once every 3 years. This process is often referred to as the "triennial review." During the review, states revise standards to incorporate the latest scientific information and to make any revisions the state determines are needed. The Department of Environmental Quality (DEQ) began its most recent review cycle in the fall of 1999. Temperature and toxic pollutants criteria and beneficial use designations have been revised. Turbidity criteria are under review and DEQ expects to revise the turbidity criteria in 2005. From 1999 through 2003, DEQ assembled a Policy Advisory Committee (PAC) and Technical Advisory Committees to advise DEQ on standards revisions. Additionally, DEQ is required by the federal Clean Water Act to maintain a list of stream segments that do not meet water quality standards. This list is called the 303(d) List because of the section of the Clean Water Act that makes the requirement. The U.S. Environmental Protection Agency approved DEQ's 2002 303(d) List on March 24, 2003.

There was much discussion of all of this background in the House and the bill passed the House, but did not receive a hearing in the Senate.

In committee upon adjournment

HB 2883 – STORAGE SITES

Currently, water sources in Oregon are over-appropriated. HB 2883 was introduced to address future water needs in this environment. The bill would have directed the Oregon Water Resources Department (WRD) to prepare an inventory of potential surface storage sites for future development. The bill also directed WRD to seek federal, state, lottery, local and private funding sources to perform the inventory. Much like HB 2812, the House Water Committee passed the bill. However, the House Budget Committee failed to act on the bill due to a lack of identified funding.

In committee upon adjournment

HB 3038 – MUNICIPAL WATER RIGHTS

One of the City of Portland's and the League of Oregon Cities' highest priority bills, HB 3038, came in response to an appellate court decision. In April of 2004, the Oregon Court of Appeals in Water Watch vs. Coos Bay North Bend Water Board and the Oregon Water Resources Department (WRD) held that in order to be granted a water right permit, a municipality must fully construct the facilities necessary to use the water within *five* years of receiving the permit. Under the ruling, 95 years of municipal water development practices were thrown into jeopardy, requiring municipalities to develop water rights within the first five years of obtaining them although the rights were granted with the understanding that they would be grown into over a long period of time. HB 3038, called the Responsible Community Planning Act, was introduced to address the court decision by codifying current state policy. The bill, as introduced, removed the five-year requirement to complete construction of a water right. It also redefined construction of a water right to include planning, financing, and obtaining other federal and state permits. Water Management and Conservation plans, as a condition of water permit extensions, were also required under the bill. Last, and most important, the bill validated the past extensions granted to these water rights by the Oregon Department of Water Resources.

The bill met healthy opposition from environmental groups, led by WaterWatch. In order to accommodate many of their concerns municipalities agreed to amend the bill to establish a 20 year construction horizon for new permits, thereby negating the need to define constructions of a water right. Municipalities also removed a presumption of good cause contained in the bill. As the bill left the House Committee, HB 3038 focused solely on providing security for previously issued permits and a new 20-year development timeline for new permits.

Even though the bill sailed through the House on a 53-4 vote, it received opposition in the democratically controlled Senate. Senate Environment and Land Use Chairman Senator Charlie Ringo (D-Beaverton) convened a work group to try and reach consensus on a compromise. As a result, a compromise was reached between WaterWatch, municipalities, and WRD. A section was added to the bill which would require WRD to condition permit extensions to ensure a listed fish species would not be extinguished by the development of the permit. WRD began the process to develop the rules to implement HB 3038 soon after the bill was signed.

Effective: June 29, 2005
Chapter 410

HB 3093/SB 1042 – BACKFLOW DEVICES

HB 3093 moves certification for plumbers who test cross connections or backflow prevention devices from the Department of Human Services to the Department of Consumer and Business Services.

The Department of Human Services (DHS) currently certifies persons who inspect cross connections or test backflow prevention device assemblies. The certification does not authorize the person to install or repair the connections and backflow devices they test. Installation or repair requires a plumbing or landscape contractor (for irrigation systems) license. Licensed plumbers may currently install and repair backflow devices, but must obtain additional certification from DHS to inspect or test them. This bill eliminates the dual testing requirement for plumbers, but requires DCBS to institute a certification program for plumbers who want to inspect backflow devices. The DHS program will continue for the certification of testers that are not plumbers.

Effective: January 1, 2006
Chapter 736

HB 3104 – MIXING ZONES - HOUSE MINORITY

The bill that passed the House allowed some dredging of the Willamette upstream from Portland. Before passage the House democrats attempted to make it another “mixing zone” bill with a Minority Report which failed.

In committee upon adjournment

SB 45 – WASTE WATER PERMIT STREAMLINING

Last session, the Director of DEQ called a halt to the perennial battle between wastewater dischargers and the Department over discharge permit fees. Oregon has experienced one of the largest backlogs in discharge permits in the country. At the same time, permittees have continually asked the Department for fundamental reform in the program to institute efficiencies. In order to address this situation the director did not ask for a fee increase in the 2003 session. Instead she formed a blue ribbon committee of permittees, interested parties, and environmental groups to assess the program and make recommendations to streamline it and address its revenue issues.

The blue ribbon committee met for 18 months and agreed on a package of changes, some of which were changed through rulemakings. Others required a statutory change, and that’s why SB 45 was introduced. The bill does three main things. First, it allows the Department to issue permits on a watershed basis

which was central to the blue ribbon committee's recommendations. The bill also requires the Department to report annually to the legislature on administration of the permitting process. Finally, SB 45 allows the Department to increase fees by a maximum of 3 percent a year.

Effective: January 1, 2006
Chapter 523

SB 347/SB 1080 – DIRECT LAB REPORTING

In 2001, the Secretary of State released an audit of Oregon's Drinking Water Program and made a number of recommendations. One of those recommendations was to require labs that test water samples on behalf of municipal water suppliers to directly submit those water samples to the department. Currently water suppliers are responsible to report those samples to the department. As introduced, SB 347 would have implemented the direct reporting requirement.

In the 2001 and 2003 Legislative Sessions, cities opposed bills identical to SB 347 due to confidentiality concerns. However, once SB 347 was introduced, the League of Oregon Cities pulled together a work group of large and small water providers, labs and the department in the hopes of reaching a compromise on the issue. While the labs never agreed, municipalities and the department did reach a compromise and amendments to SB 347 were drafted. These amendments limited samples only to those that are required to be submitted by the Federal Safe Drinking Water Act and limited them to "validated results" which allows the utility to work with the lab on preliminary samples. Also the labs are only required to report positive samples. However, the committee in which the bill was before closed without approving the amended version of the bill, in effect killing the bill. Late in the session the Senate Rules committee introduced SB 1080 which was identical to the amended version of SB 347. With its new bill number, SB 1098 sailed through the process.

Effective: January 1, 2006
Chapter 696

SB 532 – MIXING ZONES: TESTING

Originally SB 532 would have prohibited DEQ from adopting any water quality standard which was less stringent than a previous standard. Late in the session, however, the bill was striped of its original language and language regarding mixing zones was inserted. The new language would have required DEQ to develop a plan to substantially reduce the amount of persistent bioaccumulative

toxics discharged into mixing zones. DEQ would have been required to test fish in and around mixing zones as well as water quality in the zones. Permittees would also have been required to test water quality in zones as well as install and maintain buoys marking the zones. DEQ would have also been required to report to the Legislature by 2009.

The Environment and Land Use Committee held a work session, did not accept public testimony, and moved the bill to the Senate Budget Committee. The Senate Budget Committee did, however, conduct a public hearing but the bill did not move forward.

In committee upon adjournment

SB 555 – MIXING ZONES: BIOACCUMULATIVE TOXINS

Mixing zones are the regulated areas of dilution surrounding permitted discharges into bodies of water. In implementing a mixing zone, DEQ requires it to be as small as possible. DEQ also will only allow a mixing zone when it does not harm the river as a whole, kill organisms passing through it, or cause significant risk to human health. Every state allows mixing zones as an appropriate way of implementing the federal Clean Water Act. While mixing zones are issued for many pollutants, SB 555 focused on bioaccumulative toxins.

This bill would have prohibited DEQ from issuing mixing zones that contain toxic substances to any industrial discharger in 2005 and any municipality in 2011. There were provisions in the bill which would have allowed a short term exemption if there would have been a "significant and unreasonable burden to the permittee." Most dischargers agreed, however, the exemption would have been unworkable.

While the implementation of SB 555 would have proved extremely costly for ratepayers and detrimental to the economy, the environmental benefits would have been nominal. Environmental associations, however, made it the cornerstone of their political agenda. Many political observers believe environmental groups will organize a drive to place an initiative on this issue on the November 2006 ballot.

In committee upon adjournment

SB 563 – REFUSAL TO SUPPLY WATER

SB 563 required municipal water utilities to reinstate water service to owners or tenants of properties where the previous owner or tenant was denied service for failure to pay the bill. The City of Portland and the League of Oregon Cities

objected to the bill and worked with the sponsor to resolve his constituent's issue. The amended form of the bill merely required owners of property to be notified if water payments are more than 120 days delinquent.

Effective: January 1, 2006
Chapter 168

SB 681 – LAND APPLICATION

In 2001, the League of Oregon Cities in cooperation with the Northwest Food Processors Association passed SB 212 over the objections of the Oregon Farm Bureau. SB 212 established a process for wastewater dischargers to apply reclaimed water on land zoned for Exclusive Farm Use. Many in the agricultural community still do not support this practice. In 2003, and again this session with SB 681 the Oregon Farm Bureau introduced legislation to prohibit this practice. Neither attempt received any traction during the session.

In committee upon adjournment

SB 731 – WATER METERING

Originally this bill would have required all water users to meter their water use. Under current law, only municipalities are required to have fully-metered systems. The bill was amended in the Senate to require the Oregon Water Resources Department (WRD) to develop and implement a voluntary program for increasing statewide water use measurement and report back to the Legislature before 2008. Even though the bill was changed to a voluntary program, agricultural interest groups, including Water for Life and the Oregon Cattlemen's Association, adamantly opposed the bill and it died.

In committee upon adjournment

(For an additional bill related to Water, please see HB 2599 under General Government.)

WORKERS' COMPENSATION

HB 2091 – REVIEW PROCESS

Introduced at the request of the Office of Regulatory Streamlining, this bill transfers the review process for certain workers compensation contested claims from the Office of Administrative Hearings to the Workers' Compensation Board. Under current law, Workers' Compensation Division contested case hearings are processed through one of two offices independent of the division, either the Workers' Compensation Board (WCB) or the Office of Administrative Hearings (OAH). The bulk of contested case hearings, those relating to compensability of claims, are processed through the WCB. A smaller number of contested cases, those pertaining to matters other than a claim are processed through the OAH. Each agency uses panels of Administrative Law Judges to conduct the hearings.

HB 2091 consolidates all contested case hearings to the WCB. This change is intended to eliminate redundancies for claimants, decrease confusion over where an appeal should be filed, and decrease processing time, especially in cases over more than one matter that currently would involve dual jurisdiction. The contested cases that will be transferred to the WCB are those appealing a decision of the Director of DCBS relating to the following: vocational assistance benefits, medical services, amount of non-payment of medical bills, managed care organizations, and penalties for an insurer's unreasonable delay or refusal to pay compensation. All cases before the WCB will continue to be eligible for the board's mediation program.

Effective: January 1, 2006
Chapter 26

HB 2093 – DCBS NOTICE OF INSPECTIONS

Oregon law requires the Department of Consumer and Business Services (DCBS) to prioritize occupational health and safety inspections focusing on the most likely sources or problems. While inspections occur without notice, written notice is provided to certain employers that have an increased likelihood of inspection (meaning employers that have an accepted disabling claim rated above the state average for its industrial classification and to each employer in an industry that is rated as one of the most unsafe industries). This has required thousands of what DCBS considers to be unnecessary and misleading letters to employers. Most of the notices go to employers with fewer than ten employees in low-hazard business/industry sectors who are very unlikely to be inspected. An above average rate is not necessarily a reasonable indicator of hazard since an employer with ten employees in a low-hazard industry with one accepted

claim has a higher claims rate than a high-hazard employer with 100 employees and five accepted claims.

HB 2093 changes the current requirement so that notice will be sent to employers whose place of employment is rated as one of the most unsafe places of employment in the state. This change would reduce the number of letters annually sent by the agency.

Effective: January 1, 2006
Chapter 27

HB 2294 – NEW OR OMITTED MEDICAL CONDITIONS

Brought at the request of the interim committee of the Oregon State Bar Worker's Compensation Section, this bill makes acceptance or denial of new or omitted injured worker medical condition claims the responsibility of the insurer or self-insured employer with appeal to the Workers' Compensation Board. HB 2294 also clarifies the procedures regarding denials and appeals and is supported by the Workers Compensation Management-Labor Advisory Committee.

Effective: January 1, 2006
Chapter 188

HB 2404 – REPEAL OF PENALITIES FOR RECONSIDERED CLAIM

ORS 656.268 (5e) specifies that if upon reconsideration of a workers compensation claim closed by an insurer or self insured employer, the director orders an increase by 25 percent or more of the amount of compensation for a permanent disability and the worker is found to be at least 20 percent permanently disabled, a penalty will be assessed against the insurer of 25 percent of all compensation determined due to the claimant. Currently, the penalty may not be assessed if the increase in compensation is from new information obtained through a medical arbiter examination.

HB 2404-B also specifies that the penalty may not be assessed if the increase results from circumstances beyond the control of the insurer or self-insured employer. The change does not affect the level of compensation awarded to the employee, but only the penalty. The bill is supported by the Workers Compensation Management Labor Advisory Committee.

Effective: January 1, 2006
Chapter 568

HB 2408 – EVALUATION OF WORKER'S DISABILITY

This bill specifies that impairment is the only factor considered in the evaluation of the worker's disability if the worker has been released to regular work or has returned to regular work at the job held at the time of the injury. It does not require that the person has returned to the job held at the time of the injury. Moreover, the bill directs the Department of Consumer and Business Services (DCBS) to collect data and report to the 74th Legislative Assembly (by January 30, 2007) on the impact of the measure to permanent and partial disability awards in worker's compensation claims and permits the Director of DCBS to adopt rules necessary in gathering the requisite data.

Effective: January 1, 2006
Chapter 653

HB 2588 – OHSU RESEARCH ON CHIROPRACTIC CARE

This bill would have directed Oregon Health and Science University (OHSU) to research the impact of allowing open access to chiropractic services in workers' compensation claims. It would have authorized up to $999,360 of Workers' Benefit Fund revenues to pay for the project over the next three biennia.

Under current law (ORS chapter 656), a chiropractor may be an attending physician for an injured worker for 30 days from the first visit on the initial claim or 12 visits, whichever occurs first. Once that time period has expired, the worker must be seen by a physician or a doctor of osteopathy. HB 2588-A would have directed that a study be conducted that compares injured workers that utilize chiropractic services under the current practice to those injured workers that have unlimited access to chiropractic services.

While the bill passed both chambers, the Governor vetoed the bill, expressing concern that the bill was not supported by the Management-Labor Advisory Committee (MLAC). The Governor also declared that the Workers Benefit fund was established "specifically for the purpose of providing supplemental benefits to injured workers and helping them return to work" and that "[t]his special purpose fund should not be used by the legislature to fund studies and projects like that proposed by HB 2588." The Governor requested the Department of Consumer and Business Services work with MLAC to review the role of chiropractors in workers compensation claims and report back next session.

Governor vetoed

HB 2717 – HEARING POSTPONEMENT

HB 2717 requires that a postponed workers' compensation hearing be held no later than 120 days from the original hearing date, unless the postponement is for the purpose of joining parties. The bill increases the required notice period before a hearing from 10 to 60 days, but provides that this notice limit may be waived by agreement of the parties and the board. The bill received the approval of the Management-Labor Advisory Committee.

Effective: January 1, 2006
Chapter 624

SB 119 – REEMPLOYMENT ASSISTANCE

SB 119 authorizes the Director of the Department of Consumer and Business Services to provide reemployment assistance from the Worker Benefit Fund to eligible injured workers and their employers. It requires notice of assistance to workers and provides for reimbursement from the Worker Benefit Fund if denial of vocational rehabilitation benefits is upheld.

Effective: January 1, 2006
Chapter 588

SB 172 – RECONSIDERATION OF CLAIMS

This bill allows an earlier date for the beginning of the reconsideration period for worker's compensation claims under certain circumstances. It authorizes the Director of the Department of Business and Consumer Services to impose a civil penalty upon violation of certain statutes and repeals an outdated requirement that the director designate the doctor giving a pre-employment physical.

Following the closure of a worker's compensation permanent disability claim either the worker or the insurer may appeal the decision through a reconsideration request. Under current law if the insurer or self-insured employer requests a reconsideration, the department's processing period may not begin after the worker has appealed, waived their right of appeal, or the worker's period for appeal has passed, whichever is later. This may unnecessarily delay the onset of the reconsideration. SB 172 specifies that the processing of the insurer's appeal may begin earlier, either at the point the employee appeals or waives their right of appeal. The bill also authorizes the director to impose civil penalties upon a violation of statute, not just a rule or order.

Effective: January 1, 2006
Chapter 221

SB 311 – REGULATION OF WORKERS' COMP MEDICAL EXAMS

SB 311 creates a greater level of state regulation of often-contentious independent medical examinations (IMEs) requested by insurers or self-insured employers in workers' compensation claims. Under the bill, the Oregon Department of Consumer and Business Services would create a list of authorized IME providers, and oversee a training curriculum used by insurers and employers relating to IMEs. The department is also authorized to conduct an expedited review of the location chosen for an exam, to penalize an injured worker who fails to attend an exam, and to sanction providers who don't provide timely medical records for an employee.

The funding for these new services comes from workers' compensation premium assessments, which are not expected to increase in this biennium as a result of the bill.

Effective: January 1, 2006
Chapter 675

SB 386 – PERMANENT TOTAL DISABILITY WAGE THRESHOLD

This bill redefines the wage threshold that a person with a permanent total disability (PTD) may earn and still be eligible for prorated workers compensation benefits. It sets the threshold as the lesser of: (1) the federal poverty level for a family of three, or (2) two-thirds of the worker's average weekly wage at injury. Moreover, it specifies that if the employee returns to work, the combined wages and PTD benefits may not exceed pre-injury wages. In addition, it allows an Administrative Law Judge to request a medical arbiter and clarifies that the PTD evaluation includes at least one interview or examination of the worker.

Effective: January 1, 2006
Chapter 461

SB 670 – TREATMENT STANDARDS FOR INJURED WORKERS

This bill requires the Director of the Department of Consumer and Business Services to "review and approve", instead of "prescribe", treatment standards for injured workers in managed care organizations. It specifies that managed care plans may not prohibit an attending physician from acting as an advocate for an injured worker's medical services or temporary disability benefits as supported by the medical record.

Effective: January 1, 2006
Chapter 364