



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

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TO: Commissioners Helgeson, Brown, Mital, Simpson and Carlson
FROM: Jason Heuser, Legislative Affairs Coordinator
DATE: February 23, 2017
SUBJECT: State Legislative Update

Issue

The 2017 State Legislative Session convened February 1. This memo is to apprise the Board of key issues of interest to EWEB, and the current status of these issues in the legislative process.

Background

Prior to the start of each legislative session, the Board adopts general policy directives for advocacy at the Capitol, which guide the work of EWEB's lobbying activities. When political considerations test the applicability of those directives, the General Manager makes a determination as to whether a fundamental shift in direction is required. The Board may be asked to reaffirm its policy or direct staff to make necessary adjustments.

Discussion

The following is a summary of state legislative activity of interest to EWEB:

Small Scale Community Renewables – HB 2136

HB 2136 would carve out a portion of Oregon's renewable portfolio standard solely for small-scale "community" projects with generating capacity of 20 megawatts or less. This bill received a public hearing on February 7th. As written the bill would only apply to investor-owned utilities (Portland General Electric (PGE) and Pacific Power).

Advocates asserted it would ensure diversity in Oregon's energy sources — bringing projects beyond big wind and solar — and encourage economic development more broadly throughout the state. The bill also references that small scale renewable energy projects can help provide resiliency the grid and emergency power during and after catastrophic natural disasters.

PGE testified in opposition, arguing that the bill would drive up costs, by imposing a new layer of detail as to which projects utilities could use to meet their renewable requirements. The Citizen's Utility Board (CUB), a ratepayer advocacy group, argued that the bill should be applied to all utilities in Oregon, and provided a chart showing rate disparities between investor-owned utilities (IOUs) and consumer-owned utilities (COUs), implying the disparity was due to state energy

policies that only applied to IOUs and not statewide.

EWEB staff joined with other representatives of Oregon COUs to meet with every member of the committee individually to walk them through the vastly different cost-based utility model in public power, Residential Exchange, and non-Power benefits that IOU customers receive from the federal hydro system (i.e. flood control, recreation, etc.) that are largely paid for by COU customers. Additionally, it was noted in these meetings that most COUs are experiencing little or no load growth and have little need of new generation. The bill has not been scheduled for a work session and faces an uncertain future.

Carbon Pricing Legislation

The House and Senate committees overseeing energy policy held a joint meeting February 20 to hear results from the Oregon Department of Environmental Quality (DEQ) study of market based carbon reduction policies, as requested in the 2016 legislative session. DEQ testified that their study found that a cap and trade policy "offers a flexible, cost-effective mechanism for assuring (greenhouse gas) reductions" and that the effects on statewide economic output would likely be small, coming in at "slightly positive or slightly negative." In the study, the DEQ assumed a program modeled after existing programs in California and Quebec, which cover "fossil fuel and natural gas suppliers, electricity providers, and industrial emitters responsible for at least 25,000 tons of GHGs per year."

In another joint hearing scheduled for March 1, the committees will hold a public hearing on a suite of carbon pricing legislative measures, including both carbon cap-and-trade and carbon tax approaches. As it is anticipated there will be a large turn-out for the hearing, limiting time for each speaker, EWEB will coordinate with the City of Eugene to provide joint testimony.

Public Employee Retirement System (PERS) Changes

The Senate Workforce Committee held a public hearing on the first of many PERS bills to be considered. SB 559 would redefine the final salary used to calculate a member's benefits from a three-year average to five, which will tend to lower employee benefits. Senate Bill 560 would redirect members' required 6 percent contributions, frequently "picked up" by the employer, to support the pension fund, rather than depositing them in a supplemental retirement account that belongs to employees. That move could offset employer contributions to the fund and has been projected to save as much as \$1.2 billion per biennium.

The legislature will continue to hold hearings on several other changes to PERS before considering some package of proposed PERS changes.

Qualification Based Selection (QBS) in Public Contracting – SB 382

The League of Oregon Cities hosted a two-hour dialogue on February 10 between local government procurement professionals, architects and engineers (including EWEB procurement and government relations staff) to discuss added flexibility for public agencies to consider price during the selection process of some professional personal services contracts currently subject to requirements to use QBS. Under current QBS requirements, pricing information can be a consideration only after the most qualified consultant for a project has been selected.

Consensus on what that flexibility should look like proved elusive, but the conversation was largely productive and the group agreed to meet again. In the meantime, there will likely be a public hearing in early March on a placeholder bill, SB 382 introduced by the League of Oregon Cities. The hearing provides an opportunity to inform the Senate Business Committee of the local government perspective on how the existing QBS rules make it difficult for public agencies to procure services in a cost effective and timely fashion.

Oregon Department of Energy (ODOE) Restructuring

The Joint Interim Committee on Department of Energy Oversight will be meeting soon to examine several proposals to restructure ODOE and introduce legislation to implement any changes agreed to. EWEB submitted comments to the committee in 2016 about “right-sizing” the agency and phasing out planning or services duplicated elsewhere in the region by the Northwest Power and Conservation Council, BPA, the Oregon Public Utility Commission, the Energy Trust of Oregon, and the Northwest Energy Efficiency Alliance.

EWEB and other utilities pay an Energy Supplier Assessment (ESA) that funds ODOE and we have been very concerned about the steady and unsustainable growth in our annual ESA bill. Another ESA increase is likely for the 2018-19 Biennium. EWEB staff will closely monitor and participate in the decision-making on ODOE restructuring.

Recreational Immunity

Landowners in Oregon are immune from civil liability in the event a person is injured on their property provided that they were recreating and that the property owner did not charge a fee for access to their land. However, the Oregon Supreme Court has recently ruled that the employees or other agents of the landowner may be liable if a person is injured as a result of their actions. For public agencies that are required to indemnify and defend their employees against such claims, recreational immunity has been stripped away.

Without effective recreational immunity, EWEB and other public agencies will be exposed to unwarranted risks. In a few instances already, public agencies have closed parks. Recreational opportunities are a core value of Eugene and contribute to the local quality of life and should not be compromised by the possibility of such liability.

HB 2483 would restore the civil immunity landowners and their employees had against tort actions for injuries sustained while recreating.

Recommendation/Requested Board Action

This memo is for informational purposes. No board action is requested.