



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD



TO: Commissioners Carlson, Mital, Helgeson, Schlossberg and Brown  
FROM: Jason Heuser, Public Policy and Government Affairs Program Manager  
DATE: April 26<sup>th</sup>, 2019  
SUBJECT: State Legislative Update

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## Issue

The 2019 State Legislative Session convened January 28, 2019. 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 in April of interest to EWEB:

### HB 2020 – Oregon Climate Action Program/Clean Jobs/Cap and Invest

The Joint Carbon Reduction Committee held several hearings in early April to discuss amendments to HB 2020. Chief among these was the Dash 31 (expressed as “-31”) Amendment. The -31 proposed few changes to the electric sector. The most significant change proposed in the -31 was a change in the allowance allocation for industries classified as Energy Intensive Trade Exposed (EITE). Instead of an initial 100 percent free allowance allocation, as proposed in HB 2020 as drafted, the -31 would award 95 percent free allowances to an EITE if they could demonstrate they were using the best available technology from a carbon intensity perspective. This determination on best available technology would be updated periodically.

In the electric sector, the design remained largely the same as proposed in HB 2020 as drafted. However, and notably, language was added in the -31 to provide the state authority to adopt by rule an alternative approach to electricity imported into Oregon via the Western Energy Imbalance Market (EIM) or any other future organized market. This was a key priority for EWEB and a central part of the advocacy agenda during the EWEB Board's March 14<sup>th</sup> meetings with legislators in

Salem. This authority should prove useful to keep the program adaptable to future changes in wholesale power markets, as well as mitigate any unexpected hurdles in linking Oregon's program to California's program and/or the Western Climate Initiative.

Additionally, EWEB has been partnering with other Oregon BPA customers to advocate for a provision in the bill that would provide direction to Oregon DEQ or the Carbon Policy Office to use the last 15 years of greenhouse gas reporting data from BPA for the purposes of calculating BPA's allowance allocation, rather than the shorter time frame that will be used for other sectors. Using the longest time frame possible would best address the year to year variability of hydropower production and result in the most accurate projection of BPA's future exposure to carbon liability.

The Joint Carbon Reduction has met only infrequently in the 2<sup>nd</sup> half of April. It is thought that the committee will resume work on HB 2020 when a rumored -84 amendment is completed, likely the week of May 6<sup>th</sup>. One issue the -84 may address is an alternate allowance allocation for natural gas utilities, a topic which has been the subject of much discussion and concern.

#### SB 408 – Flexibility in Siting Utility Infrastructure in Exclusive Farm Use (EFU) Zone

SB 408 was approved on March 14<sup>th</sup> by the Senate on a 30-0 unanimous vote and was heard by the House Energy and Environment Committee on April 16<sup>th</sup> and received positively by the committee members. After a small technical amendment is complete, SB 408 is expected to be scheduled for a work session and is expected to advance.

EWEB has submitted testimony twice in support of SB 408, co-sponsored by Senator Bill Hansell of Pendleton and Senator James Manning of Eugene and has actively lobbied legislators on behalf of this legislation. This bill will help utility providers reduce their footprints on farm land by allowing the creation of parcels based on the amount of land actually needed for a utility facility, rather than based on the larger minimum lot sizes associated with the Exclusive Farm Use zone. Because of these large minimum lot sizes, properties in the Exclusive Farm Use zone are often larger than what would otherwise be needed for a utility facility.

#### HB 2769 – Flexibility to consider price in Qualifications Based Selection (QBS) Public Contracting

This legislation, championed by Representative Susan McClain of Hillsboro, was approved by the House 55-0 on March 21<sup>st</sup> and approved in the Senate by unanimous consent on April 24<sup>th</sup>, carried on the Senate floor by Senator James Manning of Eugene. EWEB and several other local governments, over multiple legislative sessions, have advocated for restoring some ability for public agencies to consider price in the procurement of professional services such as architects, engineers and land surveyors.

HB 2769 allows local public contracting agencies to evaluate and score price as part of a two-step process. Agencies would issue a request for qualifications as step one and select up to three (3) of the highest ranked firms based solely on qualifications. After the initial qualifications-based selection, local public contracting agencies must then provide a detailed statement of work and request pricing information from the three most qualified firms as part of a second evaluation step. To retain a focus on qualifications, the local contracting agency may use pricing information for up to 15 percent of the points used during this second evaluation step.

HB 2769 was negotiated as a compromise between local governments and professional associations representing architects, engineers and land surveyors. The bill is expected to be signed by the Governor soon.

### SB 935 – Scope of Work for Landscape Contracting Limited License

SB 935 expands what work can be done under a newly established landscape contracting “limited license”. The new limited license was created via rulemaking that the governor’s office initiated last year. That limited license does not include irrigation (largely due to intervention from water suppliers during the rules adoption process to make sure irrigation and backflow were not included).

SB 935 allows for irrigation work to be done by holders of the new limited license, with a limit to 4 zones and 12 gallons per minute. There is a monetary cap (that was adopted through the rulemaking process) of \$5,000 per customer – so that cap (in the rules) would apply to irrigation work under SB 935.

While the bill prohibits actually connecting an irrigation system to an electrical source or water supply, there are concerns that in practice unqualified individuals will connect to the public system rather than paying a licensed plumber or backflow installer to do that work. A backflow assembly is an important health protection for water supply. Furthermore, the limited license is not subject to required training on water conservation. Water efficiency training in landscape irrigation is a critical component of managing peak summer water demand when water supplies are at their lowest.

EWEB is actively working with other water utilities and meeting with legislators to press for changes in the bill to meet our concerns about water conservation and health and safety. The bill was approved in the Senate on a 25-4 vote and now awaits consideration in the House.

### **Recommendation/Requested Board Action**

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