



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

*Rely on us.*

TO: Commissioners Carlson, Mital, Helgeson, Schlossberg and Brown  
FROM: Jason Heuser, Public Policy and Government Affairs Program Manager  
DATE: May 23rd, 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 May of interest to EWEB:

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

On May 17<sup>th</sup>, the Joint Carbon Policy Committee adopted the -94 amendment to HB 2020 and advanced the bill to the Joint Ways and Means Committee with a “do-pass” recommendation. With the amendment, the bill is now termed HB 2020 A-Engrossed, or “HB2020A.”

The -94 amendment made only a few changes to the electric sector. One of the two most significant overall changes approved in the -94 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, as amended HB 2020A will now 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 by the Carbon Policy Office (CPO).

The second significant change was the allowance allocation for natural gas companies. As introduced, HB 2020 only would have awarded free allowances to gas companies necessary to

mitigate rate increases for low income customers. HB 2020A will now allocate to a gas company allowances equal to 60 percent of their historic emissions at the start of the program, which will decline over time with the economy wide cap. The gas company will also retain the allowance allocation targeting rate mitigation for low income customers. In total, it is estimated that a gas companies overall allowance allocation could be as high as 80 percent of historic emissions, at the start of the program.

In the electric sector, the design remained largely the same as proposed in HB 2020 as drafted. However, notably, as amended, HB 2020A now provides the state ample 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 partnered with other Oregon BPA customers to advocate for a provision in the bill that would provide flexibility to Oregon DEQ or the Carbon Policy Office to use a longer time frame 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. Additionally, HB 2020A now includes a smoother transition for any consumer-owned utility with non-federal power purchases/emissions below 25,000 annual tons that finds its emissions rise above that figure in the future to result in a carbon compliance liability, by adjusting a utility's allowance allocation to account partially for new load growth.

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

SB 408A was approved on May 23<sup>rd</sup> by the House of Representatives on a 55-0 vote and previously was approved on March 14<sup>th</sup> by the Senate on a 30-0 vote. Due to the changes made by a small technical amendment in House Committee, SB 408A will now return to the Senate floor for concurrence.

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 was approved by the House and Senate and signed into law by Governor Brown on May 3<sup>rd</sup>. 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

EWEB actively worked with other water utilities and met with legislators to press for changes in the bill to meet our concerns about water conservation and health and safety. These efforts were successful and on May 22nd the House Business and Labor Committee adopted a -2 amendment removing residential irrigation from the scope of work allowed under the Landscape Contracting Limited License. The -2 amendment will add decks and patios instead to the scope of allowed work.

SB 935 as introduced would have allowed for irrigation work to be done by holders of the new limited license, with a limit to 4 zones and 12 gallons per minute and a monetary cap on what work can be completed.

While the bill as written would have prohibited actually connecting an irrigation system to an electrical source or water supply, there would have been concerns that in practice unqualified individuals would 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.

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

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