



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

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TO: Commissioners Carlson, Mital, Helgeson, Schlossberg and Brown
FROM: Jason Heuser, Public Policy and Government Affairs Program Manager
DATE: August 23, 2019
SUBJECT: 2019 State Legislative Session Summary
OBJECTIVE: Information Only

Issue

The 2019 State Legislative Session adjourned on June 30th. This memo is to apprise the Board of the final status of key issues of interest to EWEB over the course of the session.

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 2019 Oregon Legislature failed to take action on EWEB's top priority, carbon pricing, but passed the following bills which will have direct impact on EWEB:

HB 2769 – Price Consideration in Qualifications Based Selection (QBS) Public Contracting -- PASSED

HB 2769 will allow local government public contracting agencies to evaluate and score price as part of a two-step process in procuring professional services such as architects, engineers and land surveyors. 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.

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

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.

SB 1049 – Public Employees Retirement System (PERS) Reform -- PASSED

The Oregon House and Senate narrowly approved in late May changes to PERS intended to reduce the cost to pay down the system's unfunded liability. The bill was signed by the Governor on June 11th and will be the subject of a legal challenge. Analysis from the state estimates that SB 1049 could mitigate employer PERS rates by 5.4% beginning in 2021. Key components of the plan include: 1) lengthening the payment period for the PERS system's \$27 billion liability; 2) compelling public employees to pick up part of the cost of their pensions; and 3) allowing retirees to come back to work but paying the pension payments they might otherwise have earned into the liability.

The bill has many implementation details to be worked out, and will be the subject of robust rulemaking once legal challenges have been adjudicated. The state of Oregon has established a website for employees, employers, and retirees to stay informed on the implementation progress and new analysis of SB 1049 as matters progress. The website can be found at:

<https://www.oregon.gov/pers/MEM/Pages/SB1049.aspx>

SB 27 – Statewide Drinking Water Fee -- PASSED

SB 27 authorizes the Oregon Health Authority to adopt by rule a schedule for fees assessed on water suppliers to support administration of the Oregon Drinking Water Quality Act. SB 27 does not include any schedule of costs, but based on a preliminary schedule of fees distributed by the Oregon Health Authority (OHA) as they begin the rule making process, it would be estimated that the fees assessed to EWEB due to this bill would be approximately \$42,000 per year. SB 27 did include a cap on future increases in fees to three percent annually.

The fees to be paid will fund the State Drinking Water Program and replace general funds that were removed over time. Services received through the program are anticipated to be the same as existing. These services include completion of the sanitary surveys and other compliance investigations as well as water quality data entry and analysis. According to OHA, without this fee, services would likely decline and the State would be at risk to lose primacy over the Drinking Water Program, which would otherwise revert to the Federal EPA.

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

The progress of HB 2020 had slowed in the months of April and May while the bill remained in its committee of origin, the Joint Carbon Reduction Policy Committee. After being referred to the Joint Ways and Means Committee on May 21st, activity on HB 2020 accelerated and with only a few modest final amendments to the legislation, HB 2020 was approved by the Oregon House on a 36-24 vote after a marathon floor debate lasting late into the evening of June 17th.

The bill had a second reading in the Oregon Senate on June 19th, and a final vote to approve the legislation in the Senate was expected on June 20th. That morning though, the 11 Republican Senators did not appear for the Senate floor session, denying a 2/3rds quorum necessary to conduct business and vote to approve HB 2020. As the day wore on, the group of Republican Senators made clear that they would not return to the Senate floor and allow a vote on HB 2020 and that they had left the state of Oregon to avoid the Governor's call to the Oregon State Police to return the Senators to the Capitol.

During the impasse, which garnered national and international media coverage, the Senate President announced on June 24th that SB 2020 no longer had the necessary floor votes from Senate Democrats and declared the bill "dead." After negotiations and further confirmation that SB 2020 would not advance, Senate Republicans returned to the Capitol the morning of June 29th and resumed work passing state budget bills and a backlog of over 100 bills before adjourning the evening of June 30th.

The future of HB 2020 and reintroduction of carbon pricing legislation is uncertain. The defeat of the legislation in the 11th hour was a stinging blow to the bill's proponents. However, a bill that had never previously been voted even out of a single committee, has now been approved by a three-fifths majority in the Oregon House and came within one or two Senate votes of becoming the 2nd economy-wide state carbon pricing program in the nation. Advocates of carbon pricing will surely try to assess what caused the unexpected final deficit of Senate votes in the 11th hour and modify the next future iteration of HB 2020 to address concerns that led to that change in the vote count. It can be expected that a modified successor to HB 2020 will be introduced in the 2020 Legislative Session. Some carbon pricing advocates are making a case for a special session in 2019 to take up a new version of HB 2020, but that does not seem very probable.

In the bigger picture, the tactic of "walking out" and denying a quorum (40 Representatives and 20 Senators make a quorum respectively) has raised questions about governance in Oregon's form of state government. Oregon is one of only 4 states with a quorum standard that is greater than a simple majority. There is preliminary talk from lawmakers about introducing legislation to amend Oregon's constitution to reduce the quorum requirement from 2/3rds to a simple majority, which if approved would put the decision before Oregon voters in the 2020 election.

Recommendation/Requested Board Action

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