



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

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TO: Commissioners Brown, Carlson, Mital, Simpson and Helgeson
FROM: Jason Heuser, Policy/Government Affairs Program Manager
DATE: March 23rd, 2018
SUBJECT: 2018 State Legislative Session Summary
OBJECTIVE: Information Only

Issue:

The Oregon legislature adjourned Saturday, March 3rd. Generally, the “short” session (30 days in even numbered years) resulted in little proposed in the way of energy or water legislation, although serious consideration was given to carbon cap and trade legislation. Though unsuccessful, there is now a great deal of momentum heading towards the 2019 “regular” session (6 months in odd numbered years).

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.

Discussion:

The following is a summary of issues that were of interest to EWEB during the 2018 session:

SB 5007 and HB 4001 – Cap and Invest/Clean Jobs Bill

These two bills were virtually identical and would have enacted an economy wide cap and invest program for the state of Oregon.

A cap and invest program, also known as cap and trade, is a flexible, market-based mechanism that reduces greenhouse (GHG) emissions and has been found to be the least-cost GHG reduction policy. A cap is established based on state GHG reduction targets that lower over time. Regulated businesses are given three options to reduce and manage their emissions liability under the cap; 1) reduce internally, 2) purchase state issued allowances or 3) purchase emission reduction projects also known as offsets. Allowances are auctioned by the state, raising proceeds, and may be traded between regulated entities. Proceeds to the state from the sale of allowances can be reinvested to further reduce climate pollution, assist industry, create benefits for disproportionately impacted communities, retrain workers, and advance clean economic development.

SB 5007 and HB 4001 were the product of months of work group meetings in the Fall of 2017 (prior to that, committee hearings in the 2017 legislative session produced a straw proposal SB 1070 which was the starting point for the cap and invest work group meetings). Both bills had substantive multi-hour public hearings in packed committee rooms. Throughout the short session the bills mobilized one of the most robust grassroots citizen-led lobbying efforts seen in the Capitol in some time. The bills were both approved out of committee, but ultimately were not brought to a vote on the Senate or House floor. This result may have been a reluctance by a handful of legislators weary of passing such important legislation in a short session, despite the lengthy advance work designing the bills.

In the waning days of the legislative session, a few of these legislators, not least of all Senate President Peter Courtney, made statements about being committed to advancing the bills in the 2019 legislative session when they felt there would be more time to review the bills and parse the details correctly. Senator Courtney sponsored a \$1.4 million appropriation in the state budget, a day before the session adjourned, to fund a Joint Carbon Policy Task Force to begin work soon. The task force will be co-chaired by Senator Courtney himself along with House Speaker Tina Kotek. The task force will take up three studies on economic impact, potential for jobs and businesses to leave Oregon in specific industries, and issues specific to forestry.

While on paper the cap and invest bills do not appear to have advanced much farther than past legislative sessions, there are considerable signs that passage of a state cap and invest program is possible in 2019, especially given that now both Senate and House leadership have signaled that the bills are a top priority in their respective 2019 legislative agendas.

SB 1537 and HB 4148 – ODOE Restructuring – Failed

For the second consecutive session, legislation was proposed that would have revised the mission and scope of responsibilities for the Oregon Department of Energy (ODOE) as well as create a new Commission (SB 1537) or Board (HB 4148) to oversee the Department in the pursuit of greater transparency and accountability.

EWEB did not take a position on either bill but did continue to meet with legislators and stakeholders to express EWEB's view that ODOE underwent much growth in the 2000's and we are concerned there is redundancy now between the work ODOE does and work done at the Public Utility Commission, the Northwest Power and Conservation Planning Council, BPA, the Energy Trust of Oregon and the Northwest Energy Efficiency Alliance.

Furthermore, in the past decade the Energy Supplier Assessment (ESA) paid by EWEB and other utilities to support ODOE's budget has grown almost 500 percent. EWEB continues to recommend a fundamental change in funding the Department by reducing the use of the Energy Supplier Assessment paid by EWEB and other electric utilities and increasing the use of the State General Fund to pay for programs with little nexus to consumer-owned utilities like EWEB.

HB 4127 – Qualification Based Selection (QBS) Contracting Flexibility – Failed

HB 4127 would have created an optional, alternative process that EWEB and other local government contracting agencies could utilize for the procurement of architectural, engineering, photogrammetric, land surveying and transportation planning services. Under current law, contracting agencies may request qualifications only from potential firms, and are required to rank those firms from most-qualified to least-qualified. Once a ranked list is established, the contracting agency may only negotiate further with the top-ranked firm. Only after making that selection, based solely on qualifications, can the contracting agency take cost into consideration. If the contracting agency and firm are unable to come to an agreement on price or other factors, the contracting agency can terminate the negotiation and move on to the next highest ranked firm on the list. For that contract, the contracting agency is prohibited from reconsideration of any firm with which it has previously terminated negotiations. The contracting agency can continue to work through the list of firms, in a linear fashion, until they find one with which they can successfully negotiate a final deal.

HB 4127 was introduced in response to concerns expressed by many cities and other local governments that the current process is time consuming, lacks transparency, and does not lend itself to the best overall value for the spending of public dollars. The optional process authorized in HB 4127 would have allowed cities and other contacting agencies to engage in an initial qualifications-only screening process. After completing that first step of the process, the contracting agency would select up to three qualified firms with which to negotiate. The city could then ask those firms for pricing information, including the number of hours proposed for the service required, expenses, hourly rates and estimated overhead costs.

The bill, as originally introduced, would have allowed the local contracting agency to select up to five qualified firms. The bill was amended in the House to limit that number to three qualified firms. The amended HB 4127 passed the House and had a public hearing in the Senate, but did not advance to the Senate floor prior to adjournment. It is anticipated that EWEB will collaborate again with key partners, including the League of Oregon Cities, the City of Hillsboro, and the Oregon Municipal Electric Utilities Association to continue work in the interim to address concerns with the current QBS process so that legislation can be introduced again during the 2019 session addressing feedback given by key Oregon Senators.

Recommendation/Board Action:

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