



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Schlossberg, Brown, Carlson, Barofsky and McRae
FROM: Jason Heuser, Public Policy and Government Affairs Program Manager
DATE: March 26, 2021
SUBJECT: 2021 State Legislative Session Update
OBJECTIVE: Information Only

Issue

The 2021 State Legislative Session convened on January 21st. This memo is to apprise the Board of the status in the legislative process of issues key to EWEB's adopted 2021 legislative agenda and legislative principles. The legislature is now entering the period with deadlines for bills to advance out from their committee and chamber of origin, and the scope of bills under genuine consideration will be greatly reduced.

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 the status of key legislation of interest to EWEB:

HB 2021 (previously HB 2995) – 100 Percent Clean Energy Standard – Recommendation: AMEND

The future of Clean Energy legislation is very much up in the air at this juncture. HB 2995 has not received a hearing. A public hearing for HB 2021 was held on March 22, including discussion of multiple amendments, that each would have replaced HB 2021 almost in whole. A Dash -1 amendment, with emission-based goals for investor-owned utilities, would exempt consumer-owned utilities, including EWEB. Another hearing scheduled for March 31 may take up yet another Clean Energy Standard variant, HB 3180, similar to the Dash -3 amendment proposed for HB 2021, a REC-based approach that would also exempt consumer-owned utilities. The ad-hoc stakeholder group which EWEB has been participating in, has concluded its work without consensus on a policy framework. EWEB staff have continued to advocate across the suite of bills and amendments for an approach that comports with electric system reliability and resource adequacy and offers alternative compliance mechanisms like carbon offsets.

HB 2310 – Preemption of Local Authority on Water Pipe Materials – Recommendation: OPPOSE

HB 2310 is brought forward by the American Chemistry Council and would preempt local governments from enacting, adopting, or enforcing any ordinance, resolution, rule or other law that prohibits, restricts or limits an evaluation, comparison or use of pipe or piping materials for a water project.

Oregon’s public drinking water and wastewater utilities have in some instances made restrictions on the use of piping materials for reasons as varied as: water conservation practices; leak detection and repair capabilities; natural disaster resiliency; pressurization concerns; asset management approaches to life-cycle costs; etc.

HB 2310 had public hearings on March 9 and 11. EWEB submitted testimony in opposition. The bill is not expected to advance.

HB 5010 – Adopted DOGAMI Budget – Recommendation: SUPPORT

Governor Kate Brown’s proposed biennial budget would have reduced funding and positions at the Department of Geology and Mineral Industries (DOGAMI) and eliminate the agency in 2022, dissolving the agency’s work into the Department of Environmental Quality (DEQ) and the Department of Land Conservation and Development.

EWEB staff submitted testimony about the importance of DOGAMI to post-fire McKenzie River recovery and conveying that a federal grant to pay for LiDAR work on the McKenzie had been denied by the US Geological Service due to the uncertainty about DOGAMI’s future. The Ways and Means Natural Resources Subcommittee pledged after that hearing not to disassemble DOGAMI. On March 22nd the Full Joint Ways and Means Committee restored and approved DOGAMI’s budget a normal base level.

SB 333 – Hydrogen Study – Recommendation: SUPPORT

EWEB staff testified before the Senate Energy and Environment Committee on February 11th in support of SB 333 a bill that would direct state agencies to study the potential of and benefits to Oregon from Renewable Hydrogen. The bill was approved out of committee unanimously on March 23rd and will go next to a Senate floor vote.

HB 3103 – Municipal Access to Federal Stored Water – Recommendation: SUPPORT

For over 30 years, municipal water providers in the Willamette Basin have been working with the U.S. Army Corps of Engineers, the Oregon Water Resources Department (OWRD), and other state agencies and stakeholders in the Basin to develop an integrated water resources management strategy to effectively plan for community water needs, agricultural irrigation needs, and endangered species protection. Significant progress has been made to reallocate the storage space in the 13 Willamette Basin Project reservoirs. This stored water is one of the few remaining water supplies to meet future needs within the basin.

Recently, this work led to Congressional approval of the Willamette Reallocation in the reauthorization of the Water Resources Development Act (WRDA) at the end of 2020. Now the state must implement a water right transaction called a “transfer” in order to access the stored

water for multiple beneficial uses. This “transfer” to a “multi-purpose” use is also a requirement to protect fish flows allocated for the Endangered Species Act.

OWRD recently determined they lacked statutory authority to accept and process character (type) of use transfer applications after decades of established practice. This issue came about as an unintended consequence of a legislative change in 1995 that changed water “right” to water “use.” OWRD’s determination eliminated a crucial administrative process needed for efficient and cost-effective transfers of water from one use to another. This leaves municipal water providers in the Willamette Basin, including EWEB, without a viable path to access stored water for future needs. HB 3103 clarifies that OWRD has the ability to resume accepting and processing applications to change the use of stored water. HB 3103 will allow municipal water providers to access critical stored water to meet future demands without purchasing a new water right.

EWEB staff testified in support of HB 3103 at a public hearing at the House Water Committee on March 8. Although the bill has some opposition from agriculture interests who demand that location (controversial) authority be addressed in tandem with character of use authority, HB 3103 has been scheduled for an April 8 work session.

HB 5037 and HB 5038 – Oregon Watershed Enhancement Board (OWEB) Budget –
Recommendation: SUPPORT

EWEB staff testified at the Joint Ways and Means Natural Resources Subcommittee on March 24 in support of restoration of OWEB’s base budget. OWEB is a lead agency in coordinating Oregon’s response towards wildfire-affected watershed recovery. As the state receives clear guidance from the US Treasury Department and Office of Management and Budget, OWEB is expected to be a lead agency in disbursement of federal funding disbursed to Oregon through the \$1.9 trillion American Rescue Plan. EWEB staff are in contact with OWEB staff about coordination between the state and local agencies when funding becomes available.

Recommendation/Requested Board Action

No action is requested at this time. This is a monthly informational update.