



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

*Rely on us.*

TO: Commissioners Brown, Carlson, Barofsky, McRae and Schlossberg  
FROM: Jason Heuser, Public Policy and Government Affairs Director  
DATE: November 23, 2022  
SUBJECT: EWEB's 2023 State Legislative Agenda  
OBJECTIVE: Approval of Resolution No 2230, EWEB's State Legislative Agenda

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## **Issue**

The Oregon Legislature convenes annually – for approximately six months in odd numbered years and almost two months in even numbered years – to enact laws and to set and adjust the biennial budget for the State of Oregon. EWEB has an active advocacy presence during legislative sessions to represent the interests of EWEB and its customers. The 2023 Oregon Legislative Session will begin Feb. 6, preceded by an orientation period and informational hearings in January.

## **Background**

Prior to the start of each legislative session, the Board adopts general policy directives for advocacy at the Capitol. These directives are approved by a resolution, after a presentation and discussion with the Board. The adopted directives are approved by a resolution, after a presentation and discussion with the Board. The adopted directives guide the work of EWEB's lobbying activities. When political considerations test the applicability of these directives, the General Manager makes a determination as to whether a fundamental shift in direction is required. The Board may be asked to reaffirm their policy or direct staff to make necessary adjustments. This practice is derived from Board Policy GP-13 – Board Role in Legislative Session. EWEB staff will prepare monthly "legislative update" memos to the Board throughout the legislative session that will apprise the Board of the bills or issues that EWEB staff is devoting time and resources toward in support or opposition, the implications of these bills for the utility, and prognostications on the likelihood of these bills advancing in the legislative process.

## **Discussion**

Given narrower majorities in the House and Senate and the passage of the Clean Electricity Standard (HB 2021) in the 2021 session on ongoing state agency rulemaking to implement that law as well as the implementation of the Oregon Climate Protection Program (Executive Order 20-04), EWEB staff are not anticipating significant state legislation in 2023 that would affect the electric sector. EWEB will however be proactive in the 2023 session on two key issues:

### **Hydroelectric Water Rights**

In December of 2021, the Oregon Supreme Court issued a decision in *WaterWatch of Oregon v. the Water Resources Department (WRD) and Warm Springs Hydro LLC*. The key takeaway from the ruling is that water rights for hydro projects, when not used for their intended purposes for greater than 5 years, are at significant risk of being converted to permanent in-stream rights.

EWEB has partnered with State Senator James Manning to initiate a request to Legislative Counsel to draft legislation remedying this issue that has serious implications for EWEB's Leaburg Project (inactive since 2018) or any other Oregon hydroelectric project that could easily be in the same situation in the future.

EWEB staff have met multiple times with Water Watch of Oregon, Portland General Electric, and Pacific Power to explain the problem posed by the court decision and pursue a consensus-based legislative solution agreed to before session if possible. Work towards a solution is progressing with further meetings scheduled in December and January.

## **2nd Water Source/Supporting Infrastructure Matching Funds**

EWEB will again submit water infrastructure projects to the legislature for consideration to receive state matching funds in the biennial state budget. Possible funding sources include General Funds, Lottery Funds, unspent or reallocated federal American Rescue Plan Act (ARPA) funds, and new Infrastructure and Investment Jobs Act (IIJA) funds.

Talking points have been provided to the Board and EWEB staff are also preparing a "leave behind" project advocacy document with graphics and maps that should be finalized by the end of the year or soon thereafter for use in legislative committee hearings and meetings with legislators and state agency officials.

### City of Eugene Coordination

EWEB staff met with City of Eugene (COE) staff on November 2<sup>nd</sup> to discuss policy coordination in 2023 on the following topics:

- 1) EWEB staff briefed COE staff on EWEB's upcoming effort to solicit state matching funds in support of the construction of a Willamette River Water Treatment Plant. Upon adoption of EWEB's 2023 Legislative Agenda at the December 6<sup>th</sup> Board Meeting, EWEB staff have agreed to forward a project and funding request summary to the Eugene City Council's Intergovernmental Relations Committee for consideration of a "support" position.
- 2) EWEB and COE staff agreed to coordinate and inform each other more closely on federal funding opportunities set in motion by the passage of the Infrastructure and Investment Jobs Act and the Inflation Reduction Act.
- 3) EWEB and COE discussed exploring opportunities for the COE to purchase carbon offsets from McKenzie watershed carbon sequestration options, including possibilities around energy efficiency and demand response or transportation and building electrification.

### **Recommendation and Requested Board Action**

Management recommends that the Board adopt the accompanying resolution as provided.

If you have any questions prior to the Dec. 6 Board Meeting, please contact Jason Heuser at 503-269-5540 or [jason.heuser@eweb.org](mailto:jason.heuser@eweb.org).

**RESOLUTION NO. 2230  
DECEMBER 2022**

**EUGENE WATER & ELECTRIC BOARD  
2023 LEGISLATIVE SESSION**

**WHEREAS**, the 2023 Oregon Legislative Session will convene on February 6th, 2023;  
and

**WHEREAS**, the Eugene Water & Electric Board (EWEB) will continue to participate in the legislative process on behalf of its customers; and

**WHEREAS**, the Board has traditionally adopted positions and guidelines which provide general direction for purposes of supporting or opposing specific legislation; and

**WHEREAS**, the Board again desires to set forth such legislative directives.

**BE IT RESOLVED** that the Eugene Water & Electric Board adopts the attached legislative agenda, which includes the following issue and goals:

1. Pursue a legislation granting an exception to water right forfeiture statutes as it relates to a hydroelectric water right for a hydroelectric project that has not generated electricity for 5 years – an exception on the basis of, but not limited to, safety issues;
2. Advocate for state matching funds in support of EWEB's proposed Willamette River Treatment Plant.

**WHEREAS**, new and unanticipated legislation can emerge each legislative session.

**BE IT FURTHER RESOLVED** that the Eugene Water & Electric Board goes on record supporting legislation which generally:

1. Preserves and enhances local control;
2. Complements or improves programs that are cost-effective to our customers; and
3. Preserves, conserves, and restores our natural environment in an equitable and cost-effective manner.

**BE IT FURTHER RESOLVED** that the Eugene Water & Electric Board will oppose legislation which generally:

1. Withdraws the capability of the Board to best serve EWEB's customers;
2. Duplicates existing laws, therefore complicating the execution of the Board's duties by state or federal mandate;
3. Imposes fees, assessments or procedures that impede the Board's ability to provide high-quality and cost effective service.

DATED this 6th day of December 2022.

THE CITY OF EUGENE, OREGON  
Acting by and through the  
Eugene Water & Electric Board

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President

I, ANNE M. KAH, the duly appointed, qualified, and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its December 6th, 2022 Regular Board Meeting.

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Assistant Secretary