



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Barofsky, Schlossberg, Brown, Carlson, and Morris
FROM: Jason Heuser, Public Policy and Government Affairs Program Manager
DATE: April 25, 2025
SUBJECT: May 2025 State Legislative Update
OBJECTIVE: Information

Issue

EWEB monitors, influences, and strategically plans around legislative and regional policy issues.

Background

The Board adopts general policy directives for advocacy on legislation and other public policy matters, 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 policy directives or direct staff to make necessary adjustments.

Discussion

The Oregon Legislature convened on January 21 for the start of 2025 Oregon Legislative Session and over 3,600 bills have been introduced. Legislative deadlines in early April for bills to be scheduled for a public hearing and work session and advanced out of their committee of origin have narrowed down greatly the scope of bills being given active consideration in the legislature, although a surprisingly high number of bills were spared elimination by way of being referred to the House and Senate Rules Committees, which are not subject to standard deadlines as standard policy committees. Below is the status of key legislative proposals of interest to EWEB:

Active Bills

SB 427/SB 1153 Water Right Transfer Criteria – Oppose unless Amended

These bills would modify the existing process and criteria for water right transfers. Transfers are the only way that EWEB and other water users may change an existing water right. EWEB needs to utilize the transfer process to add a new point of diversion (POD) to match the intake for EWEB's Willamette Water Treatment Plant. SB 427 would outright prohibit EWEB's ability to add the upstream POD necessary to utilize EWEB's Willamette water right. SB 1153, introduced at the request of Governor Tina Kotek, would add a new public interest review as well as new and vague criteria that pose uncertainty and/or potential lengthy delays in the approval of transfers. (more detailed analysis of these bills is summarized in the April Board Legislative Update Correspondence)

EWEB participated in a water utility focus group on April 15 with Governor Kotek's Natural Resources staffers, members of the Oregon Legislature's Water Caucus (Senators Kathleen Taylor and Todd Nash – Representatives Ken Helm and Mark Owens) and government relations staffers for the Cities of Portland, Beaverton, Hillsboro, as well as the Central Oregon Association of Cities and the Oregon Water Utility Council. The focus group had a robust conversation outlining the many unnecessary obstacles and potential harm these bills impose on drinking water projects – including ones brought forward to address resiliency/seismic upgrades and supply diversification needs. The bill purports to bring needed scrutiny to “high risk water transfers” but the risk has not been defined as it relates to municipal water rights nor has any specific example been given of a municipal water right transfer that could be classified as “high risk”.

EWEB has worked closely with the more engaged water utilities to prepare for both bills amendments that would exempt municipal water rights, and we continue to make the case to legislators that if this bill must advance this session, it should include the municipal exemption. The Governor's Office and the Water Caucus are continuing to hold a small work group to deliberate on these bills, both of which were referred to the Senate Rules Committee on April 14.

HB 3666 – Wildfire Safety Certification – SUPPORT

This bill would require investor-owned utilities (IOUs) and would allow consumer-owned utilities (COUs) voluntarily to apply to the Public Utility Commission for a Wildfire Safety Certification to:

- Audit and verify that the utility is prudently implementing its PUC or COU Board approved, wildfire protection plan, which is already required by law and outlines wildfire prevention efforts like risk assessment, clearing vegetation, and system hardening, etc.
- Confirm the utility's commitment to wildfire safety and continuous improvement;

If the PUC issues a safety certificate, the certification establishes that the utility is acting reasonably regarding wildfire safety practices and is materially consistent with its approved wildfire mitigation plan. This action is consistent with the ability of state agencies to establish, implement and enforce safety standards. The certificate can be used in court as one piece of evidence weighed by the judge or jury and does not make a utility immune from lawsuits.

HB 3666 had a public hearing in the House Judiciary Committee on March 18th and was referred to the House Rules Committee on April 11th. The bill has received a flurry of media coverage and intense social media scrutiny. The future of this bill is very uncertain, even while there is acknowledgement throughout the legislature that a legislative remedy is needed to better balance liability with wildfire ignition risk mitigation investments and operational changes in the utility sector since 2020.

SB 179 – Recreational Immunity (Removes Sunset on 2024 Restoration) – SUPPORT

SB 1576A was enacted in the 2024 legislative session and included a restoration of recreational immunity, a priority for local governments and recreation enthusiasts. The bill added running, walking and biking to the definition of recreational immunity, but included a sunset date at the end of 2025 to allow for pending court cases to be resolved and a workgroup to craft a more durable solution to be adopted in the 2025 legislative session. Reportedly, the workgroup was able to reach consensus on a permanent solution. In the absence of successful negotiations, SB 179 removes the sunset date included in SB 1576A from the 2024 legislative session.

The bill was approved by the Senate on a 30-0 unanimous vote on March 13. It received a public hearing in

the House Judiciary Committee on April 13 and will be scheduled for a work session soon.

HB 2064 – Microgrids – NEUTRAL WITH AMENDMENT

This bill is designed to facilitate Community Microgrids with Islanding Capabilities and provides guidance on updated flexibility on building and safety codes and zoning overlays to put more decision-making power into the hands of local governments to promote microgrids, including configurations that would allow microgrids using front-of-meter generation and energy storage resources.

HB 2064 positions the Oregon Public Utility Commission as the entity with oversight to review and approve a local government's proposal to align building code and zoning with microgrids, even if the local government's political boundaries are primarily or entirely located in the service area of a consumer-owned utility. EWEB and other consumer-owned utilities have requested an amendment to transfer this role to the governing body of a consumer-owned utility providing electrical service to the local government in those instances. On April 15, the provisions of HB 2064 were modified to honor this request and then inserted into HB 2065, which was approved out of committee and awaits further action in the Joint Ways and Means Committee

SB 1062 – Preemption of City Charters for Water/Sewer Rates and Fees – NEUTRAL WITH AMENDMENT

This bill is sponsored by legislators representing the South Oregon Coast and is intended to supersede city charters that require a public vote and double majority (requiring both majority of votes and greater than 50 percent voter turnout) for water and wastewater rates or fee increases. The bill would set forth instead that the governing body of the city may increase water and wastewater rates by a simple majority of the governing body. EWEB contacted the sponsors of the bill and the chair and members of the committee to share concerns that the bill as drafted did not account for the Eugene City Charter and would have potentially abrogated the governance structure and powers and authorities of EWEB. This led to a back-and-forth series of amendments that continued to fall short of a proper accounting of EWEB and similar independently governed municipal utilities including Springfield Utility Board, McMinnville Water & Light, and Canby Utility – illustrating the complex risk of the legislature preempting city charters. At one point an amendment was drafted that would have exempted relevant city charters for the utilities that had come forward to raise concerns. However, due to the difficulty of ensuring that all impacted municipal utilities had received proper notice of the legislation, a final amendment was drafted that would make the legislation's preemption of city charters applicable only to the targeted communities, the cities of North Bend, Bandon, and Reedsport. A -6 amendment to that affect was adopted and SB 1062 was approved out of committee and passed on the Senate floor 25-4 on April 22. It was referred to the House Emergency Management, General Government, and Veterans Committee on April 24.

HB 2256 – Indemnifying for conservation purposes sellers of units of land not lawfully established -- SUPPORT

This bill exempts the seller and the nonprofit purchaser of property for conservation purposes from civil or criminal liability for selling units of land not lawfully established. HB 2256 was introduced by local Representative Lisa Fragala at the request of the McKenzie River Trust (MRT)

EWEB has provided funding for MRT conservation acquisitions as well as applied for grant funds on behalf of MRT or assisted MRT grant funding applications. In some instances, concerns around legal lot determination have created additional expense and delays that can acquisitions. Strategic conservation properties can become difficult to transact once lot determination issues are identified. Sellers can be reluctant to take on

the potential liability or costly delays – which can result in losing purchase opportunities facing obstacles to apply for grant funding due to uncertain timelines around fixing the liability concerns. HB 2256 is a solution to the problem of legal lot determination by waiving the liability of the seller for selling an unlawfully created unit of land if the buyer is both a 501(c)(3) and is clear in its intent to acquire the land for conservation purposes.

HB 2256 was approved by the House 45-12 on March 6. It was approved out of the Senate Natural Resources and Wildfire Committee 4-1 on April 22 and awaits a third reading and vote on the Senate floor.

HB 3527 – Drinking Water and Sewer Ratepayer Assistance Program Reauthorization – SUPPORT

This bill would be a de facto reauthorization of an existing but defunct temporary program created with federal funding that has run out. Oregon had a Low-Income Household Water Assistance Program in 2022 and 2023 that was established and funded by Congress in the American Rescue Plan Act (ARPA) of 2021 and modeled after the long-standing Low Income Home Energy Assistance Program (LIHEAP) — the inclusion of this funding in ARPA was a special priority for US Senators Jeff Merkley and Ron Wyden. The program was administered by Oregon Housing and Community Services, which received a \$13.8 million allocation for the statewide program. EWEB participated in advisory groups for the rulemaking to establish the statewide program. Although no funds were awarded to EWEB directly, Lane County Human Services (HSD) was authorized to receive and to apply state funds and coordinate with EWEB to directly credit assistance to EWEB customer accounts. It was projected at the start of the program that up to \$600,000 would be credited to assist customers in the EWEB service territory over 2022-2023.

HB 3527 was approved out of the House Agriculture, Land Use, Natural Resources and Water Committee on March 27 and referred to the Joint Ways and Means Committee where it awaits further action.

SB 863 – State Fire Marshal Fire Cost Recovery – NEUTRAL WITH AMENDMENT

This bill establishes cost-recovery processes for suppression of fires caused by willful, malicious, or negligent actions. SB 863 provides the State Fire Marshal the means to seek and secure those funds. The bill purports to model this authority on the existing cost recovery authority provided in state law to the Oregon Department of Forestry (ODF).

Local government associations, including those representing consumer-owned utilities that are public bodies, are seeking an amendment and/or further clarification of legislative intent on the record that the cost recovery authority in SB 863 is no different and no greater than the existing authority for ODF – and also that this new authority for the State Fire Marshal would not circumvent the Oregon Tort Claims Acts as applicable to public bodies and their employees.

SB 863 was approved out of committee on March 13 and referred to the Joint Committee on Ways and Means where it awaits further action.

HB 3179 – Investor-Owned Utility Rate Caps – MONITOR

This bill would limit private, investor-owned utility rate requests, allowing them only once every 18 months. Exceptions could be granted in the event of a natural disaster or weather emergency. Rate increases would have to go into effect before Nov. 1 or after March 31 so ratepayers would not suddenly be hit with a bigger bill in winter when usage is highest. The bill would also require that the Public Utility Commission (OPUC) that regulates investor-owned utilities would be directed to look at socio-economic data of customers when considering rate increases, including factors such as median customer income, regional unemployment rate

and number of customers receiving public services and the PUC would analyze company profits from the 24 months leading up to a rate hike request to determine whether the rate increase is appropriate.

After public hearings in February in the House Commerce and Consumer Protection Committee, HB 3179 was referred to the House Rules Committee and awaits further action.

FAILED BILLS

HB 3628 – Oregon Transmission Authority – NEUTRAL – FAILED

HB 3966 – Solar Consumer Protection – SUPPORT – FAILED (this bill will be reintroduced in 2026)

SB 1192 – Clarifying Protection for Hydroelectric Water Rights from Conversion – SUPPORT – FAILED

SB 634 – Qualifying Hydropower for Renewable Portfolio Standard (RPS) – NEUTRAL – FAILED

HB 2410 – Umatilla Small Modular Nuclear Reactor Demonstration Project – NEUTRAL – FAILED

HJM 10 – Resolution to Congress on role of Bonneville Power Administration – NEUTRAL – FAILED

Recommendation/Requested Board Action

These are informational updates, and no action is required at this time.