

# 2013 Summary of Legislation



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**COMMITTEE SERVICES**

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# Table of Contents

Table of Contents .....	2
Agriculture and Natural Resources .....	4
Business and Commerce .....	19
Consumer Protection.....	35
Education .....	45
Elections and Ethics.....	61
Emergency Preparedness .....	68
Energy .....	71
Environmental Quality.....	79
Government.....	85
Health Care .....	105
Human Services .....	124
Insurance .....	135
Judiciary.....	140
Labor and Employment.....	149
Land Use .....	159
Transportation.....	168
Veterans .....	180
Water.....	186

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# **Agriculture and Natural Resources**

## **House Bill 2025**

### *Bison running at large*

Under Oregon law, a livestock district (also known as a closed range district) is an area where livestock may not run at large; the livestock owner or manager must keep livestock on their own property. In an open range county, livestock can legally run at large and property owners must keep livestock out.

House Bill 2025 adds bison to the definition of “stray animal” and establishes a bison owner’s liability for economic damages caused by a bison running at large or uncontrolled upon the land. The measure also establishes a new lower penalty for a violation of the livestock laws if the animal’s owner did not act intentionally, knowingly or recklessly, and a still lower penalty if the person did not act intentionally, knowingly or recklessly and does not have a previous conviction.

*Effective date: January 1, 2014*

## **House Bill 2027**

### *Landowner preference and damage programs*

The Landowner Preference Program, which was established by the Legislative Assembly in 1981, allows a landowner and eligible applicants to hunt on the landowner’s property. The program was scheduled to sunset on January 2, 2014; House Bill 2027 extends the sunset date to January 2, 2020.

The Southwest Oregon Landowner Preference Pilot Program was enacted in 2003 to address damage caused by elk on private lands in Jackson, Josephine, Coos, Curry, and Douglas counties by

implementing less restrictive landowner preference rules for qualifying landowners in the pilot study area. The program was set to sunset on June 30, 2014. House Bill 2027 expands the program statewide by creating the Oregon Landowner Damage Program; this newly created program is scheduled to sunset on January 2, 2020.

*Effective date: June 13, 2013*

## **House Bill 2031**

### *Mineral and geothermal rights on state owned lands*

Prior to the enactment of House Bill 2031, the State Land Board was required to approve the release of any mineral and geothermal rights on all property owned by the state. This process was required even in cases where there was low potential for mineral or geothermal extraction, such as on land located inside urban growth boundaries or in rural areas zoned for residential use. The process involved a required resource value study costing approximately \$500.

House Bill 2031 transfers the responsibility for transactions involving low-potential resource real property to the Department of State Lands and requires the release of mineral and geothermal rights at the time of disposal of these properties unless it is determined that a significant right exists.

*Effective date: June 4, 2013*

## **House Bill 2032**

### *Oregon Removal-Fill Mitigation Fund*

Under state law, when impacts to wetlands and waterways occur as part of a removal-fill activity, mitigation to replace lost function is required. Mitigation may be accomplished

through permittee-responsible mitigation, purchasing credits from private mitigation banks or, if there are no private bank credits available, purchasing credits from the Department of State Lands (DSL). When mitigation credits are purchased, the funds are deposited into the Oregon Removal-Fill Mitigation Fund. DSL then uses these funds to administer a grant program to construct wetland and waterway mitigation projects in the watershed where the impacts occurred.

House Bill 2032 identifies the components of a cost calculation for a mitigation project and allows project costs to reflect regional differences. The legislation also requires the DSL Director to report annually to the Legislative Assembly and State Land Board on matters related to removal-fill mitigation.

*Effective date: June 4, 2013*

## **House Bill 2039**

### *Outfitters and guides*

The Outfitter and Guide Program (Program) was first established in 1984. Under this program, the State Marine Board annually registers outfitters and guides to certify that they carry the minimum liability insurance required by law, have current First Aid and CPR training and, if required, have a United States Coast Guard Operator License or Surety Bond.

House Bill 2039 revises the Program statutes, increasing the annual registration fee and minimum liability coverage to \$500,000. Effective January 1, 2018, guides and outfitters are required to pass a written test, participate in drug and alcohol programs, and complete a physical examination every five years.

*Effective date: June 18, 2013*

## **House Bill 2050**

### *Forest Land Protection Fund*

The Oregon Department of Forestry protects approximately 16 million acres (24,900 square miles) of private and public forestland from fire. Protected lands are primarily private, but also include state and other non-federal public land and, by contract, United States Bureau of Land Management forests in western Oregon. This represents more than half of the total forest land in Oregon. Essential elements of the Department's fire protection program include planning, prevention, detection, initial attack, and smoke and fuels management. Landowners and the state share fire protection costs.

The Oregon Forest Land Protection Fund (OFLPF) is used to equalize firefighting costs across the state and supports the purchase of insurance to protect Oregon against disastrous fire costs. Basic fire protection funding has been evenly shared by landowners and the General Fund; in practice, landowners have paid a greater share of actual costs. House Bill 2050 makes changes to the OFLPF to increase funding for acquisition of equipment to reduce the size and severity of fires, improve fire protection affordability on the eastside and move toward a 50/50 funding model over the next six years.

*Effective date: July 6, 2013*

## **House Bill 2233**

### *Derelict and abandoned vessels*

Oregon law prohibits abandoning boats, floating homes and boathouses. The abandoned vessel statutes were last amended in 2003 to allow Oregon public ports to act

as “removing authorities” in addition to law enforcement. Before vessels are designated as abandoned they have almost always been in a derelict condition for months or years.

House Bill 2233 modifies statutes governing the seizure of an abandoned vessel and allows for seizure of derelict vessels. In addition to other changes, the measure establishes a process and timeline for vessel seizure and designates a vessel as “derelict” if it is sunk or in danger of sinking, obstructing a waterway, endangering life or property, or if its physical condition creates a potential environmental hazard.

*Effective date: January 1, 2014*

## **House Bill 2248**

### *Mineral mining*

The Department of Geology and Mineral Industries administers the regulatory program for surface and metal mining and oil, gas and geothermal energy extraction in Oregon.

Metal ores are typically processed using one of three processes. The first process uses gravity and water to separate metal from the ore. The second type of process, froth flotation, separates and concentrates ores by altering their surfaces so that they are either repelled or attracted by water. This method may be used as an alternative or in addition to gravity separation. The third type of process leaches metals from ore using chemicals like acid or cyanide.

In 1991, the Legislative Assembly enacted a new regulatory program for metal mines that use chemicals to leach metals from mined ore. A separate regulatory program currently applies to all other metal mines. House Bill 2248 applies the chemical mine statutes to

all metal mines except those using only gravity separation.

*Effective date: June 13, 2013*

## **House Bill 2252**

### *Multi-year hunting and fishing licenses*

The Oregon Department of Fish and Wildlife (ODFW) issues licenses, tags, and permits for fishing, hunting and trapping. The State Fish and Wildlife Commission also appoints agents to issue licenses, tags and permits. Under current law, licenses are good for one year.

House Bill 2252 authorizes the State Fish and Wildlife Commission to adopt rules to allow ODFW to issue multi-year hunting and fishing licenses. These rules may allow for discounted fees for multi-year licenses compared to the cost of annual licenses over the same period. The measure also changes fees charged by agents and allows active-duty military personnel to hunt or fish in Oregon for the same cost as an Oregon resident.

*Effective date: January 1, 2014*

## **House Bill 2390**

### *Agents to hunt black bears or cougars*

Oregon Ballot Measure 18 (1994) banned the use of dogs to hunt or pursue black bears or cougars. The measure provided exceptions for their use by employees or agents of county, state, or federal agencies while acting in their official capacities, however, the measure did not clearly authorize the Department of Fish and Wildlife (ODFW) to designate agents. The Legislative Assembly explicitly authorized the appointment of agents with the passage

of House Bill 2971 (2007); these provisions were scheduled to sunset on January 2, 2014.

House Bill 2390 extends the sunset on provisions specifying how ODFW may appoint agents until January 2, 2019. The measure also requires a biennial report to the Governor and Legislative Assembly on the use of agents until that same date.

*Effective date: January 1, 2014*

## **House Bill 2396**

### *Large woody debris*

Oregon's Removal-Fill law requires people who plan to remove material from, or fill material into, waters of the state to obtain a permit from the Department of State Lands. The purpose of the law, enacted in 1967, is to protect public navigation, fishery and recreational uses of the waters. "Waters of the state" are defined as "natural waterways including all tidal and non-tidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and non-navigable, including that portion of the Pacific Ocean that is in the boundaries of this state." The law applies to private or public landowners.

House Bill 2396 adds large woody debris to the definition of material for purposes of the state's removal-fill laws.

*Effective date: January 1, 2014*

## **House Bill 2427**

### *Canola*

Canola is an oilseed crop from plants in the mustard family (*Brassicaceae*). Common

types of brassica used for food include cabbage, cauliflower, broccoli, Brussels sprouts, and radish. The term "canola" is widely used to refer to rapeseed; canola is a variety of rapeseed bred for human and livestock consumption as well as biodiesel production.

In early 2013, the Oregon Department of Agriculture (ODA) adopted an administrative rule that allowed some canola production while also establishing a rapeseed exclusion zone.

House Bill 2427 authorizes ODA to allow the planting of up to 500 acres of canola so that the College of Agricultural Sciences at Oregon State University can conduct a peer-reviewed study on the risks of growing canola and report study results to an interim committee of the Legislative Assembly by November 1, 2017. The measure otherwise prohibits the growing of canola in the Willamette Valley Protected Area until 2019.

*Effective date: August 14, 2013*

## **House Bill 2615**

### *Special forest products*

Special forest products are currently listed in state law and include forest products other than traditional timber that can be used for personal, commercial or scientific purposes. Currently, a permit must be obtained from the landowner in order to collect special forest products. State law exempts certain activities from permitting requirements such as the cutting and transport of up to one gallon of wild edible mushrooms; the cutting and transport of cedar salvage, firewood, and round or split products of trees having a total volume of less than 27 cubic feet; and the cutting or transport of other special

forest products having a total volume of less than 12 cubic feet.

House Bill 2615 replaces the term “mushroom” with “fungi” to include truffles as a special forest product and specifies that the exemption from permit requirements for certain activities applies only to public lands. In addition, the measure authorizes the State Board of Forestry to define special forest products by administrative rule beginning on July 1, 2014.

*Effective date: June 4, 2013*

## **House Bill 2697**

### *Fish carcasses*

Nutrient enhancement is recognized as a benefit to fish stocks, as a lack of nutrients can be a limiting factor in the recovery of salmon populations. Since the 1990s, the Oregon Department of Fish and Wildlife (ODFW), with the approval of the Department of Environmental Quality, has conducted a comprehensive nutrient enhancement program where excess hatchery fish carcasses are placed in streams by volunteers. During 2011-2012, ODFW, with the help of partners and volunteers placed more than 36,000 hatchery surplus fish carcasses in 107 waterways across the state.

Under current law (ORS 164.785), it is unlawful for a person to discard any dead animal carcass into a water body, irrigation ditch or cistern; this statute is a part of the state’s littering laws. House Bill 2697 allows the return of fish carcasses to the stream from which the fish was caught.

*Effective date: May 16, 2013*

## **House Bill 2700**

### *Aggie Bonds Program*

A 2011 survey of farmers and aspiring farmers ranked a lack of capital as the top challenge facing beginning farmers. A number of states administer “Aggie Bond” programs to assist new farmers. Under these programs, a state agency issues federally tax exempt bonds to substitute for a regular loan instrument. Because lenders using these bonds do not pay tax on the interest paid by the farmer, lenders are able to offer lower interest rates, which provides an incentive for lending.

House Bill 2700 establishes the Beginning and Expanding Farmer Loan Program, to be administered by the Oregon Business Development Department in consultation with the Oregon Department of Agriculture.

*Effective date: October 7, 2013*

## **House Bill 2783**

### *Unlawful tethering of animal*

Eighty percent of dog-related complaints to which law enforcement responds involve tethered dogs. In Multnomah County, of approximately 700 reports of animal neglect and abuse in 2012, 106 were related to tethering and tethering violations.

House Bill 2783 creates the offense of unlawful tethering of a domestic animal and designates such offenses as a Class B violation. Prior to the measure’s effective date, failure to provide minimum care of a domestic animal constitutes animal neglect. House Bill 2783 adds tethering that results in serious physical injury or death as a Class A misdemeanor with a maximum \$6,250 fine and one year in prison, and tethering that results in physical injury as a Class B

misdemeanor with a \$2,500 fine and up to six months in prison. In addition, the bill defines what constitutes adequate bedding and shelter for purposes of minimum care of a domestic animal.

*Effective date: January 1, 2014*

## **House Bill 3086**

### *Sage grouse habitat*

According to the United States Fish and Wildlife Service, greater sage grouse are found in Washington, Oregon, Idaho, Montana, North Dakota, eastern California, Nevada, Utah, western Colorado, South Dakota and Wyoming and the Canadian provinces of Alberta and Saskatchewan. Their current habitat represents 56 percent of their historical range.

House Bill 3086 authorizes the Oregon Department of Fish and Wildlife (ODFW) to develop and administer a uniform policy of mitigating adverse effects that proposed actions may have on core area sage grouse habitat. This policy could include off-site mitigation and the formation of mitigation banks, and is intended to provide a landscape approach to sage grouse mitigation efforts as opposed to the current site-specific focus. The measure allows persons applying for authorization from state agencies for a proposed action that might affect core sage grouse habitat to file a report with ODFW describing the action and its effect on habitat. The report may also propose off-site mitigation. ODFW then has 60 days to evaluate the report and the proposed mitigation efforts. If ODFW concludes that the proposals do not offer sufficient mitigation, the proposer may seek a contested case hearing before the State Fish and Wildlife Commission.

*Effective date: August 1, 2013*

## **House Bill 3109**

### *Pole Creek wildfire*

The Pole Creek fire began on September 9, 2012 and grew to 26,795 acres before it was contained in mid-October. The fire investigation team concluded the probable cause of the fire was lightning from an isolated thunderstorm near the Pole Creek Trailhead on September 8. The fire sent dense smoke into the town of Sisters, causing the Department of Environmental Quality to issue a warning that air quality there had reached hazardous levels.

House Bill 3109 directs the Oregon Health Authority and State Forester to prepare a report for the Legislative Assembly on the impacts of the Pole Creek wildfire on public health, fish and wildlife, and aquatic habitat.

*Effective date: May 29, 2013*

## **House Bill 3199**

### *Incendiary device in fire season*

The State Forester currently has authority to restrict uses on forestland inside or within 1/8 mile of a forest protection district during a declared fire season. However, such restrictions must be imposed on a district-by-district basis.

House Bill 3199 establishes that a person commits a violation if they perform certain acts with incendiary devices inside of, or within 1/8 mile of, a district boundary during a declared fire season. The measure defines “incendiary devices” to include sky lanterns, exploding targets and tracer ammunition.

*Effective date: January 1, 2014*

## **House Bill 3262**

### *Crab pots*

Dungeness crabs have been commercially harvested along the Pacific coast since the late 1800's. The crabs are caught in circular steel traps commonly called "crab pots." Crab pots typically weigh between 60 and 125 pounds and measure 36 to 48 inches in diameter, and include a length of line and buoy attached to mark its position for retrieval. The ocean crab season along the Oregon coast begins on December 1 and runs through August 14. Each year, the commercial Dungeness crab fishery has an estimated gear loss of 10,000 crab pots. Some of these pots are recovered by the owner, but many remain lost at sea until they are encountered by chance or targeted for removal. Lost gear can have a negative effect on the crab resource, marine habitat and the fishery itself.

Currently, the state's personal property laws apply to these crab pots. The process for individuals who find such items is to return those items to their owner; this serves as a disincentive for removal of derelict or abandoned crab pots. House Bill 3262 exempts the retrieval of crab pots under a permit program administered by the Oregon Department of Fish and Wildlife from the personal property laws.

*Effective date: May 16, 2013*

## **House Bill 3441**

### *Oregon Hatchery Research Center*

The Oregon Hatchery Research Center (OHRC), located on Fall Creek just outside the community of Alsea, opened in October 2005. The OHRC site contains an education and research building with laboratory space, an interpretive center, offices, classrooms,

audio/visual capability, conference rooms and dormitory-style living quarters. In addition, the OHRC site includes four artificial streams, fish-rearing facilities, maintenance shop, storage building, water treatment facilities and residences for three full-time employees.

House Bill 3441 establishes the Oregon Hatchery Research Center Board to develop strategic directions and operational objectives for the OHRC.

*Effective date: July 25, 2013*

## **House Bill 3452**

### *Wolf management*

Gray wolves are listed as endangered in Oregon under the Oregon Endangered Species Act (ESA). Wolves west of Oregon Highway 395/78/95 are federally protected as endangered under the federal ESA. Oregon's wolf population has continued to increase in distribution and abundance.

In 2005, the Oregon Fish and Wildlife Commission adopted a Wolf Conservation and Management Plan to "ensure the conservation of gray wolves as required by Oregon law while protecting the social and economic interests of all Oregonians." The plan includes provisions for monitoring and managing populations, developing education and communication programs, and responding to wolf interactions with wildlife, humans, and livestock. House Bill 3452 establishes circumstances under which a wolf may be taken.

*Effective date: July 19, 2013*

## **Senate Bill 357**

*Advisory committee on increasing pace and scale of federal forest management projects*

The Board of Forestry established the Federal Forestlands Advisory Committee (FFAC) in 2006 to create a sustainability vision for federal land. In 2008, the FFAC released the “Achieving Oregon’s Vision for Federal Forestlands report,” which was followed by the formation of the FFAC – Implementation Working Group (IWG) in 2009. In 2012, the FFAC-IWG identified the costs and benefits associated with doubling the average number of acres treated annually to restore forest ecosystem health on Oregon’s dry-side national forestlands. According to its report, every \$1 million spent on forest restoration was estimated to result in an economic return of \$5.7 million.

Senate Bill 357 directs the Board of Forestry to appoint an advisory committee to study and recommend mechanisms to increase the pace and scale of federal forest management projects. The measure specifies that the report may identify options to diversify and improve revenue sources to support management, identify approaches to promote federal efficiencies, and evaluate options for establishing a revolving loan fund or other mechanism to fund projects. The report is to be presented to an interim committee of the Legislative Assembly related to economic development by February 1, 2014.

*Effective date: June 24, 2013*

## **Senate Bill 602**

*Waldo Lake*

Waldo Lake, located at an elevation of 5,414 feet near the crest of the Cascade Range, is one of the largest natural lakes in Oregon. Waldo Lake’s surface area is 6,298 acres,

and it is the second deepest lake in the state after Crater Lake, with a maximum depth of 420 feet and an average depth of 128 feet. Waldo Lake is one of the purest lakes in the world. It has no permanent inlet to bring nutrients into the lake for plant growth.

Senate Bill 602 prohibits the use of motor-propelled boats on Waldo Lake, as well as the use of a seaplane to land on or take off from the lake’s surface. The measure provides an exception for the Department of State Police and other public bodies with jurisdiction over the lake, as well as for boats that are propelled by an electric motor and operating at less than 10 miles per hour.

*Effective date: May 16, 2013*

## **Senate Bill 677**

*Payment of seasonal farmworkers upon termination of employment*

Generally, when an employee is terminated, or when an employee and employer mutually agree to terminate the employment relationship, the employer must issue a final payment no later than the end of the next business day. Seasonal farmworkers, however, are required to be paid in full for all wages immediately upon termination of employment. An employer who fails to provide final payment as required by law may be required as a penalty to pay the employee at the employee’s hourly rate for eight hours per day from the due date of the final payment until the final payment is made, up to a maximum of 30 days.

Senate Bill 677 authorizes seasonal farmworkers to be paid no later than noon the day after termination of employment provided that it is the end of harvest season, the employer operates a farmworker camp,

and the farmworker is provided housing at no cost until paid.

*Effective date: January 1, 2014*

## **Senate Bill 737**

### *Funding for ocean and coastal research*

Under the federal Outer Continental Shelf Lands Act (OCSLA), the U.S. Secretary of the Interior administers mineral exploration and development of submerged lands three to 200 miles from the shore and distributes a share of receipts from leases to adjacent states. In 1985, OCSLA was amended to share revenues from oil and natural gas generated between three to six miles offshore, with states receiving 27 percent of the revenues. In 2005, Congress added marine renewable energy to the revenues shared with the states under OCSLA.

In 2009, House Bill 3106 created the Oregon Task Force on Nearshore Research to recommend long-term funding and coordination strategies for implementing the nearshore priorities of the state including research and monitoring; management and policy formation; and education and outreach. The Task Force recommended creating a trust to provide a funding mechanism to support the implementation of the Nearshore Strategic Plan and identified research and monitoring needs.

Senate Bill 737 establishes the Oregon Ocean Science Trust to promote ocean and coastal resource research and monitoring. The measure also creates the Oregon Ocean Science Fund, which includes monies received from the federal government under OCSLA, to support Trust activities. The Trust is to report biennially on its progress to the Legislature.

*Effective date: August 14, 2013*

## **Senate Bill 830**

### *Gill net fishing*

On August 9, 2012, Governor Kitzhaber sent a letter to the Chair of the State Fish and Wildlife Commission and the Director of Department of Fish and Wildlife (ODFW) directing the Commission and ODFW to work with their counterparts in Washington to complete the necessary rulemaking to transition commercial gill net fisheries out of the mainstem Columbia River and into enhanced off-channel fishing areas. ODFW subsequently began a rulemaking process to reform fisheries on the lower mainstem Columbia River.

Senate Bill 830 authorizes ODFW to establish an annual Columbia Basin salmon, steelhead and sturgeon recreational fishing endorsement to provide monies for the Columbia River Fisheries Enhancement Fund. The new endorsement fee is repealed on January 2, 2022. The measure also repeals provisions related to taking food fish by fixed fishing gear or seines, and implements the Columbia River Fisheries Transition Program using monies in the Columbia River Fisheries Transition Fund. The Department will use \$500,000 of this appropriation for grants to counties that establish their own programs to compensate commercial fishers that are economically harmed by the ban on gill net fishing. ODFW is directed to use adaptive management actions if objectives of the Commission's gill net ban prove less effective than anticipated.

*Effective date: July 25, 2013*

## **Senate Bill 835**

### *Rodeo activities and equine tripping*

Rodeo is a competitive sport that arose out of the working practices of cattle herding. Today's rodeos consist of events that involve horses and other livestock, designed to test the skill and speed of the human cowboy and cowgirl athletes who participate. At least seven states have prohibited rodeos from including the event of horse tripping, which involves intentional use of a rope or lasso on the legs of a horse.

Senate Bill 835 prohibits a state law from being applied in a manner that affords less favorable treatment for the conduct of or participation in rodeos than for other organized exhibitions. The measure also designates equine tripping as a Class B misdemeanor if, for purposes of rodeo, contest, exhibition, entertainment or sport or as practice for rodeo, contest, exhibition, entertainment or sport, a person intentionally ropes or lassos the legs of an equine, intentionally causing the equine to trip or fall. The measure provides an exception in cases where the activity is conducted for veterinary care purposes.

*Effective date: January 1, 2014*

## **Senate Bill 837**

### *Exemptions for fish passage requirement for in-conduit hydro projects*

In-conduit hydropower projects use technology that is installed in a water delivery canal or pipeline to generate electricity using water that is already being diverted for an approved beneficial use. These projects do not use additional water beyond the amount that the water delivery

system operator is already allowed to divert under its existing water right. Recent advances in hydropower technology have resulted in more viable options for agricultural, municipal, and industrial water suppliers and users to pursue in-conduit hydropower in Oregon.

Fish passage is a key component to many facets of fisheries resource management. Connectivity between aquatic habitats is an important part of protecting successful and healthy fish populations. In February 2013, the Department of Fish and Wildlife (ODFW) released an updated fish passage priority list which includes 534 high priority fish passage barriers, with an additional 55 barriers characterized as significant but needing more data.

Senate Bill 837 creates the Fish Passage Restoration subaccount within the Fish Passage Fund and requires ODFW to use the subaccount to fund priority fish passage restoration projects. The measure creates the Fish Passage Task Force to advise ODFW regarding projects to be funded by the subaccount. Five years after the measure's effective date, the Water Resources Department is directed to work with ODFW to review the expenditures from the subaccount as well as the adequacy of a fee. The measure outlines conditions under which a certificate to use water for hydroelectric purposes within an artificial delivery system must include a condition requiring fish passage.

*Effective date: July 25, 2013*

## **Senate Bill 838**

### *Recreational and small scale placer mining*

Both the Department of Environmental Quality (DEQ) and the Department of State

Lands (DSL) regulate recreational and small scale placer mining in Oregon. Currently, a general authorization from DSL is required for activities involving less than 25 cubic yards of removal and fill annually in essential salmon habitat (ESH); an individual removal-fill permit is required for recreational placer mining in state scenic waterways, activities that do not qualify for the general authorization, and activities that involve 50 cubic yards or more of removal and fill in non-ESH waterways. A National Pollutant Discharge Elimination System (NPDES) general water quality discharge permit issued by DEQ covers suction dredges and in-water, non-motorized mining equipment such as hand sluice boxes and rocker boxes for recovering precious metals or minerals from stream bottom sediments. Operators of in-water mining equipment do not need to register and pay a fee for coverage, but must follow applicable permit conditions. An individual NPDES permit is required for metal mining activities with wastewater discharges to Oregon waters that do not qualify for a general NPDES permit.

Senate Bill 838 imposes certain restrictions and conditions on placer mining between January 1, 2014 and January 2, 2016 and sets a limit of 850 permits that DSL may issue for placer mining during this period. These restrictions are repealed on January 2, 2016, when a moratorium is imposed until January 2, 2021 on placer mining in specified rivers containing essential indigenous salmon habitat or naturally reproducing populations of bull trout. Senate Bill 838 also directs the Governor's Office to work with state agencies and other interested parties to conduct a study and make recommendations for a revised regulatory framework for suction dredge mining. The Governor's Office is to report the results of the study and

recommendations to the Legislative Assembly by November 2, 2014.

*Effective date: August 14, 2013*

## **LEGISLATION NOT ENACTED**

### **House Bill 2175 and House Bill 2532**

*Labeling of food containing genetically modified material*

House Bills 2175 and 2532 would have required the labeling of foods that contain, or are produced using, genetically engineered material. Under the bills, packaged food would be identified as misbranded if it contains or was produced using genetically engineered materials and the label does not include a clear and prominent statement to that effect.

Genetically engineered foods are created by inserting genetic material from one or more organisms into the genetic code of another organism using modern genetic engineering techniques.

### **House Bill 2516**

*OWEB grant funding*

The Oregon Watershed Enhancement Board (OWEB) operates a grant program to help Oregonians restore and protect rivers and wetlands. OWEB is led by a 17-member citizen board drawn from the public at large, tribes, and federal and state natural resource agency boards and commissions. The Watershed Conservation Fund and the Watershed Conservation Grant Fund comprise the majority of OWEB's funding and are currently used for either agency

operations or providing grants to local watershed groups.

House Bill 2516 would have authorized OWEB to establish a program through the Department of Education to provide funds to educate elementary school students concerning the protection and restoration of native fish or wildlife habitats, watersheds, or ecosystems.

## **House Bill 2530**

### *Genetically engineered fish*

Genetically engineered fish carry and transmit one or more copies of a recombinant DNA sequence (i.e., a DNA sequence produced in a laboratory using in vitro techniques). The U.S. Food and Drug Administration (FDA) issued a draft environmental assessment for public comment regarding the FDA's review of genetically engineered Atlantic salmon. The FDA's preliminary finding is that an approval of this application, under specific conditions proposed in the application, would not have a significant impact on the U.S. environment. The comment period closed on April 26, 2013.

House Bill 2530 would have prohibited the importation or transport of genetically engineered fish in Oregon.

## **House Bill 2624**

### *County approval for use of dogs to hunt or pursue cougar*

Oregon Ballot Measure 18 (1994) banned the use of dogs while hunting or pursuing black bears or cougars, with exceptions for employees or agents of county, state, or federal agencies acting in their official capacities.

House Bill 2624 would have allowed the use of dogs to hunt cougars in a county if voters in that county approved a local ballot measure exempting the county from the ban.

## **House Bill 2841**

### *Recreational and small scale placer mining*

Both the Department of Environmental Quality (DEQ) and the Department of State Lands (DSL) regulate recreational and small scale placer mining in Oregon.

House Bill 2841 would have required agencies to consult with potentially affected parties at least 30 days prior to adopting rules or issuing orders affecting recreational or small scale mining, and also would have required the agencies to consider "all reasonably available and relevant scientific studies" before adopting rules or issuing orders related to that type of mining.

## **House Bill 3251**

### *Motor vehicle and ATV use on state waterways*

The State Land Board is composed of the Governor, Secretary of State and State Treasurer. Oregon's Constitution directs the Land Board to manage lands under its jurisdiction to obtain the greatest benefit for the people of Oregon, consistent with resource conservation and sound land management. The Board oversees the Common School Fund and state lands dedicated to providing revenue for the fund.

House Bill 3251 would have prohibited persons from operating motor vehicles over 200 pounds and Class I, II, III, and IV all-terrain vehicles in the beds or banks of any waterway in Common School Forest Lands or the Elliott State Forest. The measure would have provided numerous exemptions,

including persons operating vehicles owned by the state, a local government, or the federal government; boat operators; and licensed hunters who are hunting in compliance with the law.

## **House Bill 3492**

### *Air toxics regulation*

Air toxics include diesel soot, benzene, polycyclic aromatic hydrocarbons (tar-like by-products from auto exhaust and other sources commonly called PAHs), and metals including manganese, nickel, and lead. Air toxics come from a variety of sources including cars and trucks, all types of burning, businesses and industries of all sizes, and consumer products such as solvents and pesticides.

House Bill 3492 would have required major hazardous air pollutant sources to create a plan to analyze internal processes and determine if there are any cost-effective ways to lessen or completely avoid the generation of toxic air pollutants.

## **Senate Bill 331**

### *Distribution of recreational vehicle fees between state and county parks*

Recreational vehicle fees are distributed to state and county parks for the operation and maintenance of campgrounds and related facilities. Prior to 2007, counties received 30 percent of the funds and the Oregon Parks and Recreation Department received the remaining 70 percent. In 2007, Senate Bill 29 increased the distribution to counties to 35 percent until July 1, 2015; thereafter, the distribution to counties is set to revert to 30 percent.

Senate Bill 331 would have changed the distribution percentage to 45 percent for

counties and 55 percent for state parks starting on July 1, 2013.

## **Senate Bill 474**

### *Raccoons*

Under current law an officer is authorized to issue a written notification to any person who places, scatters, or stores food, garbage or any other attractant so as to knowingly constitute a lure, attraction, or enticement for potentially habituated wildlife, which is defined as a bear, cougar, coyote, or wolf. A person receiving the notification must remove the attractant within two days.

Senate Bill 474 would have added raccoon to the list of potentially habituated wildlife.

## **Senate Bill 633**

### *State preemption of local seed and seed product regulations*

Agriculture is a key traded sector in Oregon, ranking first in volume and second in value of exported products. More than 220 different agricultural commodities are commercially produced in the state. In 2011, grass seed was ranked as the sixth top agricultural commodity in Oregon for value of agricultural and fishery production, while vegetable and flower seeds were ranked 22nd.

Senate Bill 633 would have reserved the regulation of agricultural, flower, vegetable, and nursery seed and products to the state. The measure would prohibit a local government from enacting or enforcing a local measure or law that inhibits or prevents the production or use of the seed or seed products. The measure does not prohibit local governments from regulating the production or use of these seed or seed

products for lands the local government owns.

## **Senate Bill 816**

### *Fermentation sciences research and workforce programs*

The Oregon Agricultural Experiment Station is a statewide research network of Oregon State University (OSU) scientists conducting research in the agricultural, biological, social, and environmental sciences. Research faculty collaborate with businesses, growers, and others to identify and perform valuable agricultural research. OSU also offers courses through its Fermentation Sciences Program, which focuses on the use of microorganisms as processing agents in the production of wine, beer, cheese, yogurt, breads, and other fermented products.

Senate Bill 816 would have established the Agricultural Experiment Station Fermentation Sciences and Value Added Program at OSU to provide science-based research and innovation support to the wine, cheese, microbrew, distilled spirits, and artisan bread industries in Oregon. The measure would have appropriated \$2.5 million from the General Fund in the biennium starting July 1, 2013. While this

measure was not enacted, the 2013 Legislative Assembly did approve \$1.2 million for fermentation programs at OSU.

## **Senate Bill 846**

### *Umatilla Basin Water Storage Program*

Farmers in the Umatilla Basin, which includes some of Oregon's most productive agricultural land, have been seeking additional irrigation water for more than 20 years. Heavy irrigation water use has dropped basin aquifers by up to 500 feet in a matter of decades, among the steepest declines worldwide. A carbon-dating study showed wells had reached water that had been underground for 27,250 years.

Senate Bill 846 would have required the Water Resources Department (WRD) to establish the Umatilla Basin Water Storage Program for developing water resources in Willow Creek, Walla Walla, and Umatilla watersheds to increase water supplies in northeastern Oregon and to provide liaison services between parties wishing to engage in water-related transactions that may affect water supplies.

# **Business and Commerce**

## **House Bill 2059**

### *Regulating consignment sales*

House Bill 2059 adds consignment sales, including estate sales run by a third party, to statutes governing auctions, auctioneers, and auction markets. Under the bill, a consignee must provide certain information in advertisements for sales, hold a consignor's money in trust after the sale, refrain from self-dealing, and return all monies held in trust or unsold property to the consignor within 21 days of the sale. Violations of these requirements constitute Unlawful Trade Practices.

Consignment sales are the sale of personal property by a third party, the consignee, on behalf of the property's owner, the consignor. Consignment sales include estate sales and retail consignment stores. Prior to the enactment of House Bill 2059, personal property consignment sales were not regulated. The Department of Justice reported over 270 complaints in five years relating to consignees failing to pay monies owed to consignors.

*Effective date: January 1, 2014*

## **House Bill 2066**

### *Vehicles as pledges for pawnbroker loans*

The Department of Consumer and Business Services regulates and licenses pawnbrokers, who make loans where personal property is pledged and the rate of interest exceeds 10 percent per annum. To reduce the trafficking of stolen goods, the law requires the pawnbroker to create a record for each transaction and deliver the record to the local police agency within three days of the transaction. Under current law, a pawnbroker cannot accept as a pledge any vehicle that

must be registered with the Oregon Department of Transportation (ODOT).

House Bill 2066 allows off-road vehicles that do not require registration with ODOT; trailers meant to carry a boat, snowmobile, or all-terrain vehicle; and farm equipment to be used as a pledge on a pawnbroker loan. Automobiles and motorcycles are still prohibited from being used as a pledge. The measure requires the pawnbroker to note in the record if a lien search of the pledge was conducted. If more than one person claims redemption rights, the measure protects the pawnbroker from liability for refusing to deliver the pledge until the issue has been adjudicated unless the pawnbroker failed to verify whether the pledged boat, vehicle, or trailer was subject to a lien. The measure also requires pawnbrokers to hold boats, vehicles, and trailers in a gated, secured facility.

*Effective date: January 1, 2014*

## **House Bill 2296**

### *Benefit companies*

The fiduciary duty of corporate officers and directors has been narrowly defined in court decisions over the last several decades, which has had the effect of limiting the ability of businesses wishing to embrace larger purposes beyond financial success. Twelve states have passed legislation to allow benefit corporations to form, often with the implied purpose of attracting socially conscious businesses.

House Bill 2296 creates a new corporate status known as a "benefit company" or "B-Corp." The benefit company status allows for-profit businesses to pursue social, educational, and/or environmental goals in tandem with financial goals. A benefit company now has latitude to define for itself the public benefits it seeks to pursue, such as

environmental stewardship or enhanced employee benefits. The measure provides for both the creation of new benefit companies as well as the conversion of existing business organizations into benefit companies.

*Effective date: January 1, 2014*

## **House Bill 2443**

### *Wine growlers*

The term “growler” refers to a reusable container (typically made of glass, plastic or other durable material) that can be used to provide secure transport of alcoholic beverages from premises licensed by the Oregon Liquor Control Commission (OLCC) by customers. A growler can be provided by the customer, or may be purchased from the licensee, and must be securely covered and hold no more than two gallons of product. Brewpubs have been authorized to provide malt beverages in growlers since 2001.

Oregon’s wine industry has become a significant segment of the state’s economy, with approximately 900 vineyards and 450 wineries statewide contributing roughly \$2.7 billion annually in economic value. In recent years, more wineries have begun packaging their wine in kegs, in addition to conventional glass bottles, which allows for convenient serving at restaurants and other retail establishments. House Bill 2443 allows certain OLCC licensees to provide wine and cider to customers in growlers, with similar requirements and restrictions as those that apply to beer growlers.

*Effective date: April 11, 2013*

## **House Bill 2524**

### *Limits Construction Contractors Board license exemptions*

The Construction Contractors Board (CCB) is responsible for safeguarding the security and property of the citizens of Oregon by preventing and resolving construction contracting problems and by insuring contractors' compliance with the law. The CCB licenses residential and commercial construction contractors, subcontractors and home inspectors; investigates and adjudicates complaints filed against licensees; and imposes sanctions against unlawful contractors. Consumers lose the ability to recover damages through the contractor’s bond as well as the CCB Dispute Resolution Service if they use an unlicensed contractor.

Prior to passage of House Bill 2524, any person working on a project or structure in which the price of all contracts combined amounted to less than \$500 was exempt from the licensure requirement. House Bill 2524 raises the \$500 threshold to \$1,000. There also existed an exemption for commercial lending institutions and surety companies that arrange for the completion, repair, or remodel of a structure. House Bill 2524 expands the exemption to include holding companies and subsidiaries but requires that the construction work be performed by licensed contractors and only on a structure in which the financial institution, subsidiary, or company holds a legal or security interest. Real estate licensees were also exempt from the CCB licensure requirements when performing work on a structure that the licensee manages under a contract. House Bill 2524 specifies that the real estate licensee must be engaged in the management of rental real estate. Prior law also exempted any business

that supplies personnel to a CCB-licensed contractor. House Bill 2524 clarifies that the business supplying the personnel must be a worker-leasing company or a temporary service provider.

*Effective date: January 1, 2014*

## **House Bill 2540**

### *Disciplinary actions for construction contractors*

Oregon law requires anyone who performs construction activities involving improvements to real property, for compensation, to be licensed with the Construction Contractors Board (CCB). Activities to which this applies include roofing, siding, painting, carpentry, concrete, on-site appliance repair, heating and air conditioning, home inspections, tree service, plumbing, electrical, floor covering, installation of manufactured dwellings, and land development.

Licensure requires completion of prerequisite training and passage of a statewide test. Applicants must then file an assumed business name, corporation or limited liability corporation with the Secretary of State, obtain a surety bond and provide proof of general liability insurance, provide evidence of workers' compensation and other employer account numbers, and submit a completed application to the CCB. The application fee is \$325 and the license is good for two years.

Under current law, the CCB has the authority to revoke, suspend or refuse to issue or renew a license for a variety of reasons. House Bill 2540 allows the Board to revoke, suspend or refuse to issue or renew a license in cases where the licensee/applicant demonstrates dishonesty,

specifically for evading any of the following obligations: income taxes, Social Security contributions, unemployment insurance taxes, workers' compensation premiums, wage and hour laws, occupational safety and health laws, child support, alimony, judgments, garnishments, or other laws or debts identified by the CCB by rule.

House Bill 2540 also adds unpaid wages to the definition of "construction debt," thereby allowing the CCB to refuse, revoke or suspend licensure if a person has failed to pay wages.

*Effective date: January 1, 2014*

## **House Bill 2613**

### *Wagering on historical horse races*

"Mutuel" wagering is a system in which wagers on the outcome of a race are placed into a wagering pool allowing the participants to wager with each other, rather than against the operator. Mutuel wagering at race courses in Oregon, as well as off-track mutuel wagering, are permitted under Oregon Laws 1987, Chapter 913.

In 2008, Portland Meadows requested that the Oregon Racing Commission allow it to add a form of wagering on historical horse races, through a program known as "Thoroughbred Mania," to its previously approved race meet license. The Commission denied the request, in part on the grounds that Thoroughbred Mania is not considered a form of mutuel wagering permitted under Oregon law. The Commission also stated that its own authority to approve mutuel wagering on horse races was limited to live racing, either on-site or off-track, and that it had no authority to approve wagering on historical races. The Commission's decision was

upheld by the Oregon Court of Appeals in 2009, on the basis that the Commission's authority was limited to live races.

House Bill 2613 permits historical races as a form of mutuel wagering and expands the Oregon Racing Commission's jurisdiction over such wagering. The measure applies to holders of Class A mutuel wagering licenses, with the exception of organizations that fall under ORS 462.057(2), including the Pendleton Roundup, the Eastern Oregon Livestock Fair, the Pacific International Livestock Exposition, and county fairs; this has the result of making the measure applicable only to Portland Meadows.

*Effective date: January 1, 2014*

## **House Bill 2643**

### *Oregon License Directory*

To assist businesses, the Secretary of State provides an online license directory (<http://licenseinfo.oregon.gov/>) containing information on state licenses, certifications, permits, and registrations. The site also includes federal license summary information. Cities, counties, and regional jurisdictions began entering license information on a voluntary basis in 2005. As of August 2, 2013, the directory contained 1,188 entries made by 113 agencies, which included only three counties and five cities.

The measure directs the Office of the Secretary of State to maintain the Oregon License Directory, providing information on all known licenses, certifications, permits, and registrations for which fees are imposed on small businesses by local and state agencies. State and local agencies are required to report annually on various licensing and fee statistics to the Secretary of State, including the average time to

process and issue licenses. The directory is to be made available on the Internet to the public free of charge.

*Effective date: July 1, 2013*

## **House Bill 2654**

### *Employer access to workers' social media accounts*

House Bill 2654 prohibits employers from requiring employees and job applicants to provide access to personal social media accounts and prohibits retaliation for refusal to disclose such information. The measure also prohibits employers from requiring employees or applicants to add the employer as a contact associated with the social media site. The measure allows employers to conduct investigations and does not prohibit accessing publically available information.

Over 78 percent of Americans access the internet and of that group, 67 percent access a social media account. National media sources have reported instances of employers requiring employees or job seekers to turn over social media account usernames and passwords to the employer as a condition of employment. House Bill 2654 prohibits this practice.

*Effective date: January 1, 2014*

## **House Bill 2706**

### *Self-service storage facility foreclosure sales and late fees*

A self-service storage facility owner may place a lien on the personal property being stored until rent and other charges and expenses are paid. Current law requires the facility owner to send, by certified or

registered mail, a notice of the foreclosure sale to the renter. The facility owner is allowed to dispose of the property in any manner if it is valued at less than \$100; if the property is valued higher than \$100, a foreclosure sale must be held and notice must be published twice in a newspaper of general circulation. After the sale, the facility owner may satisfy the lien and collect reasonable expenses from the proceeds of the sale. Any money remaining from the sale must be held by the facility owner for two years; if not collected by the storage customer, the money is deemed abandoned and is to be delivered to the Department of State Lands as required by ORS 98.352.

House Bill 2706 raises the threshold for a foreclosure sale on the contents of self-storage units from \$100 to \$300, thus allowing the facility owner to dispose of property valued at less than \$300. Additionally, the measure allows the foreclosure notice to be sent to the property owner by e-mail. The measure also expressly allows the rental agreement to include provisions for a monthly late fee not to exceed \$20 or 20 percent of the monthly rental rate.

*Effective date: January 1, 2014*

## **House Bill 2763**

### *Oregon New Markets Tax Credit*

The Oregon Low Income Community Jobs Initiative, commonly referred to as the Oregon New Markets Tax Credit (NMTC) program, is a financing tool to incentivize business investment in low-to-moderate income communities. The Oregon program is modeled after the federal New Markets Tax Credit, which allows certified community development entities to apply

for authority to allocate federal tax credits to investors in qualifying projects. Entities that receive tax credit allocation authority from the U.S. Treasury Department are eligible to allocate credits through Oregon's NMTC program.

Investors earn tax credits by making qualified equity investments. Under the current program, only \$4 million in qualified equity investments may be used for a single project; House Bill 2763 increases the maximum to \$8 million. The measure also outlines additional clarifications regarding the program, including that qualifying community development entities must receive cash investments and issue qualified equity investments on or before the 60th day following receipt of a certification notice.

*Effective date: October 7, 2013*

## **House Bill 2845**

### *Insurance sold by self-service storage facilities*

Under Oregon law, the rental agreement for a self-service storage facility unit must specify whether or not the personal property of the renter is covered by the insurance held by the facility owner. Without an Oregon license to sell insurance, a self-service storage facility cannot offer or sell insurance to protect the personal property of the renter.

House Bill 2845 allows the owner of a self-service storage facility to apply for a limited license to sell personal property insurance to renters of self-service storage units. The limited license only covers insurance for personal property that is lost or damaged at the self-service storage facility. The measure requires the licensee to disclose the material terms of the insurance contract, the process for filing a claim, costs connected with the

insurance, and statements that other insurance held by the renter may provide coverage for the property and that the renter is either not required to obtain insurance or may use a different insurance source than the owner of the facility. The licensee must provide approved training to any employees that sell insurance on the licensee's behalf. The Department of Consumer and Business Services provides oversight of licensing, training, and revocation or suspension of licenses.

*Effective date: June 4, 2013*

## **House Bill 3409**

### *Provision of natural hair care*

House Bill 3409 creates the field of practice of natural hair care, separate from the practice of hair design, and authorizes the Oregon Health Licensing Authority and Board of Cosmetology to develop standards for providers of natural hair care.

Natural hair care involves using hands or simple devices to braid, twist, weave, or wrap hair without the use of chemicals. In order to practice natural hair care under prior law, an individual had to obtain a hair design license, which requires 1,450 hours of education and training.

*Effective date: June 4, 2013*

## **House Bill 3435**

### *Expands number of locations for distillery tastings*

Instituted in 1933 following the repeal of prohibition, the Oregon Liquor Control Commission (OLCC) licenses businesses that import, manufacture, distribute, sell, or

serve alcohol in Oregon. Oregon is a control state, with the exclusive right to sell packaged distilled spirits through a statewide distribution center in Portland and 242 retail liquor stores operated by contracted liquor agents. Licenses are issued to private businesses for the sale of packaged beer and wine and to restaurants, bars, and taverns for the sale of beer, wine, and distilled spirits by the glass. The Commission issues a variety of licenses, based on the type of business operated by the licensee.

Current law allows a distillery licensee to conduct tastings at the licensed premises of the distillery and at one other premise owned or leased by the licensee. The distillery licensee may also hold a full on-premise sales license, which also allows tastings to occur on the premises so licensed. OLCC may allow the off-premises ("to-go") sale of distilled spirits bottles at premises approved for tastings. In order to sell distilled spirits by the bottle at a tasting room, OLCC and the distillery licensee must enter into a Distillery Retail Outlet Agent Agreement. OLCC requires a physical separation of the tasting room from the portions of the premises where on-premises consumption is allowed in cases where to-go bottle sales are permitted.

House Bill 3435 allows a distiller to lease or own up to five premises at which the distiller conducts tastings, in addition to the licensed tasting room at the distillery.

*Effective date: January 1, 2014*

## **House Bill 3459**

### *Office of Small Business Assistance*

The Secretary of State is a statewide elected official responsible for, among other duties,

registering businesses operating in Oregon and conducting audits. In addition, the Office of the Secretary of State conducts special investigations regarding potential misuse of state resources. Its investigations may occur at state agencies, or may involve local governments or contractors receiving state or federal funds from state agencies. Citizens, businesses, and government employees may report government waste, fraud, or abuse to the Audits Division by phone, internet, or mail.

House Bill 3459 creates the Office of Small Business Assistance within the Office of the Secretary of State with two primary functions: facilitate interactions between small businesses and state agencies, and conduct reviews and investigations of unresolved complaints received from small businesses with respect to interactions with state agencies. The measure defines a small business as a prospective, new, or established business with 100 or fewer employees that is or will be located in Oregon. The measure also prohibits penalizing, sanctioning, or restricting a person who makes a complaint or participates in an investigation.

*Effective date: July 29, 2013*

## **Senate Bill 237**

### *Underbilling by public utilities*

Senate Bill 237 addresses instances in which a public utility underbills a customer (charging less than the customer was supposed to owe for provision of the utility services) or overbills a customer for a specific period of time. Erroneous billing can result from a number of causes, such as faulty or misread meters or mathematical errors. Under current administrative rules adopted by the Public Utility Commission, a

bill for services provided previously can be issued up to six months after the fact in cases where an exact date cannot be identified, or up to three years later in cases where the exact date of usage for which billing did not occur previously can be identified.

Senate Bill 237 provides an exception for collection of underbilled amounts in cases where actions of a customer, through misrepresentation, tampering with a device, diversion of product or services, providing false information, or theft, resulted in the customer receiving unbilled or incorrectly billed services. The measure also sets statutory limits on collection of incorrect billings.

*Effective date: January 1, 2014*

## **Senate Bill 241**

### *Commercialization of university-based research*

Research performed at universities generates ideas and breakthroughs that represent potential commercial and societal value, particularly in the areas of science and technology. The transition from academic research to commercially viable business opportunities may benefit from management expertise, information resources, appropriate facilities, and improved access to capital for fledgling companies. While the traditional model involved licensing university research, the “business accelerator” concept offers a more robust support structure for ventures building on university research.

Senate Bill 241 directs the Oregon Business Development Department (OBDD) to facilitate regional collaboration between the University of Oregon, Oregon State University and the Oregon Solutions

Network in Lane, Linn, and Benton counties for the purpose of assisting technology-based startup businesses in Oregon whose primary purpose is the commercialization of university-based or university-assisted research. The measure authorizes OBDD to enter into agreements and contracts necessary to implement and accomplish these objectives. The Department, the two universities, and the Oregon Solutions Network are directed to report to legislative committees related to business and economic development during the 2015 Session regarding implementation of the measure's provisions.

*Effective date: January 1, 2014*

## **Senate Bill 246 and Senate Bill 253**

### *Oregon Industrial Site Readiness Program and Oregon Industrial Site Readiness Assessment Program*

Oregon currently suffers from a shortage of large sites available for industrial development. Such sites are considered an integral part of efforts to expand and improve the state's economy and to attract and retain large employers to the state. However, land use considerations, connections to utility services, and transportation systems and environmental permitting, among other considerations, may constitute barriers to development.

Senate Bill 246 establishes the Oregon Industrial Site Readiness Program, including the Oregon Industrial Site Readiness Program Fund. The measure continuously appropriates monies in the Fund to the Oregon Business Development Department (OBDD) and allows the Department to enter into tax reimbursement arrangements with, and make

loans to, qualified project sponsors for development of certified regionally significant industrial sites. The measure allows OBDD to forgive up to 50 percent of the loans when a project sponsor contracts with an eligible employer who sites employees on the site. The program limits the amount of loan forgiveness to 50 percent of eligible site preparation costs, or to an amount equal to 50 percent of the estimated incremental income tax revenues associated with the eligible employer's tax reimbursement arrangements. Under the program's tax reimbursement arrangements, project sponsors may receive up to the full amount of their eligible site preparation costs, plus interest. Payment to the project sponsor, in a particular year, is equal to 50 percent of the estimated incremental income tax revenues associated in that year with the eligible employer's on-site employees.

*Effective date: October 7, 2013*

Senate Bill 253 establishes the Oregon Industrial Site Readiness Assessment Program, as well as the Oregon Industrial Site Readiness Assessment Program Fund, also under the auspices of the OBDD. The program provides grants to help public entities perform due diligence assessments and create detailed plans for regionally significant industrial sites, both publicly and privately owned. The Fund may also be utilized to help public entities develop industrial land inventories and to prioritize sites for future due diligence assessments and site preparation assistance.

*Effective date: January 1, 2014*

## **Senate Bill 414**

*Allowing Department of Consumer and Business Services to require insurer pay restitution to policyholder*

Oregon law gives authority to the Director of the Department of Consumer and

Business Services (DCBS) to impose fines or civil penalties against an insurer to enforce the Insurance Code. DCBS may also refer a suspected violation of the Insurance Code to the Attorney General or a district attorney. Prior to enactment of Senate Bill 414, DCBS did not have the authority to require an insurer pay a claim or order restitution be paid to a policyholder.

Senate Bill 414 gives DCBS the authority to seek restitution and other equitable relief on behalf of consumers who suffer damages as a result of an insurer's violation of the Insurance Code.

*Effective date: July 3, 2013*

## **Senate Bill 631**

*Health inspection of food and lodging facilities operated by public bodies*

Oregon law requires a person operating a restaurant or bed and breakfast facility to obtain a license from the Oregon Health Authority and undergo inspection of the facility every six months. Current law, however, specifies that the law only applies to "persons," which includes individuals, corporations, associations, firms, partnerships, limited liability companies, and joint stock companies. ORS 174.109 defines "public bodies," but that definition is not found in the restaurant licensing and inspecting statutes. As a result, some facilities that are operated by a public body, such as the Oregon Zoo, are not required to undergo regular health inspections.

Senate Bill 631 defines "person" for the purpose of food service facility licensing and inspection requirements to specifically include public bodies as defined in ORS 174.109, as well as the Oregon Health and Science University and the Oregon State

Bar. As a result of the measure, the Oregon Zoo will be required to undergo regular health inspections at its restaurant facilities.

*Effective date: January 1, 2014*

## **Senate Bill 678**

*Exclusive remedy protection under workers' compensation statutes*

Oregon law requires most employers to obtain and maintain workers' compensation insurance coverage when they employ workers subject to the requirement. This coverage protects employers from personal liability and provides guaranteed benefits to workers when they are hurt on the job. This protection is referred to as the "exclusive remedy" protection because the workers' compensation system provides the exclusive remedy for an injured worker. The exemption from liability is for the employer as well as the employer's contracted agents, employees, officers, and directors. In 2011, the Oregon Court of Appeals ruled that this exclusive remedy protection did not apply to members of limited liability corporations that employed the injured worker because statute did not explicitly list them as eligible for the protection (*Cortez v. NACCO Materials Handling Group, Inc., 2011*). The case is currently before the Oregon Supreme Court.

Senate Bill 678 extends the exclusive remedy exemption to include the employer's partners, limited liability company members, general partners, limited liability partners, and limited partners.

*Effective date: June 24, 2013*

## **Senate Bill 683**

### *Health care practitioner disclosure of financial interest in health care facility*

Under current law, a health care practitioner with a financial interest in a facility must disclose that financial interest to patients prior to referring a patient to that facility for treatment. A financial interest is defined as five percent or greater ownership interest in the entity to which the patient is being referred.

Senate Bill 683 requires practitioners to consider only a patient's clinical needs and personal choices when referring a patient to a facility for treatment. The measure requires written and oral disclosure of a practitioner's financial interest at the time of referral and prohibits the denial, limitation or withdrawal of a referral because of the patient's choice to utilize an alternate facility, except in certain circumstances. The measure also directs the Oregon Health Authority to specify the form and manner of provider notice by rule and authorizes the Oregon Health Licensing Agency or appropriate board to investigate and discipline violations of the measure.

*Effective date: January 1, 2014*

## **Senate Bill 783**

### *Construction contractor continuing education*

The Construction Contractors Board (CCB) licenses and regulates residential and commercial construction contractors, as well as subcontractors and home inspectors, for the State of Oregon. The Board investigates and adjudicates complaints filed against licensees, assesses sanctions where applicable, and provides education and

testing on construction laws and business practices. The Legislative Assembly instituted continuing education requirements for all contractors with the passage of House Bill 2654 (2007). A second measure that session, House Bill 3242, created separate continuing education programs for residential contractors and commercial contractors. The CCB adopted rules for the requirement after working with industry and other stakeholders. Commercial contractors are required to complete between 16 and 80 hours of continuing education during their two-year license period, depending on their commercial endorsement; residential contractors must complete 16 hours of continuing education, including eight hours in mandatory subject areas (building exterior shell training, building codes, CCB laws and regulations) and eight hours in elective subject areas.

Senate Bill 783 repeals current statute applicable to the Construction Contractors Board related to education and training program approval, continuing education rules and fees, and exemptions from continuing education requirements and requires the CCB to adopt rules establishing a continuing education system for residential contractors that includes minimum standards for the approval of continuing education providers and continuing education courses. The measure allows the CCB to enter into paid licensing agreements with approved continuing education providers for the use of board-developed classes and materials and allows the CCB to set fees for the approval of continuing education providers, the approval of courses, the approval of specialized education courses, continuing education courses provided by the CCB, and per-student, per-course completed fees. It also sets out the general requirements for continuing education of residential contractors for license renewal including

three hours of instruction in laws, regulations, and business practices from the CCB or using materials developed and licensed by the CCB by approved providers and an additional five hours of continuing education provided by approved continuing education providers using courses that the CCB approves. Additional continuing education is required of residential contractors with six or less consecutive years of licensing by the CCB. The measure allows CCB to grant exceptions to continuing education requirements under certain circumstances.

*Effective date: August 1, 2013*

## **Senate Bill 795**

*Beer and wine growlers sold by special event licensees*

A brewery-public house license issued by the Oregon Liquor Control Commission authorizes the holder to make and sell malt beverages, to export those beverages to locations outside Oregon, to distribute the malt beverages to wholesale licensees in Oregon, and to sell malt beverages, wine and cider to individuals for consumption on- or off-site. It also allows licensees that make 5,000 barrels or less per year to sell and distribute malt beverages directly to retail licensees in Oregon. The annual fee for a brewery-public house license is \$250, with an additional server education fee of \$2.60 per server. Licensees are not required to serve food on premises, but if on-site consumption occurs and the site accommodates minors, then consumption of alcohol must not be the predominant activity in locations where minors are allowed.

Senate Bill 795 authorizes holders of a brewery-public house license to store product produced at its brewery premise to a

single secondary location for cold storage and to transport the product between the two facilities. Senate Bill 795 also allows growlers of wine, cider, and malt beverage to be sold by special event licensees and to be filled by those holding a temporary service permit. Growlers are containers that hold no more than two gallons and are supplied by the consumer. In addition, the measure allows patrons of wineries to take home a partially consumed bottle of wine, as is currently allowed in restaurants.

*Effective date: June 26, 2013*

## **Senate Bill 836**

*Regulation of makeup artists*

The Oregon Board of Cosmetology is one of 11 boards administered by the Oregon Health Licensing Agency. The Agency is charged with protecting the health, safety and rights of Oregon consumers by ensuring that only qualified applicants are authorized to practice. It establishes, communicates, and ensures compliance with regulatory standards for multiple health and related professionals, inspects licensed facilities, responds to and investigates consumer complaints, and disciplines practitioners.

Senate Bill 836 exempts makeup artists who provide hair, makeup, and other effects as part of theatrical productions, film productions, and photo shoots from regulation by the Oregon Board of Cosmetology and Oregon Health Licensing Agency. The nature of the makeup effects for theatrical productions, such as those at the Oregon Shakespeare Festival in Ashland, and from productions such as the television show *Grimm* which is filmed in Portland, are different from the work done by licensed cosmetologists. In particular, the work of makeup artists is meant to be worn for only

short periods of time, and makeup artists do not provide services to the general public.

*Effective date: May 16, 2013*

## **LEGISLATION NOT ENACTED**

### **House Bill 2007**

*Lottery game retailers operating as casinos*

The Oregon Constitution prohibits the establishment of casinos; however, there is no statutory definition of “casino” for lottery game retailers. Oregon voters approved a ballot initiative in 1984 to create a state lottery operated by the Oregon Lottery Commission. The Commission’s administrative rules currently define a “casino” as a retailer whose annual lottery sales exceed 50 percent of the retailer’s *gross* income.

House Bill 2007 would have added a statutory definition of “casino” as a lottery game retailer whose annual lottery sales exceed 50 percent of the retailer’s *net* income. Use of net income as opposed to gross income would likely deem more retailers as casinos. The measure would have directed the Oregon State Lottery to terminate the contract of any retailer deemed a casino.

### **House Bill 2008**

*Addressing the impacts of alcoholic beverages*

The Oregon Liquor Control Commission (OLCC) licenses qualified individuals and businesses to sell and serve alcoholic beverages. Under existing law, the OLCC is

able to cancel or suspend a liquor license or refuse to issue a license under specified circumstances, such as a premises or licensee having a history of serious and persistent problems.

House Bill 2008 would have allowed a city to order the cessation of alcoholic beverage sales or other operations at specified OLCC-licensed premises for up to 72 hours in response to the reasonable belief that the continued sales or operation presented an immediate threat to public safety. In addition, the OLCC would have been authorized to place restrictions on the activities at licensed premises where there was past history or current presence of problems. The measure would also have allowed the OLCC to refuse to license, or to cancel or suspend an active license, if there is a threat to public safety. Finally, House Bill 2008 would have required that one of the five members of the Commission have expertise in law enforcement or public safety.

### **House Bill 2398**

*Prohibits self-checkout sale of specified products*

Self-checkout stations have gained popularity in stores such as Safeway, Fred Meyer, Costco, and Walmart. Customers are able to scan items, pay with cash or other forms of payment, and complete a transaction without the assistance of store personnel. Current law does not restrict what can be sold through self-checkout stations. If an item, such as alcohol, can only be sold to consumers of a specified age, the self-checkout device is typically programmed to lock and alert the attending cashier to determine if proof of age is needed. One cashier will tend multiple self-checkout stations.

House Bill 2398 would have prohibited the sale of cigarettes, tobacco, alcoholic beverages, and over-the-counter or prescription pharmaceuticals to consumers through the use of a self-checkout device. Violations would have constituted unlawful trade practices.

## **House Bill 2608**

### *Interest on escrow accounts*

Funds received by an escrow agent that are to be delivered upon closing are trust funds that must be deposited in a federally insured account and kept separate and distinct from funds belonging to the escrow agent. Current law allows, but does not require, trust funds received by an escrow agent to be placed in interest-bearing accounts only with the written approval of all parties who have an interest in the funds. The earnings may inure to the benefit of the escrow agent if approved in writing by all parties who have an interest in the funds. As an alternative, if all parties provide written approval, the funds may be placed in an interest-bearing account and the earnings inure to a nonprofit corporation that provides assistance to first-time homebuyers or affordable housing developers. Similarly, through the mandatory Interest on Lawyer Trust Account (IOLTA) program in Oregon, lawyers place client funds that are too small or held for too short of a time to earn interest for the client, in a pooled interest-bearing trust account. The interest is then remitted to the Oregon Law Foundation, which awards grants for charitable, law related purposes. In some states, including Washington, escrow accounts are included in the IOLTA program.

House Bill 2608 would have required the placement of escrow trust funds in interest-bearing accounts. If the funds were not

expected to produce a positive net return, then trust funds would have to be placed in a pooled interest-bearing trust account. The accrued interest, net of reasonable costs, would have gone to a nonprofit corporation that provides legal assistance to persons of lesser means, as opposed to first-time homebuyers or affordable housing developers.

## **House Bill 2702**

### *Alcohol impact areas*

The administrative rules of the Oregon Liquor Control Commission (OLCC) allow the Commission to designate an alcohol impact area (AIA) in which the sale of alcoholic beverages is restricted. There has been debate in recent years as to whether the OLCC has the statutory authority to designate AIAs. In 1994, the OLCC asked the Attorney General (AG) for guidance regarding interpretation of the rule. The AG determined that the OLCC had authority to designate an AIA. In 2010, the City of Portland submitted to the OLCC a formal petition to create an AIA. In 2012, the OLCC again asked the AG for guidance. This time the AG determined the OLCC lacked the authority to designate an AIA.

House Bill 2702 would have established a process for the OLCC to adopt rules to allow for declaring an alcohol impact area upon the petition of a municipality. Within an AIA, the OLCC would have been able to restrict the off-premises sale of specific alcoholic beverages.

## **Senate Bill 296**

### *Central warehouse license for wine distribution*

The Oregon Liquor Control Commission (OLCC), established by the Legislative Assembly in 1933, regulates the sale and service of alcoholic beverages in Oregon, ensuring that only qualified individuals and businesses are licensed to serve and sell alcoholic beverages. The OLCC offers liquor licenses for the sale, manufacture, import, or distribution of alcohol; licenses can be annual (and renewable) or temporary/special-event licenses.

One type of license offered by the OLCC is an off-premises sales license. This license allows the holder to sell factory-sealed containers of wine, cider, and malt beverages (the latter in containers no larger than 2.5 gallons). The annual license fee is \$100. Senate Bill 296 would have created a central warehouse license (\$1,000 fee) to allow the licensee to receive wine directly from a licensed wholesaler or winery or from a manufacturer with a wine self-distribution permit, to hold that wine in storage, and to release it for transport to licensed premises. The measure also would have allowed the OLCC to issue a central warehouse license to cooperatives comprised of off-premise sales license holders. A bonding requirement of \$1,000 for central warehouse licensees and requirements for payment and reporting of taxes were also included in the measure.

## **Senate Bill 361**

### *Commodity commission review of commercialized university research*

The Oregon Department of Agriculture currently administers 23 officially recognized commodity commissions. These

commissions develop and implement public policy, reflecting the state's commitment to the commodity industries integral to the economy of the state. Policies include supporting persons engaged in the commodity industries, providing benefits to the commodity industries, enhancing the image of Oregon commodities in order to increase overall demand, using mandatory cooperative efforts to complement state, federal, and international laws and programs, increasing knowledge of the healthful qualities of Oregon commodities, and supporting and engaging in research programs and activities that benefit the Oregon commodities.

Senate Bill 361 would have required an institution that has received monetary assistance from a commodity commission for certain intellectual property to obtain commission approval prior to disposing of the intellectual property. Commodity commissions often provide financial support to universities to help fund scientific research that might benefit or improve the production of the commodity. However, the possibility exists that the product of research, for example a new breed of a particular crop, may be sold as intellectual property to growers overseas, with the result being that in-state producers may face improved competition from abroad.

## **Senate Bill 557**

### *Review of Landscape Contractors Board*

The Landscape Contractors Board (LCB) was created in 1972 to license and regulate landscape contracting businesses and professionals. The Board establishes experience and education prerequisites and requires applicants to pass a competency exam prior to licensure. The Board also requires landscape contracting businesses to

obtain a surety bond, submit evidence of liability insurance, and employ a licensed landscape construction professional. The Board also receives and investigates consumer complaints, fields questions from consumers and from landscape professionals, and enforces compliance with licensure requirements.

Senate Bill 557 would have made numerous changes to the statutes governing

professional landscape contractors and the Landscape Contractors Board. Additionally, the measure would have established the Landscape Construction Professionals Task Force to determine if the powers of the LCB should be transferred to the Construction Contractors Board and recommend changes to administrative rules and statutes to ensure sufficient knowledge and skills among licensees.

# Consumer Protection

## **House Bill 2059**

### *Regulating consignment sales*

House Bill 2059 adds consignment sales, including estate sales run by a third party, to statutes governing auctions, auctioneers, and auction markets. Under the bill, a consignee must provide certain information in advertisements for sales, hold a consignor's money in trust after the sale, refrain from self-dealing, and return all monies held in trust or unsold property to the consignor within 21 days of the sale. Violations of these requirements constitute Unlawful Trade Practices.

Consignment sales are the sale of personal property by a third party, the consignee, on behalf of the property's owner, the consignor. Consignment sales include estate sales and retail consignment stores. Prior to the enactment of House Bill 2059, personal property consignment sales were not regulated. The Department of Justice reported over 270 complaints in five years relating to consignees failing to pay monies owed to consignors.

*Effective date: January 1, 2014*

## **House Bill 2060**

### *Expenditure requirements for charitable organizations*

In Oregon, charitable organizations are regulated by the Charitable Trust and Corporation Act, which charges the Attorney General to represent the public's interest in connection with assets held for charitable purposes. Organizations holding such assets and/or soliciting donations must register and file periodic financial reports with the Department of Justice. Each year,

the Attorney General publishes a 20 Worst Charities list. In 2012, that list highlighted charities expending 25 percent or less on program services. The Better Business Bureau's guidelines for charitable organizations recommend that at least 65 percent be spent on program services.

House Bill 2060 allows the Attorney General to issue an order disqualifying a charity that fails to expend at least 30 percent of expenses on program services from receiving tax-deductible contributions. Disqualified charities may continue to solicit contributions, but they are required to inform donors that contributions are not deductible for state income tax purposes. The measure also eliminates the property tax exemption for property of a disqualified charity. The measure does not change existing reporting requirements and relies on expenditure calculations that are part of the current reporting process.

*Effective date: October 7, 2013*

## **House Bill 2524**

### *Limits Construction Contractors Board license exemptions*

The Construction Contractors Board (CCB) is responsible for safeguarding the security and property of the citizens of Oregon by preventing and resolving construction contracting problems and by insuring contractors' compliance with the law. The CCB licenses residential and commercial construction contractors, subcontractors and home inspectors; investigates and adjudicates complaints filed against licensees; and imposes sanctions against unlawful contractors. Consumers lose the ability to recover damages through the contractor's bond as well as the CCB

Dispute Resolution Service if they use an unlicensed contractor.

Prior to passage of House Bill 2524, any person working on a project or structure in which the price of all contracts combined amounted to less than \$500 was exempt from the licensure requirement. House Bill 2524 raises the \$500 threshold to \$1,000. There also existed an exemption for commercial lending institutions and surety companies that arrange for the completion, repair, or remodel of a structure. House Bill 2524 expands the exemption to include holding companies and subsidiaries but requires that the construction work be performed by licensed contractors and only on a structure in which the financial institution, subsidiary, or company holds a legal or security interest. Real estate licensees were also exempt from the CCB licensure requirements when performing work on a structure that the licensee manages under a contract. House Bill 2524 specifies that the real estate licensee must be engaged in the management of rental real estate. Prior law also exempted any business that supplies personnel to a CCB-licensed contractor. House Bill 2524 clarifies that the business supplying the personnel must be a worker-leasing company or a temporary service provider.

*Effective date: January 1, 2014*

## **House Bill 2654**

*Prohibiting employers from accessing workers' social media accounts as condition of employment*

House Bill 2654 prohibits employers from requiring employees and job applicants to provide access to personal social media accounts and prohibits retaliation for refusal to disclose such information. The measure

also prohibits employers from requiring employees or applicants to add the employer as a contact associated with the social media site. The measure allows employers to conduct investigations and does not prohibit accessing publically available information.

Over 78 percent of Americans access the internet and of that group, 67 percent access a social media account. National media sources have reported instances of employers requiring employees or job seekers to turn over their social media account usernames and passwords to the employer as a condition of employment. House Bill 2654 prohibits this practice.

*Effective date: January 1, 2014*

## **House Bill 2669**

*Extending workplace protections to interns*

Prior to the enactment of House Bill 2669, interns performing work for educational purposes were not covered by Oregon's harassment and discrimination statutes because interns were not considered employees.

House Bill 2669 provides specific civil rights protection to unpaid interns, including protection from discrimination based on race, color, religion, sex, sexual orientation, national origin, marital status, age, military service, or disability. The measure also protects interns from discrimination for reporting violations of the law, participating in legal proceedings, or for being a victim of domestic violence, assault, harassment, or stalking. It prohibits employers from requiring interns undergo invasive medical testing, disclose genetic information, and restricting the use of tobacco in nonworking hours. The measure does not create an employment relationship for purposes of

wage and hour laws, minimum wages, child labor laws, occupational safety and health laws, workers' compensation, unemployment, Oregon Family Leave Act, or other leave laws.

*Effective date: June 13, 2013*

## **House Bill 2823**

*Accounting for governing associations of planned communities and condominiums*

In 2012, over 30 members of metro-area homeowners' associations alleged a loss of \$1.2 to \$2 million due to embezzlement by an association manager. A work group of attorneys, planned community groups, condominium associations, and condominium owners participated in the development of recommendations to strengthen accounting requirements for associations.

House Bill 2823 would have specified who could handle association funds and the types of accounts that were permissible. The measure also required associations to conduct regular audits of financial documents and to obtain insurance against bad acts. Proposed amendments to the measure prohibited associations from banning signs on an owner's property if the ban was based on content; and prohibited associations from making information confidential or exempt from disclosure unless consistent with current state law.

## **House Bill 2845**

*Insurance sold by self-service storage facilities*

Under Oregon law, the rental agreement for a self-service storage facility unit must specify whether or not the personal property

of the renter is covered by the insurance held by the facility owner. Without an Oregon license to sell insurance, a self-service storage facility cannot offer or sell insurance to protect the personal property of the renter.

House Bill 2845 allows the owner of a self-service storage facility to apply for a limited license to sell personal property insurance to renters of self-service storage units. The limited license only covers insurance for personal property that is lost or damaged at the self-service storage facility. The measure requires the licensee to disclose the material terms of the insurance contract, the process for filing a claim, costs connected with the insurance, and statements that other insurance held by the renter may provide coverage for the property and that the renter is either not required to obtain insurance or may use a different insurance source than the owner of the facility. The licensee must provide approved training to any employees that sell insurance on the licensee's behalf. The Department of Consumer and Business Services provides oversight of licensing, training, and revocation or suspension of licenses.

*Effective date: June 4, 2013*

## **House Bill 3070**

*Requires merchants disclose shipping and handling charges at time of transaction*

The Unlawful Trade Practices Act (UTPA) was enacted by the Oregon Legislature in 1971. The UTPA defines and prohibits various unfair and deceptive trade practices, giving the Attorney General, district attorneys, and in some instances, private citizens the right to sue for violations of the Act. Currently, the UTPA prohibits unfair or deceptive conduct in trade or commerce, but does not specifically require the disclosure

of shipping and handling charges in advertised consumer goods. In some instances undisclosed shipping charges have totaled more than the value of the item purchased.

House Bill 3070 requires the seller of consumer goods to clearly disclose shipping and handling charges to the consumer at the time of the sales transaction and makes failure to disclose such charges an unlawful trade practice. The measure is enforceable by the Attorney General or district attorney and does not create a private right of action.

*Effective date: January 1, 2014*

## **House Bill 3159**

*Allows regulation of towing by city and county*

The City of Portland began regulating private party impound towing (PPI) in 1988 and upgraded its practices in 2003. Other cities around the state regulate towing within city boundaries. Prior to enactment of House Bill 3159, cities could apply some restrictions and limitation on towing charges, but could not specify a maximum rate for towing or related activities. House Bill 3159 allows cities and counties to establish maximum towing rates within its jurisdiction. If a city or county establishes a maximum towing rate, it must also set up a licensing system and a process for receiving and responding to towing complaints. Towers are required to obtain an annual license from cities or counties that establish a maximum rate, if the towers operate within that jurisdiction.

*Effective date: July 29, 2013*

## **Senate Bill 91**

*Residential Landlord and Tenant Act modifications*

Senate Bill 91 is a product of the General Landlord Tenant Coalition, which has negotiated changes to Oregon's Residential Landlord and Tenant Act since its inception in the 1980s.

Under the measure, landlords may require renters to carry insurance, with exemptions for low-income households and may consider broad categories of convictions in a renter's background, but may not consider an applicant's arrests or eviction proceedings if the eviction was settled in favor of the renter or is more than five years old. Senate Bill 91 also allows a renter to end tenancy after receiving notice of foreclosure on the rental property, unless the landlord notifies the tenant that the property is no longer in foreclosure within a specified time. The measure also allows a landlord to charge a tenant for noncompliance with written policies prohibiting smoking in a unit and keeping unauthorized pets. Additionally, the measure provides for a graduated approach to fees, allowing a landlord to escalate the fees for noncompliance so long as the fee is stated in the rental agreement or rules, written notice is given, and the fee is assessed within 30 days of the violation. Senate Bill 91 also makes several technical and clarifying changes to the Act.

*Effective date: January 1, 2014*

## **Senate Bill 406**

*Expanding name change options*

Prior to enactment of Senate Bill 406, Oregon law allowed both parties in a

marriage to change their names according to specific rules. The law specified the naming options, including retaining a party's surname, changing a surname to the other party's surname, or combining surnames with a hyphen. Similar rules applied to name changes in registered domestic partnerships under ORS 106.335. Any name changes after a marriage or domestic partnership must follow a civil court procedure as outlined in ORS 33.410.

Senate Bill 406 expands the naming options for couples in a marriage or domestic partnership to include the ability to retain or change middle names, surnames, or a combination of surnames.

*Effective date: June 6, 2013*

## **Senate Bill 414**

*Allowing Department of Consumer and Business Services to require insurer pay restitution to policyholder*

Oregon law gives authority to the Director of the Department of Consumer and Business Services (DCBS) to impose fines or civil penalties against an insurer to enforce the Insurance Code. DCBS may also refer a suspected violation of the Insurance Code to the Attorney General or a district attorney. Prior to enactment of Senate Bill 414, DCBS did not have the authority to require an insurer pay a claim or order restitution be paid to a policyholder.

Senate Bill 414 gives DCBS the authority to seek restitution and other equitable relief on behalf of consumers who suffer damages as a result of an insurer's violation of the Insurance Code.

*Effective date: July 3, 2013*

## **Senate Bill 525**

*Prohibits use of state letterhead by third-party for debt collection purposes*

At least five Oregon district attorneys contract with private entities to operate bad check diversion programs and collect fees and other money owed for the passing of bad checks. Some, but not all, receive a fee from the private collector. Operating under the auspices of a district attorney, collectors have sent notices to individuals accused of passing bad checks that look like official communications from the district attorney's office but only provide contact information for the collection agency.

Senate Bill 525 prohibits the use of the seal or letterhead of a public agency or public official by private entities collecting debt, including restitution. The measure also prohibits public agencies and officials from authorizing or receiving fees for such use.

*Effective date: January 1, 2014*

## **Senate Bill 558**

*Expanding and modifying foreclosure mediation program*

Senate Bill 1552 (2012) established the residential Foreclosure Avoidance Mediation Program, under the direction of the Attorney General. That measure required the beneficiary of a residential trust deed to enter into mediation with a homeowner who has received notice of foreclosure, but only applied to foreclosures conducted through notice and sale, the "non-judicial" foreclosures. The 2012 law also specified steps for the homeowner to request mediation with a beneficiary if the homeowner was at risk of foreclosure. Foreclosure data suggests that beneficiaries

have largely halted non-judicial foreclosures and have instead opted to file suits to foreclose in court, called “judicial” foreclosures.

Senate Bill 558 expanded the existing foreclosure mediation program to include judicial foreclosures. Other changes include specifying instructions for how a homeowner may request a resolution conference prior to receiving a foreclosure notice from the beneficiary, restructuring the program and fee requirements, and allowing beneficiaries that have commenced 175 or fewer foreclosure actions to file for an exemption to the resolution conference requirements of the measure.

*Effective date: June 4, 2013*

## **Senate Bill 574**

*Allowing security freezes on protected consumers’ credit reports*

In 2007, the Legislative Assembly enacted the Oregon Consumer Identity Theft Protection Act. The Act requires businesses and organizations that collect personal information from individuals, including social security numbers and driver’s license numbers, to safeguard personal information. If personal information is subject to a security breach, the Act requires the business or organization to notify affected individuals. Additionally, the Act gives Oregonians the right to request security freezes on their credit files maintained by credit reporting agencies. Individuals can unfreeze or temporarily lift the freeze on credit files. The Act does not address protected persons, such as minors or those under a guardianship.

Senate Bill 574 expands the Act to allow parents or guardians to freeze the credit

reports of minors and protected persons. In the event that a protected person does not have a credit report, the measure requires credit reporting agencies to make a protective record for the individual and place a freeze on that record.

*Effective date: June 13, 2013*

## **Senate Bill 631**

*Health inspection of food and lodging facilities operated by public bodies*

Oregon law requires a person operating a restaurant or bed and breakfast facility to obtain a license from the Oregon Health Authority and undergo inspection of the facility every six months. Current law, however, specifies that the law only applies to “persons,” which includes individuals, corporations, associations, firms, partnerships, limited liability companies, and joint stock companies. ORS 174.109 defines “public bodies,” but that definition is not found in the restaurant licensing and inspecting statutes. As a result, some facilities that are operated by a public body, such as the Oregon Zoo, are not required to undergo regular health inspections.

Senate Bill 631 defines “person” for the purpose of food service facility licensing and inspection requirements to specifically include public bodies as defined in ORS 174.109, as well as the Oregon Health and Science University and the Oregon State Bar. As a result of the measure, the Oregon Zoo will be required to undergo regular health inspections at its restaurant facilities.

*Effective date: January 1, 2014*

## **Senate Bill 683**

### *Disclosure of financial interest in health care facility*

Under current law, a health care practitioner with a financial interest in a facility must disclose that financial interest to patients prior to referring a patient to that facility for treatment. A financial interest is defined as five percent or greater ownership interest in the entity to which the patient is being referred.

Senate Bill 683 requires practitioners to consider only a patient's clinical needs and personal choices when referring a patient to a facility for treatment. The measure requires written and oral disclosure of a practitioner's financial interest at the time of referral and prohibits the denial, limitation or withdrawal of a referral because of the patient's choice to utilize an alternate facility, except in certain circumstances. The measure also directs the Oregon Health Authority to specify the form and manner of provider notice by rule and authorizes the Oregon Health Licensing Agency or appropriate board to investigate and discipline violations of the measure.

*Effective date: January 1, 2014*

## **LEGISLATION NOT ENACTED**

## **House Bill 2383**

### *Prohibiting merchant requirement that customer produce statement of account to receive refund*

Mistakes may be made in some consumer transactions, such as a customer charged

twice for a single item. Instances have been reported in which a merchant, or a third party handling refunds for a merchant, required a statement of account from a consumer in order for the customer to receive a refund. A "statement of account" is a record of a cardholder's payment transactions that is produced by the card issuer, such as a monthly credit card statement or monthly checking account statement. Such statements can contain extensive personal information. House Bill 2383 sought to prohibit a merchant from requiring a customer produce a statement of account in order to receive a refund to which a customer is otherwise entitled. The measure specified that the customer must still comply with other terms and conditions that a merchant may lawfully require in order to receive a refund.

## **House Bill 3160**

### *Placing insurance within Unlawful Trade Practices Act*

The Unlawful Trade Practices Act (UTPA) was enacted by the Oregon Legislature in 1971. The UTPA defines and prohibits various unfair and deceptive trade practices, giving the Attorney General, district attorneys, and in some instances, private citizens the right to sue for violations of the Act. Currently, insurance trade practices are regulated in ORS chapter 746 and are not subject to the UTPA.

House Bill 3160 sought to add insurance to the categories of goods or services subject to the UTPA and to make unfair claim settlement practices a violation of the UTPA. The measure authorized a private right of action for individuals.

## House Bill 3499

*Foreclosure notification related to manufacturing methamphetamines*

Oregon is one of 27 states with a specific methamphetamine disclosure law pertaining to the purchase of a home. When real property acquired as a result of foreclosure is sold, it is often sold “as is,” meaning the purchaser is responsible for detecting and remedying hazards. The statutes that govern the drug cleanup program in Oregon address drug manufacturing sites. They do not address properties where methamphetamine was used.

House Bill 3499 would have required notice of sale to include the following statement:

*Without limiting the trustee’s disclaimer of representations or warranties, Oregon law requires the trustee to state in this notice that some residential property sold at trustee’s sale may have been used in manufacturing methamphetamines, chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a bid for this property at the trustee’s sale.*

## Senate Bill 413

*Rate review process for health insurance premium increases*

Under current Oregon law, changes to premium schedules and rates for individual and small business health benefit plans must be filed with the Director of the Department of Consumer and Business Services (DCBS), who is required to open a 30-day public comment period and post all comments to the DCBS website. In order to determine approval or disapproval of rate change, DCBS determines whether the proposed rates are actuarially sound, reasonable and not excessive, inadequate or unfairly discriminatory, and based upon reasonable administrative expenses.

Senate Bill 413 would have required insurers offering a health benefit plan to provide annual notice to policyholders and certificate holders of specific information about DCBS’s rate review process and consumer advocacy unit, as well as provide information relating to enrollment, renewal notices, newsletters and communications between insurers and enrollees, the rate review process and public hearings, how to provide comments and participate in the public hearings, how to contact DCBS, and finally instructions on how to receive rate filing notifications. Additionally, Senate Bill 413 would have required DCBS and the Oregon Health Authority to develop standards for evaluating the insurers’ cost containment and the cost containment goals and results when reviewing rate requests. Finally, the measure would have required DCBS to establish a public process to determine annual official medical trends that would be used in all rate review filings.



# Education

## **House Bill 2013**

### *Early learning services and kindergarten readiness assessments*

Senate Bill 909 (2011) created the Oregon Education Investment Board (OEIB) and The Early Learning Council (ELC), a subgroup of the former. The OEIB, chaired by the Governor, oversees efforts to create a seamless, unified system for investing in and delivering public education from early childhood through high school and college. The ELC guides activities with regard to early childhood in order to integrate and streamline a variety of state programs for at-risk children, and ensure all children are ready to learn when they enter kindergarten. Over the past two years, the ELC studied and selected kindergarten assessment tools and developed a flexible model, called an Early Learning Hub, for integrating the delivery of services that are available prior to entry into kindergarten.

House Bill 2013 directs the ELC and the Department of Education to assist school districts with the implementation of kindergarten readiness assessments, and establishes a related grant program. It also renames the “Healthy Start Family Support Services” Program as “Healthy Families Oregon” and expands its assessments to include children from zero to three years of age. The Oregon Health Authority and the ELC are to develop performance metrics for prenatal care, delivery, and infant care; and establish a grant program to support the alignment of early learning systems with health systems. Screening and referral services for a voluntary statewide early learning system are to be standardized and a permanent professional development and labor management committee is to be established for child care providers. Preschool children with disabilities are to

have comprehensive communication plans by the age of three. Finally, the ELC is to establish Early Learning Hub Demonstration Projects.

*Effective date: August 14, 2013*

## **House Bill 2150**

### *Charter school application procedures*

House Bill 2150 modifies the contents of, and process for, proposals to establish public charter schools. The measure also modifies the process to renew and terminate public charter schools. Additionally, the measure clarifies the list of laws that apply to charter schools and alters the board composition requirements for charter schools that are the only school in a district.

Senate Bill 100 (1999) first allowed public charter schools in Oregon. A Charter Review Committee (Committee) met throughout 2010 to review the ten-year history of Oregon charter schools. The Committee, representing public schools, charter schools, the Department of Education, the Legislative Assembly, education associations, parents, teachers, and other stakeholders, thoroughly examined charter school law and discussed potential changes. The Committee’s recommendations were introduced as Senate Bill 255 (2011), which passed the Senate, but remained in the House Education Committee upon adjournment sine die.

House Bill 2150 expands on the Committee’s recommendations to establish clear timelines for the submission of charter school proposals to school districts and procedures for appealing a decision to the State Board of Education.

*Effective date: January 1, 2014*

## **House Bill 2158**

*In-state college tuition for veterans, and more tuition waivers for veterans' dependents*

Current law provides an in-state tuition rate for Oregon residents; an out-of-state tuition rate for nonresidents; and a rate that is halfway between the two for qualified nonresident veterans. The GI Bill only covers the cost of in-state tuition. Beginning with newly enrolled students for fall of 2013, House Bill 2158 requires all undergraduate veterans with either an honorable discharge or a general discharge under honorable conditions to receive in-state tuition rates, if the veteran demonstrates a physical presence in Oregon within 12 months of enrollment.

The measure also adds the children of Purple Heart recipients, awarded from 2001 forward, to the list of dependents eligible to receive tuition waivers under the Veterans' Dependent Tuition Waiver program. Oregon's tuition waiver program for the dependents of deceased and disabled veterans requires community colleges and universities to waive tuition for the dependents of veterans killed on active duty, or as a result of a service-connected disability. Universities must further waive tuition for the dependents of veterans who are 100 percent disabled as a result of military service. House Bill 2158 enlarges the group of eligible dependents, by adding the children of recipients of the Purple Heart, which is awarded only to those who are wounded in combat. In order to provide veterans with in-state tuition and expand the tuition waiver program, the measure modifies the accounting for the Veterans' Dependent Tuition Waiver program as a whole, permitting other benefits, such as federal grants and scholarships, to be

applied toward tuition before state funds are expended.

*Effective date: June 24, 2013*

## **House Bill 2192**

*Suspension and expulsion policies*

House Bill 2192 requires school district boards to adopt policies for the discipline, suspension, and expulsion of students and to publish those policies in a student code of conduct handbook. The measure outlines conduct that may result in discipline, suspension, or expulsion, and limits the use of expulsion to conduct that poses a threat to the health or safety of students and staff, or in cases when other strategies have proven ineffective. House Bill 2192 also permits superintendents to review expulsion requirements for students on a case-by-case basis and propose alternate programs.

House Bill 2192 addresses issues created by the expansion of mandatory suspension and expulsion policies commonly referred to as "zero tolerance policies." Since their inception in the early 1990s, zero tolerance policies have resulted in a significant increase in the number of Oregon students suspended and/or expelled. Supporters of the measure claim these policies were confusing and inconsistently applied, leading to expulsion for minor infractions. Additional testimony linked the increase in expulsions to increased incarceration of juveniles. House Bill 2192 establishes parameters for the use of suspension and expulsion, requiring districts to develop and communicate clear policies for behavioral intervention.

*Effective date: June 4, 2013*

## **House Bill 2636**

*STEM (Science, Technology, Engineering, Mathematics) Investment Council*

House Bill 4056 (2012) established the Joint Interim Task Force on STEM Access and Success (Task Force) to identify strategies for encouraging the study of STEM subjects in Oregon. Task Force recommendations were contained in a [report](#) submitted to the Legislature in November 2012. The report recommended the formation of the Council (called the STEM Council and Grant Program), as well as the creation of a network of five to seven regional STEM “hubs” to initiate and manage STEM investment programming with local schools, in conjunction with universities, community colleges, and industry partners.

House Bill 2636 creates the STEM Investment Council (Council) charged with advancement of educational initiatives in fields of science, technology, engineering, and mathematics. The Council, which functions under the direction and control of the Oregon Education Investment Board, is to assist the Chief Education Officer in developing and implementing long-term strategies to achieve the following: double the percentage of 4<sup>th</sup> and 8<sup>th</sup> graders proficient or advanced in STEM subjects, and double the number of students earning a post-secondary degree requiring proficiency in STEM subjects. The measure directs the Council to report its progress annually to the Legislative Assembly. House Bill 2636 also establishes the STEM Investment Grant Program to provide funding to school districts, community colleges, and public universities to advance the above goals. Although the measure as introduced called for a \$50 million appropriation to the STEM

Investment Account, no funds were appropriated for the 2013-2015 biennium.

*Effective date: August 14, 2013*

## **House Bill 2747**

*Admission of non-resident students*

Currently, there are three methods by which a student in Oregon may attend public school in a district other than the one in which the student lives: (1) inter-district transfer (consent); (2) contract; and (3) the open enrollment created by House Bill 3681 (2011).

House Bill 2747 prohibits school districts from requesting or considering information regarding a student’s race, religion, sex, sexual orientation, national origin, disability, or participation in talented and gifted or special education programs when deciding whether or not to grant admission to non-residents. Information that may be requested is limited to a student’s name, contact information, date of birth, grade level, and expulsion history. Under the measure, school districts are also prohibited from requiring a student to participate in an interview or school tour, although students are not precluded from voluntarily touring facilities or requesting information. House Bill 2747 also requires districts to use a lottery for the selection of students to be admitted when applicants exceed limitations, but preference may be given to siblings of currently enrolled students. The measure was amended to include a provision for the 2013-2014 school year only, clarifying that a student admitted to a long-term care or skilled nursing facility is to be considered a resident of the district in which the facility is located for purposes of the provision of educational services.

*Effective date: July 25, 2013*

## House Bill 2787

### *Tuition equity*

Beginning in the 2013-2014 school year, House Bill 2787 allows undocumented graduates of Oregon high schools who meet specified criteria to pay resident tuition and fees at state universities. To qualify, students must have: (1) attended an Oregon elementary or high school for three years immediately prior to receiving a high school diploma (or leaving school without receiving a diploma); (2) attended school in any state or territory during each of the five years immediately prior to receiving a high school diploma (or leaving school without receiving a diploma); (3) received a high school diploma from an Oregon school no more than three years prior to initial enrollment in a state university; and (4) demonstrated an intent to become a citizen or lawful permanent resident of the United States. The measure provides for direct review of any challenges to the Act by the Oregon Supreme Court and requires annual reporting on the number of students participating and the financial impact to the universities they attend.

Nonresident tuition at Oregon universities currently averages \$22,000 per year, as opposed to \$9,000 paid by residents. Similar legislation was first introduced in Oregon in 2003 and passed the Senate that year and again in 2011. Oregon joins fifteen other states with some form of tuition equity, including Washington, California, Utah, Texas, and New York.

*Effective date: July 1, 2013*

## House Bill 2898

### *Transition services at colleges and universities, and Public Safety Training Facility siting*

In Oregon, transition services are provided to each student on an individualized education program (IEP) as part of a long-range plan that coordinates the last years of high school and the years immediately following graduation. These services focus on improving the academic and functional achievement of a disabled student in order to facilitate the transition from school to post-school activities, including: post-secondary education, vocational education, integrated employment, continuing and adult education, adult services, independent living and community participation. House Bill 2898 allows earning credit at a community college or public university to qualify as a transition service. Additionally, the measure prohibits the denial of financial aid by any public university, community college, or independent not-for-profit institution of higher education in the state based solely on the fact that an applicant did not receive a standard high school diploma.

House Bill 2898 also exempts the siting of a Portland Community College public safety training facility in Columbia County from land use regulations. The measure specifies that the facility be sited on land within the community college district in Columbia County and that the application be made by December 31, 2015. Additionally, the measure details the approval procedure to be used by local governments, including at least one public hearing, and exempting the siting decision from review by the Land Use Board of Appeals.

*Effective date: August 14, 2013*

## House Bill 2979

*Common numbering for lower division courses at Oregon colleges and universities*

House Bill 3521 (2011), the Student Transfer Bill of Rights and Responsibilities, addressed barriers to transitioning between Oregon's community colleges and universities. National studies indicate that the majority of students earning a baccalaureate degree have attended more than one institution along the way. Furthermore, while 71 percent of entering community college students indicate an intent to seek a baccalaureate degree, only 25 percent eventually transfer to a university. A significant barrier to transfers between various colleges and universities is a lack of consistency in course numbering across institutions. The work group created by House Bill 2979 is directed to address these issues.

House Bill 2979 directs the Higher Education Coordinating Commission (HECC) to convene a work group to examine and recommend strategies to facilitate student transfers between community colleges and universities in Oregon. The work group is directed to identify strategies to establish a common course numbering system for lower-division undergraduate courses and recommend implementation approaches to the State Boards of Education and Higher Education. Upon receiving the work group's recommendations, the HECC is to deliver a final report, including proposed legislation and rules, to the Legislature's interim committees on higher education before December 1, 2013.

*Effective date: May 16, 2013*

## House Bill 3000

*Vision screening for students*

National data indicate that about twenty-five percent of children require vision correction by the time they enter high school and undetected vision problems negatively impact a child's ability to acquire reading skills. Additionally, about three percent of children suffer from amblyopia, a condition that may result in blindness if not treated before age seven.

House Bill 3000 creates requirements for education providers, including prekindergarten programs and school districts, to ensure that all children under seven years of age enrolling in education programs for the first time undergo vision screening. Under the measure, eye examination or evidence of previous screening must be conducted no later than 120 days after a student begins an educational program. An education provider may not exclude a student that has not received the screening or is otherwise exempt; however, report cards may be withheld or similar actions may be taken to encourage compliance. Parents are to be provided with information about the vision screenings, as well as recommendations for additional examination or follow-up treatments when needed. The measure empowers the State Board of Education, in consultation with the Oregon Health Policy Board, to adopt rules and standards required for implementation of the measure.

*Effective date: July 1, 2013*

## **House Bill 3014**

### *United States flags in public charter schools*

House Bill 3014 requires district school boards to acquire and display United States flags in each classroom, and to provide time during school hours for students to salute the flag once weekly. Before passage of House Bill 3014, under ORS 339.875, all Oregon public schools were required to display United States and Oregon flags near school buildings. Those schools were also required to give students a chance to salute the flag once a week. However, it was unclear if public charter schools, like all other public schools, had to comply with those requirements. House Bill 3014 updates existing requirements, and extends those requirements to public charter schools.

*Effective date: July 1, 2013*

## **House Bill 3075**

### *Physical education data collection and out-of-district practices*

House Bill 3141 (2007) directed the Oregon Department of Education (ODE), in part, to report the availability of appropriate physical education facilities annually. House Bill 3075 reduces the administrative burden on ODE to report this data annually, and permits the agency to report only when a public school increases or decreases its structural capacity to provide physical education (e.g., building a new school or converting space into a gymnasium).

House Bill 3075 also makes a number of changes to the open enrollment transfer process. The measure prohibits public schools from spending money on advertising outside of their districts, restricts expenditures on bussing, and disallows the practice of transferring students to avoid

disciplinary measures. These changes were made in part as a response to out-of-district advertising and bussing practices by some schools in rural portions of the state.

*Effective date: June 18, 2013*

## **House Bill 3120**

### *Higher Education Coordinating Commission*

Senate Bill 242 (2011) created the Higher Education Coordinating Commission (HECC), while also providing the Oregon University System with considerable latitude for managing the affairs of its institutions. House Bill 3120 streamlines state-level policymaking and oversight of post-secondary education and workforce development, previously provided by four boards, two agencies and a public university system. The measure re-charters the HECC to perform the following functions: advise the Oregon Education Investment Board (OEIB) on state goals for higher education, strategic investments and coordination of data collection; adopt strategic plans for achieving state post-secondary education goals; recommend consolidated higher education budgets biennially to the Governor and OEIB; distribute appropriations to community colleges, public universities and student access programs; approve significant changes to academic programs offered by community colleges and public universities; adopt changes to mission statements of public universities; authorize degrees offered by independent post-secondary institutions; and oversee licensing of career schools. Furthermore, House Bill 3120 transfers the State Board of Education's authority for community colleges to the HECC and replaces the Oregon Student Access

Commission with the Office of Student Access and Completion under the HECC.

House Bill 3120 was developed in concert with Senate Bill 270, which establishes independent governing boards for Portland State University, the University of Oregon and possibly Oregon State University, and creates a process for the remaining OUS institutions to establish boards in the future.

*Effective date: August 14, 2013*

## **House Bill 3232**

### *Strategic investments in education*

House Bill 3232 requires the Oregon Education Investment Board (OEIB) and other education agencies to design and implement a series of programs representing strategic investments in education, including: Oregon Early Reading Program; Guidance and Support for Post-Secondary Aspiration Program; and Connecting to the World of Work Program. These initiatives were designed by the OEIB to rapidly improve performance on several key measures of progress including kindergarten readiness, third grade reading proficiency, ninth grade progress toward graduation, high school completion, and college enrollment. Additionally, these programs are intended to address the achievement gap that impacts historically underserved populations and increase levels of educational attainment and employability for Oregonians.

The OEIB was created by Senate Bill 909 (2011) to oversee all levels of state education from preschool through college in order to achieve the state's goal of "40-40-20." To reach that goal, 40 percent of Oregon citizens must attain baccalaureate degrees or higher, 40 percent receive associates degrees or certificates and the

remaining 20 percent graduate from high school or earn an equivalent degree as their highest level of educational attainment. Senate Bill 3232 contains the first strategic investments recommended by the OEIB toward the achievement of 40-40-20 by 2025.

*Effective date: July 25, 2013*

## **House Bill 3233**

### *Network of Quality Teaching and Learning*

House Bill 3233 establishes the Network of Quality Teaching and Learning (Network), consisting of the Oregon Education Investment Board (OEIB), the Department of Education, and other public and private entities dedicated to improving public education in Oregon. The Network is designed to accomplish the following: enhance a culture of leadership and collaborative responsibility for advancing the profession of teaching at all educational levels; strengthen existing evidence-based practices that increase student achievement; and improve recruitment, preparation, induction, career advancement opportunities, and support of educators.

According to a 2012 report commissioned by the OEIB, expert teachers and leaders are increasingly recognized worldwide as the most important resource for improving student achievement. Nations with the highest educational achievement make substantial investments in teacher quality, according to a McKinsey study of the world's top school systems, and many (e.g., Finland, South Korea, and Singapore) attribute their success to substantial investments in teacher and school leader preparation and development. House Bill 3233 establishes the Network to distribute funding through grants to school districts,

education service districts, and other entities for educator effectiveness programs.

*Effective date: July 25, 2013*

## **House Bill 3234**

### *Early Learning Division*

The 2011 Legislative Assembly enacted Senate Bill 909, which established the Oregon Education Investment Board (OEIB) to create a seamless, unified system for investing in, and delivering, public education from early childhood through high school and college. As a component of the OEIB, the measure also created the Early Learning Council (ELC) and charged it with formulating recommendations to merge, redesign or improve the coordination of early childhood services and align them with child-centered outcomes. House Bill 4165 (2012) implemented ELC recommendations by merging several agencies and/or programs that provided services to children.

House Bill 3234 further consolidates early learning programs within the Oregon Department of Education (ODE). Specifically, House Bill 3234 establishes the Early Learning Division in the ODE and places it under the control of the ELC, administered by an Early Learning System Director. The following programs are transferred to the new division: several programs previously overseen by the Employment Department, including the Child Care Office; Oregon's Pre-Kindergarten and Early Head Start programs; and various programs formerly administered by the Commission on Children and Families (e.g., Healthy Start, Crisis Nurseries, and Race to the Top).

*Effective date: July 19, 2013*

## **House Bill 3296**

### *Athlete agents*

House Bill 3296 expands the statutory definitions of "athlete agent" and "agency contract" so that they apply to all individuals seeking to represent student athletes, at all levels of competition, including elementary and secondary schools and club sport programs. "Athlete agents" now include anyone who represents, or attempts to represent, a student athlete for their own financial gain or benefit. "Agency contracts" include both written and oral agreements for professional sport services or endorsements. Furthermore, the definition of "agency contracts" now encompasses any agreement that causes a student athlete to become ineligible to play an interscholastic or intercollegiate sport due to a violation of state or national organization rules or regulations governing student athlete participation. The measure also requires agents to notify schools prior to contacting student athletes, and specifies warnings about potential loss of eligibility to be included in agency contracts.

*Effective date: January 1, 2014*

## **House Bill 3472**

### *Pay Forward, Pay Back pilot program and tuition freeze study*

House Bill 3472 directs the Higher Education Coordinating Commission (HECC) to consider creating a proposed pilot program called "Pay Forward, Pay Back." The program would explore an alternative to the current system of charging tuition and fees at public institutions of higher education. Instead, "Pay Forward, Pay Back" would require qualified residents

to sign a binding contract to pay the State of Oregon, or the educational institution, a certain percentage of annual adjusted gross income after graduation, in lieu of paying tuition and fees. The measure requires the HECC to determine the percentage of adjusted gross income to be paid and the length of the commitment, and to identify an immediate funding source for the pilot program.

Additionally, House Bill 3472 requires the HECC to study the possibility of implementing a tuition freeze at Oregon universities in order to guarantee that incoming undergraduate students pay the same tuition rate for four years. The study is to include the “Western Tuition Promise” offered by Western Oregon University and the “Finish in Four” program proposed in Florida.

*Effective date: July 29, 2013*

## **House Bill 3474**

### *School-wide mental health screenings*

A Harvard Medical School study by researcher Ronald Kessler in 2007 found that half of all mental illnesses start by age 14. The 2011 Oregon Healthy Teens survey of eighth graders found that 13.6 percent of those who responded said they had seriously considered attempting suicide. According to the American Psychological Association, an estimated 15 million of our nation's young people can currently be diagnosed with a mental health disorder, and many more may be at risk; however, only about 7 percent of youth who could benefit from services actually receive appropriate help, according to a Surgeon General's report.

A recent pilot program in Linn County introduced mental health screenings for all

students, analogous to school-wide vision, hearing, and physical fitness assessments. House Bill 3474 establishes some parameters: school districts must provide written notice at least two weeks in advance of any school-wide mental health screenings, and students, parents, or legal guardians may seek exemption from participation.

*Effective date: January 1, 2014*

## **Senate Bill 222**

### *Accelerated Learning Committee*

Senate Bill 253 (2011) set in statute the goal of “40-40-20”: 40 percent of adult Oregonians earn a bachelor's degree or higher; 40 percent of adult Oregonians earn an associate's degree or post-secondary credential; and 20 percent of adult Oregonians earn a high school diploma or equivalent degree by 2025. This goal relies heavily on the success of accelerated credit opportunities for high school students. House Bill 3601 (2011) bolstered accelerated credit programs by, among other things, modifying the waiver process for Expanded Options Programs to ensure participation by eligible at-risk students.

Senate Bill 222 creates the Accelerated Learning Committee (Committee) to evaluate ways to encourage students to obtain college credits while still in high school, as well as to explore opportunities for efficiencies among educational institutions to make post-secondary degrees more affordable for families. The Committee must report its findings to the interim legislative committees on education no later than October 1, 2014.

*Effective date: August 14, 2013*

## **Senate Bill 270**

### *Institutional boards for public universities*

Before the 2013 legislative session, the seven public universities in state were governed centrally by the Oregon University System. Senate Bill 270 moves university governance away from that centralized model by making two major changes: public universities are allowed to form their own governing boards, and universities with individual governing boards are permitted to sell bonds.

The measure also creates two work groups: the Special Committee on University Governance and Operations to consider next steps for the Oregon Institute of Technology, Eastern Oregon University, Southern Oregon University, and Western Oregon University; and the Work Group on University Shared Services to recommend best practices for shared services across all seven public universities.

*Effective date: August 14, 2013*

## **Senate Bill 344**

### *Social media access*

National media sources have reported instances of colleges requesting students' and prospective students' usernames and passwords to social media sites, or requiring students access such content in the presence of college staff. Senate Bill 344 prohibits this practice.

Senate Bill 344 prohibits an educational institution, including public and private community colleges and universities, from requiring students and prospective students to share social media access with the institution. This prohibition does not extend to K-12 schools and does not apply to accounts maintained solely for educational

purposes if the students receive notice that the accounts may be monitored at all times. The measure also allows institutions to request specific content of an individual's social media account in the course of an investigation for purposes of compliance with applicable laws or regulations, or investigations into student misconduct.

*Effective date: January 1, 2014*

## **Senate Bill 498**

### *Career and Technical Education Revitalization Grant Program*

House Bill 2732 (2009) established the Career and Technical Education Task Force (Task Force) and charged it with developing a plan to increase collaboration among elementary and secondary schools, community colleges, labor, business, and industry. The Task Force was also required to make recommendations regarding the revitalization of Career and Technical Education (CTE) programs in Oregon. House Bill 3362 (2011) implemented those recommendations by creating the Career and Technical Education Revitalization Grant Program and providing funds for grants to CTE pilot projects at ten schools. The initial pilot projects were considered successful. Senate Bill 498 appropriates \$7.5 million in funding to the grant program. This amount is a significant increase from the level of funding in the 2011-2013 biennium.

*Effective date: August 14, 2013*

## **Senate Bill 529**

### *Education Service Districts*

Senate Bill 250 (2011) gave a specific set of school districts the option to withdraw from, and subsequently rejoin, Education Service Districts (ESDs). Senate Bill 529 expands

that process, making it available to all school districts.

Senate Bill 529 also makes the ESD election process created by Senate Bill 987 (2010) permanent. Senate Bill 987 allowed a special board election process for three ESDs: High Desert, Northwest Regional, and Willamette Education Service Districts. The measure contained a sunset clause, dated February 1, 2013. In the absence of legislation extending the sunset date, the three ESDs would have been required to run a special election at an estimated cost of \$150,000.

*Effective date: March 21, 2013*

## **Senate Bill 600**

*Beaverton and Hillsboro school districts' boundary dispute*

There is a planned community that straddles the border of Beaverton and Hillsboro. Testimony in committee indicated that the community is oriented towards Beaverton, and the community is working with the municipalities of both Hillsboro and Beaverton to fully incorporate the entire community into Beaverton. The only remaining point of contention is the school district boundary, which divides the community between the Hillsboro and Beaverton school districts. The residents of the community would like to be entirely within the Beaverton school district.

Senate Bill 600 aims to resolve the school district boundary dispute for this specific residential development in Hillsboro. Senate Bill 600 mandates that the Beaverton and Hillsboro school districts enter into mediation, in good faith, no later than 30 days from the effective date of the measure. Those districts will report back to the interim

legislative committees no later than November 1, 2013.

*Effective date: August 14, 2013*

## **Senate Bill 611**

*EpiPen guidelines*

Senate Bill 611 deals with epinephrine auto-injectors (EpiPens), and is closely related to House Bill 2749 (2013). Epinephrine is an antitoxin used to treat acute allergic reactions to avoid or treat the onset of anaphylactic shock. EpiPens are particularly effective at treating allergic reactions during the often small window of time, sometimes just a few minutes, available to help a person experiencing anaphylactic shock.

Prior to enactment of the measure, there was no ability for schools, as individual institutions, to keep and manage EpiPens. Individuals, such as school nurses, were required to be personally trained in order to acquire the autoinjectors. Often this cost was borne by the individual, not the school. The measure allows schools to acquire, control, and use EpiPens according to guidelines drafted by the State Board of Education and adopted by the local school district.

*Effective date: July 1, 2013*

## **Senate Bill 721**

*Jenna's Law*

Senate Bill 721 builds off the success of Senate Bill 348 (2009), popularly known as "Max's Law." That law dealt with concussions and other traumatic brain injuries in public school sports. Senate Bill 721 expands the requirements of Max's law to include club sports. The measure also develops requirements around education for players, coaches, and referees of club sports

and provides protection from civil and criminal liability for persons who regularly serve as coaches or referees, as long as they are in compliance with the provisions of the measure.

This measure is in response to Jenna Sneva's story. A national champion skier and softball player, she suffered ten concussions in competition and training. Today, she is prohibited from playing any contact sports, struggles academically at Oregon State University, and has "the brain of a 60 year-old stroke victim" despite only being in her 20s. The measure is referred to as "Jenna's Law" in her honor.

*Effective date: January 1, 2014*

## **Senate Joint Resolution 1**

### *Bonds for the Oregon Student Opportunity Fund*

The Oregon Student Opportunity Fund is an initiative to create a constitutionally dedicated permanent fund that would be used to generate income for the purpose of investing returns in student aid grants in the short-term, as well as investing in areas such as Science, Technology, Engineering, and Mathematics (STEM), vocational training, and other workforce development programs in the long-term.

The Fund would be created by issuing General Obligation Bonds in 2014. Subsequent bond issues would be made each year until the Fund reaches its goal of producing the revenue needed to fully fund the unmet needs of Oregon students for two years of their post-secondary education. The Fund anticipates an issue of \$500 million in the coming biennium and continuing smaller—and declining—contributions over the next 30 years.

If enacted by voters at the 2014 General Election, Senate Joint Resolution 1 will amend the Oregon Constitution to allow the issuance of Article XI bonds to finance the corpus of the Oregon Student Opportunity Fund. The measure is linked to Senate Bill 11 (2013), which would have provided a mechanism to implement the constitutional change if this resolution is enacted. Senate Bill 11 was in the Senate Committee on Education and Workforce Development upon adjournment.

*Filed with Secretary of State: July 8, 2013*

## **Senate Joint Resolution 34**

### *Allowing judges to be employed by Oregon National Guard or State Board of Higher Education*

Currently, section 8, Article XV of the Oregon Constitution allows persons employed by the State Board of Higher Education, or a member or employee of a school board, to serve in the Legislature without violating either: (1) section 1, Article III, which prohibits persons from exercising any duties or functions of more than one branch of government; or (2) section 10, Article II, which prohibits a person from holding more than one lucrative office. There is no similar reference, however, to allow those holding judicial office to be employed as teachers in the public education system. A 1979 Oregon Supreme Court decision, *In the Matter of Sawyer*, found that a judge regularly employed as a part-time teacher by a state-funded school violated the separation of powers section of the Oregon Constitution.

Senate Joint Resolution 34, if enacted by voters at the 2014 General Election, would allow judges to teach in a public university or

serve in the Oregon National Guard while concurrently serving as a judge.

*Filed with Secretary of State: July 2, 2013*

## **LEGISLATION NOT ENACTED**

### **House Bill 2153**

#### *Limits on charter school proposals*

House Bill 2153 would have allowed school districts with more than three percent of students attending charter schools to limit the number of new charter school proposals accepted for evaluation. Since the measure would have applied only to those districts with three or more charter schools currently operating, it would have affected only the following seven districts: Portland, Eugene, Gresham-Barlow, Reynolds, North Clackamas, Oregon City, and Lincoln County. Senate amendments added provisions to review charter proposals for advancement of educational goals and specified that the failure to make reasonable progress toward advancement of educational goals could constitute grounds for terminating a charter.

In Oregon, any person or group of persons may apply to establish a public charter school. The potential sponsor (authorizer) reviews the charter proposal in accordance with ORS 338.055. If approved, a charter contract is executed by the authorizer and the governing board of the charter school (board). The board may contract with for-profit organizations for services; however, the board must retain control of governing functions and for-profit entities may not be parties to charter school contracts. Oregon's charter school law prohibits converting private schools to public schools.

The measure passed the House of Representatives, but was referred from the Senate floor to the Committee on Rules, where it remained upon adjournment.

### **House Bill 2299**

#### *Oregon College Savings Plan notification*

The Oregon 529 College Savings Network is an investment tool that provides state and federal tax advantages for investing in college savings plans. Oregon currently offers two 529 plans that are administered by the Office of the State Treasurer and overseen by the Oregon 529 College Savings Board (Board). House Bill 2299 would have created a vehicle to inform parents of their eligibility to open such an account, by requiring the State Registrar of the Center for Health Statistics to provide quarterly reports to the Board containing the parents' names and mother's mailing address for each child born in Oregon to parents who reside in-state. The Board would have used this information to notify parents of their opportunity to open college savings accounts and to establish such accounts at the request of parents. Additionally, the measure would have established the Oregon College Savings Matching Fund to allow deposits in college savings accounts to be matched by the Board, as determined by rule. The measure passed the House of Representatives but failed to pass the Senate.

### **House Bill 3524**

#### *Liability of coach for major NCAA violations*

The National Collegiate Athletic Association (NCAA) is a nonprofit

association of 1,281 institutions, conferences, organizations, and individuals that organizes the athletic programs of many colleges and universities in the United States and Canada. The NCAA is responsible for promulgating and enforcing rules that member schools pledge to follow in order to maintain a level playing field for more than 400,000 student-athletes. The rules include two classifications of violations: major and secondary. Major violations include actions that lead to an extensive recruitment or competitive advantage (e.g., involvement with professional teams, use of agents and compensation to student-athletes). The sanction for a major violation may include banning of a school from competing in a sport for at least one year; reduction or loss of scholarship award; financial sanctions; loss of eligibility for postseason participation and televised games; or a ban from certain recruiting activities. Secondary violations include isolated or inadvertent events that provide, or are intended to provide, only a minimal advantage and do not include any significant impermissible benefit.

House Bill 3524 would have made coaches at public universities liable for the university's actual damages, in addition to attorney fees, if that coach intentionally or recklessly committed a major violation. The Attorney General would have been permitted to bring action on behalf of the university.

## **Senate Bill 11**

### *Bonds for the Oregon Student Opportunity Fund*

Senate Bill 11, along with Senate Joint Resolution 1 (2013), would have allowed the issuance of bonds to finance the Oregon Student Opportunity Fund (Fund). The Fund

is a proposed student scholarship initiative for Oregon students entering post-secondary education. The corpus of the Fund would have been financed initially by a \$500 million bond issuance with a term of 30 years. Funds from the corpus would have been issued immediately in the form of scholarships. For an initial period of up to eight years, bond maintenance costs would have been funded by legislative appropriation. After that period of time, bond and scholarship repayment revenues were projected to exceed costs, allowing excess revenues to be placed into the corpus of the Fund, making it self-sustaining. Additional bond issuances could follow in the future.

Article XI bonds are commonly issued for "bricks and mortar" projects. There is no precedent in-state for funding a scholarship program with a bond issuance. Senate Bill 11 was in the Joint Committee on Ways and Means upon adjournment.

## **Senate Bill 215**

### *Native American depictions as mascots*

On May 17, 2012, the Oregon State Board of Education adopted OAR 581-021-0047, prohibiting public schools from using Native American mascots. Schools have until July 1, 2017 to comply before the Superintendent of Public Instruction may withhold all or part of state funding appropriated to the school district. The prohibition of Native American mascots includes the use of team names: Redskins, Savages, Indians, Indianettes, Chiefs, Chieftains, and Braves, along with any visual image or symbol that depicts American Indian Tribes. Public schools are allowed to continue the use of the team name "Warrior" if the image or symbol does not depict an American Indian.

Senate Bill 215 would have allowed the use of a Native American mascot in a public

school if the school enters into a formal, written agreement, detailing terms of acceptable use, with the governing body of a local Native American tribe. The measure passed the House and Senate but was vetoed by the Governor. In his [veto statement](#), Governor John Kitzhaber stated he would support a “namesake exception,” but found the exception in Senate Bill 215 too broad.

*Governor’s veto: August 16, 2013*

# **Elections and Ethics**

## **House Bill 2199**

### *Requiring ballot security measures*

There are several statutes governing polling place elections, but some of those statutes are in conflict with laws governing Oregon's vote-by-mail voting system. ORS 254.483 presents a direct conflict for county officials. The statute requires any unused ballots be destroyed at 8:00 p.m. on Election Day, but also requires county officials to secure and account for unused ballots on the same day and time. County elections officials need to have unused ballots available throughout the tallying and certification process to duplicate damaged ballots and otherwise process the election.

House Bill 2199 addresses this conflict by requiring the county clerk to take several security measures. It requires county clerks to file, as part of the county elections security plan with the Secretary of State, the number and location of any video cameras located where ballots may be tallied. The county clerk must, at the end of voting on Election Day, mark each duplicate ballot, and secure and account for unused ballots. The measure requires the county clerk, at the time the clerk proclaims the results of the election, to submit to the Secretary of State a record of the number of ballots printed, mailed, returned as undeliverable, tallied, tested and archived, used for duplication, or issued at the office of the county clerk. Finally, the measure requires the county clerk, as soon as practicable after the election, destroy all unused ballots.

*Effective date: July 29, 2013*

## **House Bill 2887**

### *Adjudication of congressional redistricting*

Currently, the Oregon Constitution and the U.S. Constitution do not provide a mechanism for completing a congressional redistricting plan in the event that the Oregon Legislative Assembly fails to complete a congressional plan. An individual or group of individuals may petition the courts to address inequality in district populations within a plan, but such petitions require a completed plan.

House Bill 2887 establishes a process for adjudicating congressional redistricting plans should the Legislative Assembly be unable to complete a plan before its constitutional deadline, a plan is vetoed by the Governor, or if any elector challenges a congressional redistricting plan enacted by the Legislative Assembly. The Chief Justice of the Supreme Court will appoint a special judicial panel consisting of one state circuit court judge and one senior judge from each congressional district. The panel will have the authority to create its own congressional plan if there is no legislatively approved plan, or to review a legislatively approved plan for compliance with statutory and constitutional requirements.

*Effective date: January 1, 2014*

## **House Bill 3344**

### *Disclosure of challenge ballot information*

The county clerk, an elections official, or any voter can challenge the validity of the ballot of any voter at any time prior to the ballot being removed from its return envelope. If the county clerk determines that the voter is not properly registered, a notice is mailed to the voter with a written

statement that describes the nature of the challenge. Prior to the enactment of House Bill 3344, if the voter failed to provide sufficient evidence to verify registration within ten calendar days after the date of the election, the registration of the person was considered inactive until the person updated or verified the registration, the registration was canceled, or the county clerk determined that the person was validly registered. In addition, the information regarding voters whose ballots have been challenged was not allowed to be disclosed under public records requests.

House Bill 3344 increases the number of days after election, from ten days to 14, which a voter may have to provide sufficient evidence to disprove a challenge to a ballot. Additionally, the measure permits public disclosure, following the eighth day after the election, of specific information about voters whose ballots have been challenged. The measure requires the county clerk ensure that each challenged ballot includes a number for the written statement of challenge, so that the specific challenged ballot may be identified in any future contest of the election; however, the clerk must also ensure that the information on the numbered written statement is treated as confidential so that it cannot be determined how any challenged person voted in the event of a recount.

*Effective date: January 1, 2014*

## **House Bill 3523**

*Electronic filing of independent expenditures statements*

Oregon law requires disclosure of contributions and expenditures related to any candidate, measure, or political party active in any election, including initiatives,

referenda, and recall petition drives. All political committees and chief petitioner committees are required to file all contributions and expenditures using the online campaign finance reporting system, ORESTAR. However, one class of expenditures, independent expenditures, must be reported but are not required to be filed electronically. Independent expenditures are expenditures for a communication in support of, or in opposition to, a clearly identified candidate or measure that originate independently from the candidate or political committee. Oregon law also requires in-kind contributions be reported in ORESTAR; however, there is currently no timeline, outside of the statutorily prescribed reporting deadlines, for when a person must notify a candidate or committee that an in-kind donation has been made on their behalf.

House Bill 3523 requires that a person file a statement of independent expenditures in ORESTAR if the person makes independent expenditures in a total amount of more than \$750 in a calendar year. The filing must include the amount and purpose of the independent expenditure, the name and address of the payee, and any candidates or measures supported or opposed by the independent expenditure. House Bill 3523 also requires that a person or committee reporting an in-kind expenditure in ORESTAR notify the candidate or committee for whom the in-kind contribution benefitted within 48 hours of reporting the expenditure. In addition, all in-kind contributions and expenditures will be highlighted in an identifiable color in the ORESTAR system.

*Effective date: August 14, 2013*

## **House Bill 3537**

*Simultaneously runs for more than one district office*

Current law prohibits an individual from filing as a candidate for more than one district office in the same election, unless the district office has fewer than 10,000 voters. An individual seeking one office may choose to run for another office in the same election, but must provide written notice of withdrawal from the first race to the county elections official. If the candidate fails to submit written notice of withdrawal prior to filing as a candidate for the other office, both nominating petitions or declarations of candidacy are deemed invalid and the candidate cannot be elected to either office.

House Bill 3537 removes the prohibition against a person running for more than one position on unpaid, volunteer district boards in the same election. These include water supply district boards, parks and recreation district boards, transportation district boards, metropolitan service district boards, rural fire protection district boards, county service, and school district boards.

*Effective date: January 1, 2014*

## **House Joint Memorial 6**

*Urges passage of constitutional amendment to limit political contributions*

Corporate personhood is a legal construct that permits corporations to sue and be sued in court in the same way as natural persons or unincorporated associations of persons. Corporations are not "people" in the ordinary sense of the word, but they have many of the same rights as citizens. Constitutional protections have been extended to corporations as a result of court

interpretations of the word "person" in the Fourteenth Amendment. In *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), the Supreme Court reasoned that, because a corporation is made of natural persons who have First Amendment rights, a corporation may have First Amendment rights, and held that the First Amendment prohibits government from restricting independent political expenditures by corporations and unions.

House Joint Memorial 6 urges Congress to propose an amendment to the United States Constitution allowing Congress and state legislatures to regulate monies raised and spent for political purposes, including monies raised by individuals, corporations, and associations.

*Filed with Secretary of State: July 8, 2013*

## **Senate Bill 154**

*Register signature-gathering businesses*

In 1902, Oregon's original constitution was amended to establish the initiative and referendum process, giving direct power to voters to enact new laws, change existing laws, or amend the state constitution. In 2007, the Initiative Reform Modernization Act (IRMA) was passed, which required paid signature gatherers to register and complete training with the Secretary of State; prohibited persons convicted of fraud, forgery, or identity theft within the previous five years from working as paid signature gatherers; and required chief petitioners and signature gatherers to use cover and signature sheet templates prepared by the Secretary of State.

Senate Bill 154 extends the requirement for registration, training, and certification beyond individual paid signature gatherers

to include entities or organizations that hire and pay individual signature gatherers.

*Effective date: August 14, 2013*

## **LEGISLATION NOT ENACTED**

### **House Bill 2686**

*Redistricting commission*

Every ten years, the Legislative Assembly must redraw legislative and congressional district lines based on new U.S. Census data. ORS 188.010 establishes criteria to guide the Legislative Assembly when redrawing district boundaries. According to this statute, each district, as nearly practicable, should: be contiguous; be of equal population; utilize existing geographic or political boundaries; not divide communities of common interest; and be connected by transportation links.

House Bill 2686 would have created a commission to redraw legislative and congressional districts and would have required the Department of Corrections to determine the last-known address of inmates in custody and submit that information to the Secretary of State. Currently, 13 states use a commission as the primary mechanism for developing redistricting plans.

### **House Bill 2988**

*Allows person who is at least 16 years of age to register to vote*

In 2007, House Bill 2910 amended voter registration requirements to allow otherwise qualified individuals who were at least 17-years-old to register to vote at any time, as long as they reached 18 years of age at the

time of the election. In addition, it required the Oregon Department of Transportation to inform 17 year olds that they may register to vote. House Bill 2988 would have changed voter registration requirements to allow an otherwise qualified person who was at least 16 years of age to register to vote.

### **House Bill 3077**

*National Popular Vote Interstate Compact*

The National Popular Vote Interstate Compact is an agreement among states that would replace the Electoral College system of presidential elections with a direct, nationwide vote of the people. Currently, nine jurisdictions (Maryland, New Jersey, Illinois, Hawaii, Washington, Massachusetts, District of Columbia, Vermont, and California) have enacted legislation to join the National Popular Vote Interstate Compact. These nine jurisdictions total 132 electoral votes or 48.9 percent of the 270 electoral votes needed to be elected to the presidency.

The compact is based on Article II, Section 1 of the U.S. Constitution, which gives each state the right to decide how to appoint its own electors. States have chosen various methods of allocation over the years, with regular changes in the nation's earlier decades. Today, 48 states award all of their electoral votes to the candidate with the most popular votes statewide. States joining the compact will continue to award their electoral votes in their current manner until the compact has been joined by enough states to represent a controlling majority of the Electoral College. After that point, all of the electoral votes of the member states would be cast for the winner of the national popular vote in all 50 states and the District of Columbia. With the national popular vote winner sure to have a decisive majority in

the Electoral College, he or she would automatically win the Electoral College and therefore the presidency.

House Bill 3077 would have enacted the Interstate Compact for Agreement Among the States to Elect the President by National Popular Vote in Oregon. The measure would have required the compact to take effect when states cumulatively possessing a majority of electoral votes have enacted a substantially similar compact.

## **House Bill 3113**

### *Statements on ballot envelopes*

Currently, if a ballot contains measures authorizing bonds or the renewal of current local option taxes, the outer envelope of the ballot is required to have printed on it: “CONTAINS VOTE ON PROPOSED TAX INCREASE” or “CONTAINS VOTE ON RENEWAL OF CURRENT LOCAL OPTION TAXES.” In addition, when a local district or government proposes a new or renewed local option tax, the ballot title is statutorily required to state, as part of the question, “This measure may cause property taxes to increase more than three percent” or “This measure renews current local option taxes.”

House Bill 3113 would have eliminated the requirement for the statement on the envelope and in the ballot title.

## **House Bill 3175**

### *Voter registration access and information at public universities and community colleges*

In 2007, the Oregon Legislature passed Senate Bill 951, directing community colleges and state institutions of higher

education to adopt plans to encourage students to register to vote and to vote in elections. House Bill 3175 would have built on the 2007 measure, with additional efforts to address systemic barriers to voter registration and voting by providing college students information and education about participating in elections.

The measure required public universities and community colleges to prominently display links to the Secretary of State’s online voter registration tool on the school’s website and on high-traffic webpages controlled by the school during an academic term in which an election is to be held. In addition, the measure would give the school’s official student government permission and opportunity to provide voter registration services during administration-sponsored orientation programs, campus welcome events, the first week of classes each term, and during resident life programming and activities. Finally, House Bill 3175 required public universities and community colleges to send two reminders, via email or social media, to each of its students during an academic term when an election would occur, that included a direct link to the Secretary of State’s online voter registration tool.

## **House Bill 3521**

### *Automatic voter registration*

The National Voter Registration Act of 1993 (NVRA) established procedures to increase voter registration of eligible citizens in elections for federal office, to protect the integrity of the political process, and to assure accurate and current voter registration rolls. To increase registration of eligible citizens, the NVRA requires states to permit voter registration by application simultaneous with an application for a motor vehicle driver's license ("motor-voter"

registration), by use of a uniform mail application, or by in-person application at a designated agency. The NVRA registration methods are in addition to any other methods approved by state law.

House Bill 3521 would have required the Oregon Department of Transportation, as the designated voter registration agency who records and stores digital copies of signatures, collects age and residence data, and processes citizenship documentations, to provide the Secretary of State with the

necessary information to register each qualified, non-registered person to vote. Individuals registered to vote through this process would be notified of registration status, how to cancel registration, and how to adopt or change political party affiliation.

# **Emergency Preparedness**

## **House Bill 2034**

### *Federal funds for tribal emergency services*

The federal government provides grants for emergency preparedness and response purposes. These grants are designed to promote centralized coordination of resources and services in order to develop a more efficient, unified, and comprehensive emergency management system across the nation because disasters have no regard for jurisdictional boundaries. Grants are administered by entities, such as the Federal Emergency Management Agency and the Department of Homeland Security, and funds may be distributed to states for state use, and/or for distribution to a state's political subdivisions.

In Oregon, the Office of Emergency Management (OEM) has sole authority to negotiate agreements with federal agencies that may be required to obtain federal grant funds for emergency-related purposes. Consistent with this authority, Oregon law requires state entities, emergency services agencies, and cities and counties operating emergency management programs, to submit any applications for federal funds related to emergency services to OEM for its review and/or processing.

House Bill 2034 permits tribal governments to submit applications for emergency management-related federal funds through OEM, in the same way that state and local entities are currently required.

*Effective date: January 1, 2014*

## **House Bill 2183**

### *Employer earthquake drills*

Current law requires larger employers to conduct earthquake drills annually in the month of April. April was originally chosen because it is National Earthquake and Tsunami Month, but Oregon also has an earthquake and tsunami day in March, and emergency preparedness efforts occur year-round. House Bill 2183 permits employers to conduct annual earthquake drills anytime.

*Effective date: January 1, 2014*

## **House Bill 2789**

### *School drills for safety threats*

Current law requires school instruction and emergency drills on fires, earthquakes, and tsunamis. House Bill 2789 adds two drills per year for safety threats, such as lockdown procedures. It also requires appropriate local first responders to review schools' proposed emergency procedures.

*Effective date: July 1, 2013*

## **Senate Bill 33**

### *Task force on implementation of earthquake and tsunami preparedness recommendations*

The Cascadia subduction zone is an active fault off the coast of Oregon and poses a severe geological hazard to the state. By most accounts, Oregon is overdue for a large magnitude earthquake stemming from the Cascadia subduction zone. Preparedness, public education efforts, and prioritizing resources will be critical to Oregon's response and recovery when such an earthquake occurs.

Oregon created a commission to address earthquake preparedness issues in 1991: the Oregon Seismic Safety Policy Advisory Commission (OSSPAC). OSSPAC reports to the Governor every two years to affect statewide policy, and maintains relationships with the Western States Seismic Policy Council and the California Seismic Safety Commission to affect federal policy on the West Coast.

In February 2013, OSSPAC released arguably its most comprehensive report, including recommendations for a long-term implementation strategy. Senate Bill 33 forms a task force to address implementation, with immediate emphasis on education and training for community leaders and coordination of investments in equipment, facilities, and critical systems.

*Effective date: June 26, 2013*

## **Senate Bill 598**

*Improving the 9-1-1 reporting system*

Senate Bill 598 requires larger workplaces with multiline phone systems installed a year after the bill's passage, to provide a street address and a building name, at a minimum, to the 9-1-1 automatic location identification database. This database is used by 9-1-1 operators to accurately direct first responders to the site of an emergency.

The public safety communications infrastructure has not kept pace with rapid advancements in communications technology generally, resulting in an inconsistent ability to transmit information from a 9-1-1 caller's phone into the 9-1-1 reporting system. Ideally, an incoming 9-1-1

call should immediately and automatically transmit an accurate callback number and the specific location of an emergency, without undue reliance on conversation with a caller. When emergency responders are delayed due to incomplete and/or inaccurate information, the consequences can be grave.

*Effective date: January 1, 2014*

## **Senate Bill 813**

*Transferring responsibility for the seismic grant program*

Senate Bill 813 transfers administrative authority over the seismic rehabilitation grant program from the Office of Emergency Management to the Oregon Business Development Department, Infrastructure Finance Authority. A companion measure, House Bill 2176, that would have authorized the corresponding Treasury bonds for the next biennium, was not enacted.

The seismic rehabilitation grant program provides funding for K-12 public schools, community colleges, education service districts, hospitals, fire stations, police stations, sheriffs' offices, and other emergency services facilities, to reimburse eligible seismic improvement activities, within certain parameters. Prior to Senate Bill 813, the program was administered by the Office of Emergency Management and \$11.2 million in bond proceeds were used to finance the seismic rehabilitation of 18 emergency services buildings.

*Effective date: August 14, 2013*

# Energy

## **House Bill 2004**

### *Low-income electric bill assistance*

Senate Bill 863 (2011) directed the Public Utility Commission to collect an additional \$5 million per year for the low-income bill payment assistance program in the event that two or more economic criteria were met. The program is administered by the Oregon Department of Housing and Community Services (OHCS).

House Bill 2004 removes the economic triggers for the collection of the additional \$5 million and instead provides OHCS with authority to request the increase. This provision is scheduled to sunset on January 2, 2016. The measure also directs that an advisory committee be appointed to determine which agency should oversee the low-income energy assistance program. The advisory committee will present its findings to the appropriate interim legislative committees no later than December 1, 2013.

*Effective date: June 4, 2013*

## **House Bill 2105**

### *Energy Facility Siting Council review*

The Energy Facility Siting Council (EFSC) is the primary state energy facility siting authority, and county planning commissions are the primary local authority. House Bill 2105 requires the Oregon Department of Energy (ODOE) to study issues related to EFSC, including ways to encourage consistency between energy facility siting rules at all levels of government; increase public and local government participation in the facility siting process; ensure efficient and cost-effective recovery of fees expended in review of applications; and other matters deemed relevant. The bill requires ODOE to

report its findings and recommendations to the Legislature on or before November 1, 2013.

*Effective date: May 14, 2013*

## **House Bill 2106**

### *Energy Facility Siting Council siting criteria*

The Energy Facility Siting Council (EFSC) was established in 1975 to oversee the development of large energy facilities, including: large electric generating facilities, high voltage transmission lines, gas pipelines, and radioactive waste disposal sites. House Bill 2106 directs EFSC to adopt rules identifying its criteria for determining whether the overall public benefit of facility siting outweighs any adverse effects.

*Effective date: June 4, 2013*

## **House Bill 2203**

### *Transmission lines*

Electrical generation facilities are often connected to substations on or near the same site as the generation facility. The substation converts the voltage of the electricity and sends it to the electrical grid through generation tie-lines.

House Bill 2203 requires persons applying for a permit to build a transmission line with the Energy Facility Siting Council to notify each people's utility districts, municipal utilities, electric cooperatives, and public utilities in whose jurisdiction the transmission line is to be built of intent to receive approval for construction.

*Effective date: January 1, 2014*

## **House Bill 2435**

*Fuel excise tax exemption and addition of geothermal energy to net metering facilities*

Vehicle fuels are currently subject to a fuels excise tax of 30 cents per gallon. Biodiesel can be produced using cooking oil sourced from restaurants and other facilities.

House Bill 2435 exempts those diesel fuels blended with at least 20 percent biodiesel derived from cooking oil from the fuel tax, when used in vehicles weighing less than 26,000 pounds. Vehicles over 26,000 pounds pay the weight mile tax instead of the diesel fuel tax. The exemption applies to fuels sold in retail establishments after January 1, 2014, and before January 1, 2020.

House Bill 2435 also adds geothermal energy to the list of eligible forms of energy for net metering. Oregon's net metering law allows utility customers to generate their own electricity and reduce their electricity bills.

*Effective date: October 7, 2013*

## **House Bill 2436**

*EEAST loan program modifications*

The Energy Efficiency and Sustainable Technology (EEAST) Act was passed in 2009 to provide a means of financing either production of renewable energy or increased energy efficiency of residences or businesses while using local workers to perform the improvements. These loans are paid back through monthly utility bills.

House Bill 2436 stipulates where EEAST loan funds may be spent and who may administer those funds. The measure also removes a requirement that utilities transfer

an EEAST loan to a new owner if a property is transferred.

*Effective date: January 1, 2014*

## **House Bill 2694**

*Mapping Oregon's territorial sea*

Oregon's territorial sea is defined as the waters and seabed extending seaward three miles from the Pacific coastline. In 2009, the Legislative Assembly appropriated \$1.3 million for mapping the territorial sea floor. With additional support from the National Oceanic and Atmospheric Administration, Oregon State University began a mapping project in 2010. However, large sections of Oregon's territorial sea are presently unmapped.

House Bill 2694 requires any person authorized by a public body to develop energy resources in Oregon's territorial sea to share geological and geophysical data with Oregon State University's territorial sea mapping project starting on January 1, 2014.

*Effective date: May 22, 2013*

## **House Bill 2704**

*Transmission lines on exclusive farm use lands*

Renewable energy projects, such as wind and solar generation facilities, can be placed on or near land zoned for exclusive farm use (EFU). This placement can pose a problem when seeking to connect the generation facility to the electrical grid by generation tie-lines (also known as associated transmission lines), as EFU-zoned areas have a narrower range of acceptable land uses.

House Bill 2704 creates an incentive for placement of associated transmission lines in existing corridors or rights-of-way. The measure specifies conditions for the siting of associated transmission lines on high-value farmland if there is no available, reasonable alternative site and requires approval by the county governing body or its designee. An applicant asking to site an associated transmission line on high-value farmland is required to present findings on how the applicant will mitigate the negative impacts to the farmland and farm practices.

*Effective date: January 1, 2014*

## **House Bill 2801**

### *Home energy assessments*

Before House Bill 2801, home energy assessors had no licensure requirement and there was no agreed-upon method for factoring in energy efficiency when valuing property. House Bill 2801 requires home energy assessors to be trained and licensed by the Construction Contractors Board and creates standards for home energy assessments. The measure also requires that a state licensed or certified appraiser consider improvements made to the structure of a building that make the building more energy efficient when issuing an opinion on the value of property.

*Effective date: June 13, 2013*

## **House Bill 2807**

### *Energy supplier assessment*

The energy supplier assessment (ESA) is an assessment on utilities and energy suppliers that is not to exceed .5 percent of the assessed company's yearly total gross operating revenues. For much of the ESA's

history, the amount assessed was between .05 percent and .07 percent of the assessed company's yearly total gross operating revenues. The funds raised through this assessment are a significant portion of the Oregon Department of Energy's (ODOE) budget.

House Bill 2807 adds several measures to increase transparency related to the ESA, lowers the maximum cap of the ESA to .375 percent of a supplier's gross operating revenue and transfers the Energy Facility Siting Council from the Department of Administrative Services to the ODOE.

*Effective date: January 1, 2014*

## **House Bill 2820**

### *Solar siting*

The state Energy Facility Siting Council (EFSC), a seven-member board of appointed individuals, is responsible for permitting large energy facilities in Oregon. Smaller energy facilities are permitted by the county in which they are located. The EFSC review process consolidates all state, city, and county standards and permits into a single review.

House Bill 2820 clarifies EFSC jurisdiction based on the type of solar energy facility and whether the proposed site is on high-value farmland, predominantly cultivated land or land that is predominantly composed of class I to IV soil, or other land. House Bill 2820 also exempts the decommissioned Christmas Valley Air Force Station facility in Lake County from EFSC jurisdiction.

*Effective date: June 6, 2013*

## **House Bill 2893**

### *Solar feed-in tariff*

There are two methods that Oregon ratepayers use to receive compensation for producing energy through solar or small-scale wind power at their homes. These two methods are net metering and feed-in tariff rates. In Oregon the feed-in tariff program is called the Volumetric Incentive Rate Program (VIR Program).

House Bill 2893 extends the sunset of the VIR Program until January 2, 2015, and increases the VIR Program cap to 27.5 megawatts. House Bill 2893 also requires the Public Utility Commission, in consultation with the Oregon Department of Energy, to study the effectiveness of programs that incent solar photovoltaic energy systems and report to the Legislative Assembly on or before July 1, 2014.

*Effective date: May 28, 2013*

## **House Bill 2981**

### *Rural renewable energy development*

Enterprise zones are designed to encourage business investment through property tax relief. In exchange for locating or expanding into an enterprise zone, eligible (generally non-retail) businesses receive total exemption from the property taxes normally assessed on new plants and equipment for a specified amount of time, which varies between the different enterprise zone programs. The Rural Renewable Energy Development (RRED) program is similar to other enterprise zones. The abatement is a three- to five-year exemption from local taxes on new property used for renewable energy activities. These renewable energy activities can include wind, geothermal, solar, biomass, or other forms of energy to

generate electricity, or to produce, distribute, or store a wide variety of biofuels. Cities, counties, or a group of counties can set up RRED zones in areas outside an urban growth boundary but within their jurisdiction. No RRED zone can contain a project worth more than \$250 million.

House Bill 2981 allows an exemption from ad valorem property taxation under the RRED Program if the governing body of the zone adopts a resolution waiving requirements and a \$5 million investment is made.

*Effective date: October 7, 2013*

## **Senate Bill 230**

### *Siting of transmission lines*

The Energy Facility Siting Council (EFSC) has regulatory and siting responsibility for large electric generating facilities, high voltage transmission lines, gas pipelines and radioactive waste disposal sites. In siting an energy facility, including a transmission line, the EFSC goes through a comprehensive review process to determine whether the facility meets the EFSC's siting standards, including a "need" standard for transmission lines. If a facility meets those standards, the EFSC can issue a site certificate. If a party appeals a site certificate determination, the appeal is sent directly to the Oregon Supreme Court for adjudication. The entity constructing the facility typically must negotiate with affected landowners to purchase the land and/or for the right to construct the facility on the land. If the landowner refuses to grant construction rights, however, the site certificate does not allow for condemnation authority to purchase the property. Instead, in cases involving overhead transmission lines, the entity must petition the Public Utility Commission (PUC) and request a Certificate

of Public Convenience and Necessity. The PUC holds a public hearing on the petition and investigates to determine the necessity, safety, practicability, and justification in the public interest for the proposed transmission line facility. If the PUC issues a Certificate of Public Convenience and Necessity, the petitioning entity is granted condemnation authority for the project.

Senate Bill 230 addresses a particular issue related to seeking condemnation authority from the PUC following approval of a site certificate from the EFSC. While appealed EFSC decisions are sent directly to the Oregon Supreme Court, an appealed decision by the PUC on a Certificate of Public Convenience and Necessity is adjudicated first by a trial court, even though the utility has already passed through the review process of the EFSC. Senate Bill 230 specifies that in cases where a utility receives such a certificate, any appeal is to be adjudicated by the Oregon Supreme Court.

*Effective date: January 1, 2014*

## **Senate Bill 306**

*Report on clean air fee or greenhouse gas emission tax*

Senate Bill 306 directs the Legislative Revenue Officer to prepare a report for the Legislative Assembly on the feasibility of imposing a statewide clean air fee or tax on greenhouse gas emissions. The report must identify an effective structure for a fee or tax to generate revenue, evaluate the impacts of such a fee or tax on various economic factors, and evaluate the costs and benefits of the fee or tax relative to existing laws. The bill authorizes the Legislative Revenue Officer to contract with third parties to prepare the report. A preliminary report

must be provided no later than December 1, 2013, and a final report no later than November 15, 2014.

*Effective date: August 14, 2013*

## **Senate Bill 536**

*Electric vehicle charging stations on state property*

Electric vehicle (EV) charging stations are locations where vehicles can plug into an electrical source to recharge batteries. EV charging stations are necessary to support the growing fleet of EVs throughout Oregon. Oregon and Washington have designed a border-to-border network of EV fast-charging stations along Interstate 5 to advance electric vehicle transportation.

Senate Bill 536 authorizes a state agency to install, or have installed, EV charging stations on the agency premises. The measure stipulates that unless a grant has been obtained to support installation, the Department of Administrative Services is limited to installing ten EV charging stations and other agencies are limited to installing five EV charging stations per biennium. Under the Act, an agency is authorized to contract with a vendor to make the electricity available, but it requires the vendor indemnify the agency against any claim arising out of the vendor's operations and obtain sufficient liability insurance. Senate Bill 536 also authorizes an agency to establish the price of using an EV charging station, but requires that the price be set at a level that does not subsidize the operations of the private entity or the cost of the electricity to the public, or substantially exceed the costs to the agency of making the electricity available to the public. Additionally, Senate Bill 536 extends a Department of Administrative Services program to make compressed natural gas

available for use in motor vehicles until January 2, 2018.

*Effective date: January 1, 2014*

## **Senate Bill 605**

*Process for amending Oregon Territorial Sea Plan or Ocean Resources Management Plan*

The Ocean Policy Advisory Council (OPAC) is responsible for making recommendations to the Land Conservation and Development Commission (LCDC) regarding the adoption of amendments to the Oregon Ocean Resources Management Plan and the Territorial Sea Plan. Prior to adoption, LCDC must find that the plans, and any recommended amendments, are consistent with the Ocean Resource Management Act and statewide land use planning goals. If LCDC cannot make these findings, it must send the amendments back to OPAC for revision. In 2013, LCDC made findings and adopted the staff recommendations made by the Department of Land Conservation and Development, instead of the amendments recommended by OPAC.

Senate Bill 605 clarifies that LCDC must make findings on OPAC's amendments and specifies a process if LCDC is unable to make such findings.

*Effective date: June 13, 2013*

## **Senate Bill 606**

*Financial assurance and decommissioning of wave energy projects*

Oregon's territorial sea, defined as the ocean and seafloor area from mean low water seaward three nautical miles, has been identified as a favorable location for siting

renewable energy projects, including wave energy. These facilities vary in type and may require structures and equipment to be anchored to the seafloor and transfer energy to on-shore substations. The Oregon Territorial Sea Plan describes the process for making decisions concerning the development of renewable energy facilities in the state territorial sea.

Senate Bill 606 clarifies financial assurance and decommissioning requirements for wave energy projects and identifies needed research related to the transmission of electricity from wave energy facilities and devices. The measure directs the Oregon Department of Energy to report to the Legislature on issues related to the transmission of electricity from wave energy on or before November 1, 2014.

*Effective date: June 6, 2013*

## **Senate Bill 692**

*Minimum energy efficiency standards*

In 2005, the Legislature set minimum energy efficiency standards for 11 types of appliances. Testing requirements and minimum efficiency standards are outlined in the regulations. The standards do not apply to products installed in a mobile or manufactured home at the time of construction or designed expressly for installation and use in recreational vehicles.

Senate Bill 692 establishes minimum energy efficiency standards for televisions, large battery charger systems, inductive charger systems, small battery charger systems with certain exceptions, and high light output double-ended quartz halogen lamps. The measure prohibits the sale, offer for sale, or installation for compensation of any of these

products that do not meet or exceed the standards in Oregon.

*Effective date: January 1, 2014*

## **LEGISLATION NOT ENACTED**

### **House Bill 2792**

#### *Carbon tax*

House Bill 2792 would have imposed a carbon tax on fuel suppliers and utilities based on the amount of carbon in their fuel sold to Oregon consumers, or used to produce electricity supplied to Oregon consumers. The measure also would have also repealed a variety of taxes and regulations relating to fuels or energy, including the renewable fuels standard, the renewable portfolio standard, the motor vehicle tax, and the low carbon fuels standard.

### **Senate Bill 321**

#### *Renewable energy resource equipment manufacturing facilities tax credit*

Oregon facilities that manufacture renewable energy resource equipment may be eligible for a Business Energy Tax Credit. Eligible costs may include the building, equipment and machinery and other costs used to manufacture equipment, machinery, or products designed exclusively to use a renewable energy resource. The facilities are eligible for a tax credit of 50 percent of eligible costs, up to a maximum

of \$40 million in eligible costs for each phase of development. This tax credit will sunset on January 1, 2014.

Senate Bill 321 would have extended the sunset date to January 1, 2020 for tax credits for renewable energy resource equipment manufacturing facilities.

### **Senate Bill 562**

#### *Community net metering facilities*

Oregon's net metering law allows all utility customers who generate their own electricity to reduce their electric bills. Customers that install a solar photovoltaic or wind energy system may ask their electricity provider to switch out their existing utility meter for a bi-directional "net" meter, at no charge. The new meter keeps track of how much power is consumed by the customer, and how much power is returned to the power grid by the device(s) installed by the customer. The customer is charged only for "net" usage. Customers generating more power than they use in a given month will not receive a bill for that month, and kilowatt hour credits will be applied to future electric bills.

House Bill 562 would have required utilities to provide a credit to subscribing customers who receive electricity service for electricity generated by a community net metering facility with a capacity between 10 kilowatts and two megawatts. Customers would have been credited for their share of the electricity generated by the community net metering facility.

# **Environmental Quality**

## **House Bill 2048**

### *Paint stewardship program*

House Bill 3037 (2009) created a pilot program allowing PaintCare, a non-profit organization created by the paint industry, to collect and recycle paint. Fees charged to customers buying paint at the time of sale funded PaintCare's efforts. The pilot program was scheduled to sunset on June 30, 2014.

House Bill 2048 makes the program permanent while requiring the reporting of additional information by PaintCare to the Department of Environmental Quality.

*Effective date: July 29, 2013*

## **House Bill 3103**

### *Oil spill planning*

Until recently, Oregon has not had a facility that exports crude oil. As a result, the Department of Environmental Quality (DEQ) has not regulated some aspects of oil exportation, including requiring oil spill planning for facilities transferring petroleum onshore to a ship.

House Bill 3103 expands the definition of a "facility" to require oil spill plans for facilities exporting petroleum to a ship while excluding smaller scale facilities like marinas or public fueling stations.

*Effective date: January 1, 2014*

## **House Bill 3364**

### *Integrated pest management*

Integrated pest management (IPM) programs use information on the life cycles of pests, their interaction with the environment, and

available pest control methods to manage pest damage through economical means and with the least possible hazard to people, property, and the environment.

House Bill 3364 revises the IPM definition in state law and establishes the IPM Coordinating Committee composed of state and public university employees to share information, develop adaptive approaches to improve IPM programs, and report to the Legislative Assembly.

*Effective date: June 4, 2013*

## **House Bill 3451**

### *Oceangoing Research Vessel Program*

The U.S. National Science Foundation owns a fleet of research vessels stationed in multiple coastal states. The operation of these vessels is usually funded by a mix of federal support, state funding and research grants. These vessels perform a variety of research, normally in conjunction with state universities, in the immediately surrounding coastal waters. At this time, Oregon is the only state with a federally funded research vessel, R/V Oceanus, that does not designate any state funding for vessel operations.

House Bill 3451 establishes the Oceangoing Research Vessel Program at Oregon State University (OSU) to conduct specified marine research activities, and appropriates funds to operate R/V Oceanus. The measure also creates the Research Vessel Council with seven members appointed by the President of OSU. The measure directs OSU to report to the Legislature no later than November 30, 2015 on research conducted under the program, additional research needed, and the sufficiency of federal support for ongoing operations.

*Effective date: July 25, 2013*

## **Senate Bill 117**

### *Bottle Bill redemption center program expansion*

In 1971, Oregon enacted the “bottle bill.” Within two years of its implementation, more than 90 percent of all carbonated beverage containers were being recycled and more than 80 percent of the roadside container litter was eliminated. The 2007 Legislative Assembly expanded coverage of the five-cent beverage container deposit to include water and flavored water beverage containers. In 2011, the Legislative Assembly passed House Bill 3145, which expanded the types of beverage containers subject to the deposit, set a trigger for the deposit to increase to 10 cents if the recycling rate falls below 80 percent for two consecutive years (but not before 2017), and set up a redemption center pilot project. In 2012, the Legislative Assembly passed Senate Bill 1508, which allowed two or more beverage distributors to establish a cooperative and required distributors, importers and cooperatives to report information on bottle returns to the Oregon Liquor Control Commission (Commission).

Senate Bill 117 modifies the redemption center program by removing its status as a pilot program and authorizes the Commission to approve additional centers. The Act also requires that the Commission submit a report to the Legislature no later than March 1 of each odd-numbered year on certain information.

*Effective date: May 13, 2013*

## **Senate Bill 814**

### *Expanding rights and duties under Oregon Environmental Cleanup Assistance Act*

Oregon’s Environmental Cleanup Assistance Act was enacted by the Legislative Assembly in 1999 and modified in 2003. Prior to enactment of Senate Bill 814, the Act specified procedures for lost environmental insurance policies and required insurers to cover certain environmental cleanup costs including investigations, feasibility studies, and other expenses. The Act allowed policy holders with coverage from multiple insurers to choose which insurer to handle the claim while the insurer had the responsibility to seek contributions from the other insurance providers.

Senate Bill 814 expands the Oregon Environmental Cleanup Assistance Act by providing a right of action for unfair environmental claims settlement practices, requiring coverage of damage to third-party property and expenses to mitigate damage, and establishing a right to independent counsel and environmental consultants to be provided by the insurer in certain circumstances.

*Effective date: June 10, 2013*

## **Senate Bill 844**

### *Voluntary emission reduction program*

In 2007, the Legislative Assembly enacted House Bill 3543, establishing greenhouse gas (GHG) emission reduction goals for the state, including the goal of reducing GHG levels to at least 10 percent below 1990 levels by the year 2020. In 2009, the Legislative Assembly enacted Senate Bill 101, requiring the Public Utility Commission (PUC) to report biennially to the Legislative Assembly on the estimated rate impacts for Oregon’s regulated electric and natural gas companies in meeting the state’s GHG emission goals.

Senate Bill 844 creates a voluntary incentive program for certain public utilities to invest in projects that reduce emissions. The measure specifies criteria for participation, including reduction of emissions (either directly or indirectly), stakeholder involvement in project development, and benefits of the project to the utility's customers. The utility must show that it would otherwise not make the investment without the incentive, and that the aggregate effect of projects undertaken by the utility does not exceed the rate impact specified by the PUC. The measure also outlines application and review processes.

Finally, Senate Bill 844 requires that the PUC conduct a biennial study regarding whether federal law, or other state laws, provide adequate incentives for projects to reduce emissions, and directs the PUC to submit a report to the Legislative Assembly by February 1 of each odd-numbered year.

*Effective date: January 1, 2014*

## **LEGISLATION NOT ENACTED**

### **House Bill 2412**

#### *Vehicle Pollution Control System*

The Department of Environmental Quality (DEQ) manages two vehicle inspection programs (VIP) in Oregon. The Portland area VIP started in 1975. The Rogue Valley VIP for Medford and surrounding areas began in 1986. By inspecting exhaust emissions, DEQ identifies vehicles that are producing more air pollution than expected.

House Bill 2412 would have required the Environmental Quality Commission to contract the motor vehicle pollution control

inspection program to a private entity or local government.

### **House Bill 2813**

#### *Arundo donax L.*

Arundo donax L. is a type of grass that can grow over 20 feet tall. Portland General Electric (PGE) is interested in it as a source of biomass and has a test plot of Arundo donax L. near the Boardman Coal Plant. The utility plans to harvest and torrify, or dry, the resulting biomass for testing purposes. House Bill 2813 would have declared Arundo donax L. (also known as Giant Cane or Giant Reed) as an invasive species and prohibited growing or harvesting the plant.

### **House Bill 3030**

#### *Brownfield remediation*

Brownfields are properties that have been contaminated with hazardous materials. Currently, there are roughly 4,800 known or suspected brownfield sites in Oregon with another 50 to 100 found every year. Of the 4,800, approximately 1,600 have had their contamination remediated or removed completely. Depending on the level of contamination, brownfields are unfit for many or all types of development. Cleanup of a brownfield site is often a very costly task, potentially ranging into the hundreds of thousands or millions of dollars depending on the size of the property and type of contamination. The Brownfields Redevelopment Fund provides loans and grants for environmental actions on brownfield sites.

House Bill 3030 would have added the demolition of structures containing hazardous substances to the definition of environmental action. It also would have

appropriated \$10 million to the Brownfields Redevelopment Fund and allowed the fund to provide financial assistance to public and private owners undertaking environmental actions.

## **House Bill 3171**

### *Local regulation of pesticides*

State law (ORS 634.057) prohibits the adoption or enforcement of an ordinance, rule or regulation by a local government regarding the use or sale of pesticides.

House Bill 3171 would have allowed counties, cities, towns, or other political subdivisions to enact and enforce ordinances or regulations intended to prevent or control the presence of pesticides in surface and ground water used as a source of potable water.

## **House Bill 3186**

### *Septic system rules*

The Environmental Quality Commission (EQC) sets minimum standards for the design and construction of alternative sewage disposal systems. House Bill 3186 would have required the EQC to seek to minimize the negative economic impacts on homeowners and businesses of administrative rules applicable to such systems.

## **House Bill 3337**

### *Ecosystem services*

Senate Bill 513 (2009) outlined an approach to ecosystem services allowing for the development of incentive programs for private landowners to provide services, or to

establish a market-based program in which parties or voluntary buyers purchase specific conservation outcomes. The measure also directed the Oregon Watershed Enhancement Board (OWEB) to convene a work group to address additional issues. The work group met for a year and issued a report to the 2011 Legislative Assembly.

House Bill 3337 would have directed the Governor's Office to convene a work group to accomplish the following: identify and prioritize solutions to improve the State's ability to use ecosystem services and tools to meet conservation goals while providing socio-economic benefits for landowners; propose pilot projects; and consider the role of state agencies and local governments in the use of public funds to achieve measurable ecological outcomes. The measure would have also required the Governor's Office, in cooperation with OWEB, to review local, state, regional, and federal conservation plans and laws that could impact ecosystems. This review and the creation of a report were to be guided by a work group and findings reported to an interim legislative committee related to the environment and natural resources on or before June 30, 2015. The bill also further developed guidelines that encourage state agencies and local governments' goals for maintenance, enhancement, and restoration of ecosystem-related services.

## **Senate Bill 212**

### *Vehicle Inspection Program*

The Department of Environmental Quality (DEQ) manages two vehicle inspection programs (VIPs) in Oregon. The Portland area VIP started in 1975. The Rogue Valley VIP for Medford and surrounding areas began in 1986. By inspecting exhaust

emissions, DEQ identifies vehicles that are producing more air pollution than expected.

Senate Bill 212 would have required the Environmental Quality Commission to prepare revisions to Oregon's State Implementation Plan under the federal Clean Air Act, by adopting criteria, methods, and standards modeled after Washington State's vehicle inspection program.

## **Senate Bill 488**

### *Low carbon fuel standard*

Research indicates that transportation produces over a third of Oregon's greenhouse gas emissions. The 2009 Oregon Legislature adopted House Bill 2186, which authorized the Environmental Quality Commission to develop a low carbon fuel standard for Oregon. House Bill 2186 contained a provision that would sunset that low carbon fuel standard on December 31, 2015. The Department of Environmental Quality convened an advisory committee of stakeholders to discuss, debate, and offer recommendations for various design elements of Oregon's low carbon fuel standards.

Senate Bill 488 would repeal the sunset on provisions of the low carbon fuel standard statute.

## **Senate Bill 800**

### *Task Force on Pesticide Application Reporting*

Under current law, pesticide operators and public and commercial pesticide applicators are required to maintain records containing specific pesticide application information for three years. The required information includes the firm or person for whom a pesticide application was made, location of the land or property where application was completed, date and approximate time of application, supplier of pesticide product applied, trade name and the strength of pesticides applied, amount or concentration, specific property, and crop(s) to which the pesticide was applied. For agricultural applications, the records must contain the specific crop and a summary of information of equipment, device or apparatus used and, if applied by aircraft, the Federal Aviation Administration number and the name of the applicator or trainee.

Senate Bill 800 would have created the Task Force on Pesticide Application Reporting (Task Force). The Task Force would have been required to study, develop recommendations, and report to the Governor and the Legislative Assembly on whether state and local governments should be required to report on pesticide applications by public applicators or public trainees.

# Government

## **House Bill 2140**

### *Local government investments in Intermediate Term Pool*

ORS 293.728 establishes the Oregon Short Term Fund, a pool of state and local government funds, as the investment vehicle for funds not authorized for discrete investment. The State and Local Government Efficiency Task Force, established by House Bill 2855 (2011), recommends allowing local governments the option to invest in the Intermediate Term Pool, a separate investment pool managed by the State Treasurer's office but currently limited to funds of state agencies and state-sponsored entities. Existing statutory language groups counties, municipalities, political subdivisions, and school districts together when defining permissible investments. For calendar year 2012, the rate of return on the Short Term Fund was 1.65 percent, while the Intermediate Term Pool had a rate of return of 5.72 percent in the same period.

House Bill 2140 adds commingled investment pools established by the State Treasurer, such as the Intermediate Term Pool, to the list of authorized investments for local governments.

*Effective date: May 22, 2013*

## **House Bill 2206**

### *State to provide specific county services*

The Secure Rural Schools and Community Self-Determination Act of 2000 was passed by the federal government to recognize the loss of revenue to counties as timber harvests dramatically declined. By 2000, income had declined by 80 percent. The Act expired in 2007, but has been renewed, in

one-year increments, through July 2013. However, the federal government has reduced payments to Oregon with each subsequent reauthorization, resulting in a substantial loss of General Fund revenues for Oregon's timber counties and compromising their ability to provide county services.

If a county believes it is in a state of fiscal distress that compromises its ability to provide a minimally adequate level of public services, House Bill 2206 allows the governing body to ask the Governor to declare a county emergency; ask the Secretary of State to assume control over the administration of elections; ask the Department of Revenue to provide services to ensure a minimally adequate level of property tax assessment services, property tax collection services or both to all municipal corporations in the county; and allows the Oregon Department of Veterans' Affairs to retain funding for county veterans' service officers and to provide veterans' services in a county not providing a county veterans' service officer in a manner deemed appropriate by the director.

The measure requires that the county resume services upon determination by the Governor or two years after the declaration of emergency.

*Effective date: October 7, 2013*

## **House Bill 2207**

### *Expanding electronic options for state payroll*

Approximately 37,000 state employees and officers currently receive printed monthly statements of deductions even though over 80 percent of state employees have established electronic direct deposit for their paychecks. The remainder receive a paper

check or a debit-style payroll card. Individual agencies may print the deduction statements for distribution and hand-deliver the statements to employees.

House Bill 2207 requires wages for state employees and officers to be electronically deposited, except in cases where the Department of Administrative Services determines it is not practicable or efficient or an individual has asked to receive payment by check or bank-issued payroll card. The measure also requires electronic delivery of itemized deduction statements, except in cases where an individual has asked to receive paper statements.

*Effective date: June 13, 2013*

## **House Bill 2212**

*Small procurements under Public Contracting Code*

Oregon's Public Contracting Code establishes processes and requirements for specific public procurements, including small and intermediate procurements determined by the dollar amount of the procurement. Apart from specific exemptions, the Public Contracting Code applies to all public contracting. Small procurements may be awarded in any manner deemed practical or convenient by a contracting agency; in comparison, for intermediate procurements contracting agencies must seek at least three informal bids and document the competitive price quotes or proposals received. Intermediate procurement requirements apply to procurements exceeding the small procurement level (currently \$5,000) but not exceeding \$150,000. The \$5,000 limit for small procurements was established in statute in 1997.

House Bill 2212 increases the maximum value of small procurements from \$5,000 to \$10,000 for goods and services obtained for non-construction purposes. The change allows use of a streamlined process for small procurements, while reflecting the increase in costs since the threshold was established in 1997.

*Effective date: January 1, 2014*

## **House Bill 2323**

*Removes sunset on Oregon Growth Board*

House Bill 4040 (2012) created the Oregon Growth Board (Board) to establish a statewide strategy for how Oregon's many disparate economic development investments are made. This measure included a number of provisions that were inactive unless a June 30, 2013 sunset date was removed.

House Bill 2323 eliminates the sunset and allows these provisions to become operative. These provisions establish the Oregon Growth Fund (OGF) and the authority for the Board to manage the OGF, and transfer the management of the Oregon Growth Account (OGA) from the State Treasurer to the Board. The provisions authorize the Board to use the OGF to: (1) encourage investment in and availability of capital to in-state businesses, and increase resources available to further economic development; and (2) use OGF monies to make investments in, and provide loans or grants to, businesses to promote economic development. The allowable use of OGA funds are expanded to include the allowable uses for Oregon Growth Fund monies, excluding the making of grants.

*Effective date: August 14, 2013*

## **House Bill 2345**

### *Establishes Oregon Innovation in Infrastructure Task Force*

The American Society of Civil Engineers Oregon Infrastructure Report Card rated Oregon's overall infrastructure a "C-minus" in 2010. In 2012, Oregon partnered with California, Washington, and British Columbia to form the West Coast Infrastructure Exchange (Exchange) to identify new methods to finance and facilitate infrastructure development. Currently, the Exchange exists as a non-profit organization with coordination provided by the Oregon State Treasury and financial support provided by the Rockefeller Foundation.

House Bill 2345 establishes a 10-member Oregon Innovation in Infrastructure Task Force to make recommendations to the Legislative Assembly regarding innovative practices related to public infrastructure, including participation in the Exchange.

The measure also contains a provision related to the Marine Navigation Improvement Fund (MNIF). The federal government has, in the past, funded dredging and maintenance activities for Oregon's small coastal ports but no longer has the resources to do so. Oregon's MNIF exists for certain navigation infrastructure projects. House Bill 2345 also modifies the types and priority of projects eligible under MNIF.

*Effective date: July 12, 2013*

## **House Bill 2352**

### *Boring and Dull Day*

On August 9, 2012, the Clackamas County

Board of Commissioners proclaimed the communities of Boring, Oregon and Dull, Scotland a "Pair for the Ages." The unofficial sister cities were brought together after a Scottish vacationer took a bike ride through Boring and sent word of the funnily named town to her friends back in Dull, who then worked with the Boring Community Planning Organization to arrange a new "sister-city" program with a town halfway across the world: Dull, Scotland. As neither community is a city, they do not qualify for the official Sister City program, therefore Boring and Dull are partners in an unofficial sister-city relationship. While the relationship was born out of fun, the recognition has brought international media attention and increased tourism to both communities.

House Bill 2352 designates August 9 of each year as Boring and Dull Day.

*Effective date: January 1, 2014*

## **House Bill 2370**

### *Expanding information included on Oregon Transparency Website*

House Bill 2500 (2009) established the Oregon Transparency Website. Currently, the website must include reports from an education service district (ESD); public meeting notices from agencies, boards and commissions; reports on tax expenditures issued for economic development; and reports on county expenditures of lottery funds.

House Bill 2370 establishes requirements for the transparency website to include links to websites hosting minutes or summaries of public meetings, websites with information relating to agency administrative rules, websites listing information on agency and

ESD contracts, and transparency websites for local government and special districts. The measure also specifically requires posting copies of local government reports regarding properties in enterprise zones received by the Department of Administrative Services, Department of Revenue, or Business Development Department.

*Effective date: January 1, 2014*

## **House Bill 2597**

*Disconnects salaries of judges from legislators*

Oregon's Public Officials Compensation Commission (POCC) was created by the Legislative Assembly in 1983. The seven-member commission was responsible for reviewing and making recommendations to the Legislative Assembly regarding the salaries of legislators; Governor; Secretary of State; State Treasurer; Attorney General; Superintendent of Public Instruction; Commissioner of the Bureau of Labor and Industries; and judges from the Court of Appeals, Supreme Court, Circuit Court, and Tax Court. Based on the recommendations of the POCC, the Legislative Assembly was to set salaries for the elected officials and legislators.

In 2007, the POCC was reestablished and the membership increased to 11. In 2009, Circuit Court Judge salaries were tied to the salaries of the Legislative Assembly members. The salaries of Legislative Assembly members were set at one step below the maximum salary range in the Management Service Compensation Plan of the Executive Branch or 17 percent of the salary of a Circuit Court judge. House Bill 2597 disconnects the salaries of Circuit

Court judges and members of the Legislative Assembly.

*Effective date: January 1, 2014*

## **House Bill 2643**

*Oregon license directory*

To assist businesses, the Secretary of State has made available an online license directory (<http://licenseinfo.oregon.gov/>) that provides information on state licenses, certifications, permits, and registrations. It also includes federal license summary information. Cities, counties, and regional jurisdictions began entering license information on a voluntary basis in 2005. As of August 2, 2013, there were 1,188 entries by 113 agencies, which included only three counties and five cities.

House Bill 2643 directs the Office of the Secretary of State to maintain the Oregon License Directory and provide information on all known licenses, certifications, permits, and registrations for which fees are imposed on small businesses by local and state agencies. State and local agencies are required to annually report various licensing and fee statistics to the Secretary of State, including the average time to process and issue licenses. The directory is to be made available on the Internet to the public free of charge.

*Effective date: July 1, 2013*

## **House Bill 2646**

*Applies prevailing wage to the Oregon University System*

Oregon is one of 32 states that currently have a prevailing wage law modeled after

the federal Davis-Bacon Act. The Oregon law is designed to ensure that contractors compete on their ability to competently and efficiently perform work while maintaining community compensation standards, to encourage training and education of workers in industry skill standards, and to encourage employers to use the funds required by law for fringe benefits for the actual purchase of such benefits. The Bureau of Labor and Industries (BOLI) is responsible for administering and enforcing prevailing wage law in Oregon and for educating contractors, subcontractors, and public agencies about prevailing wage law requirements.

Though there are exceptions and exemptions, public works projects are generally covered by the state's prevailing wage rate law under the following conditions: the total project cost exceeds \$50,000; the project is for construction, reconstruction, major renovation, or painting; and the project directly or indirectly uses public agency funds. Public work on privately owned land or buildings is covered under prevailing wage law if the project is for construction, reconstruction, major renovation, or painting and uses at least \$750,000 in public funds, or if it is for construction in which one or more public agencies will occupy or use at least 25 percent of the project's square footage.

House Bill 2646 applies the prevailing wage rate law to the Oregon University System (OUS) and to agreements between OUS and private entities for construction, reconstruction, renovation, or painting projects on real property that OUS owns, or that is owned by an OUS-member institution.

*Effective date: May 22, 2013*

## **House Bill 2662**

*Allowing cities to remedy neglected properties in foreclosure*

A 2013 study found that of Oregon's 3,900 homes in foreclosure, 1,100 are vacant. A vacant foreclosed home may fall into a state of neglect and may create a nuisance within its neighborhood. Prior to enactment of House Bill 2662, local governments did not have the statutory authority to remedy nuisances created by vacant foreclosures.

House Bill 2662 prohibits property owners from neglecting property in foreclosure. The measure requires the owner of the property to post contact information on the house, and to give such information to the local government or neighborhood association. Additionally, should neglect or nuisance arise on the property, the local government may require the owner to remedy the situation. If the owner does not provide a timely remedy, the local government is authorized to address the nuisance and attach a lien against the property for the costs of remedying the nuisance.

*Effective date: June 6, 2013*

## **House Bill 2927**

*Port of Portland awarding of contracts and leasing spaces*

House Bill 2927 gives the Port of Portland (Port) explicit authority to establish best value standards and criteria when awarding contracts and leasing space. The standards and criteria may take into account the qualifications, compensation, and retention policies of contractors and lessees with respect to the staff and subcontractors operating at the Port.

The Port has the statutory authority to regulate the use of its property, but its power is limited to users who serve to promote aviation, commerce, or industry, as opposed to general welfare. Prior to enactment of House Bill 2927, an attempt to impose best value standards at the airport could be subject to possible legal challenge on the grounds that such an action is beyond the Port's legal authority.

*Effective date: January 1, 2014*

### **House Bill 3130**

*Expands use of industrial development fund monies*

Deschutes County is seeking to use approximately \$200,000 in proceeds from its industrial development fund to match funds from the Oregon Department of Transportation for transportation upgrades to the U.S. 97 intersection at First Street in the City of LaPine. Although the land is zoned for industrial use, without such improvements, applications for industrial and other development projects in the LaPine Industrial Park and surrounding area will be denied under existing land use regulations due to traffic generated by the projects.

House Bill 3130 authorizes the use of monies within a county Industrial Development Revolving Fund for construction of off-site transportation and utility infrastructure necessary for the development of industrial uses on a site zoned for industrial use. Such expenditures are currently prohibited by ORS 275.318, even in cases where development of the site may not go forward without the infrastructure improvements. The change will allow the use of industrial development funds for purchase of the traffic control

device necessary to accommodate additional traffic in the neighboring roadways.

*Effective date: January 1, 2014*

### **House Bill 3258**

*Establishes Office of State Chief Information Officer*

The Department of Administrative Services (DAS) is the central administrative agency for state government. DAS has been transitioning to an "entrepreneurial management" model of operation, and in that transition, has established a Chief Information Office. The current position of state chief information officer is the head of the Office and oversees planning, management, and policy development relating to information resources across state government.

House Bill 3258 formally establishes the Office of State Chief Information Officer and transfers certain responsibilities and duties from the Director of DAS to the new office. The Chief Information Officer will be appointed by the Governor. The measure also eliminates the Information Resources Management Council and Stakeholders Advisory Committee.

*Effective date: July 29, 2013*

### **House Bill 3263**

*Paid leave for state employees*

Under current law, any employer who employs at least six individuals is required to allow an eligible employee to take reasonable, unpaid leave to seek services, assistance, or treatment if they are a victim of domestic violence, harassment, sexual assault, or stalking. An employee is eligible

for protected leave if the individual has worked for the employer an average of more than 25 hours per week for at least 180 days.

House Bill 3263 grants paid leave to eligible employees of the State of Oregon who are victims of domestic violence, harassment, sexual assault, or stalking. The employee may take up to 160 hours of paid leave in each calendar year. The leave granted under the measure is in addition to any vacation, sick, personal business, or other form of leave available to the employee. However, the employee must first exhaust all other paid leave before using the paid leave provided by this measure. The measure also requires the State of Oregon, as an employer, to inform certain employees of any communications in the workplace that are related to the victimization of the employee and offer to report the communication to law enforcement.

*Effective date: July 2, 2013*

## **House Bill 3316**

### *Tri-Met audit*

The Tri-County Metropolitan Transportation District (TriMet) is a public agency that operates the mass transit system throughout the Portland metropolitan region. Created in 1969 by the Legislative Assembly, TriMet is governed by a seven-member board of directors appointed by the Governor. The district has its own boundary, which currently encompasses portions of Multnomah, Washington, and Clackamas counties. TriMet operates a bus system, as well as paratransit, throughout the region. Since 1986, TriMet has operated the Metropolitan Area Express (MAX) light rail system, which now encompasses 52 miles on four lines.

House Bill 3316 requires the Secretary of State to conduct a performance audit of TriMet and report findings of the audit to the Legislative Assembly. The measure was introduced in response to several high-profile issues facing the agency, including unfunded actuarial liabilities in its retiree trust funds, high ratio of employee benefits to wages, and reductions in services. The audit is to be completed and submitted to the Legislative Assembly by January 30, 2014.

*Effective date: August 1, 2013*

## **House Bill 3342**

### *Public employer use of public funds to influence collective bargaining*

The Public Employee Collective Bargaining Act (PECBA) became effective in 1973. PECBA administers laws governing employment relations and public employers and employees in state, counties, cities, school districts, transportation districts, and other local governments. The Employment Relations Board (ERB) is responsible for enforcing PECBA, determining appropriate bargaining units, conducting elections for representation of employees, issuing declaratory rulings and orders in contested case adjudications of unfair labor practice complaints, and resolving disputes over union representation and collective bargaining negotiations.

House Bill 3342 finds that: public funds may not be used to subsidize interference with an employee's choice to join or be represented by a labor union; some public employers use public funds to aid or deter union organizing efforts; and the use of public funds to deter union organizing is contrary to the purposes for which the funds were appropriated and is a wasteful use of scarce public resources. To that end, the

measure prohibits public employers from using public funds to support, assist, promote, or deter union organizing. Additionally, the ERB is tasked with enforcing the measure, including the adoption of rules.

*Effective date: July 25, 2013*

## **House Bill 3400**

*Agency expenditure information on Oregon Transparency Website*

House Bill 2500 (2009) established the Oregon Transparency Website. Currently, the website must include reports from education service districts; public meeting notices from agencies, boards and commissions; reports on tax expenditures issued for economic development; and reports on county expenditures of lottery funds.

House Bill 3400 requires the Transparency Website to include a description of the percentage of expenditures made in-state and out-of-state for each state agency's contracts for goods and services.

*Effective date: January 1, 2014*

## **House Bill 3436**

*Establishes Oregon Retirement Savings Task Force*

In 2012, California enacted legislation (Senate Bill 1234) establishing a retirement savings program for private employees who do not participate in an employer-sponsored retirement savings plan. The legislation calls for a market analysis to determine factors regarding how the plan would be implemented. Once operational, administrative costs will be paid from

investment earnings and are capped at one percent of total fund assets. Pooled contributions and professional management are expected to reduce the investing errors that individual savers may make, thus increasing the returns beyond what an individual saver would experience. Eleven other states have considered similar legislation in recent years to provide a place for private employees or citizens to invest without the considerable expense and market risks to which individual savers are exposed.

House Bill 3436 establishes the Oregon Retirement Savings Task Force and directs it to develop recommendations for increasing the percentage of Oregonians saving for retirement or enrolled in a retirement plan and for increasing the amount of those individual savings. Membership includes the State Treasurer or his designee and six people appointed by the Governor. The measure specifies that the Task Force may not recommend plans or products that would: subject state or private sector employers to responsibilities under the federal Employee Retirement Income Security Act of 1974; result in tax treatment that is less favorable than that provided under existing provisions of the Internal Revenue Code; create any guarantee or cause the State of Oregon to incur any liability or obligation for payment of savings or benefits earned by plan participants; or create any financial obligation, liability, or guarantee on the part of private-sector employers whose employees participate in the plan. The Task Force is directed to report to an interim committee of the Legislative Assembly by September 1, 2014.

*Effective date: August 1, 2013*

## **House Bill 3453**

### *Proclamation of county public safety fiscal emergency by Governor*

Many Oregon counties continue to experience financial instability in the current economic climate that could impair basic public safety services. House Bill 3453 creates a mechanism for state intervention, permitting the Governor to act on behalf of the county in financial distress and arranging for assistance from other local governments. The measure allows the Governor to determine the fiscal conditions that compromise the ability of a county to provide a minimally adequate level of services and declare a “Public Safety Fiscal Emergency” in a county after consulting with the Senate President and Senate Majority and Minority Leaders; the Speaker of the House and House Majority and Minority leaders; each Senator and Representative whose district is wholly or partially within the county; and the county sheriff.

After obtaining written authorization signed by the governing body of each county subject to a proclamation, the Governor may enter into a written intergovernmental agreement (IGA) with the affected county and other counties for performance of functions and activities of the affected county. The cost of the services provided under an IGA will be shared 50/50 between the state and those counties that are parties to the IGA. To pay for the county’s portion of the costs, the measure authorizes a county to impose: a surtax on state personal, corporate income, or excise tax; a tax on telecommunication services; or any assessment the county governing body is lawfully capable of imposing. A county may also use existing sources of county revenue or any combination of previously identified

funding sources. Both parties to the IGA are jointly and severally liable for debts and obligations unless otherwise specified.

A public safety fiscal emergency terminates after 18 months unless it is ended earlier or later by the Governor or by action of the Legislative Assembly. The proclamation may also be terminated by the Governor when the emergency no longer exists or when the threat of such emergency has passed; and the Legislative Assembly may terminate the proclamation without such findings. In addition, the measure limits the number of counties for which the Governor can proclaim a public safety fiscal emergency to no more than two for any single proclamation before July 15, 2014.

*Effective date: October 7, 2013*

## **House Bill 3459**

### *Office of Small Business Assistance*

The Secretary of State is a statewide elected official responsible for, among other duties, registering businesses operating in Oregon and conducting audits. In addition, the Office of the Secretary of State conducts special investigations regarding potential misuse of state resources. Its investigations may occur at state agencies, or may involve local governments or contractors receiving state or federal funds from state agencies. Citizens, businesses, and government employees may report government waste, fraud, or abuse to the Audits Division by phone, internet, or mail.

House Bill 3459 creates the Office of Small Business Assistance within the Office of the Secretary of State. The Office of Small Business Assistance has two primary functions: facilitation of interactions between small businesses and state agencies,

and conducting reviews and investigations of unresolved complaints received from small businesses arising from interactions with state agencies. The measure defines a small business as a prospective, new, or established business with 100 or fewer employees that is or will be located in Oregon. The measure also prohibits penalizing, sanctioning, or restricting a person who makes a complaint or participates in an investigation.

*Effective date: July 29, 2013*

## **House Concurrent Resolution 12**

*Designates *Saccharomyces cerevisiae* (brewer's yeast) as official microbe*

*Saccharomyces cerevisiae* is a species of yeast that is instrumental to winemaking, baking, and brewing. It is essential to the production of alcoholic beverages such as mead, wine, beer, and distilled spirits. Oregon has a long history of fine quality craft beer dating back to 1856 when Henry Weinhard opened his first brewery. As of March 2013, Oregon is home to 169 brewing facilities in 61 cities, with the Portland metro area being the largest craft brewing market in the United States with 69 breweries. Oregon's brewing companies employ 5,650 full- and part-time employees with a total economic impact of \$2.44 billion.

House Concurrent Resolution 12 designates *Saccharomyces cerevisiae* as the official microbe of the state of Oregon. Oregon is the first state to adopt a state microbe.

*Filed with Secretary of State: May 29, 2013*

## **Senate Bill 7**

*Restructuring of State Fair to public corporation*

The Oregon State Fair began in 1858 as an agricultural exhibition and expanded in 1977 to include an exposition center. In recent years, the State Fair has been challenged to generate revenue to meet both operating and maintenance costs and debt service requirements. In 1997, the Legislative Assembly asked the Joint Legislative Audit Committee to evaluate and identify solutions to the State Fair's problems. In 2005, House Bill 3502 shifted management of the State Fair to the Oregon Parks and Recreation Department (OPRD) in order to curb the State Fair's reliance on the state's General Fund. The OPRD suggested that the State Fair and exposition center would benefit from a new governance structure.

Senate Bill 7 provides for the establishment of the State Fair Council (Council) as a public corporation to conduct and oversee the Oregon State Fair and exposition center and associated operations. The measure requires the Department of Administrative Services to report progress to an interim legislative committee on economic development by October 1, 2014 and sets a deadline of July 1, 2015 for transfer of the State Fair to the new Council.

*Effective date: June 26, 2013*

## **Senate Bill 173**

*Service delivery technical assistance for counties in fiscal distress*

Historically, the federal Secure Rural Schools (SRS) and Community Self Determination Act has provided funding to 33 of Oregon's 36 counties to offset the financial loss

incurred from reduced economic activity on federally owned forest land. The SRS expired on September 30, 2011, and Congress enacted a one-year extension of the SRS payments in 2012. The decline in federal payments to counties has led to the development of tools to assist counties lacking financial resources to provide services.

Senate Bill 173 creates a service delivery technical assistance program in the Governor's Office to provide grants for service delivery innovation and to enter into agreements with public and private entities to provide technical assistance. The measure also authorizes the Governor's Office to convene necessary task forces and work groups to assist counties in fiscal distress.

*Effective date: August 14, 2013*

## **Senate Bill 209**

*State Board of Examiners for Engineering and Land Surveying*

The Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS), established in 1919, is the state's regulatory agency for persons practicing engineering, land surveying, photogrammetric mapping, and water right examination. OSBEELS oversees examinations for certification and registration to ensure that only qualified individuals are licensed to operate in those fields. The Board was granted semi-independent status in 1997 on a pilot basis, which became permanent in 1999 with the passage of Senate Bill 1127.

OSBEELS has the authority to assess civil penalties or fees through a final order against those who practice in the fields regulated by the Board; however, the Board

currently lacks clear statutory authority to take action against a certified or registered individual for failing to pay the civil penalty or fine. Senate Bill 209 provides the Board with authority to suspend, revoke or refuse to issue or renew a certificate or registration to an individual for failure to pay a civil penalty or fee as prescribed by a final order issued by the Board or failure to meet any other terms of a final order. The measure also repeals the requirement that OSBEELS provide an opportunity for a hearing under the Administrative Procedures Act when the Board proposes certain actions or imposes a civil penalty. However, the Board has other statutory requirements to provide a hearing for the suspension or revocation of a certificate, permit, or enrollment.

*Effective date: January 1, 2014*

## **Senate Bill 254**

*Construction manager/general contractor public contracting*

The "construction manager/general contractor" (CM/GC) method of public contracting is an alternative to the low-bid contracting process typically used in public construction projects. The low-bid method, also known as "design-bid-build," involves the owner hiring an architect to fully design a project down to detailed plans and technical specifications. These plans are prepared for the owner to use. The owner then prepares an invitation to bid on the project, which includes these specifications, then selects the lowest responsive bid to complete the project under the supervision of the architect. In comparison, the CM/GC method involves an earlier collaboration between the owner, architect, and construction contractor, the latter of which is hired before the design process is complete and functions as a member of the project

team. Used since the early 1980s, the CM/GC process has become more prevalent in recent years, particularly for high-value projects, those with complex or occupied structures, or structures with historical value.

A workgroup was convened during the 2011-2012 legislative interim to review current practices in CM/GC contracting and to identify what, if any, adjustments to statutory requirements should be made in response. The workgroup created a list of specific issues and consensus responses, which formed the basis for Senate Bill 254.

Senate Bill 254 establishes specific requirements for procurement of CM/GC services by contracting agencies. The measure requires agencies to comply with the Attorney General's model rules on procurement of CM/GC services and requires additional findings by a designated authority before projects can be exempt from competitive bidding requirements.

*Effective date: June 26, 2013*

## **Senate Bill 276**

### *Audit of the Travel Information Council*

Oregon Travel Experience (OTE) was created by the Legislative Assembly in 1972 and is a semi-independent state agency that connects motorists with businesses through highway signs, rest area information kiosks, business listings on [www.tripcheck.com](http://www.tripcheck.com), and on the Statewide Interactive Heritage Map. The nine-member Oregon Travel Information Council (TIC) serves as OTE's governing board. The Council is composed of ten members appointed by the Governor, plus one member representing the Oregon Transportation Commission.

In 2010, OTE assumed management of nine rest areas in five Oregon locations along Interstate 5 and Interstate 84. Senate Bill 1591 (2012) increased the number of rest areas over which OTE has management responsibility; the Oregon Department of Transportation maintains ownership of these rest areas, with OTE managing the rest areas through intergovernmental agreement. The 2012 measure also granted OTE the authority to erect and repair structures; to acquire and sell real property; and transferred State Highway Trust Funds to TIC for management, maintenance, improvement, and development of the rest areas.

Senate Bill 276 directs the Audits Division of the Secretary of State's Office to conduct an annual financial review of the monies collected, borrowed, received, and expended by Oregon Travel Experience under the direction of the Oregon Travel Information Council.

*Effective date: January 1, 2014*

## **Senate Bill 405**

### *Retainage withheld on public improvement contracts*

"Retainage" refers to the portion of a contract payment that is withheld by a client owner until a project is complete in all respects and is confirmed to be functioning satisfactorily according to the terms of the contract. Retainage requirements are written into construction contracts and are typically applicable to both the prime contract and subcontracts. Payment of any retainage amount is generally due to the contractor or subcontractor once their portion of the project is substantially complete.

Senate Bill 405 limits retainage on a construction project or public improvement project to five percent of the contract price, eliminating an existing provision that allowed retainage amounts to be set by agreement of the parties when no bond was posted by the contractor or subcontractor.

*Effective date: January 1, 2014*

## **Senate Bill 496**

*Funding patrolling costs with county road funds*

Oregon counties receive federal forest reserve monies and dedicate 25 percent to schools and 75 percent to county road funds. Senate Bill 808 (2007) authorized Douglas and Lane counties to use federal forest reserve monies allocated to county road funds for law enforcement patrols with a sunset date of January 2, 2014. In 2011, the sunset was extended to January 2, 2016. The Legislative Assembly in 2012 also authorized Coos, Curry, Josephine, Klamath, and Linn counties to use federal forest payment money deposited into county road funds for law enforcement patrols. The counties were not allowed to use money deposited in a road fund for patrol activities from state or local taxes on motor fuel or the ownership, operation, or use of a motor vehicle due to restrictions on these monies by Article IX, section 3a of the Oregon Constitution. The law, however, has been interpreted differently with respect to the types of costs that are included under “patrolling.”

Senate Bill 496 clarifies the definition of patrolling and the costs that can be supported by money deposited into county road funds from forest payments. The measure limits use of monies in these road funds for patrolling to: (1) salaries, travel, equipment, and

supplies directly related to county law enforcement patrolling; and (2) indirect costs incurred for common or joint objectives including costs of operating and maintaining facilities, depreciation, administrative expenses, and dispatch. In addition, patrolling is defined in the measure to mean activities of a county law enforcement official in response to calls for service or initiated by the official. The measure retains the existing sunset of January 2, 2016.

*Effective date: June 24, 2013*

## **Senate Bill 525**

*Prohibits use of state letterhead by third-party for debt collection purposes*

At least five Oregon district attorneys contract with private entities to operate bad check diversion programs and collect fees and other money owed for the passing of bad checks. Some, but not all, receive a fee from the private collector. Operating under the auspices of a district attorney, collectors have sent notices to individuals accused of passing bad checks that look like official communications from the district attorney’s office but only provide contact information for the collection agency.

Senate Bill 525 prohibits the use of the seal or letterhead of a public agency or public official by private entities collecting debt, including restitution. The measure also prohibits public agencies and officials from authorizing or receiving fees for such use.

*Effective date: January 1, 2014*

## **Senate Bill 581**

*Sunset date for statutes relating to counties in fiscal distress*

The 2009 Legislative Assembly passed Senate Bill 77, establishing a process for the Governor to declare a public safety services emergency and to appoint a financial control board in counties failing to provide minimally adequate levels of public safety services. In 2012, House Bill 4176 modified the program and changed the name of the financial control board to “fiscal assistance board.”

Currently, a county is authorized to seek a declaration of fiscal emergency from the Governor if the county determines that it is unable to provide a minimally adequate level of state-required services and the county received – in the fiscal year beginning July 1, 2007 – federal payments under the Secure Rural Schools and Community Self-Determination Act of 2000 in an amount equal to at least 10 percent of the county’s property tax revenues. The Governor is required to consult with the county and other parties to gather information about state-required services in the county and their level of adequacy. If they are found to be less than adequate, then the declaration is issued and a fiscal assistance board is established to develop a recovery plan for the county. The recovery plan is to restore or sustain minimally adequate state-required services. Tools available to the board include, but are not limited to, reallocating county funds, eliminating services, and entering into intergovernmental agreements. A county must pay at least one-half of the costs of administering a fiscal assistance board. The program provisions are outlined in ORS 203.095 and 203.100, which are scheduled to sunset January 2, 2014. Senate Bill 581 extends the sunset to January 2, 2016.

*Effective date: June 24, 2013*

## **Senate Bill 582**

*Building codes administration*

The Building Codes Division (BCD) of the Department of Consumer and Business Services (DCBS) provides code development, administration, inspection, plan review, licensing, and permit services to the construction industry. Staff located in five regions around the state partner with other state and local government entities to help facilitate local construction projects, and assist local governments with other services such as e-permitting, best practices, and dispute resolution. Local programs are required to submit a report and apply for renewal every four years. When a local provider chooses or is unable to execute plan review or permit services, BCD provides these services.

Senate Bill 582 makes a number of changes to the state building code, including requiring the DCBS director to give special consideration to the needs of rural and remote regions when adopting the code. The measure also establishes a framework for the development of partnerships or the assumption of administration and enforcement of municipal building inspection programs that may be returned to the state.

*Effective date: June 26, 2013*

## **Senate Bill 583**

*Alternative Fuel Vehicle Revolving Fund*

Senate Bill 583 establishes the Alternative Fuel Vehicle (AFV) Revolving Fund to provide loans to public entities, including federally recognized Native American

tribes, so they can convert existing gasoline or diesel powered fleet vehicles to alternative fuel vehicles or purchase new alternative fuel vehicles. The measure gives priority to the conversion of existing vehicles. The Oregon Department of Energy is required to establish rules regarding loan procedures, terms, and requirements. The measure also authorizes the auction of \$3 million in tax credits that will be administered by the Oregon Department of Revenue; net proceeds will be deposited in the AFV Revolving Fund. It also adds the acquisition of an alternative fuel vehicle fleet to the list of eligible transportation projects under ORS 469B.320, effective 91 days after session. The tax credit is applicable for certified alternative fuel vehicle contributions made by the taxpayer during the tax year that the contributions are made to the Alternative Fuel Vehicle Revolving Fund; any unused portion of the tax credit issued under this program may be carried forward for three years.

Senate Bill 583 applies to alternative fuel vehicles that utilize electric battery power, liquefied or compressed natural gas, ethanol, methanol, propane, or any other fuel approved by the Oregon Department of Energy by rule. Most of the listed alternative fuels provide greater cost efficiency per mile than gasoline, which would allow for cost savings for public entities that convert their existing fleets or replace fleets with vehicles utilizing alternative fuels.

*Effective date: October 7, 2013*

## **Senate Bill 617**

*Disciplinary proceedings of the Appraiser Certification and Licensure Board*

The Appraiser Certification and Licensure Board (Board) is Oregon's licensure and

regulatory agency for appraisers. The Board has authority to take action against a state-certified or state-licensed appraiser or state-registered appraiser assistant, including suspension, reprimand, requirement of additional education, or revocation or denial of license, certificate, or registration. Action can be taken in response to any of a number of causes outlined in ORS 674.140, including misrepresentation in matters related to a real estate appraisal activity and printing or distributing untruthful or misleading advertising.

Senate Bill 617 requires that prior to taking a disciplinary action against a person licensed or otherwise overseen by the Board, a subcommittee of Board members is to review any alleged violations and recommend an action. The measure does not allow the subcommittee to block action by the Board and ensures board members are active in the evaluation of a disciplinary issue prior to the Board making a final decision.

*Effective date: January 1, 2014*

## **Senate Bill 631**

*Requires health inspection of food and lodging facilities operated by public bodies*

Oregon law requires a person operating a restaurant or bed and breakfast facility to obtain a license from the Oregon Health Authority and undergo inspection of the facility every six months. Current law, however, specifies that the law only applies to "persons," which includes individuals, corporations, associations, firms, partnerships, limited liability companies, and joint stock companies. ORS 174.109 defines "public bodies," but that definition is not found in the restaurant licensing and inspecting statutes. As a result, some

facilities that are operated by a public body, such as the Oregon Zoo, are not required to undergo regular health inspections.

Senate Bill 631 defines “person” for the purpose of food service facility licensing and inspection requirements to specifically include public bodies as defined in ORS 174.109, as well as the Oregon Health and Science University and the Oregon State Bar. As a result of the measure, the Oregon Zoo will be required to undergo regular health inspections at its restaurant facilities.

*Effective date: January 1, 2014*

## **Senate Bill 782**

### *Task Force on Apprenticeship in State Contracting*

Apprenticeship is occupational training that combines paid, on-the-job experience with classroom instruction. Industry and individual employers design and control apprenticeship programs. There are 116 different occupations in Oregon that are learned via apprenticeship. The Bureau of Labor and Industries’ Apprenticeship and Training Division promotes apprenticeship in a variety of occupations and trades, and works with business, labor, government, and educational institutions to expand opportunities for apprenticeship.

Senate Bill 782 establishes the Task Force on Apprenticeship in State Contracting, consisting of legislators, contractors, subcontractors, and labor representatives, to evaluate the use of apprentices and recommend utilization standards for state contracting agencies. The Task Force is directed to report its preliminary findings to the Legislative Assembly by December 1, 2013, with the final report to be submitted by November 1, 2014.

*Effective date: July 1, 2013*

## **Senate Bill 822**

### *Cost-of-living adjustment under Public Employees Retirement System*

Since 1945, Oregon has provided a retirement plan for public employees. In its current form, Public Employees Retirement System (PERS) members are separated into benefit tiers based on their hire date. There are currently three tiers: Tier One, Tier Two and the Oregon Public Service Retirement Plan (OPSRP). Tier One employees joined the system before January 1, 1996. Tier Two employees joined the system on or after January 1, 1996 to August 29, 2003. OPSRP employees joined the system on or after August 29, 2003. There are approximately 900 PERS employers, including all state agencies, universities, community colleges, and school districts, as well as most cities, counties, and other local government units. Approximately 95 percent of public employees in Oregon are PERS members.

Senate Bill 822 modifies the cost-of-living adjustment and supplementary tax remedy payments for non-Oregon residents under PERS and directs the PERS Board to recalculate employer contribution rates for the 2013-15 biennium. The measure contains three primary provisions affecting the three primary benefit programs by reducing benefit payments for current and future retirees.

The measure modifies the cost-of-living adjustment (COLA) under PERS. In the first year of the 2013-15 biennium, the COLA rate limitation will drop from 2 percent to 1.5 percent for all retirees. Thereafter, the COLA rate will be based on a graduated (decreasing) COLA based on the level of a retiree’s benefit plus a fixed payment at various benefit levels above \$20,000.

Senate Bill 822 eliminates the increased retirement benefits resulting from Oregon income taxation of payments if the person receiving payments does not pay Oregon income tax on those benefits and is not an Oregon resident. Benefit reductions will occur for approximately 15 percent of current and future PERS members, according to PERS estimates (18,000 retirees and beneficiaries).

The measure also directs the PERS Board to recalculate all employer contribution rates, which are assumed to include 2013-15 rates effective for July 1, 2013. Employer contribution rates are set by the five-member PERS Board and are calculated as a percentage of an employer's PERS-covered payroll. A recalculation of 2013-15 employer rates is necessary as those rates were previously established by the Board in October of 2012 as part of the Board's regular rate setting schedule.

The actuarial analysis of the measure commissioned by PERS estimates that system-wide accrued liabilities will be reduced by \$2.6 billion resulting in a reduction to 2013-15 employer contribution rates by 2.5 percent. PERS estimates that the measure will generate system-wide savings of \$460 million for the 2013-15 biennium, which is 2.5 percent of the estimated \$18.4 billion in system-wide payroll costs for the biennium.

*Effective date: May 6, 2013*

## LEGISLATION NOT ENACTED

### House Bill 2387

*Mark Odom Hatfield statue in National Statuary Hall*

The National Statuary Hall Collection in the United States Capitol Building is comprised of statues donated by individual states to honor persons notable in their history. The entire collection now consists of 100 statues contributed by 50 states. Each statue is the gift of a state, not of an individual or group of citizens. Proceedings for the donation of a statue usually begin in the state legislature with the enactment of a resolution that names the citizen to be commemorated and cites his or her qualifications, specifies a committee or commission to represent the state in selecting the sculptor, and provides for a method of obtaining the necessary funds to carry the resolution into effect.

House Bill 2387 would have initiated the fundraising, design, and planning process for replacing the Jason Lee statue with a Mark Odom Hatfield statue in National Statuary Hall in the United States Capitol. The measure would have provided for the relocation of the Jason Lee statue to Salem.

### House Bill 2907

*Investigation of employment misclassification*

The misclassifying an employee as an independent contractor allows an employer to operate in the "underground economy," where the employer avoids paying unemployment insurance, payroll taxes, and workers' compensation insurance. In

addition, employers who abide by the law face a disadvantage when competing for contracts against employers who do not. In 2009, the Legislative Assembly established the Interagency Compliance Network to improve employers' and workers' compliance with Oregon's tax and employment laws. The Bureau of Labor and Industries (BOLI) and six other state agencies are members of the network.

House Bill 2907 would have required BOLI to establish a full-time position to investigate the misclassification of employees as independent contractors. BOLI would have been required to assess civil penalties for the misclassification of employees and monies collected would have been used to pay the costs to investigate and administer the program.

## **House Bill 3473**

### *Use of American-made goods*

The federal Buy America Act is the popular name for a group of domestic content restrictions attached to funds administered by the federal Department of Transportation to make grants to states or municipalities. Steel, iron, and manufactured goods used in projects funded by the Federal Transit Administration and the Federal Highway Administration must be produced in the United States unless the requirement is waived for public interest or non-availability purposes.

House Bill 3473 would have prohibited a public body from entering into a contract for more than \$50,000 to construct, reconstruct, renovate, alter, maintain, or repair a public improvement or public works unless the iron, steel, and manufactured goods intended for use in the project are made within the United States. The measure provided an

exception if the amount or quality of iron, steel, or manufactured goods made within the United States were insufficient or if applying the provisions would increase the project's cost by more than 25 percent.

## **House Joint Resolution 35**

### *Proposes Equal Rights Amendment to Oregon Constitution*

The Equal Rights Amendment (ERA) was a proposed amendment to the United States Constitution designed to guarantee equal rights for women. The ERA was originally written by Alice Paul and was introduced in Congress for the first time in 1923. In 1972, it passed both houses of Congress and went to the state legislatures for ratification. The ERA did not receive the requisite number of ratifications before the deadline mandated by Congress of June 30, 1982. Oregon ratified the ERA in 1973 and again in 1977 as a show of support for the continuing national campaign. In 1994, Oregonians did not pass a different version of the ERA that proposed to bar discrimination not only on the basis of gender, but also race, color, religion, age, and national origin.

House Joint Resolution 35, if passed by voters, would have amended Article 1 of the Oregon Constitution to prohibit the state of Oregon or any political subdivision in Oregon from denying or abridging equality of rights under the law on account of sex.

## **Senate Bill 300**

### *Certain agency directors and executive directors serve at pleasure of Governor*

Most major state agencies and departments are headed by policy-making boards, commissions, and/or directors. The Governor is responsible for recommending

the appointment of public members to the approximately 220 boards and commissions established by statute. There is lack of statutory clarity, however, regarding the Governor's removal power over board members and directors.

Senate Bill 300 would have clarified that certain agency directors and executive directors are appointed by the Governor and serve at the pleasure of the Governor.

## **Senate Bill 596**

### *Identification of legislator or legislative committee on proposed amendments*

Generally, when measures are introduced into the Oregon House of Representatives or Senate they indicate a sponsor or sponsors, which may be a legislator or legislators, or an interim or session committee. A measure may also indicate that it was introduced at the request of a particular individual, organization, or agency. Currently, proposed amendments to introduced measures do not reference a particular requester or sponsor.

Senate Bill 596 would have required that proposed amendments to a legislative measure bear the name of the legislator or committee requesting the amendments.

## **Senate Bill 805**

### *Allowing judicial review of certain cost analysis determinations*

Before conducting a procurement for goods or services with an estimated contract price exceeding \$250,000, current law requires a contracting agency to demonstrate, through a cost analysis, that the cost of providing goods or performing service with a contracting agency's own personnel or resources is greater than the cost of procuring goods or services from a contractor.

Senate Bill 805 sought to allow an employee of a contracting agency, or the representative of the employee's bargaining unit, to seek judicial review of the cost analysis determination if violations of the cost analysis process were alleged. The measure would have required the contracting agency to include in its cost analysis the profit the potential contractor stood to realize, and it would have prohibited including proceeds or revenues from the sale or contracting of any of the agency's long-term assets, including capital assets, vehicles, or other durable goods. Additionally, the measure would have required contracting agencies to update the cost analysis or determination with information obtained in the soliciting or advertising process that would affect the cost analysis.

# Health Care

## **House Bill 2020**

### *CCO credentialing of mental health and chemical dependency treatment providers*

Coordinated Care Organizations (CCOs) are local health entities organized to deliver mental, physical, and dental care for Oregon's Medicaid recipients. Currently, a mental health or chemical dependency treatment provider must be credentialed with each individual CCO with whom they contract.

House Bill 2020 requires the Oregon Health Authority (OHA) to convene a committee to advise it on the adoption of rules to govern OHA's on-site assessments of mental health and chemical dependency treatment providers, and permits CCOs to use OHA's assessment as evidence that the provider has met on-site credentialing requirements in lieu of the CCO conducting its own separate assessment.

*Effective date: June 13, 2013*

## **House Bill 2092**

### *Injury and violence prevention program*

Injuries are generally not accidents, in that they may be predictable and preventable. According to the Oregon Health Authority (OHA), injury is the third leading cause of death in Oregon behind cancer and heart disease, and is the leading cause of death among Oregonians aged 1 to 44 years, with more than \$348 million in annual hospitalization costs. The OHA administers an injury and violence prevention program, via its partnerships with a wide range of providers, including trauma and acute care systems; emergency medical services; local public health departments; transportation;

maternal and child health services; and victim services.

House Bill 2092 codifies OHA's continued administration of the program. The measure also outlines the collection and analyses of data; a comprehensive state plan to provide technical support and training to communities; the preparation of an annual report; and additional outreach activities relating to injury and violence prevention.

*Effective date: June 6, 2013*

## **House Bill 2104**

### *Regulating nonmedical ultrasound imaging*

Several commercial photo studios have been established in Oregon for the nonmedical purpose of selling expecting parents "keepsake" ultrasound movies or photos of their unborn children. The U.S. Food and Drug Administration recommends using ultrasound imaging only for legitimate medical purposes until there is a full understanding of its effects on fetal tissue. The American Institute of Ultrasound Medicine, the American Society of Radiologic Technologists, and the Society of Diagnostic Medical Sonography agree.

House Bill 2104 modifies the definition of "medical imaging" to include medical imaging procedures unrelated to clinical diagnosis or treatment. The measure also prohibits performing a medical imaging procedure on another person unless the procedure serves a medical purpose and is ordered and interpreted by licensed or otherwise authorized medical practitioners.

*Effective date: January 1, 2014*

## **House Bill 2123**

### *Oversight for pharmacy benefit managers*

Pharmacy benefit managers (PBMs) are companies that contract with insurance companies, managed-care organizations, self-insured employers, as well as unions and government programs, to manage prescription drug benefits. Some 95 percent of all patients with drug coverage receive benefits through PBMs. Further, PBMs have expanded their services to include programs such as disease and drug therapy management.

House Bill 2123 modifies the Insurance Code to provide the Insurance Division of Oregon's Department of Consumer and Business Services (DCBS) with authority to oversee PBMs conducting business in the state. The measure establishes parameters to ensure fair and uniform audits of pharmacies by a PBM, insurer, or state agency, and also imposes requirements on PBMs relating to lists of drugs for which maximum allowable costs reimbursement rates have been established. It also requires PBMs to establish an appeals process for when disputes arise between them and network pharmacies over drugs that are subject to maximum allowable cost pricing.

*Effective date: January 1, 2014*

## **House Bill 2124**

### *Impaired Health Professional Program*

House Bill 2345 (2009) established the statewide confidential monitoring program for licensed health professionals unable to practice due to substance abuse or a mental health disorder. Currently, four health boards participate in the Health Professionals' Services Program (Program)

which is administered by the Oregon Health Authority (OHA) and the Department of Human Services.

House Bill 2124 refines the Program established by the original measure: it adds definitions for "substantial noncompliance" and "direct supervisor;" provides regulatory boards with the discretion to require drug testing for noncompliance; exempts licensees with mental health diagnoses from random drug testing requirements; removes specific program assessment and evaluation requirements; and requires OHA to arrange audits every four years by an independent third party.

*Effective date: June 13, 2013*

## **House Bill 2128**

### *Insurance for school district employees*

In 2011, Senate Bill 99 was enacted to establish the Oregon Health Insurance Exchange Corporation ("Cover Oregon") for individuals and businesses to obtain health insurance coverage. The original legislation required Cover Oregon to consult with stakeholders about insurance plans for educators that would be offered through the exchange.

House Bill 2128 further requires Cover Oregon to consult with the Oregon Educators Benefit Board (OEBB), and other specified stakeholders, about plans that may be offered to school district employees through the exchange. The measure also requires OEBB and Cover Oregon to adopt rules to ensure that plans being offered are underwritten by insurers using a single-risk pool composed of all employees who are eligible, enrolled, or pending enrollment in the plan.

*Effective date: January 1, 2014*

## **House Bill 2131**

### *Reporting bedbug infestations*

Bedbugs are parasitic insects that feed on blood. In conducive environments, they multiply quickly and are easily transported from place to place. They are also capable of extended dormant periods, making them difficult to eradicate with certainty. Bedbugs are not known to transmit disease, but exposure is very unpleasant. Bedbug infestations have been on the rise nationwide for the last decade. In 2007, infestations in New York City reached epidemic levels. They are considered an emerging community health threat in Oregon and elsewhere.

House Bill 2131 encourages voluntary reporting to public health authorities by pest exterminators, by exempting information about bedbug infestations from disclosure under public records law, and requires the public health authority to keep the information confidential. With increased reporting, public health officials may be able to address the human and business impact of bedbug infestations more effectively.

*Effective date: April 2, 2013*

## **House Bill 2134**

### *Data collection about race, ethnicity, preferred language, and disability status*

According to the Oregon Health Authority's Office of Equity and Inclusion, disproportionate access to benefits, and disproportionate distribution of burdens, creates health inequities across racial and ethnic lines. The causes of health inequities include: barriers to health care access; disparities in the quality of care; and

differences in social determinants of health. Data shows that Oregonians of color are sicker and more likely to die than white Oregonians. Use of targeted data by policymakers and service providers has been shown to provide clarity; to assist with the development of strategies to address disparities; and to improve overall health outcomes.

House Bill 2134 directs the Oregon Health Authority and the Department of Human Services to adopt rules, with the help of an advisory committee, to establish uniform standards for the collection of data on race, ethnicity, language preference, and disability status, based on local, state, and national best practices.

*Effective date: June 4, 2013*

## **House Bill 2216**

### *Hospital and long-term care assessments*

One revenue source that contributes to financing services provided under the Oregon Health Plan (Medicaid), is an assessment paid by hospitals. The assessment was established in 2003 with a 2013 sunset date. The legislature also established an assessment to be paid by long-term care facilities, using a rate based on the number of days that residents remained in the facility. The revenues were intended to increase nursing facility Medicaid reimbursement rates and to improve the financial stability of the home nursing industry.

House Bill 2216 extends the hospital assessment through 2015, to be used to fund services under both the Oregon Health Plan and Children's Health Insurance Programs. It also creates an advisory committee on hospital performance metrics and directs the

Oregon Health Authority (OHA) to adopt rules and procedures for performance-based payouts. It authorizes OHA to reduce assessments if federal limits on assessments are reduced, and requires one percent of the assessment to be returned to hospitals based on performance achievements.

In addition, House Bill 2216 allows the Department of Human Services to collect assessments from long-term care facilities based on gross revenues until July 1, 2020, and expresses the state's goal to reduce long-term care bed capacity by 1,500 by December 31, 2015.

*Effective date: October 7, 2013*

## **House Bill 2279**

*Oregon Educators Benefit Board and Public Employees Benefit Board membership*

The Public Employees Benefit Board (PEBB) is a labor-management group that oversees benefits for state employees. The Oregon Educators Benefit Board (OEBB) functions similarly for Oregon's school district employees. Due to large numbers of employees, both organizations are able to negotiate lower insurance rates than municipalities, counties, special districts, or other units of government.

House Bill 2279 creates a process that allows local governments to elect to participate in health care plans offered by PEBB and OEBB, and sets forth certain criteria for local governments offering such plans to provide alternative group health and welfare insurance.

*Effective date: January 1, 2014*

## **House Bill 2385**

*Insurance coverage for screening and treatment ordered after a DUI conviction*

An insurance company in Oregon that covers hospital or medical expenses is also required to cover expenses for treatment of chemical dependency and mental or nervous conditions, *except* when such treatment is ordered by a court as part of a sentence for driving under the influence of intoxicants (DUI). No other court-ordered treatment resulting from a criminal conviction is exempt from insurance coverage under Oregon law, only treatment that results from a DUI.

House Bill 2385 removes the exemption for coverage of DUI-related treatment expenses.

*Effective date: June 13, 2013*

## **House Bill 2445**

*School-based health centers*

School-based health centers (SBHCs) are medical clinics on public school grounds, staffed by primary care professionals, that provide students with comprehensive physical, mental and preventive services regardless of ability to pay. There are currently 63 SBHCs operating in 21 Oregon counties.

House Bill 2445 requires the Public Health Division of the Oregon Health Authority to develop and continuously refine an evidence-based care system to meet the needs of adolescents. The measure requires the development of rules, procedures, and criteria to certify, suspend, and decertify SBHCs, and also creates a work group to study best practices.

*Effective date: July 29, 2013*

## **House Bill 2611**

### *Cultural competency training for certain health professional regulatory boards*

The Oregon Health Authority (OHA) has gathered data showing that a disproportionate distribution of burdens and access to health care creates racial and ethnic health inequities and that to achieve health equity, culturally appropriate and specific health-promoting strategies need to be developed to meet the needs of the various population groups. Continuing education opportunities allow health professional regulatory boards to prepare licensees to provide culturally sensitive services that impact health outcomes.

House Bill 2611 allows certain health professional regulatory boards to adopt rules requiring their licensees to obtain continuing education on cultural competency. The measure requires OHA to develop a list of approved continuing education opportunities and provide that list to the boards on or before January 1, 2015. Additionally, the measure allows public universities and community colleges to require licensed individuals, who are regulated by a health professional board and who provide services to students on campus, to submit proof of participation in cultural competency training.

*Effective date: May 28, 2013*

## **House Bill 2896**

### *Regulating minors use of tanning beds*

The U.S. Food and Drug Administration has classified UV tanning beds as a known human carcinogen and artificial tanning has been linked to skin cancers, including

melanoma, squamous cell carcinoma and ocular melanoma. According to the Centers for Disease Control, 13 percent of all high school students and 32 percent of girls in the 12th grade report using tanning beds.

House Bill 2896 prohibits tanning facilities from allowing persons under 18 years of age to use tanning devices that are owned or operated by the business, unless the person provides documentation that a licensed physician has recommended that the person use a tanning device for medical purposes. Additionally, the measure requires tanning facilities to post notices of this prohibition in a conspicuous location.

*Effective date: January 1, 2014*

## **House Bill 2902**

### *Primary and mental health practitioners' reimbursement rates*

A Certified Nurse Practitioner (NP) is an advanced-practice Registered Nurse who has completed graduate education. A Physician Assistant (PA) is a healthcare professional trained to practice medicine teamed with a physician. Both NPs and PAs conduct physical exams, diagnose and treat illnesses, order and interpret tests, prescribe medications, and counsel patients on preventive health care. Current law allows health insurers to negotiate rates with PAs and NPs that can differ based on a provider's licensing, education, degree, credentials, and training.

House Bill 2902 requires insurers to reimburse PAs and NPs in independent practice at the same rate as physicians for the same services. The measure specifies that an insurer may not reduce the reimbursement paid to a licensed physician to comply with this requirement and

removes the reimbursement requirements for licensed PAs on January 2, 2018. The measure establishes a 13-member Task Force on Primary and Mental Health Care Reimbursement Parity charged with studying and making recommendations to structure reimbursement of licensed physicians, PAs, and NPs by insurers.

*Effective date: June 18, 2013*

## **House Bill 2997**

*Licensure of direct entry midwives*

A licensed direct entry midwife (DEM) supervises the conduct and labor of childbirth, advises the parent as to the progress of childbirth, and renders prenatal, intrapartum, and postpartum care. Currently, licensure for DEMs is voluntary; unlicensed midwives may practice in Oregon and the Oregon Health Licensing Agency (OHLA) oversees regulation of direct entry midwifery.

House Bill 2997 requires a license from the OHLA to practice direct entry midwifery. The bill defines licensure requirements, makes changes to investigative complaints and discipline processes, and grants final authority to the State Board of Direct Entry Midwifery. The measure exempts individuals who do not advertise and do not use legend drugs or devices from having to obtain a license, and also includes provisions relating to supervision of student midwives, birth assistants, and others, by a licensed midwife.

*Effective date: July 25, 2013*

## **House Bill 3345**

*Licensing nontransplant anatomical research recovery organizations*

Nontransplant anatomical research recovery organizations are tissue banks that collect and harvest tissues from human cadavers for purposes of medical research and education. New York was the first state to establish comprehensive oversight of tissue banks, and serves as a model for other states seeking to regulate the handling of postmortem tissue. Currently, there are two nontransplant anatomical research and recovery organizations operating in Oregon.

House Bill 3345 defines responsibilities of nontransplant anatomical research recovery organizations and directs the Oregon Health Authority to adopt rules establishing an application process and fees for licensure.

*Effective date: June 11, 2013*

## **House Bill 3407**

*Traditional Health Workers Commission*

In 2011, the Legislature passed House Bill 3650 requiring all members enrolled in Oregon's Coordinated Care Organizations (CCOs) to have access to traditional health workers to facilitate appropriate, culturally and linguistically appropriate care.

House Bill 3407 establishes the Traditional Health Workers Commission (Commission) within the Oregon Health Authority (OHA). The Commission's task is to ensure membership diversity by recommending criteria and descriptions for unregulated health practices for CCOs to use as they build networks to serve Oregon's Medicaid population. The measure directs OHA to

adopt rules for criteria and education requirements, and for an appropriate professional designation and process for CCOs to use.

*Effective date: January 1, 2014*

## **House Bill 3460**

### *Medical marijuana dispensaries*

Oregon Ballot Measure 67 was passed in 1998 and allows for the cultivation, possession, and use of marijuana by patients with a doctor's recommendation for certain medical conditions. The Oregon Medical Marijuana Program (OMMP) is a state registry program within the Public Health Division of the Oregon Health Authority (OHA), and as of July 1, 2013, OMMP had 55,937 patients, 28,127 caregivers, and 1,484 physicians licensed in Oregon with current OMMP patients.

House Bill 3460 directs the OHA to establish and administer a registration system for medical marijuana dispensaries to facilitate the transfer of usable and immature marijuana between grow sites, registered identification cardholders, and their designated primary caregivers. The measure requires that the facilities test marijuana for pesticides, mold, and mildew and requires the OHA to inspect sites for compliance. The measure also directs the OHA to process new applications, criminal background checks, and additional paperwork regarding notices to applicants whose requests are denied.

*Effective date: August 14, 2013*

## **House Bill 3474**

### *School-wide mental health screenings and opting out*

A Harvard Medical School study by researcher Ronald Kessler in 2007 found that half of all mental illnesses start by age 14. The 2011 Oregon Healthy Teens survey of eighth-graders found that 13.6 percent of those who responded, said they had seriously considered attempting suicide. According to the American Psychological Association, an estimated 15 million of our nation's young people can currently be diagnosed with a mental health disorder, and many more may be at risk; however, only about 7 percent of youth who could benefit from services actually receive appropriate help, according to a Surgeon General's report.

A recent pilot program in Linn County introduced mental health screenings for all students, analogous to school-wide vision, hearing, and physical fitness assessments. House Bill 3474 establishes some parameters: school districts must provide written notice at least two weeks in advance of any school-wide mental health screenings, and students, parents, or legal guardians may seek exemption from participation.

*Effective date: January 1, 2014*

## **Senate Bill 2**

### *Scholars for a Healthy Oregon Initiative*

There is a shortage of health care professionals serving Oregon's rural and underserved communities. High medical school tuition rates create challenges for students wanting to pursue primary care or

rural practice after graduation, due to post-graduation debt loads that motivate students to choose subspecialties instead.

Senate Bill 2 establishes the Scholars for a Healthy Oregon Initiative to provide free tuition and fees at the Oregon Health & Science University for students in certain health care disciplines, in exchange for a commitment from the participating students to work in underrepresented locations after graduation. The measure appropriates \$4,900,000 of General Funds for this purpose.

*Effective date: January 1, 2014*

## **Senate Bill 21**

*Improving long-term care in Oregon*

Oregon is recognized as a national leader for providing community-based long-term care services for older adults and people with physical disabilities. The need for assistance increases as the population ages, and Oregon's current system and resources will not meet future demand.

Senate Bill 21 requires the Department of Human Services to convene a committee to develop a plan to improve Oregon's system of long-term care, for submission to the Legislative Assembly by February 1, 2015. The planning committee created by Senate Bill 21 includes the Department of Human Services, community partners, providers, consumers, seniors, people with disabilities, and legislators.

*Effective date: July 1, 2013*

## **Senate Bill 167**

*Pharmacists may administer vaccines without prescriptions in an emergency*

The Oregon Health Authority authors immunization protocols for pharmacists that are approved by the Immunization Program Medical Director. Typical pharmacy-based immunization training covers patients down to three years of age without additional training. Under current law, pharmacists in Oregon may immunize children up to the age of ten only with a prescription, and may immunize children over age ten without a prescription.

Senate Bill 167 permits the Public Health Director to authorize licensed pharmacists to administer vaccines to persons three years of age or older in a declared emergency or disease outbreak for a specified period of time, so they may assist with disaster mitigation by serving a larger proportion of the population.

*Effective date: January 1, 2014*

## **Senate Bill 169**

*Diabetes: long-term strategic plan*

In 2010, more than 291,200 Oregonians lived with diabetes, compared to 204,600 in 2000. The long-term projections estimate 546,000 Oregonians will eventually develop diabetes, representing an increase of 87.5 percent from the 2010 figures. The total financial burden of diabetes in America reached \$218 billion in 2007; diabetes and its complications today consume ten percent of America's health care dollars.

Senate Bill 169 directs the Oregon Health Authority to collect data and report to the

2015 Legislative Assembly on the status of diabetes in Oregon, including an update on strategic planning and current efforts to reduce rates of diabetes in Oregon.

*Effective date: June 6, 2013*

## **Senate Bill 210**

*Certified Registered Nurse Anesthetists practicing in office environments*

Certified Registered Nurse Anesthetists (CRNAs) practice in a variety of settings, with dentists, podiatrists, ophthalmologists, plastic surgeons, and in clinics specializing in women's health. Oregon law provides guidance to govern the practice of (CRNAs) in ambulatory surgical centers and/or hospitals, but is silent with regard to CRNA practice in office environments.

Senate Bill 210 specifically authorizes CRNAs to provide certain services under specified conditions, in locations where medical, surgical, or dental services are rendered, excluding ambulatory surgical centers or hospitals.

*Effective date: January 1, 2014*

## **Senate Bill 281**

*Expansion of medical marijuana program to include Post-Traumatic Stress Disorder*

Post-Traumatic Stress Disorder (PTSD) is an anxiety disorder recognized by the National Institute of Mental Health, that results from experiencing dangerous or traumatic events. Persons that suffer from PTSD often experience hyperawareness, avoidance behaviors, and flashbacks. The Oregon Medical Marijuana Program (OMMP) is a state registry program within

the Public Health Division of the Oregon Health Authority that allows qualifying patients to access medical marijuana while maintaining a high level of confidentiality.

Senate Bill 281 adds PTSD to the list of conditions that may be treated by medical marijuana.

*Effective date: January 1, 2014*

## **Senate Bill 284**

*Studying newborns with lysosomal storage disorders*

Lysosomal storage disorders (LSD) are inherited disorders caused by a deficiency of specific enzymes that are normally required for the breakdown of certain complex carbohydrates, which otherwise accumulate in cells. This accumulation disrupts the cell's normal functioning and gives rise to the clinical manifestations of LSDs. LSDs include at least 50 different diseases known to date. These diseases are not otherwise clinically recognizable at birth, and left untreated, can cause irreversible damage, both physically and mentally. All newborns in Oregon are currently screened at birth for 39 diseases, but screening does not include LSD.

Senate Bill 284 directs the Oregon Health Authority (OHA) to conduct a two-year study relating to infants with LSDs and the feasibility of requiring infants to be screened and treated for LSDs. OHA is directed to report to the Legislative Assembly on or before March 1, 2015 with its findings.

*Effective date: January 1, 2014*

## **Senate Bill 365**

### *Comprehensive requirements for treatment of Autism Spectrum Disorders*

“Autism Spectrum Disorder” (ASD) and “autism” are general terms for a group of complex disorders of brain development. These disorders are characterized, in varying degrees, by difficulties with social interaction, verbal and nonverbal communication, and repetitive behaviors. ASD includes autistic disorder, Rett syndrome, childhood disintegrative disorder, pervasive developmental disorder-not otherwise specified (PDD-NOS), and Asperger syndrome. ASD can be associated with intellectual disability, difficulties in motor coordination and attention, and physical health issues such as sleep and gastrointestinal disturbances. Some persons with ASD excel in visual skills, music, math and art. Autism appears to have its roots in very early brain development; however, the most obvious signs of autism and symptoms of autism tend to emerge between two and three years of age.

Senate Bill 365 consists of three major components: requiring coverage for the screening for and diagnosis of ASD, the medically necessary treatment of ASD, and the management of care for individuals who begin treatment before nine years of age. The measure provides for up to 25 hours per week of applied behavior analysis to be included in health benefit plans; the establishment of a Behavior Analysis Regulatory Board within the Oregon Health Licensing Agency to license and regulate practitioners of Applied Behavior Analysis (ABA); and requiring the Health Evidence Review Commission to evaluate ABA as a treatment for ASD in order to update the list

of health services recommended under current law at ORS 414.890.

*Effective date: August 14, 2013*

## **Senate Bill 384**

### *Opiate overdose treatment training*

Opiate overdose is a major public health problem. In 2010 and 2011, Oregon had the highest rate in the nation for unlawful prescription opiate use. Unlawful prescription opiate use and heroin use often overlap and in a 2011 Oregon survey, 45 percent of heroin users stated they were addicted to prescription opiates before they started using heroin (196 out of 431). Naloxone is a generic, low-cost prescription drug that reverses opiate overdoses. Currently, only physicians and emergency medical personnel are authorized to administer naloxone.

Senate Bill 384 requires the Oregon Health Authority to establish protocols for opiate overdose training and to expand the authority to administer treatment to include properly trained lay personnel. The measure specifies that protocols must include a curriculum and establish the frequency of required retraining or refresher training. Training is to be overseen by a licensed physician or certified nurse practitioner, and must include: recognizing the symptoms of opiate overdose, non-pharmaceutical treatments for opiate overdose, and the proper administration of naloxone. The measure permits public health authorities, organizations, and “other appropriate entities” to conduct training, and provides immunity from civil liability as specified for persons who have successfully completed training.

*Effective date: June 6, 2013*

## **Senate Bill 387**

### *Regulation of massage facilities*

Senate Bill 387 authorizes the Oregon Board of Massage Therapists (OBMT) to regulate massage facilities not owned by career schools, or by individuals licensed by a health professional regulatory board. The measure establishes the conditions under which the OBMT may issue facility permits for a fee, and regulate facilities, and includes the authority to close massage facilities that hire unlicensed practitioners.

The OBMT had authority to license massage facilities from 1955 through 1989. That authority was removed during the 1989 legislative session in anticipation of another agency's assumption of responsibility for inspection of massage facilities; however, the transfer of authority did not occur.

*Effective date: June 13, 2013*

## **Senate Bill 420**

### *Notification of dense breast tissue*

Breast density is a measure used to describe the proportion of different tissues that make up a woman's breast. Breast and connective tissues are denser than fat; a measurement of breast density compares their proportions as seen on a mammogram. High breast density means there is a greater amount of breast and connective tissue compared to fat, and this difference can make tumors more difficult to detect. Data indicates that women with high breast density are four to six times more likely to develop breast cancer than women with low breast density.

Senate Bill 420 requires patients to be notified if a mammogram shows dense

breast tissue, and of the possible risks. The measure also requires the patient to be advised to contact their health care provider to determine if supplemental testing is warranted.

*Effective date: January 1, 2014*

## **Senate Bill 440**

### *Rural Primary Care Provider Loan Repayment Program*

As part of Oregon's Medicaid Demonstration, approved by the Centers for Medicaid and Medicare Services in July 2012, the state agreed to establish and fund a loan repayment program for primary care physicians who agree to work in rural or underserved communities and serve Medicaid and Medicare patients. Senate Bill 440 maintains loan repayment as an incentive to medical practitioners to address the provider shortage in Oregon's rural and medically underserved areas.

Senate Bill 440 establishes the Primary Care Provider Loan Repayment Program within the Oregon Health Authority (OHA). The Primary Care Provider Loan Repayment Program will replace the existing Primary Care Services Program, administered by the Office of Rural Health at Oregon Health & Science University, upon completion of outstanding contracts with providers around the state. The measure directs OHA to determine, by rule, the types of providers who will be eligible to participate in the program, the conditions of participation, the length of participant commitments, and penalties for those who fail to comply. OHA may contract with another entity to administer the program.

*Effective date: May 16, 2013*

## **Senate Bill 460**

### *Substitution of biosimilar product for prescribed biologic medicine*

Biotechnological medicines are made using living cells to produce proteins that can be used to treat diseases. These medicines, referred to as biologics, are composed of highly complex molecules that can be larger and more complex than chemical drugs. Copies of biologic medicines that are not exact duplicates are referred to as biosimilars. In 2010, the Biologics Price Competition and Innovation Act (BPCIA) authorized the Food and Drug Administration (FDA) to approve biosimilars. The BPCIA also allows the FDA to designate a biosimilar as interchangeable with a referenced biologic drug.

Senate Bill 460 allows a biosimilar product to be substituted for an original biologic medicine if the biosimilar product has been FDA-approved. The measure requires the pharmacist to notify the prescribing practitioner and patient of the substitution, and requires the pharmacist to maintain a record of the substitution for at least three years.

*Effective date: June 6, 2013*

## **Senate Bill 470**

### *Refining the Prescription Drug Monitoring Program*

The Oregon Prescription Drug Monitoring Program (PDMP) is a tool for healthcare providers and pharmacists to assist with managing patient's prescriptions and supporting the appropriate use of prescription drugs. The PDMP contains

information provided by Oregon-licensed retail pharmacies, as pharmacies submit data to the PDMP system for all Schedule II, III and IV controlled substances dispensed to Oregon residents. Protected health information is securely collected and stored, with only Oregon-licensed healthcare providers and pharmacists authorized to access information through the system. The PDMP requires additional data points be collected to improve this tool and increase understanding of patient issues related to prescription drugs.

Senate Bill 470 authorizes the Oregon Health Authority (OHA), under the PDMP, to collect additional information and directs OHA to disclose information received under PDMP in specified circumstances. The measure requires the practitioner or the pharmacist to be held responsible for use or misuse of information by staff and clarifies that PDMP is limited to controlled substances.

*Effective date: January 1, 2014*

## **Senate Bill 533**

### *Services provided to injured workers by nurse practitioners and chiropractors*

Senate Bill 533 extends the period of time a nurse practitioner may provide health care services to an injured worker from 90 to 180 days. It also modifies the authority of nurse practitioners and chiropractors to provide services to workers enrolled in managed care organizations. The measure requires that managed care organizations provide a dispute resolution process for conflicts between managed care organizations and health care providers, and specifies conditions under which a managed care organization may terminate or deny the participation of a health care provider.

Senate Bill 533 is the product of a subcommittee of the Management-Labor Advisory Committee that met over the course of two years, to focus on issues related to injured workers' access to medical treatment, and with health care providers leaving the workers' compensation system. The subcommittee was concerned with improving access to care in workers' compensation cases and enabling patients to receive care from their regular care provider for a longer period of time, while allowing collaboration with specialists as needed.

*Effective date: January 1, 2014*

## **Senate Bill 569**

### *Credentialing telemedicine providers*

Telemedicine has made it possible for Oregon Health & Science University medical experts to treat patients almost anywhere in the state without leaving the Portland area. Telemedicine has allowed 135 patients to receive medical care in their communities and saved more than \$2 million in transport costs. Currently, telemedicine providers must be credentialed members of the medical staff of the hospital where they provide medical services. Each hospital has credentialing procedures and requirements, which can create additional barriers to providing care and increased administrative costs.

Senate Bill 569 requires the Oregon Health Authority (OHA) to adopt uniform credentialing and privileging standards for telemedicine providers and specifies necessary information and documentation. The measure authorizes hospitals to accept telemedicine providers' credentials either by agreement with a distant hospital or by providers having met OHA's standards.

*Effective date: June 13, 2013*

## **Senate Bill 604**

### *Credentialing and renewing health care practitioners*

Currently, health care practitioners submit the same credentialing information to multiple entities, which can be inefficient, redundant, and a very expensive process. This type of process adds to the cost of health care and can be a barrier to retention of health care providers.

Senate Bill 604 requires the Oregon Health Authority (OHA) to establish a statewide information database for organizations such as hospitals and health plans to access information necessary for credentialing health care practitioners. The measure does not prevent a credentialing organization from requesting additional information from the practitioner. Additionally, the measure requires OHA to convene, at least once a year, an advisory group to work on the credentialing information system, and specifies advisory group membership. The measure also provides a process for prepaid group practice health plans that serve at least 200,000 members in Oregon, to seek exemption.

*Effective date: January 1, 2014*

## **Senate Bill 724**

### *Payment for nontraditional health services and ambulatory service centers*

Senate Bill 724 addresses two issues: reimbursement of Coordinated Care Organizations (CCOs) for nontraditional medical services not currently covered by Medicaid, and taking steps to ensure that insurance payments reach ambulatory surgical centers (ASCs) for covered services.

Currently, CCOs are paid a per-member lump sum to account for physical and mental health care for Oregon's Medicaid population. The current Centers for Medicare and Medicaid Services waiver does not allow monies to be spent on "nonmedical" services or supplies, so CCOs are responsible for paying out of "other funds." Senate Bill 724 requires the Oregon Health Authority (OHA) to develop an accounting method for nontraditional services by August 1, 2013.

ASCs provide outpatient surgical procedures in independent facilities, separate from hospitals. Some insurers send payments for ASCs to patients, a practice that permits patients to retain funds. Senate Bill 724 requires insurers to make payments directly to ASCs for covered services, or to issue checks in both the patient's name and the name of the ASC.

*Effective date: June 26, 2013*

## **Senate Bill 744**

*Creating Council on Civil Rights to study wage equality in Oregon*

Senate Bill 744 requires the Bureau of Labor and Industries (BOLI) to form a Council on Civil Rights to conduct a study on wage equality and factors that lead to wage inequality in Oregon. The measure requires the Council to report to the appropriate committee of the Legislative Assembly with its findings no later than December 1, 2014.

The federal Equal Pay Act was signed into law in 1963 to require employers to give women and men equal pay for equal work. At that time, women were paid 59 cents for every dollar men were paid. Based on data made available by the U.S. Census Bureau, women today earn 77 cents for every dollar

paid to their male counterparts, and the inequality is more pronounced for women of color and working mothers.

*Effective date: June 4, 2013*

## **Senate Bill 843**

*Department of Corrections Health Care Costs Work Group*

Senate Bill 843 establishes a 13-member work group to examine mechanisms to lower Department of Correction's health care costs and make recommendations to the Legislative Assembly for the 2014 session.

State and federal laws establish that inmates are entitled to health care during incarceration. Services provided to inmates must be comparable to services available to the general public in order to meet legal requirements. Health Services within the Department of Corrections (DOC) is responsible for providing medical care to over 14,000 inmates across the state, incarcerated at fourteen institutions in the state prison system. DOC reports that the cost of providing health care represents 20 percent of its total costs-per-day, the second largest cost component after security and housing (47 percent of cost-per-day).

*Effective date: June 26, 2013*

# **LEGISLATION NOT ENACTED**

## **House Bill 3082**

### *Providing fluoride in schools*

Dental caries (tooth decay) is a chronic, progressive, multi-factorial, infectious disease that can begin in early infancy. Tooth decay and other oral diseases correlate strongly with socio-environmental determinants. Evidence suggests that fluoride is extremely effective in reducing tooth decay. Fluoride mouth rinses are approved as a caries prevention agent by the U.S. Food and Drug Administration, the Centers for Disease Control and Prevention, and the American Dental Association, and rinse programs have been successful for community-based caries prevention.

House Bill 3082 would have required the State Board of Education to adopt rules directing public and private prekindergarten through grade 12 to provide fluoride rinse to specific students and children after meals.

## **House Bill 3162**

### *Notice of chemicals in children's products*

In recent years, recalls of children's toys and products containing dangerous chemicals have increased. With this increase, awareness and regulations relating to chemical exposure have increased as well.

House Bill 3162 would have required the Oregon Health Authority (OHA) to maintain a list of chemicals of concern to children's health on its website. The measure would also have required manufacturers meeting

certain criteria to notify OHA of specific use and ratio of chemicals every two years.

## **House Bill 3309**

### *Process for removal of board member of Coordinated Care Organization*

Coordinated Care Organizations (CCOs) are local health entities that deliver health coverage to Oregon's Medicaid recipients. CCOs are required to have a governing body composed of financial contributors, health care providers, and members of the community.

House Bill 3309 would have established a pilot program in Marion and Polk Counties where the board of directors of a CCO could have petitioned the Oregon Health Authority to remove a board member by a vote of two-thirds of the membership. Under the pilot project, the board member removed and the health care entity represented by the board member, would have been prohibited from contracting with a CCO for a period of five years after the removal, or upon termination of the pilot project.

## **House Joint Resolution 16**

### *Recognizing addiction as a disease*

House Joint Resolution 16 would have recognized addiction as a disease, expressing support for prevention and treatment to address combined biological, behavioral, and environmental factors.

The disease model of addiction describes biological, neurological, genetic, and environmental sources of origin. This differs from moral and medical models, which attribute addiction to abnormal conditions which cause distress, or to moral weakness.

## **Senate Bill 324**

*Extending tax credit for emergency medical technicians serving rural areas*

In 2005, the Oregon Legislature passed Senate Bill 31, which allows a personal income tax credit of up to \$250 for emergency medical technicians who volunteer with eligible rural communities. To receive the credit, at least 20 percent of the individual's emergency medical service must be volunteer hours spent in a rural area at least 25 miles away from a city with a population of 30,000 or more. The tax credit may be claimed until January 1, 2014.

In 2011, Senate Bill 234 directed the Oregon Health Authority to establish levels of licensure for emergency medical services providers (EMSP), and in so doing, modified terminology pertaining to EMSPs in Oregon statute. An inadvertent consequence of the modified language, was to extend eligibility for the tax credit to emergency medical service providers at all levels of licensure.

Senate Bill 324 would have extended the sunset date of the tax credit from January 1, 2014 to January 1, 2020.

## **Senate Bill 325**

*Extending tax credit for health providers serving rural areas*

The rural medical provider tax credit, first enacted in 1989, provides a personal income tax credit of up to \$5,000 for eligible medical professionals. Originally, only physicians, physician assistants, and nurse practitioners were eligible for the credit. The credit has since been extended to certified registered nurse anesthetists, podiatrists, dentists, and

optometrists. Practitioners may be eligible if, based on hours worked, 60 percent or more of their professional practice time is spent in an eligible rural area. The tax credit is set to expire January 1, 2014.

Senate Bill 325 would have extended the sunset for the rural health practitioner tax credit to January 1, 2020, and modified some eligibility requirements.

## **Senate Bill 373**

*Requiring Coordinated Care Organizations to contract with local Dental Care Organizations*

In 2011, the Legislative Assembly passed House Bill 3650, creating the Oregon Integrated and Coordinated Health Care Delivery System to provide health care for Medicaid recipients through Coordinated Care Organizations (CCOs). CCOs are to integrate physical, behavioral, and oral health care and ensure the Medicaid delivery system is outcome-driven, resulting in lower costs.

Senate Bill 373 would have required CCOs to provide oral health care through contracts with existing dental care organizations (DCOs) unless there was no DCO in the service area. The measure would have prohibited a CCO from forming its own DCO until the CCO contracted with the local DCO or there was a mutual agreement between the local DCO and CCO.

## **Senate Bill 457**

*Reimbursing County Sheriffs for health care provided to persons in custody*

Currently, arrested persons are housed in county jail facilities, regardless of the law

enforcement agency making the arrest. Once a person is in custody, federal, state, and private health insurance coverage does not apply, and health care costs become part of the County Sheriff's public safety budget.

Senate Bill 457 would have directed health care insurance providers to reimburse local jail facilities for any services or supplies covered by an individual's benefit plan, or to cancel an insured's plan while in custody or upon receipt of medical care while in custody. The measure also prohibited billing the local jail facility in excess of Medicare reimbursement rates for the same service, for medical care provided to covered persons in custody.

## **Senate Bill 490**

### *Notice of available services at Crisis Pregnancy Centers*

Crisis Pregnancy Centers (CPCs), or community-based resource centers, are typically nonprofit, privately funded centers established to counsel pregnant women about alternatives other than abortion. The types of services that CPCs generally provide include peer counseling, financial assistance, childrearing resources, and adoption referrals. CPCs that qualify as medical clinics may also provide pregnancy testing, sonograms, and other services; however, the majority of CPCs are not licensed medical clinics and provide no medical services.

Senate Bill 490 would have required CPCs to provide written notice of what services were available, including adoption, abortion, and onsite consultation with certain practitioners, including physicians, naturopaths, and nurse midwives. The measure would also have prohibited health information from being disclosed without

written permission from the individual concerned. The Oregon Health Authority would also have been authorized to adopt rules to impose civil penalties for violations.

## **Senate Bill 572**

### *Reducing injuries sustained from handling patients*

Work-related musculoskeletal disorders, including injuries to muscles, nerves, tendons, joints, cartilage, and spinal discs, continue to be a leading and expensive occupational health problem in the United States. These injuries most often arise from lifting or repositioning patients and are reported in all health care environments. In 2001, the State Accident Insurance Fund implemented a safe patient handling pilot project. The project focused on lift equipment and proper safe patient handling techniques. Results of the project indicated a 65 percent improvement in handling for caregivers and patients. Under the Oregon Occupational Safety and Health Act, all hospitals are required to have employee safety committees and many Oregon hospitals have a committee focused on patient handling practices.

Senate Bill 572 would have required hospital safety committees to obtain claims information related to disabling compensable injuries resulting from patient handling, from the Department of Consumer and Business Services annually, and make recommendations on injury reduction efforts.

## **Senate Bill 823**

### *Expansion of mental health services*

Senate Bill 823 would have required the Oregon Health Authority to create new

programs and expand existing programs to increase capacity to provide mental health services statewide, making tools and resources for early intervention broadly

available. The measure specified criteria for programs for young adults, schools, children and families, support networks, adults in

crisis, and community recovery services. Additionally, the measure would have established a six-member Mental Health Oversight Committee to monitor implementation, expansion expenditures, and creation of the programs described.

# Human Services

## **House Bill 2004**

### *Low-income electric bill assistance*

Senate Bill 863 (2011) directed the Public Utility Commission to collect an additional \$5 million per year for the low-income bill payment assistance program in the event that two or more economic criteria were met.

The program is administered by the Oregon Department of Housing and Community Services (OHCS).

House Bill 2004 removes the economic triggers for the collection of the \$5 million additional monies for the program and instead provides OHCS with authority to request the increase. This provision is scheduled to sunset on January 2, 2016. The measure also directs that an advisory committee be appointed for the purpose of determining to which agency the low-income energy assistance program should be transferred. The advisory committee is to present its findings to the appropriate interim legislative committees no later than December 1, 2013.

*Effective date: June 4, 2013*

## **House Bill 2013**

### *Early learning services and kindergarten readiness assessments*

The Early Learning Council (ELC) is a subgroup under the Oregon Education Investment Board (OEIB), both of which were created by Senate Bill 909 in 2011. The OEIB, chaired by the Governor, oversees efforts to create a seamless, unified system for investing in and delivering public education from early childhood through high school and college. The ELC guides activities with regard to early childhood, to integrate and streamline a variety of state

programs for at-risk children, and ensure that all children are ready to learn when they enter kindergarten. Over the past two years, the ELC has studied and selected kindergarten assessment tools, and developed a flexible model, called an Early Learning Hub, for integrating delivery of services that are available prior to entry into kindergarten.

House Bill 2013 directs the ELC and the Department of Education to assist school districts with the implementation of kindergarten readiness assessments and establishes a related grant program. It also renames the “Healthy Start Family Support Services” Program, the “Healthy Families Oregon” Program and expands assessments to include children from zero to three years of age. The Oregon Health Authority and the ELC are to develop performance metrics for prenatal care, delivery, and infant care; and establish a grant program to support the alignment of early learning systems with health systems. Screening and referral services for a voluntary statewide early learning system are to be standardized and a permanent professional development and labor management committee is to be established for child care providers. Preschool children with disabilities are to have comprehensive communication plans by the age of three. Finally, the ELC is to establish Early Learning Hub demonstration projects.

*Effective date: August 14, 2013*

## **House Bill 2053**

### *Responding to tribal requests for criminal background checks to license foster care providers*

House Bill 2053 allows a Native American tribe to obtain a criminal background check

from the Oregon State Police on persons it seeks to certify to provide foster care for tribal children.

Native American families have experienced disproportionate representation within the state foster care system. This measure permits the tribes to partner with the state to conduct background checks on potential tribal foster care families and relative caregivers.

*Effective date: May 9, 2013*

## **House Bill 2060**

*Expenditure requirements for charitable organizations*

In Oregon, charitable organizations are regulated by the Charitable Trust and Corporation Act, which charges the Attorney General to represent the public's interest in connection with assets held for charitable purposes. Organizations holding such assets and/or soliciting donations must register and file periodic financial reports with the Department of Justice. Each year, the Attorney General publishes a 20 Worst Charities list. In 2012, that list highlighted charities expending 25 percent or less on program services. The Better Business Bureau's guidelines for charitable organizations recommend that at least 65 percent be spent on program services.

House Bill 2060 allows the Attorney General to issue an order disqualifying a charity that fails to expend at least 30 percent of expenses on program services from receiving tax-deductible contributions. Disqualified charities may continue to solicit contributions, but they are required to inform donors that contributions are not deductible for state income tax purposes. The measure also eliminates the property tax

exemption for property of a disqualified charity. The measure does not change existing reporting requirements and relies on expenditure calculations that are part of the current reporting process.

*Effective date: October 7, 2013*

## **House Bill 2205**

*Expanding mandatory reporters of elder abuse and the duty to report*

Oregon law requires certain individuals, who come into contact with vulnerable populations, to report abuse. These mandatory reporting laws originally targeted child abuse, and the individuals required to report are called "mandatory reporters." Mandatory reporters include law enforcement, social workers, medical and other treatment providers, school personnel, child care providers, foster care providers, legal personnel, and clergy members. The child abuse reporting statutes were later used as models to require mandatory reporting of elder abuse, and abuse of disabled adults. According to the Department of Human Services, 11,000 complaints of elder abuse or neglect are investigated every year.

In 2011, the Elder Abuse Work Group was created by House Bill 2325 to study abuse of vulnerable persons and report to the legislature. The Work Group's first set of recommendations resulted in House Bill 4084 in 2012. House Bill 4084 continued the Work Group's activities, and created a subgroup to study certain matters in-depth, called the Patient Safety Review Council. House Bill 2205 represents the work of the Council as directed by the Work Group.

House Bill 2205 refines Oregon's elder abuse mandatory reporting laws to more closely mirror its child abuse mandatory

reporting laws, by adding members of the legislative assembly, attorneys, dentists, optometrists, and chiropractors to the list of mandatory reporters, and by expanding the duty to report elder abuse so that it is in effect at all times. The measure also requires the Department of Human Services to adopt rules to ensure that investigations of abuse are conducted in a uniform manner statewide, and to report complaint information to the legislature annually. Finally, the measure continues the activities of the Elder Abuse Work Group created by House Bill 2325 (2011), and previously continued by House Bill 4084 (2012). The reconstituted Work Group is directed to make a third set of recommendations to the legislature by February 1, 2014, to align definitions of abuse that may vary depending on whether the context is regulatory or criminal, and as-used between service providers, law enforcement, and other entities.

*Effective date: June 11, 2013*

## **House Bill 2316**

### *Expanding account holders for the Oregon Individual Development Account Initiative*

The Oregon Investment Account Initiative was created in 1999 and exists in 33 of Oregon's 36 counties. It aims to alleviate poverty by matching funds in savings accounts, called individual development accounts, with funds drawn from various private resources. To qualify for an individual development account and participate in the initiative, an applicant's household must fit within the definition of "lower income" which includes consideration of pension income.

House Bill 2316 excludes consideration of pension accounts valued at \$60,000 or less

from the determination of whether a household is "low income" for purposes of the initiative, to increase the number of households that may participate.

*Effective date: January 1, 2014*

## **House Bill 2417**

### *Veterans housing assistance*

House Bill 2417 increases an existing property recording and filing fee collected by county clerks, from \$15 to \$20 dollars, and requires a fixed percentage of funds be spent by Oregon's Housing and Community Services Department specifically to assist homeless veterans, veterans at risk of becoming homeless, and low-income veterans and their families.

One out of every six men and women in homeless shelters across the country is a veteran. Compared to individuals in the same age range among the general population, veterans aged 18-30 are twice as likely to be homeless. The United States Interagency Council on Homelessness estimates there are about half a million veterans paying more than half their income towards rent. In Oregon, many working veterans do not earn enough to afford a median-priced home. Unstable housing often correlates with other obstacles, such as unemployment, poverty, substance abuse, and/or mental or physical health issues. Stable housing can dramatically improve a veteran's ability to overcome obstacles and succeed with reintegration into civilian life.

*Effective date: January 1, 2014*

## **House Bill 2422**

### *Department of Human Services outreach to veterans*

In 2012, the Legislative Assembly enacted House Bill 4064, which directs the Bureau of Labor and Industries (BOLI) to inquire about the veteran status of every individual seeking services, and to share that information with the Oregon Department of Veterans' Affairs (ODVA). The implementation of House Bill 4064 led to approximately 70 veterans being identified and connected with the ODVA thus far. House Bill 2422 is modeled after House Bill 4064, but applies to the Department of Human Services (DHS). When a veteran contacts DHS in writing about certain assistance programs, DHS is required to communicate the veteran's name and address to the ODVA, with the veteran's permission.

About 330,000 veterans currently reside in Oregon. The ODVA estimates about 230,000 do not receive benefits, and of those, around 100,000 would qualify if they could be identified and contacted. The potential for outreach with assistance from DHS has an impact, as DHS interacts with approximately 800,000 adults every year.

*Effective date: January 1, 2014*

## **House Bill 2536**

### *Transfer of structured settlements*

Structured settlements are agreements for periodic payment of damages stemming from a tort or workers' compensation claim. In 2005, Oregon allowed for the sale of structured settlement agreements in exchange for a lump sum payment. Because

many structured settlements are created to establish a long-term payment plan for vulnerable individuals, there is concern that the existing statute does not provide appropriate safeguards. Oregon law governing the transfer of structured settlement rights requires a judge or responsible administrative authority to approve a transfer after finding the following to be true: 1) the transfer is in the best interest of the payee and their dependents, 2) the payee has been advised to seek professional advice and done so or waived the advice, and 3) the transfer does not conflict with any applicable law or court or governmental order. Federal law places a 40 percent excise tax on transfers of settlement rights that are not approved by a court.

House Bill 2536 adds criteria for the court or administrative authority to consider before finding that the transfer of a structured settlement is in the payee's best interest. The measure specifies the content of the court petition to transfer payment rights, including the payee's declaration under oath whether the payee depends on the structured settlement payments or government benefits for necessary living expenses or medical care and treatment. The measure also requires a disclosure statement be sent to the payee 14 days before the payee signs the transfer agreement. The measure changes the time the payee has to cancel a transfer agreement from three days after the agreement is signed to any time prior to the approval of the agreement by the court or administrative authority.

*Effective date: January 1, 2014*

## **House Bill 2639**

*Preventing housing discrimination against persons with Section 8 vouchers*

Federal and state law both prohibit discrimination based on race, color, national origin, religion, sex, family status, and physical and mental disability. Oregon further prohibits discrimination based on a number of other circumstances, including marital status, sexual orientation, and the source of a person's income.

House Bill 2639 makes it unlawful to refuse to rent to prospective tenants based on their use of a Section 8 voucher, or any other form of housing assistance, by including such assistance within the definition of "source of income" for purposes of a state discrimination claim.

The measure also establishes the Housing Choice Landlord Guarantee Program to reimburse participating landlords up to \$5,000 for unpaid rent, and property or other damage caused by Section 8 tenants.

"Section 8" is what the federal Housing Choice Voucher Program is commonly called. It is a federally funded program that assists approximately 32, 000 households in Oregon per year by providing vouchers to subsidize the payment of rent. It enables very low-income families, seniors, and individuals with disabilities, to afford housing in the private market, in single-family homes, townhouses, or apartments. It is administered by Oregon's Housing and Community Services Department (OHCS), and units rented through the program must adhere to certain standards. The subsidy is paid to the landlord by OHCS on behalf of the tenant, and the tenant is responsible for

the difference between the total rental amount and the amount of the subsidy.

*Effective date: January 1, 2014*

## **House Bill 3112**

*No taxes on property owned by local governments used for affordable housing*

House Bill 3112 exempts certain property from taxation if it is owned by a political subdivision and intended for, or used for, affordable housing. Those claiming the exemption must apply and then certify that the property qualifies for the exemption on an annual basis.

Expanding affordable housing for low-income families is a national priority in the current economic climate. Housing authorities are the only units of government exempt from property taxation when leasing to tenants, even though some other governmental entities also provide low-income housing. House Bill 3112 expands such exemption to include the property of any political subdivision that is leased to low-income tenants who make 80 percent or less of an area's median income, adjusted for family size.

*Effective date: October 7, 2013*

## **House Bill 3129**

*Certifying professional fiduciaries*

House Bill 3129 requires individuals seeking appointment as professional fiduciaries to provide proof of certification as a National Certified Guardian or a National Master Guardian by the Center for Guardianship Certification or its successor. The measure also creates a corresponding

regulatory body – the State Board of Professional Fiduciaries – within the Department of Human Services.

Courts may appoint guardians (to make decisions for protected persons), and/or conservators (to manage the property and assets of protected persons), or they may be hired privately. Both are “fiduciaries” because they are required to act for the benefit of another (ORS Chapter 125). In an effort to safeguard the interests of vulnerable persons, the legislature created the Joint Interim Task Force on Public Guardian and Conservators in 2011 via House Bill 2237, to examine issues around standardization and oversight of fiduciaries’ activities. The Task Force recommended mandatory certification and licensure of professional fiduciaries, and House Bill 3129 is the resulting legislation.

*Effective date: January 1, 2014*

## **House Bill 3249**

*Notifying grandparents of certain proceedings involving grandchildren*

House Bill 3249 requires the Department of Human Services to attempt to locate and inform the grandparents of children who are the subject of certain legal proceedings where there is an allegation of abuse or neglect in a dependency case and the court is considering child placement outside the home. The measure also provides grandparents with a right to be heard, and permits them to seek visitation with the child.

In Oregon, 28,000 grandparents have custody of their grandchildren. Research shows that children placed with grandparents or other family members do better than when they are placed with

strangers. The Department of Human Services currently provides notice of dependency proceedings to grandparents who request it, but does not seek them out.

*Effective date: January 1, 2014*

## **House Bill 3301**

*Electric vehicle charging stations installed for personal use in planned communities*

Numerous electric vehicle charging stations have been installed in public places, businesses, and residences throughout Oregon, due to the availability of federal funding. In 2012, the Oregon Departments of Transportation and Energy announced the opening of charging stations along Interstate 5 in the Willamette Valley. Consistent with this trend, House Bill 3301 provides a framework for the installation of private charging stations that is specific to homeowners in planned communities and their corresponding governing associations.

House Bill 3301 authorizes owners of lots in certain planned communities, or units in condominiums, to install electric vehicle charging stations for personal, noncommercial use, and invalidates prohibitions against such activities by homeowners’ or equivalent governing associations. A governing association may require owners to first submit an application; may require that certain architectural standards be met; may impose reasonable charges to recover costs; and may impose reasonable restrictions. Owners are responsible for costs and disclosures to prospective buyers, and associations may not delay approval of a completed application once an owner agrees to the association’s requirements. The measure also contains provisions concerning homeowner’s insurance coverage for any

noncertified electrical product, as well as the possibility of additional infrastructure, if warranted by an increase in electricity consumption that can be attributed to electric vehicle charging.

*Effective date: January 1, 2014*

## **House Bill 3482**

*Refining landlord/tenant rights and responsibilities specific to manufactured dwellings*

House Bill 3482 establishes landlord and tenant rights and responsibilities for the inspection and maintenance of hazard trees on rented spaces for manufactured dwellings; aligns billing requirements for rent and utilities; and excuses certain manufactured home dealers and park owners, who offer or hold certain loans, from having to obtain a mortgage originator's license.

Landlord/tenant relationships are governed by Oregon's Residential Landlord and Tenant Act. Manufactured housing communities are an important source of affordable housing, and enjoy participation in a broad stakeholder group that meets regularly to develop recommendations for the Legislative Assembly. This group is called The Manufactured Housing Landlord/Tenant Coalition and House Bill 3482 results from its efforts.

*Effective date: June 18, 2013*

## **Senate Bill 21**

*Improving Long-Term Care in Oregon*

Oregon is recognized as a national leader for providing community-based, long-term care services for older adults and people with

physical disabilities. The need for assistance increases as the population ages, and Oregon's current system and resources will not meet future demand.

Senate Bill 21 requires the Department of Human Services to convene a committee to develop a plan to improve Oregon's system of long-term care, for submission to the Legislative Assembly by February 1, 2015. The planning committee created by Senate Bill 21 includes the Department of Human Services, community partners, providers, consumers, seniors, people with disabilities, and legislators.

*Effective date: July 1, 2013*

## **Senate Bill 123**

*Oregon Foster Children's Bill of Rights*

Senate Bill 123 requires the Department of Human Services to establish the Oregon Foster Children's Bill of Rights, to include, among other things: the right to complain about unsatisfactory or inappropriate care and placement services without fear of retaliation; the right to age-appropriate, up-to-date, written directions and contact information for the foster child to register complaints; the right to transportation to and from court and citizen review board hearings; and the right to contact with siblings. The measure also requires that a complaint hotline be established and that a transition toolkit be provided to all children aged 14 years or older.

In July 2012, Oregon Foster Youth Connection, a program run by a nonprofit child advocacy organization called Children First for Oregon, held a three-day policy-focused foster youth summit. During the summit, foster youth identified an obligation on the part of Oregon, to guarantee their

basic rights so long as they were in state care. On the final day of the summit, a group of 30 current and former foster youth from around the state presented a set of policy recommendations that included the adoption and promotion of an Oregon Foster Children's Bill of Rights, which resulted in this legislation.

*Effective date: January 1, 2014*

## **Senate Bill 132**

### *School immunizations*

Oregon has a nonmedical exemption from school immunizations, which permits parents to refuse to have their children immunized. In the past ten years, according to the Oregon Public Health Division, parents' use of the nonmedical exemption for kindergartners has increased statewide from less than 2 percent in 2001 to 5.8 percent in 2012. In some counties, the rate of use of the nonmedical exemption is as high as 12 percent. Oregon has the highest nonmedical exemption rate in the nation for one or more immunizations, and some Oregon schools have an exemption rate as high as 70 percent. Prior to passage of this measure, a parent was required to make a statement refusing immunizations due to religious or philosophical beliefs.

Senate Bill 132 increases the requirements for parents to opt-out of school immunizations for their children. The Act requires that a parent submit a signed document declining immunization, also signed by a health care practitioner verifying that the parent either reviewed information about the risks and benefits of immunizations, or completed an online educational video approved by the Oregon Health Authority.

*Effective date: June 26, 2013*

## **Senate Bill 450**

### *Task Force on Human Services Delivery System*

Senate Bill 450 establishes a task force to evaluate Oregon's delivery of a spectrum of human services programs and assistance to its citizens, and make recommendations for improvement to the legislature in 2015. Proponents in favor of creating the task force report that Oregon's current delivery system is fragmented, difficult for users to access and navigate, and inefficient for caseworkers to manage effectively.

*Effective date: July 1, 2013*

## **Senate Bill 559**

### *Adults with developmental disabilities*

Currently, Oregonians with developmental disabilities who are placed in comprehensive care have limited choices for where they live or receive services.

Senate Bill 559 requires the Department of Human Services (DHS) to provide an adult with developmental disabilities who is eligible to receive comprehensive services with at least three appropriate placement setting options, including at least two different types of residential settings before making an initial placement or transferring the adult from one placement setting to another. The Act also directs DHS to ensure that all individuals with developmental disabilities have equal access to employment opportunities regardless of where they live.

*Effective date: July 1, 2013*

## Senate Bill 626

### *Long Term Care Ombudsman*

The Office of the Long Term Care Ombudsman is an independent state agency that serves long-term care facility residents through complaint investigation, resolution, and advocacy for improvement in resident care. The mission of the Office of the Long Term Care Ombudsman is to enhance the quality of life, improve the level of care, protect the individual's rights, and promote the dignity of each Oregon citizen residing in a long-term care facility. There are approximately 6,000 individuals with developmental or intellectual disabilities living in close to 1,000 licensed adult foster homes and 665 group homes in Oregon. An additional 2,500 individuals with mental or behavioral health disabilities are served in approximately 600 residential treatment homes and facilities. Most of these homes and facilities are quite small, with only three to four residents and they are scattered throughout Oregon.

Senate Bill 626 expands the Long Term Care Ombudsman's duties to include advocating for residents of care facilities who have mental illness or developmental disabilities. The measure renames the Long Term Care Advisory Committee to Residential Facilities Advisory Committee and increases the committee membership and requires the Oregon Health Authority and the Department of Human Services to provide the Long Term Care Ombudsman with quarterly reports on the number of beds in residential facilities that the Long Term Care Ombudsman is responsible for.

*Effective date: January 1, 2014*

## Senate Bill 640

### *Assessment of support services for developmentally disabled adults*

Senate Bill 640 requires the Department of Human Services, or its designee, to conduct support assessments for adults with developmental disabilities within 90 days of receiving a request.

Currently, adults with developmental disabilities in comprehensive care are assessed once every five years to determine the funding that their service providers will receive. If an individual's needs change during the five years, it is difficult to receive a reassessment of the changed service needs, to determine the appropriate funding. At times, service providers are forced to file an exit notice to force the county to reassess service funding. Senate Bill 640 requires the Department of Human Services to create a process to provide service assessments and for client grievances.

*Effective date: July 1, 2013*

## **LEGISLATION NOT ENACTED**

### House Bills 2163, 2166, 2598, and 3377

#### *Problem gambling*

The 2013 session saw a number of measures aimed at problem gambling that were developed via work group activity over the course of more than a year, none of which were enacted. These included House Bill 2163, requiring the Oregon State Lottery to adopt a comprehensive policy to minimize the risks and harms associated with lottery

games and to employ a person to advise the Lottery Commission on addiction and mental health issues related to playing lottery games; House Bill 2166, to include a component on addictive gambling as part of the training that Oregon requires of persons seeking licensure to serve alcohol; House Bill 2598, to exclude casino games that only accumulate free plays for users from the state law definition of “gray machine” so they could be regulated as lottery games; and House Bill 3377, to modify the amount that the Lottery Commission spends on advertising the state lottery each biennium, to one-half of one percent or less of net proceeds, and to require four million be spent to advertise prevention and treatment of addiction and other emotional and behavioral problems related to playing lottery games.

As with other forms of addiction, problem gambling and pathological gambling destroy the lives of individuals who suffer from these diagnoses, with significant collateral impacts and costs to taxpayers. As of June 2009, approximately 47,019 adult Oregonians were considered to be problem gamblers with 27,658 considered pathological. The State of Oregon Department of Human Services’ Gambling Programs Evaluation Update of 2009 estimated the annual socioeconomic cost of

problem gamblers receiving treatment in Oregon was in excess of \$41.5 million per year.

## **House Bill 3518**

*Modifies definition of "social game"*

House Bill 3518 would have amended the definition of “social game” to allow a county or city to only authorize games, other than a lottery, between players in a location operated and controlled by charitable, fraternal, or religious organizations. Current statutes define “social game” as a game, other than a lottery, between players in a private home where no house player, house bank, or house odds exist and there is no house income from the operation of the social game. In addition, a social game is a game, authorized by a county or city local ordinance, permitting the playing or conducting of a social game in a private business, private club, or in a place of public accommodation, other than a lottery, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

# Insurance

## **House Bill 2107**

### *Electronic proof of automobile insurance*

Oregon drivers are required to insure vehicles and to carry proof of insurance when operating them (ORS 806.010). Minimum insurance requirements include: bodily injury and property damage liability; personal injury protection; and protection against uninsured motorists. Vehicle owners must certify that they have insurance at the time a vehicle is registered and each time the registration is renewed. In addition, driving without liability insurance is punishable by fine, suspension of driving privileges, and towing of the operated vehicle. Compliance with the liability insurance requirement is typically accomplished by providing a valid insurance card.

House Bill 2107 permits drivers to provide proof of liability insurance electronically, by means of a smartphone or iPad, for example. The measure also allows verification of liability insurance by a police officer using the Law Enforcement Data System. Oregon joins five other states that have enacted similar legislation (Arizona, Colorado, Idaho, Louisiana, and Minnesota).

*Effective date: May 14, 2013*

## **House Bill 2241**

### *Regulating acquisitions and mergers of insurance companies*

The Insurance Division of the Oregon Department of Consumer and Business Services is accredited with the National Association of Insurance Commissioners (NAIC), as are its counterparts in all states. House Bill 2241 represents nationally developed standards that must be adopted in

order to maintain the Division's accreditation.

The 2008 financial crisis was the impetus for state insurance regulators to begin reviewing existing processes and laws with an eye toward preventing situations similar to the federal bailout of American International Group (AIG).

House Bill 2241 increases oversight of insurers' corporate governance by the Insurance Division of Oregon's Department of Consumer and Business Services, and provides for greater authority over acquisitions of insurers. The measure includes penalties for noncompliance that permit enforcement, and also encourages greater cooperation and communication between states and with the NAIC.

*Effective date: June 13, 2013*

## **Senate Bill 414**

### *Allowing Department of Consumer and Business Services to require insurers to pay restitution to policyholders*

Oregon law authorizes the Department of Consumer and Business Services (DCBS) to impose fines or civil penalties against insurers to enforce the Insurance Code. DCBS may also refer a suspected violation of the Insurance Code to the Attorney General or a district attorney. Prior to enactment of Senate Bill 414, DCBS did not have the authority to require an insurer to pay a claim or restitution to a policyholder.

Senate Bill 414 gives DCBS the authority to seek restitution and other equitable relief on behalf of consumers who suffer damages as a result of an insurer's violation of the Insurance Code.

*Effective date: July 3, 2013*

## **Senate Bill 683**

### *Health care practitioner disclosure of financial interest in health care facility*

Under current law, a health care practitioner with a financial interest in a facility must disclose that interest to patients prior to referring a patient to that facility. A financial interest is defined as five percent or greater ownership interest in the entity to which the patient is being referred.

Senate Bill 683 requires practitioners to consider only a patient's clinical needs and personal choices when referring a patient to a facility for treatment. The measure requires written and oral disclosure of a practitioner's financial interest at the time of referral and prohibits the denial, limitation or withdrawal of a referral because of the patient's choice to utilize an alternate facility, except in certain circumstances. The measure also directs the Oregon Health Authority to specify the form and manner of provider notice by rule and authorizes the Oregon Health Licensing Agency or appropriate board to investigate and discipline violations.

*Effective date: January 1, 2014*

## **Senate Bill 814**

### *Expanding rights and duties under Oregon Environmental Cleanup Assistance Act*

Oregon's Environmental Cleanup Assistance Act was enacted in 1999 and modified by the 2003 Legislative Assembly. The Act specifies protocols for lost policies; requires insurers to cover costs including investigations, feasibility studies, and other expenses; allows policyholders with coverage from multiple insurers to choose

which insurer or insurers to handle the claim; and requires the insurer to seek contributions from other insurance providers.

Senate Bill 814 expands the Oregon Environmental Cleanup Assistance Act as follows: it provides a right of action for unfair environmental claims settlement practices; requires coverage of damages to third-party property; and expenses to mitigate damage, and establishes a right to independent counsel and environmental consultants provided by the insurer in certain circumstances.

*Effective date: June 10, 2013*

## **LEGISLATION NOT ENACTED**

### **House Bill 2525**

#### *Creating private right of action for violations of Unlawful Insurance Practices Act*

Oregon's Unlawful Trade Practices Act (UTPA) defines and prohibits various unfair and deceptive trade practices, giving the Attorney General, district attorneys, and in some instances, private citizens the right to sue for violations of the Act. It does not include insurance among its prohibited practices or regulated services. Insurance trade practices are regulated by ORS Chapter 746, which includes specific prohibitions on unfair claim settlement practices and a general prohibition against engaging in unfair or deceptive acts in the transaction of insurance.

House Bill 2525 sought to include a private right of action for persons harmed by any violation of the Oregon Insurance Code,

with actual or statutory damages, equitable relief, and possible punitive damages, and attorney fees. The measure also sought to create an enforcement action for the Attorney General or district attorney within the UTPA for violation of Chapter 746.

## **House Bill 2821**

### *Modifying motor vehicle insurance structure*

Oregon law requires every insurance policy for private motor vehicles to include personal injury protection (PIP), coverage against damage caused by uninsured motorists (UM), and coverage against underinsured motorists (UIM). PIP benefits are intended to cover immediate expenses associated with an accident including medical, hospital, dental, surgical, and ambulance services for one year after the date of the accident. Under current law, PIP benefits are paid by the insurer to the policyholder for economic damages only, up to the limits of the policy. The insurer may recover PIP expenses from any remaining benefits received after the policyholder's economic damages have been satisfied. "Benefits received" may include at-fault driver's liability insurance or payments by an at-fault driver.

House Bill 2821 would have allowed policyholders to apply benefits received to any damages, not just economic damages, prior to the insurer recovering its expenses from benefits paid. The measure also extended the period of coverage of PIP benefits from one year after the date of injury to two years.

Underinsured motorist protection provides for coverage when there is a difference between the at-fault driver's liability coverage and the policyholder's UIM coverage. House Bill 2821 would have

stacked the UIM coverage on top of the at-fault driver's coverage, to increase total available coverage.

## **House Bill 3160**

### *Applying the Unlawful Trade Practices Act to insurance*

The Unlawful Trade Practices Act (UTPA) was enacted by the Oregon Legislature in 1971. The UTPA defines and prohibits various unfair and deceptive trade practices, giving the Attorney General, district attorneys, and in some instances, private citizens the right to sue for violations of the Act. Currently, insurance trade practices are regulated in ORS chapter 746 and are not subject to the UTPA.

House Bill 3160 sought to add insurance to the categories of goods or services subject to the UTPA and to make unfair claim settlement practices a violation of the UTPA. The measure also created a private right of action for individuals.

## **Senate Bill 413**

### *Rate review process for health insurance premium increases*

Under current Oregon law, changes to premium schedules and rates for individual and small business health benefit plans must be filed with the Department of Consumer and Business Services (DCBS); DCBS is required to open a 30-day public comment period and post all comments on its website. In order to approve or deny rate changes, DCBS determines whether the proposed rates are actuarially sound, reasonable and not excessive; inadequate or unfairly discriminatory; and based upon reasonable administrative expenses.

Senate Bill 413 would have required insurers offering a health benefit plan to provide detailed annual notices to policyholders and certificate holders, informing them of DCBS's rate review process, consumer advocacy unit, enrollment information, renewal notices, communications between insurers and enrollees, public hearings, how to participate, how to contact DCBS, and how to receive rate filing notifications. Additionally, Senate Bill 413 would have required DCBS and the Oregon Health

Authority to develop standards for evaluating the insurers' cost containment and cost containment goals and results when reviewing rate requests. Finally, the measure would have required DCBS to establish a public process to determine annual official medical trends that would be used in all rate review filings.

# Judiciary

## **House Bill 2107**

### *Electronic proof of automobile insurance*

Oregon drivers are required to insure vehicles and to carry proof of insurance when operating them (ORS 806.010). Minimum insurance requirements include: bodily injury and property damage liability; personal injury protection; and protection against uninsured motorists. Vehicle owners must certify that they have insurance at the time a vehicle is registered and each time the registration is renewed. In addition, driving without liability insurance is punishable by fine, suspension of driving privileges, and towing of the operated vehicle. Compliance with the liability insurance requirement is typically accomplished by providing a valid insurance card.

House Bill 2107 permits drivers to provide proof of liability insurance electronically, by means of a smartphone or iPad, for example. The measure also allows verification of liability insurance by a police officer using the Law Enforcement Data System. Oregon joins five other states that have enacted similar legislation (Arizona, Colorado, Idaho, Louisiana, and Minnesota).

*Effective date: May 14, 2013*

## **House Bill 2143**

### *Eliminating redundant county jail auditing requirements*

Chapter 169 of the Oregon Revised Statutes specifies standards for local youth and adult detention facilities and requires the Oregon Department of Corrections (DOC or the Department) to ensure compliance. The State and Local Government Efficiency Task Force, established by House Bill 2855

(2011), reports that county jails are currently inspected by both DOC staff and peer audit teams organized by the Oregon State Sheriffs Association.

House Bill 2143 allows inspections contracted or conducted by county jail operators to meet the requirement for DOC audits, so long as at least as much information is provided to the Department as the Department would have obtained by conducting its own.

*Effective date: January 1, 2014*

## **House Bill 2205**

### *Expanding mandatory reporters of elder abuse and the duty to report*

Oregon law requires certain individuals, who come into contact with vulnerable populations, to report abuse. These mandatory reporting laws originally targeted child abuse, and the individuals required to report are called “mandatory reporters.” Mandatory reporters include law enforcement, social workers, medical and other treatment providers, school personnel, child care providers, foster care providers, legal personnel, and clergy members. The child abuse reporting statutes were later used as models to require mandatory reporting of elder abuse, and abuse of disabled adults. According to the Department of Human Services, 11,000 complaints of elder abuse or neglect are investigated every year.

In 2011, the Elder Abuse Work Group was created by House Bill 2325 to study abuse of vulnerable persons and report to the legislature. The Work Group’s first set of recommendations resulted in House Bill 4084 in 2012. House Bill 4084 continued the Work Group’s activities, and created a subgroup to study certain matters in-depth,

called the Patient Safety Review Council. House Bill 2205 represents the work of the Council as directed by the Work Group.

House Bill 2205 refines Oregon's elder abuse mandatory reporting laws to more closely mirror its child abuse mandatory reporting laws, by adding members of the legislative assembly, attorneys, dentists, optometrists, and chiropractors to the list of mandatory reporters, and by expanding the duty to report elder abuse so that it is in effect at all times. The measure also requires the Department of Human Services to adopt rules to ensure that investigations of abuse are conducted in a uniform manner statewide, and to report complaint information to the legislature annually. Finally, the measure continues the activities of the Elder Abuse Work Group created by House Bill 2325 (2011), and previously continued by House Bill 4084 (2012). The reconstituted Work Group is directed to make a third set of recommendations to the legislature by February 1, 2014, to align definitions of abuse that may vary depending on whether the context is regulatory or criminal, and as-used between service providers, law enforcement, and other entities.

*Effective date: June 11, 2013*

## **House Bill 2334**

### *Compelling another person to attempt prostitution*

Prostitution is the crime of offering or agreeing to engage in, or engaging in, sexual conduct or contact in exchange for a fee (ORS 167.007). Compelling another person to engage in prostitution (pimping) is also a crime, any time force or intimidation is used, but also when mere inducement or aid

is used on a person who is young, or a family member of the pimp (ORS 167.017).

Convicting the pimp is the higher priority in many situations, but the crime of compelling prostitution can be difficult to prove, especially when the person being prostituted is young, or emotionally compromised, or otherwise reluctant to testify. House Bill 2334 slightly expands the scope of conduct that constitutes the crime of compelling prostitution, to permit conviction for compelling another to *attempt* prostitution.

*Effective date: June 4, 2013*

## **House Bill 2549**

### *Ranking sex offenders by level of risk*

There are over 20,000 registered sex offenders in Oregon and the number is growing by over a thousand each year. Assessments show that many of these offenders are at a low risk to reoffend. House Bill 2549 results from the efforts of a work group that met over two years to develop legislation to provide a path for those who pose the least risk, to seek relief from Oregon's sex offender registration requirements, and thereby permit resources to be concentrated on offenders who pose the greatest risk.

House Bill 2549 creates a three-tiered system for ranking sex offenders based on risk, involving the Department of Corrections, the State Board of Parole and Post-Prison Supervision, and the Psychiatric Security Review Board. It requires all offenders in the current system to be reclassified into the three-tiered system, using a designated risk assessment tool and specified process, by December of 2016. First-tier offenders, who pose the least risk, are eligible to apply for relief from reporting

requirements. Second-tier offenders are eligible to apply for reclassification as first-tier offenders, ten years after successful termination of supervision. Third-tier offenders are eligible to apply for tier two, also ten years after successful termination of supervision, but they are not eligible for complete relief from reporting requirements. Those convicted of Rape I, Sodomy I, Unlawful Sexual Penetration I, Kidnap I or Burglary I, may not seek relief from registration requirements. The measure also requires certain notices for the public and for victims.

*Effective date: August 1, 2013*

## **House Bill 2571**

*Clarifying paternity and spousal support details*

Oregon courts treat spousal support as terminating at death, but Oregon statutes are silent. Consistent with court practice, House Bill 2571 terminates spousal support upon the death of either party unless otherwise provided for in the order establishing support. The measure also clarifies that unpaid spousal support does not terminate upon the death of either party.

Oregon also has no statutes governing the maintenance of health or life insurance during paternity proceedings. Upon filing a petition to establish paternity, House Bill 2571 requires the issuance of a restraining order to prohibit parties from altering health or life insurance policies that benefit minor children or the other party, and permits filiation proceedings to be brought in the circuit court of the county where a parent or an alleged parent or a child resides.

*Effective date: January 1, 2014*

## **House Bill 2594**

*Court-ordered outpatient mental health treatment*

Civil commitment is reserved for only the most serious circumstances. To order civil commitment, a court must find that a person poses an imminent danger to themselves or others. House Bill 2594 offers a less extreme alternative called “assisted outpatient treatment” when release into a community may be more appropriate.

House Bill 2594 authorizes a court in a civil commitment proceeding, to order a person released from custody into treatment for up to one year, if a community health provider recommends it, and if the court finds, after considering specified factors, that the person is deteriorating to the point that they will satisfy the definition of a person with mental illness at ORS 426.005.

*Effective date: January 1, 2014*

## **House Bill 2596**

*Civil cause of action for interference with forest practices*

Certain groups and individuals have been chaining themselves to gates and trees, and damaging equipment and roadways in order to prevent performance of contract obligations by those under contract with the State Department of Forestry. Although many of these acts are crimes, most counties lack the resources to prioritize prosecution or to adequately punish those responsible.

House Bill 2596 creates a specific civil cause of action for a private entity under contract to engage in forest practices with the State Department of Forestry, to recover actual

damages plus attorney fees against persons who intentionally obstruct or impair the performance of forest practices on state forestlands or access roads.

*Effective date: January 1, 2014*

## **House Bill 2710**

### *Drones*

A state cannot regulate the airspace above it, as the United States has complete exclusive sovereign authority over all the country's airspace (with certain rights afforded to landowners and citizens). A state can, however, regulate drones and their use by public entities.

House Bill 2710 preempts local governments from regulating drones and makes it a crime to use a drone to attack or interfere with aerial vehicles. It prohibits public entities from arming drones, and requires drones to be registered with the Oregon Aviation Board, with annual reports on their use after January 1, 2016. The Oregon Aviation Board must adopt rules to implement use reporting by public entities, and must make recommendations to the legislature by November 14, 2014, regarding the status of federal regulation of unmanned aerial vehicles and whether these vehicles should be registered in Oregon when operated by private individuals. The measure also limits the use of information obtained by drones, particularly with regard to law enforcement.

House Bill 2710 allows law enforcement to use drones for training and for gathering information, but prohibits disclosure or use of the information, or derivative evidence, in any judicial or administrative proceeding, or from being part of the calculus to determine reasonable suspicion or probable cause.

*Effective date: July 29, 2013*

## **House Bill 2836**

### *Juveniles' fitness to proceed*

In order to stand trial, a criminal defendant must be competent, or "fit to proceed" – meaning that generally, they must be able to understand the charges against them and to assist with their own defense. Oregon statutes that govern fitness determinations are found in Title 16, Crimes and Punishments, at 161.360, 161.365, and 161.370, but there are no equivalent statutes found in Oregon's juvenile code, in Title 34, at Chapter 419C.

House Bill 2836 makes express that this important constitutional protection applies to juvenile defendants as well as adults. It recites the standard and sets forth procedures for fitness determinations that are specific to youth in delinquency proceedings. It is the culmination of work group efforts going back nearly ten years, organized primarily by the Oregon Law Commission.

*Effective date: August 1, 2013*

## **House Bill 3194**

### *Criminal sentencing package: reform, alternatives, and ongoing study*

Oregon's Commission on Public Safety was established and continued by Executive Orders in 2011 and 2012 to develop recommendations for comprehensive sentencing reform based on fiscally responsible, data-driven policies and practices to improve public safety, hold offenders accountable, and control corrections costs consistent with state budget limitations. The Commission issued recommendations on December 17, 2012, which served as a starting point for the development of House Bill 3194, and during the 2013 legislative session, the Joint

Committee on Public Safety was formed to fully vet the contents of the measure.

The measure makes substantive changes in five areas related to Oregon criminal law: sentencing, offender incentives, offender supervision, program assessment, and correctional resources. It reduces presumptive sentences for repeat offenders convicted of Identity Theft and Robbery III and eliminates the prohibition on probation for offenders convicted of multiple drug offenses. It modifies sentencing for marijuana offenses and driving while suspended or revoked, and the crime of harassment. It increases the maximum length of short-term transitional leave that may be granted by the Department of Corrections (DOC); reduces the length of supervision for certain offenders; and allows a supervisory authority to modify special conditions of probation.

The measure also impacts data collection and reporting by: establishing a definition of “recidivism;” directing the Oregon Criminal Justice Commission (CJC) to collect “best practices” of specialized courts; requiring prison growth forecasts to include margins of error; modifying the requirements related to fiscal impact statements and the use of evidence-based practices; and requiring DOC to identify cost-containment solutions.

Finally, House Bill 3194 creates the Justice Reinvestment Grant Program, to be administered by the CJC, and continues to focus on criminal sentencing issues with the creation of a Task Force on Public Safety. The Task Force will review implementation of the measure, consider specified juvenile corrections issues, evaluate DOC data, and make further recommendations to the legislature.

*Effective date: July 25, 2013*

## **House Bill 3327**

*Setting aside convictions for certain sex crimes*

House Bill 3327 allows specified sex crimes (at ORS 181.830(1)(a), (A) through (F)) to be set aside pursuant to ORS 137.225, if the person convicted has successfully completed sentencing conditions, met the requirements of sex offender registration, and successfully obtained relief from the obligation to continue reporting. It also permits expungement of a juvenile adjudication for Rape III, Sodomy III, Sex Abuse III, or an attempt to commit those crimes, if: the offender was under the age of 16 at the time; the victim was at least 12 and within three years of the offender’s age; and if the victim’s lack of capacity to consent was solely due to age.

*Effective date: June 13, 2013*

## **Senate Bill 6**

*Increased penalties for harming animals*

Senate Bill 6 increases the penalties for animal abuse and neglect. Animal abuse occurs when a person intentionally, knowingly, or recklessly causes death or serious physical injury to an animal; aggravated animal abuse occurs when someone maliciously kills or tortures an animal; and animal neglect occurs when a person intentionally, knowingly, recklessly, or with criminal negligence, fails to provide minimum care for an animal they are responsible for.

*Effective date: August 1, 2013*

## **Senate Bill 9**

*Higher fine for driving while using a communications device*

Senate Bill 9 increases the maximum fine for operating a motor vehicle while using a mobile communications device from \$250 (a class D violation) to \$500 (a class C violation). It also requires the Oregon Department of Transportation to place signs on Oregon highways to inform drivers.

*Effective date: January 1, 2014*

## **Senate Bill 40**

*Lowering penalties for marijuana possession*

Senate Bill 40 reduces the crime of unlawful possession of four or more ounces of marijuana from a class B felony to a class C felony; classifies possession of less than four ounces but more than one ounce as a class B misdemeanor; and reduces the penalty for unlawful possession of less than one ounce within 1,000 feet of a school, to a violation from a class C misdemeanor.

*Effective date: July 1, 2013*

## **Senate Bill 421**

*Prosecutors may initiate civil commitment proceedings*

Senate Bill 421 authorizes a district attorney to petition the court to initiate commitment proceedings if there is reason to believe a person is an extremely dangerous mentally ill person. The bill requires the court to conduct a hearing upon receipt of a petition and allows the court to order the person to

be placed under the jurisdiction of the Psychiatric Security Review Board (PSRB).

A person committed under Senate Bill 421 must be committed to the Oregon State Hospital or a secure intensive community inpatient facility. The PSRB must hold a hearing six months after the commitment and then every two years. The measure also allows the Oregon State Hospital or inpatient facility to request a review hearing. If a person discharged by the PSRB has outstanding or pending criminal charges, the PSRB must notify the district attorney.

*Effective date: August 1, 2013*

## **Senate Bill 463**

*Racial impact of proposed legislation*

Senate Bill 463 requires the Oregon Criminal Justice Commission, at the written request of one legislative member from each political party, to prepare an impact statement on the effect a measure may have on the racial and ethnic composition of the criminal offender population or recipients of social services. It requires grants awarded by state agencies to include a racial and ethnic impact statement and sunsets in 2018.

Senate Bill 463 is modeled after legislation in Iowa. A national report by the Sentencing Project found that Iowa had the highest rate of racial disparity among inmates nationally. The report found that two percent of Iowa's general population was black, but 24 percent of its prison population was black. Iowa passed legislation four years ago, to become the first state to require its officials to consider the racial and ethnic impact of criminal justice policies.

*Effective date: January 1, 2014*

## **Senate Bill 483**

### *Patient safety and conflict resolution*

Senate Bill 483 is the result of recommendations made by the Patient Safety and Defensive Medicine Work Group that was established pursuant to Senate Bill 1580 (2012), to examine ways to improve patient safety, reduce medical costs, and compensate injured persons more effectively.

Senate Bill 483 establishes a program that allows a patient or health care facility to file a notice of adverse health incident (as defined in the measure) with the Oregon Patient Safety Commission. The bill provides a mechanism for discussion between the patient, the doctor, and the health care facility, and these discussions are kept confidential unless a person contradicts themselves in a subsequent court proceeding. The measure tolls the statute of limitations to file a civil claim for six months when a request is made for the parties to participate in the program. The measure further: prohibits a court from considering whether or not a party participated in discussions; does not preclude the parties from pursuing formal mediation; and prohibits professional liability carriers from denying coverage based on participation in the program.

Finally, Senate Bill 483 creates a 14-member Task Force on Resolution of Adverse Health Care Incidents, to make further recommendations to the legislature, sunseting in 10 years.

*Effective date: March 18, 2013*

## **Senate Bill 622**

### *Juvenile court records*

Juvenile court records are confidential and can only be disclosed to certain persons – those who are either involved in the proceedings or with the juvenile. Court proceedings generally, however, are open to the public, so juvenile courts in Oregon maintain two files: the “legal file” which contains materials related to the proceedings and the “social file” which contains information such as clinical evaluations. The terms describing the two files and their usage have developed from court practice over time and are not defined in statute.

Senate Bill 622 clarifies a number of access and disclosure issues specific to juvenile records and defines a “record of the case” to contain the summons, petitions, pleadings, motions, exhibits, transcripts, affidavits, local citizens review board findings, guardianship reports, court orders, and other documents that are part of the court record. It also defines a “supplemental confidential file” to contain reports related to the juvenile’s history and prognosis, that are not received in evidence and that do not become part of the “record of the case.”

*Effective date: January 1, 2014*

## **Senate Bill 673**

### *Sex crimes: creating a new crime and modifying another*

Senate Bill 673 creates the new crime of purchasing sex with a minor. A first offense is a class C felony. If the minor involved was at least 16 years old at the time of the crime, the accused is permitted to raise an affirmative defense: that they reasonably

believed the minor was 18 or older. Those convicted would be required to complete “john school,” and whether to require sex offender registration would be within the court’s discretion. A second or subsequent offense is a class B felony. The accused is precluded from asserting the affirmative defense and if convicted, sex offender registration is mandatory.

The measure also reclassifies the crime of trafficking in persons, from a class B felony to a class A felony, when by force or fraud, the victim engages in commercial sex acts, regardless of the victim’s age.

*Effective date: August 1, 2013*

## **LEGISLATION NOT ENACTED**

### **House Bill 2963**

#### *State preemption*

Article XI of the Oregon Constitution allows local governments to enact ordinances that concern the same subject matter as state law, provided the local ordinance does not conflict with state law. In determining whether there is conflict, courts look to express decisions by the state, as well as state decisions or intent that may be implied in legislative history or elsewhere (See *City of Portland v. Jackson*, 316 Or 143, 151 (1993)).

House Bill 2963 would have required state law to expressly preempt a city’s authority to regulate sidewalks, rather than be construed to *imply* preemption.

### **Senate Bills 347, 699, 700, and 796**

#### *Firearms*

The 2013 session saw a number of measures aimed at regulating firearms that were not enacted. These included Senate Bill 347, allowing school districts to exclude firearms from school grounds; Senate Bill 699, clarifying that retired and off-duty law enforcement personnel could have firearms in public buildings; Senate Bill 700, requiring private sellers to run background checks on prospective buyers; and Senate Bill 796, requiring firearms instructors to be physically present at training classes.

A citizen’s right to bear arms is provided for in both state and federal constitutions. Some state regulations and restrictions on this right include: prohibiting convicted felons and mentally ill persons from possessing firearms; requiring lawfully possessed weapons to be kept in locked vehicles, unloaded, when on school grounds; prohibiting lawfully possessed and lawfully concealed weapons from courthouses; and requiring gun dealers, but not private sellers, to check prospective buyers’ criminal records.

The introduction of gun-related legislation in 2013 was spurred by tragedies involving firearms around the country and at home, including: a mass shooting at Sandy Hook Elementary School in Newtown, Connecticut; a theatre shooting in Aurora, Colorado; and a shooting at Clackamas Town Center, in Happy Valley, Oregon.

# **Labor and Employment**

## **House Bill 2111**

### *Employment discrimination against individuals with a disability*

The federal Americans with Disabilities Act (ADA), as well as Oregon law, prohibit employers from discriminating against disabled job applicants and employees. The ADA applies to employers with 15 or more employees, while Oregon law applies to employers with six or more employees. The federal Americans with Disabilities Amendment Act (ADAA) took effect in 2009 and provides broader protections to individuals with disabilities. Oregon enacted Senate Bill 874 (2009) to more closely conform to federal law. In adding the term “materially restricts” to the disability standard, the standard was actually raised, making Oregon’s law out of conformance with federal law.

House Bill 2111 deletes the word “materially” from the disability standard and introduces language to conform Oregon law to the federal standard.

*Effective date: January 1, 2014*

## **House Bill 2207**

### *Expanding electronic options for state payroll*

Approximately 37,000 state employees and officers currently receive printed monthly statements of deductions even though over 80 percent of state employees have established electronic direct deposit for their paychecks. The remainder receive a paper check or a debit-style payroll card. Individual agencies may print the deduction statements for distribution and hand-deliver the statements to employees.

House Bill 2207 requires electronic deposit of wages for state employees and officers, except in cases where the Department of Administrative Services has determined it is not practicable or efficient or an individual has asked to receive payment by check or bank-issued payroll card. The measure also requires electronic delivery of itemized deduction statements, except in cases where an individual has asked to receive paper statements.

*Effective date: June 13, 2013*

## **House Bill 2545**

### *Debarments from public works contracts*

Under current law, contractors, subcontractors, firms, corporations, partnerships, or associations can be debarred from receiving a contract or subcontract for public works for three years for various specified violations. The Labor Commissioner has the authority under ORS 279C.860 to determine if an entity will be debarred. As of July 2013, there were 84 entities ineligible to receive public works contracts. Though there are exemptions and exceptions, public works projects typically include: projects for construction, reconstruction, major renovation, or painting by or under contract for any public agency to serve the public interest; projects using a combination of private funds and at least \$750,000 in public funds for construction, reconstruction, major renovation, or painting on a privately owned road, building, structure or improvement; projects using private funds to construct a private road, building, structure, or improvement in which a public agency will lease at least 25 percent of the square footage; and solar projects constructed or installed on publicly owned land, structure, or building, regardless of the funding source.

House Bill 2545 adds limited liability companies to the list of entities that can be debarred in cases where any member or manager of the limited liability company fails to pay or post the prevailing rate of wage, fails to pay the subcontractor's employees amounts the contractor pays on behalf of the subcontractor, or intentionally falsifies information in certified statements.

*Effective date: May 28, 2013*

## **House Bill 2646**

*Application of prevailing wage law to Oregon University System*

Oregon is one of 32 states that have a prevailing wage law modeled after the federal Davis-Bacon Act. The Oregon law is designed to ensure that contractors compete on their ability to competently and efficiently perform work while maintaining community compensation standards, to encourage training and education of workers in industry skill standards, and to encourage employers to use the funds required by law for fringe benefits for the actual purchase of such benefits. Though there are exceptions and exemptions, public works projects are generally covered by the state's prevailing wage rate law under the following conditions: the total project cost exceeds \$50,000, the project is for construction, reconstruction, major renovation or painting, and the project directly or indirectly uses public agency funds. Public work on privately owned land or buildings are covered under prevailing wage law if the project is for construction, reconstruction, major renovation, or painting and uses at least \$750,000 in public funds, or if it is for construction in which one or more public agencies will occupy or use at least 25 percent of the project's square footage.

House Bill 2646 applies the prevailing wage rate law to the Oregon University System (OUS) and to agreements between OUS and private entities for construction, reconstruction, renovation, or painting projects on real property that OUS owns, or that is owned by an OUS-member institution, regardless of the project's funding source.

*Effective date: May 22, 2013*

## **House Bill 2654**

*Prohibiting employers from accessing workers' social media accounts*

House Bill 2654 prohibits employers from requiring employees and job applicants to permit access to personal social media accounts and prohibits retaliation for refusals to permit such access. The measure also prohibits employers from requiring employees or applicants to add the employer as a contact associated with the social media site. The measure allows employers to conduct investigations and does not prohibit accessing publically available information.

Over 78 percent of Americans access the internet and of that group, 67 percent access a social media account. National media sources have reported instances of employers requiring employees or job seekers to turn over their social media account usernames and passwords to the employer as a condition of employment. House Bill 2654 prohibits this practice.

*Effective date: January 1, 2014*

## **House Bill 2669**

### *Extending workplace protections to interns*

Prior to the enactment of House Bill 2669, interns performing work for educational purposes were not covered by Oregon's harassment and discrimination statutes because interns were not considered employees.

House Bill 2669 provides specific civil rights protection to unpaid interns, including protection from discrimination based on race, color, religion, sex, sexual orientation, national origin, marital status, age, military service, or disability. The measure also protects interns from discrimination for reporting violations of the law, participating in legal proceedings, or for being a victim of domestic violence, assault, harassment, or stalking. It prohibits employers from requiring interns to undergo invasive medical testing, disclose genetic information, and restricting the use of tobacco during nonworking hours. The measure does not create an employment relationship for purposes of wage and hour laws, minimum wages, child labor laws, occupational safety and health laws, workers' compensation, unemployment, Oregon Family Leave Act, or other leave laws.

*Effective date: June 13, 2013*

## **House Bill 2683**

### *Payment of wages through direct deposit*

Under current law, wages can be paid through direct deposit or other means of electronic transfer only if the employee agrees to the method of payment. Changing the current practice of employees opting-*in*

to direct deposit to employees opting-*out* of direct deposit is anticipated to benefit the business community by improving efficiency and saving money.

House Bill 2683 allows an employer to direct deposit an employee's wages without the agreement of the employee, unless the employee makes a verbal or written request for a paper check.

*Effective date: January 1, 2014*

## **House Bill 2903**

### *Leave from employment for victims of domestic violence*

In 2007, the Legislative Assembly required an employer with six or more employees to allow an eligible employee to take a reasonable amount of unpaid leave for purposes related to being a victim of domestic violence, including obtaining legal or law enforcement assistance, medical attention, or the services of a domestic violence shelter or rape crisis center, psychological counseling, or relocating. This type of unpaid leave is available to victims of domestic violence, harassment, sexual assault, or stalking, or to the parent or guardian of a minor child or dependent who is a victim. To qualify, the employee must have worked an average of more than 25 hours per week for at least 180 days. Employees may also use accrued paid vacation.

House Bill 2903 extends protected leave to victims who are new and part-time employees. The measure also requires that the employer post, in a conspicuous and accessible place, a summary of the statutes and administrative rules that govern the protected leave. The Bureau of Labor and Industries (BOLI) is directed to make the

summary available to employers. Currently, all mandated workplace posters can be downloaded at no charge from BOLI's website, while composite posters may be purchased for between \$10 and \$15.

*Effective date: January 1, 2014*

## **House Bill 2950**

### *Bereavement leave*

The Oregon Family Leave Act (OFLA) allows eligible employees to take up to 12 weeks of unpaid leave per year to care for themselves or family members in cases of illness, injury, childbirth, or adoption. Women are allowed to take an additional 12 weeks of leave for pregnancy or childbirth. An employee who has taken 12 weeks of parental leave can take an additional 12 weeks to care for a child with a non-serious health condition. Under OFLA, "family member" includes the following: spouse; domestic partner; biological, adoptive or foster parent or child; grandparent or grandchild; parent-in-law; or person with whom the employee was or is in a relationship of *in loco parentis*.

To be eligible for parental leave, an employee must have worked at least 180 days for the employer. For all other types of family leave, the employee must have worked at least 180 days and for an average of at least 25 hours per week. Employers are subject to OFLA if they employ 25 or more persons in Oregon.

The federal Family and Medical Leave Act (FMLA) has different eligibility requirements. Employers are subject if they employ 50 or more persons. Eligible employees must have worked 1,250 hours during the 12 months prior to the start of leave and must have worked for the

employer for 12 months. The work location must be where the employer has 50 or more employees within 75 miles. Under FMLA, "family" does not include siblings or in-laws.

House Bill 2950 allows an employee eligible for OFLA to take up to two weeks of unpaid leave to attend services for a deceased family member, to make arrangements for a deceased family member, or to grieve the death of a family member. Eligible employees are entitled to a total of two weeks of leave for this purpose during any one-year period, and the leave is counted toward the 12-week limit. The leave must be taken within 60 days of the death of the family member.

*Effective date: January 1, 2014*

## **House Bill 2977**

### *Construction labor contractors*

Under current law, farm labor contractors must be licensed with the Bureau of Labor and Industries (BOLI) and are subject to examination, insurance, and bonding requirements and BOLI is authorized to assess civil penalties up to \$2,000 for violations.

House Bill 2977 brings construction labor contractors under the same statutes as farm labor contractors. Construction labor contractors will be required to be licensed by BOLI, which is directed to administer and enforce the licensing requirements. The measure prohibits retaliation and discrimination against any employee who exercises their rights. The measure provides BOLI with authority to assess a civil penalty of up to \$2,000 per violation. In addition, a worker who files a complaint with BOLI also has a private right of action. Any person who knowingly uses the services of an

unlicensed contractor will be held personally, jointly, and severally liable. BOLI or any person may bring action against an unlicensed construction labor contractor or any person using an unlicensed contractor.

*Effective date: July 1, 2013*

## **House Bill 3263**

### *Paid leave for state employees*

Under current law, any employer who employs at least six individuals is required to allow an eligible employee to take reasonable, unpaid leave to seek services, assistance, or treatment if they are a victim of domestic violence, harassment, sexual assault, or stalking. An employee is eligible for protected leave if the individual has worked for the employer an average of more than 25 hours per week for at least 180 days.

House Bill 3263 grants paid leave to eligible employees of the State of Oregon who are victims of domestic violence, harassment, sexual assault, or stalking. The employee may take up to 160 hours of paid leave in each calendar year. The leave granted under the measure is in addition to any vacation, sick, personal business, or other form of leave available to the employee; however, the employee must first exhaust all other paid leave before using the paid leave provided by this measure. The measure also requires the State of Oregon, as an employer, to inform certain employees of any communications in the workplace that are related to the victimization of the employee and offer to report the communication to law enforcement.

*Effective date: July 2, 2013*

## **House Bill 3342**

### *Prohibiting public employer from using public funds to influence collective bargaining activities by employees*

House Bill 3342 makes findings that public funds may not be used to subsidize interference with an employee's choice to join or be represented by a labor union, that some public employers use public funds to aid or deter union organizing efforts, and that the use of public funds to deter union organizing is contrary to the purposes for which the funds were appropriated and is a wasteful use of scarce public resources. To that end, the measure prohibits public employers from using public funds to support, assist, promote, or deter union organizing. Additionally, the Employment Relations Board is tasked with adopting rules and enforcing the measure's provisions.

The Public Employee Collective Bargaining Act (PECBA) became effective in 1973. PECBA administers laws governing employment relations and public employers and employees in state, counties, cities, school districts, transportation districts, and other local governments. The Employment Relations Board (ERB) is responsible for enforcing PECBA and is responsible for determining appropriate bargaining units and conducting elections for representation of employees, issuing declaratory rulings and orders in contested case adjudications of unfair labor practice complaints, and resolving disputes over union representation and collective bargaining negotiations.

*Effective date: July 25, 2013*

## **Senate Bill 533**

### *Services provided to injured workers by nurse practitioners and chiropractors*

Senate Bill 533 extends the period of time a nurse practitioner may provide health care services to an injured worker from 90 to 180 days. It also modifies the authority of nurse practitioners and chiropractors to provide services to workers enrolled in managed care organizations. The measure requires that managed care organizations provide a dispute resolution process for conflicts between managed care organizations and health care providers, and specifies conditions under which a managed care organization may terminate or deny the participation of a health care provider.

Senate Bill 533 is the product of a subcommittee of the Management-Labor Advisory Committee that met over the course of two years, to focus on issues related to injured workers' access to medical treatment, and with health care providers leaving the workers' compensation system. The subcommittee was concerned with improving access to care in workers' compensation cases and enabling patients to receive care from their regular care provider for a longer period of time, while allowing collaboration with specialists as needed.

*Effective date: January 1, 2014*

## **LEGISLATION NOT ENACTED**

### **House Bill 2112**

#### *Penalty for improper payroll practices*

Employers are prohibited from withholding, deducting, or diverting any portion of an employee's wages unless specific circumstances are met, such as legally required deductions, deductions authorized

by the employee, or deductions authorized by a collective bargaining agreement. If a deduction is made from an employee's wages, the employer is obligated to pay the amount deducted in the time required by law, or within seven days of payment of wages. Should the employer fail to pay the amount deducted to the appropriate recipient in the allotted time, the Labor Commissioner may assess a penalty of up to \$1,000. A private right of action exists for individuals if an employer unlawfully withholds or deducts a portion of the employee's wages, but the Commissioner does not have the authority to impose a fine.

House Bill 2112 would have authorized the Commissioner to assess a fine of up to \$1,000 against an employer who unlawfully withholds, deducts, or diverts an employee's wages.

### **House Bill 2418**

#### *Modifying definition of "supervisory employee"*

The Public Employee Collective Bargaining Act (PECBA), enacted in 1973, governs public employment relations. Employees who are not covered under the PECBA and who are prohibited by law from organizing include elected officials, persons appointed to serve on boards or commissions, certain incarcerated persons, persons who are confidential employees, managerial employees, and supervisory employees.

House Bill 2418 would have modified the definition of supervisory employees to exclude: firefighters, police officers, deputy district attorneys, and 9-1-1 operators; employees of the Oregon Youth Authority with custody, control, or supervisory authority over youth offenders; guards at correctional institutions or mental hospitals;

and parole and probation officers – if those listed merely assigned, transferred, or directed the work of others without authority to impose economic discipline.

## **House Bill 2448**

### *Resolving issues during term of collective bargaining agreement*

Under the Public Employee Collective Bargaining Act, an expedited bargaining process exists for when an employer wants to make a change in employment relations that are subject to collective bargaining during the current contract. If the labor organization demands bargaining, the statute prohibits the bargaining from continuing past 90 days without the consent of both parties, provided both parties negotiated in good faith. After 90 days, the employer may implement the proposed changes without any further obligation to bargain.

House Bill 2448 would have required unresolved issues to be submitted to the Employment Relations Board’s Conciliation Service Office for mediation, for a period of up to 15 days from the date of the first mediation session. If an agreement was not reached through mediation, the matter would have been submitted to the Employment Relations Board for binding arbitration. The measure specified that the employees in the bargaining unit subject to the binding arbitration were not allowed to strike.

## **House Bill 2672**

### *Establishing workplace protections for domestic workers*

Domestic workers are individuals who work in the home of another providing child care, house cleaning, or other domestic services.

Domestic workers may be nannies, house-keepers, or care providers. The 2010 American Community Survey (ACS) by the Census Bureau found 726,437 people employed in private households as domestic workers. The ACS found that 95 percent of those workers are female, 54 percent identified as a race other than white, and 46 percent were foreign-born. A 2012 survey by the Center for Urban Economic Development at the University of Illinois at Chicago reported that domestic workers are often employed in substandard jobs and are not covered by federal or state labor protections. Some estimates report nearly 10,000 domestic workers are employed in Oregon, the vast majority of them women.

House Bill 2672 would have established certain protections for domestic workers, including overtime pay for more than 40 hours worked in a week, or more than 44 hours worked by live-in domestic workers. The measure required employers provide written notice of hours, wages, and leave, and required accurate records of hours worked on a daily and weekly basis. Employers would have been prohibited from requesting possession of a worker’s passport, engaging in unwelcome verbal or physical conduct of a sexual nature, subjecting the worker to harassment, and retaliating if the worker inquired about their rights, reported a violation, or filed a complaint with the Bureau of Labor and Industries.

## **House Bill 2675 and House Bill 2677**

### *Application of prevailing wage law*

Oregon is one of 32 states that has a “Little Davis-Bacon Act” prevailing wage law modeled after the federal Davis-Bacon Act.

The Bureau of Labor and Industries (BOLI) is responsible for administering and enforcing the prevailing wage law and for educating contractors, subcontractors, and public agencies about its requirements. Though there are numerous exceptions and exemptions, public works projects are generally covered by the state's prevailing wage law if the total project cost is \$50,000 or more; if the project is for construction, reconstruction, major renovation, or painting; and the project directly or indirectly uses a public agency's funds. Public works on privately owned land or building are covered under prevailing wage law if the project is for construction, reconstruction, major renovation, or painting and uses at least \$750,000 in public funds or is for construction in which a public agency or multiple agencies will occupy or use at least 25 percent of the project's square footage.

House Bill 2675 would have added to the definition of "public funds" the value of any exemption from property taxation that the contractor received for a project within an enterprise zone. House Bill 2677 would have added to the definition of "public funds" the value of a tax credit or tax abatement that the contractor received from the state in connection with the project.

Expanding the definition of "public funds" would have had the effect of subjecting additional projects to the prevailing wage law. Both measures would have modified the definition of "public works" to include any project that meets the following three criteria: located in an enterprise zone, on property for which the business has or will receive a property tax exemption, and has a total project cost of at least \$5 million.

## House Bill 2976

### *Temporary employment agencies*

An employment agency, as defined in Oregon statute, is an entity that engages in procuring, for a fee, employment for applicants or employees for employers. Employment agencies do not include entities that procure employment for others when the charge for services is paid by anyone other than the applicant, i.e., temporary employment agencies and day labor agencies. Employment agencies are governed by statute, and the Bureau of Labor and Industries (BOLI) may adopt rules necessary for administering statutory requirements. Employment agencies are not statutorily required to be registered with or licensed by BOLI. Statutes do require each employment agency to maintain a \$5,000 surety bond or letter of credit, to comply with record keeping requirements, to publish a schedule of charges for services, and to have written contracts with each applicant.

House Bill 2976 would have expanded the definition of an employment agency to include temporary employment agencies and day labor agencies. The measure would have required employment agencies to register with BOLI and maintain a surety bond or letter of credit of \$20,000. The measure specified the responsibilities of the employment agency and the rights of the employee. It would have allowed the Commissioner to assess civil penalties and it would have allowed a private right of action for any aggrieved individual.

## House Bill 3307

### *Meal and rest periods*

Current law authorizes the Bureau of Labor and Industries (BOLI) to adopt rules prescribing minimum employment conditions; these rules may include minimum meal periods and rest periods. In addition to any other penalty provided by law, BOLI may assess a civil penalty not to exceed \$1,000 against any person who willfully violates the rules governing minimum employment conditions. Any penalties collected are used to reimburse the costs incurred in determining the violations, conducting hearings, and collecting penalties; any remainder is transferred to the Department of State Lands for the benefit of the Common School Fund. Under current law, the employee who did not receive meal periods and rest periods is not entitled to any financial remedy when the employer is found in violation.

House Bill 3307 would have required the employer to pay one and one-half hours of pay for each day the required meal periods and rest periods were not taken or paid, and it would have provided a private right of action for the employee if the employer did not do so. The measure specified that an employer is not liable for the payment of additional compensation if: the employer had a written policy permitting employees to take meal periods and rest periods that complied with BOLI rules; the employee's duties permitted the employee to leave the work station without being relieved or seeking permission of a supervisor; and the employee failed to establish that the employer knew the employee was not provided meal period and rest periods.

## House Bill 3390

### *Paid sick leave*

Portland, Seattle, Washington D.C., and the State of Connecticut require private employers to provide paid sick leave to employees. The Portland City Council approved the standards for paid and unpaid earned sick leave for employees working in the city on March 13, 2013.

House Bill 3390 would have required employers of six or more employees to implement a sick leave policy that allows eligible employees to accrue paid sick leave at a rate of one hour for every 30 hours worked. Unused paid sick leave would have been carried over from one calendar year to the next. An employer could have adopted a policy to permit no more than seven paid sick days to accrue or be used in a calendar year. All employees would have been eligible to take paid sick leave except for those who worked for the employer for fewer than 90 days. An employee would have been able to use the leave for the following purposes: to recover from, or seek treatment for, an illness or injury; to care for an infant or newly adopted or foster child; to care for a seriously ill or injured family member; to care for a child that requires home care; or to take leave when the employee is a victim of domestic violence, harassment, sexual assault, or stalking.

# Land Use

## **House Bill 2106**

### *Energy Facility Siting Council siting criteria*

The Energy Facility Siting Council (EFSC) was established in 1975 to oversee the development of large energy facilities, including: large electric generating facilities, high voltage transmission lines, gas pipelines, and radioactive waste disposal sites. House Bill 2106 directs EFSC to adopt rules identifying its criteria for determining whether the overall public benefit of facility siting outweighs any adverse effects.

*Effective date: June 4, 2013*

## **House Bill 2202**

### *Aggregate mining on high-value farmland*

Class I and Class II soils are the best lands for farming in the Willamette Valley. The valley also has excellent aggregate, which is essential for construction of highways, buildings, bridges, and railroads. These two resource uses – farming and aggregate mining – use land in the Willamette Valley zoned for exclusive farm use.

For mines located on high-value farmland composed predominately of Class I and II soils in the Willamette Valley, House Bill 2202 requires an operator to excavate substantially all of the significant aggregate resource subject to limitations imposed by other regulatory requirements.

*Effective date: August 1, 2013*

## **House Bill 2253**

### *Population forecasting for land use planning*

Oregon land use law requires each county to use population forecasts to update and maintain comprehensive plans, and requires each county to coordinate the forecast with the local governments within its boundaries; however, many counties have either not adopted a coordinated population forecast or have not provided timely updates.

House Bill 2253 requires that Portland State University Population Research Center issue population forecasts for all Oregon counties not less than once every four years, except for portions of Multnomah, Clackamas, and Washington counties that are within Metro. Local governments will then use these forecasts for land use planning.

*Effective date: July 1, 2013*

## **House Bill 2254**

### *Process for amending urban growth boundaries*

Each of Oregon's 242 cities is surrounded by an "urban growth boundary" (UGB), a line drawn on planning and zoning maps to designate where a city expects to grow residentially, industrially, and commercially. State land use law dictates the process for adopting and amending a UGB. It takes several years for most cities to complete a full UGB amendment process.

House Bill 2254 directs the Land Conservation and Development Commission to develop simplified methods for cities outside of Metro to evaluate or amend a UGB. Two new planning approaches will be developed, one for small cities and the other

for larger cities. These new tools are optional - cities may continue to use the current system.

*Effective date: July 1, 2013*

## **House Bill 2618**

*Conditions for withdrawal of annexed part of district by city*

Annexation is the process of incorporating a piece of property into the boundaries of a city, making the property and those who live there eligible for services provided by the city. This action can be initiated by the city or by the property owner. Annexation is a locally driven process with guiding state statutes.

House Bill 2618 stipulates that a city may only withdraw an area from a district if the city will provide those services to the area that were previously provided by the district.

*Effective date: October 7, 2013*

## **House Bill 2662**

*Allowing cities to remedy neglected properties in foreclosure*

A 2013 study found that of Oregon's 3,900 homes in foreclosure, 1,100 are vacant. A vacant foreclosed home may fall into a state of neglect creating a nuisance within its neighborhood. Prior to enactment of House Bill 2662, local governments did not have the statutory authority to remedy nuisances created by vacant foreclosures.

House Bill 2662 prohibits property owners from neglecting property in foreclosure. The measure requires the owner of the property to post contact information on the house, and to give such information to the local government or neighborhood association.

Additionally, should neglect or nuisance arise on the property, the local government may require the owner to remedy the situation. If the owner does not provide a timely remedy, the local government is authorized to address the nuisance and attach a lien against the property for the costs of remedying the nuisance.

*Effective date: June 6, 2013*

## **House Bill 2746**

*Replacement dwelling on farmland*

Oregon law allows landowners to replace existing dwellings on land zoned for exclusive farm use if the dwelling meets a number of requirements.

House Bill 2746 increases the number of dwellings eligible for replacement to include those that were formerly excluded for having certain features related to walls, plumbing, wiring, and heating systems. The measure also allows permits that were voided before it was enacted, to be valid if the dwelling is removed or converted within one year after the measure's effective date. On January 2, 2024, the measure will sunset and the law as it existed prior to passage of the measure, will be reinstated.

*Effective date: January 1, 2014*

## **House Bill 2788**

*Donation of farm products as farm use*

Oregon law allows a tax exemption for farm land that is used for raising or selling crops or livestock for profit. Properties receiving a farm use special assessment are required to be used exclusively for farm uses as defined in statute.

House Bill 2788 would allow farm land that is used to produce goods that are donated to a food bank or a school to maintain a tax exemption, even though the farm products are not being sold for profit.

*Effective date: October 7, 2013*

## **House Bill 2820**

### *Solar siting*

The state Energy Facility Siting Council (EFSC), a seven-member board of appointed individuals, is responsible for permitting large energy facilities in Oregon. Smaller energy facilities are permitted by the county in which they are located. The EFSC review process consolidates all state, city, and county standards and permits into a single review.

House Bill 2820 clarifies EFSC jurisdiction based on the type of solar energy facility and whether the proposed site is on high-value farmland, predominantly cultivated land or land that is predominantly composed of class I to IV soil, or other land. House Bill 2820 also exempts the decommissioned Christmas Valley Air Force Station facility in Lake County from EFSC jurisdiction.

*Effective date: June 6, 2013*

## **House Bill 2839**

### *No compensation for reduced property values caused by rezoning certain land for industrial use*

Ballot Measure 37 (2004) provided a process for property owners to submit a claim for compensation for reduced property value caused by a state or local land use regulation that took effect after the claimant took ownership of the property. The

applicable regulatory restrictions are outlined in ORS 195.305; the statute also specifies which land use regulations do not entitle a landowner to compensation.

House Bill 2839 authorizes local governments to rezone land within an urban growth boundary to a zoning classification that allows industrial uses without being required to pay the landowner compensation if the rezoning results in a reduction of the property's fair market value.

*Effective date: January 1, 2014*

## **House Bill 3098**

### *Permitting youth camps on land zoned for exclusive farm use*

State law currently allows the establishment of youth camps on lands zoned for forest use or lands zoned for mixed farm and forest use. Administrative rules established by the Land Conservation and Development Commission define "youth camp" and set specific criteria applicable to establishing and operating a youth camp.

House Bill 3098 allows new youth camps to be established on certain lands of at least 1,000 acres zoned for exclusive farm use in eastern Oregon.

*Effective date: August 1, 2013*

## **House Bill 3125**

### *Forestland minimum lot size*

Oregon land use law sets minimum lot sizes and standards for all land divisions in forest zones. The statutory minimum lot size for a new forest parcel is 80 acres.

House Bill 3125 removes a prohibition on dividing parcels below the minimum lot size to facilitate a forest practice when an existing dwelling is involved.

*Effective date: January 1, 2014*

## **Senate Bill 408**

*Revisions to highway access management statutes*

Senate Bill 408 specifies that any existing approach roads to state highways are presumed to have written permission from the Oregon Department of Transportation (ODOT) if: documentation exists showing that the approach was built or rebuilt as part of an ODOT-approved project; the approach existed before July 16, 1949, the approach existed before ODOT received jurisdiction over the highway; or if the approach was built or rebuilt with ODOT's permission. The measure also clarifies: the process to be used by ODOT when engaging local governments and abutting property owners regarding facility plans; that a property owner in possession of an approach permit is responsible for the cost and performance of maintenance; and how ODOT and local governments are to interact in cases involving highway improvement projects.

ODOT's Access Management Unit is responsible for overseeing how and where ODOT permits access to state highways from adjacent land. Access decisions are based on state law, engineering principles, and objective standards meant to balance the economic development needs of properties abutting highways with the need to maintain the safe and efficient operation of state highways, consistent with local comprehensive plans. Senate Bill 1024 (2010) established new criteria for requiring approach permits in cases involving a

change of use: specifically, the measure directed ODOT to establish less-stringent criteria for access to roads with lower traffic volumes. A subsequent measure, Senate Bill 264 (2011), defined criteria to be used to approve or deny access permits, and also established the Access Management Oversight Task Force to oversee implementation of Senate Bill 264 and to propose additional legislation, if necessary. Senate Bill 408 is the result of Task Force efforts.

*Effective date: January 1, 2014*

## **Senate Bill 462**

*Pre-application process for composting facilities*

Composting is the managed process of controlled biological decomposition of organic and other solid wastes. In Oregon, applicants wanting to locate and operate a composting facility must first obtain land use approval from the local government and then obtain a permit through the Department of Environmental Quality (DEQ). For disposal sites proposed within the jurisdiction of a metropolitan service district (Metro), applicants must obtain approval from that district, in addition to DEQ.

Senate Bill 462 requires composting facilities that use nonvegetative feedstock, or that modify operations in a manner requiring new land use approval, to hold a pre-application conference with relevant agencies and hold a pre-application community meeting with the public prior to applying for approval. Senate Bill 462 also prohibits DEQ and Metro from approving a composting disposal site within 1,500 feet of a school that is within an exception area for rural residential uses.

*Effective date: June 26, 2013*

## **Senate Bill 841**

### *Winery activities*

House Bill 3280 (2011) clarified activities and events that a winery could conduct when established as a permitted use on lands zoned exclusively for farm use. The provisions allowing for private events at wineries that met the specified acreage and production requirements were scheduled to sunset on January 1, 2014.

Senate Bill 841 allows wineries meeting one of the three production and acreage thresholds specified in the winery statutes to be established as a permitted use on mixed farm and forest land and clarifies authorized activities related to the sale or marketing of wine produced in conjunction with such wineries. In addition, Senate Bill 841 allows wineries meeting the production and acreage requirements of the winery statute to conduct up to 18 agritourism or other commercial events each year. For wineries in the Willamette Valley, events on the first six event days must be authorized by a renewable multi-year permit issued by the local government, while events on days seven through 18 require a more rigorous permit that is subject to administrative review by the local government.

*Effective date: June 28, 2013*

## **LEGISLATION NOT ENACTED**

### **House Bill 2028**

#### *Restrictions on “hostage annexation” by local governments*

Annexation is the process of incorporating a piece of property into the boundaries of a city, making the property and those who live there eligible for services provided by the city. “Hostage annexation” occurs when a city or district requires a landowner to agree to eventual annexation in exchange for providing services to the landowner.

House Bill 2028 would have prohibited a city or district from requiring consent eventual annexation in exchange for providing certain services.

### **House Bill 2617**

#### *Annexation votes*

Annexation is the process of incorporating a piece of property into the boundaries of a city, making the property and those who live there eligible for services provided by the city. Currently, Oregon law states that annexation is approved if a combined majority of votes cast in the city and the territory vote in favor of annexation. This can allow a large area to be annexed, even if the residents of the area being considered for annexation oppose the action.

House Bill 2617 would have required a majority of votes within a city, in addition to a majority of votes within the area to be annexed, for successful annexation of areas of 100 acres or larger.

## **House Bill 2657**

### *Rezoning land for nonindustrial uses*

Large sites for industrial development are lacking in Oregon. The availability of such sites is an integral part of efforts to improve the state's economy and to attract and retain large employers. There has been consistent interest in potential sites of 50 acres and up for industrial development – interest that continued through the recent recession and led to the passage of Senate Bill 766 in 2011, which provided a process to expedite review and permitting of significant industrial sites.

House Bill 2657 would have established specific requirements for local governments to meet prior to approving applications to rezone industrial land for nonindustrial use, in order to preserve and encourage utilization of existing lands already zoned for industrial use. The measure would have required applicants for a zoning change to demonstrate that they had advertised the availability of the land to potential developers and that changed circumstances in the vicinity reduced the land's utility for industrial purposes.

## **House Bill 3040**

### *Conflicts between farm and non-farm uses*

Oregon law protects agricultural land for farming, by zoning it exclusively for farm use (EFU lands), while at the same time permitting some non-farm uses on EFU lands.

House Bill 3040 would have directed the Department of Agriculture and the Department of Land Conservation and Development (DLCD) to analyze conflicts between farm and non-farm uses and trends

in those conflicts over time. The measure would have directed DLCD to convene a work group to review the report and recommend strategies to address conflicts between non-farm and farm uses. House Bill 3040 would also have prohibited new landfills from being sited on EFU land.

## **House Bill 3267**

### *Industrial land in Malheur County*

Malheur County is located in southeastern Oregon and is home to 31,068 people. The county is 9,930 square miles (or 6,355,200 acres) in area. Local governments in Malheur County currently provide a supply of 13 industrial sites ranging in size from 85 to 261 acres.

House Bill 3267 would have allowed Malheur County, on or before December 31, 2020, to accept an application to plan and zone a site outside of the urban growth boundary (UGB) for industrial use if certain conditions existed, including that 20 percent of county residents' income was below poverty level in the preceding 12 months. An application would have been eligible for approval if: the applicant committed to providing at least 50 new permanent jobs; water, sanitary sewer service, and electricity were available; and the Malheur County local government considered recommendations from the Business Development Department and the Land Conservation and Development Department that there were no other adequate available sites for the proposed industrial use, either within the UGB, or outside of the UGB and planned and zoned to allow industrial use.

## **House Bill 3439**

### *Agricultural crop distribution on EFU land*

Current state law allows for conditional use permits to be issued for non-farm uses on land zoned exclusively for farm use (EFU land), including commercial activities that occur in conjunction with farm use.

House Bill 3439 would have added wholesale distribution (including manufacturing, processing, packaging, and repackaging) of raw or processed agricultural crops and related products produced on or off a farm operator's property as an allowed use on EFU land if the distribution: commenced on or before January 1, 2013; was integrated with farm use of the property; and was conducted in buildings that existed on or before May 19, 1970.

## **House Bill 3536**

### *Establishment of small-scale recreational community via TDRs from Metolius*

House Bill 3536 would have modified the alternatives for establishing a small-scale recreational community using transferable development rights (TDRs) from Metolius resort sites.

In 2009, House Bill 2228 established a voluntary pilot TDR program and authorized the establishment of one or two small-scale recreational communities on receiving forestland areas from a sending Metolius

resort area. TDR programs are used to transfer development from areas where communities are trying to limit it, to places where communities are encouraging it.

## **Senate Bill 845**

### *Azalea Project industrial development site*

Senate Bill 845 was intended to provide certainty for traded-sector businesses seeking to acquire large industrial sites for development. The measure specified conditions under which the land use decision (to zone a site for industrial use) could be made exempt from appeal, based upon the potential creation of a significant number of jobs and the need for certainty that a particular site could be developed. Additionally, the site would have to have been designated as an "urban reserve" within the urban growth boundary of the metropolitan service district. In such circumstances, the measure allowed the Governor and the Department of Land Conservation and Development to execute an agreement to protect the approved use from appeal.

The measure was designed for the "Azalea project" – an effort to recruit a technology company that was considering relocation to the City of Hillsboro. The land where the company had hoped to site a facility had been zoned industrial, but the zoning decision was under appeal.



# Transportation

## **House Bill 2264**

### *Driver education programs*

Persons age 16 and 17 qualify to test for a driver license in one of two ways: they may complete a driver education course approved by the Oregon Department of Transportation (ODOT) and practice driving with a licensed adult for 50 hours, or they may opt out of driver education and practice driving with a licensed adult for 100 hours. Either way, the individual gains the necessary behind-the-wheel experience by obtaining a *Class C instructional permit*; once the driver is 16 or 17 years old and has accumulated the necessary experience, they may qualify for a *Class C provisional license*, which restricts the time of day and numbers of passengers, by age, that may accompany the driver. About 25,000 teens receive a driver license each year; of those, approximately 7,000 complete an ODOT-approved driver education program.

Oregon subsidizes driver education programs offered through private companies, public high schools, community colleges, education service districts, and counties, in order to lower the cost to the student. The average cost, after subsidy, ranges from \$0 to \$350, depending on the provider. The subsidy is supported through a \$6 fee on every Oregon driver license issued or renewed by ODOT's Driver and Motor Vehicle Services Division (DMV). There are currently 56 approved providers, providing access at 158 sites throughout Oregon.

House Bill 2264 allows ODOT to reimburse driver education providers for offering reduced tuition based on the income of the student's family. The Department is authorized to develop, by rule, levels of reduced tuition, as well as eligibility criteria. The measure also allows ODOT to offer

incentives to providers to offer courses in areas where driver education programs are not readily available. In the event that no course can be made available through these incentives, ODOT may offer such a course, or contract with a public or private entity to do so. Finally, the measure authorizes ODOT to impose sanctions on driver education providers in violation of applicable statute or administrative rule.

*Effective date: January 1, 2014*

## **House Bill 2265**

### *Photo radar in highway work zones*

There are currently 10 cities in Oregon (Albany, Beaverton, Bend, Eugene, Gladstone, Medford, Milwaukie, Oregon City, Portland, and Tigard) that are statutorily permitted to use photo radar devices to enforce speed limits on segments of public roads. Currently, photo radar devices are limited to use in residential areas, school zones, or other locations if a local governing body finds that speed has a negative impact on safety. Use of the devices is limited to four hours per day in a given location. Cities utilizing photo radar must submit biennial reports to the Legislative Assembly outlining the results of required process and outcome evaluations on their photo radar program.

In addition, the Oregon Department of Transportation (ODOT) is authorized to utilize photo radar enforcement in highway work zones located on state highways, except on interstate highways. Use of the devices requires posting of signage notifying drivers of photo enforcement and operation out of a marked police vehicle by a uniformed police officer. Photo speed enforcement may only be used when highway workers are present. The

authorization for operating photo radar in highway work zones currently exists under a pilot program, which is scheduled to sunset in 2014.

House Bill 2265 removes the sunset provision from the use of photo radar enforcement in highway work zones and expands enforcement to work zones on interstate highways. Finally, the measure specifies that workers must be present in the highway work zone, or the roadway configuration must be temporarily changed, for photo radar enforcement to be implemented.

*Effective date: January 1, 2014*

## **House Bill 2708**

*Fallen Hero roadside memorial signs*

House Bill 2708 permits Fallen Hero roadside memorial signs for members of the Armed Forces killed in action, upon receipt of funds by the Oregon Department of Transportation (ODOT) to cover the cost of installation and maintenance.

House Bill 2708 is modeled after House Bill 3039 from 2011, that established the Roadside Memorial Fund to receive and appropriate monies to ODOT to erect roadside memorial signs commemorating law enforcement officers killed in the line of duty.

*Effective date: January 1, 2014*

## **House Bill 2800**

*Interstate 5 Bridge replacement project*

The Interstate 5 bridge replacement project, also referred to as the Columbia River

Crossing (CRC), is a bridge, transit, highway, bicycle, and pedestrian improvement project proposed by the Oregon Department of Transportation (ODOT), the Washington State Department of Transportation (WSDOT), and federal and local agencies. The project proposes to replace the existing two highway spans on Interstate 5 (I-5) across the Columbia River with two new spans, new interchanges on both the Oregon and Washington sides of the river, and an extension of light rail transit into Vancouver, Washington. The project focuses on a five-mile segment of the I-5 corridor, beginning at State Route 500 in Vancouver and extending to Columbia Boulevard in north Portland. The project's stated intent is to improve safety, reduce congestion, increase mobility of motorists, freight traffic, transit riders, bicyclists and pedestrians, and to mitigate seismic risks.

The cost for replacing the existing I-5 bridges and improvements to the five interchanges outlined in the Record of Decision (ROD) is currently estimated between \$3.1 billion and \$3.5 billion. Responsibility for funding of the project would be shared evenly between the federal government, the combined contributions of Oregon and Washington, and revenues generated by tolls. It is anticipated that the federal New Starts program will provide the \$850 million for the light rail, and additional federal funding could provide up to \$400 million in grants from the Federal Highway Administration. Tolling is expected to provide between \$900 million and \$1.3 billion, and will be codified in an intergovernmental agreement that will govern toll setting, administration, debt allocation, and other issues. Finally, each state would be responsible for contributing approximately \$450 million to cover the cost of interchange improvements.

House Bill 2800 authorizes the use of State Highway Fund monies to finance bonds for bridge projects, including the I-5 Bridge Replacement Project; the measure limits outstanding bonds for financing the project to \$450 million. The measure also authorizes the Oregon Transportation Commission to enter into a bi-state agreement with the State of Washington for tolling authority of the project. There are also contract requirements outlined by the measure, such as on the use of materials produced in the United States, nondiscrimination in contract awards, and mentorship and apprenticeship requirements, and requires ODOT to conduct a number of studies relating to the project and to submit the reports to the Legislative Assembly.

Finally, House Bill 2800 outlines requirements to be met prior to the issuing of bonds for the I-5 Bridge Replacement Project. One of the requirements is that the State of Washington establishes a program for providing \$450 million, its portion of the project cost, to be completed no later than September 30, 2013. However, the Washington Legislature adjourned its second special session on June 29, 2013, without enacting a funding plan, leaving the project as outlined in House Bill 2800 uncertain.

*Effective date: March 12, 2013*

## **House Bill 2973**

### *Repealing highway maintenance pilot project*

House Bill 2001 (2009), the Jobs and Transportation Act, directed the Oregon Department of Transportation (ODOT) to commence a six-year pilot project to determine the feasibility and efficacy of private-sector maintenance of a segment of

state highway. The measure required ODOT to select a segment of highway between 10 and 30 miles in length, to contract out the maintenance of that highway segment, and to report biennially on the project's status and progress.

The Department selected a 26-mile segment of OR 219 between Newberg and Woodburn. ODOT entered into a contract with Eagle Elsner, Inc., in May 2010 through the Oregon Innovative Partnerships Program. The contractor has utilized a "time and materials" approach for tracking its costs. The Department reports that Eagle Elsner has met its performance expectations; however, the cost for the contractor to maintain the highway segment appears to be higher than that for ODOT. For the first two years of the contract, payments to the contractor have totaled approximately \$600,000, while ODOT's four-year average for maintaining the same segment were approximately \$250,000.

House Bill 2973 repeals the requirement that ODOT conduct the pilot program for private highway maintenance and directs the Department to terminate contracts relating to the project as soon as feasible.

*Effective date: June 6, 2013*

## **House Bill 3438**

### *Photo radar in school zones*

There are currently 10 cities in Oregon (Albany, Beaverton, Bend, Eugene, Gladstone, Medford, Milwaukie, Oregon City, Portland, and Tigard) that are statutorily permitted to use photo radar devices to enforce speed limits on segments of public roads. Photo radar devices are limited to use in residential areas or school zones or in other locations if a local

governing body finds that speed has a negative impact on safety. Use of the devices is limited to four hours per day in a given location. Cities utilizing photo radar must submit biennial reports to the Legislative Assembly outlining the results of required process and outcome evaluations on their photo radar program.

House Bill 3438 permits the City of Fairview to conduct a pilot project for utilization of photo radar in school zones, beginning January 1, 2014, and ending January 2, 2022. Under the measure's provisions, the city may operate photo radar units in school zones between the hours of 7:00 a.m. and 5:00 p.m. on days when school is in session. The measure outlines signage and notification requirements for the use of the devices, including a requirement that drivers be provided information about their current rate of speed between 100 and 400 yards before entering the school zone. The measure also requires that a video recording of the infraction be taken and reviewed by the officer issuing the citation. Finally, the City of Fairview must conduct a biennial process and outcome evaluation for the program, in conformance with ORS 810.438(3), and submit the report to the Legislative Assembly by March 1 of each odd-numbered year.

*Effective date: January 1, 2014*

## **Senate Bill 25**

### *Charter boat regulation*

The Oregon State Marine Board (Board), established in 1959, is the state's recreational boating agency. Funded by user fees, the Board provides services such as boating safety education programs, marine law enforcement, and improved boating facilities. User fees are generated through

titling and registering of more than 195,000 recreational vessels. The Board establishes statewide boating regulations, which are enforced by the Oregon State Police and county sheriffs.

Under current law, charter boats are treated differently from boats utilized by guides and outfitters. Vessels, for hire, that carry seven or more passengers are required to be inspected by the U.S. Coast Guard. As a result, Board regulations for such vessels are less stringent. There have been occasions when vessels carrying fewer than seven passengers qualify as charter boats, however, and thus subject to less Board regulation, while also not being subject to Coast Guard inspection. Senate Bill 25 redefines "charter boat" to clarify that the less stringent Board regulations apply only to vessels that carry seven or more passengers and are inspected by the Coast Guard. The measure also clarifies that vessels licensed in Washington may continue to operate in Oregon waters.

Senate Bill 25 also grants the State Marine Board the authority to establish guidelines for charter boats operating on inland waters that are not under U.S. Coast Guard jurisdiction; this change is intended to allow the Board to ensure the seaworthiness of inland charter vessels. The measure amends language to provide clarification of the difference between cost sharing and payment for services, provides the Board with a greater range of offenses, for which it can suspend, revoke or deny a license, and increases minimum required liability coverage for charter boat licensees to \$500,000.

*Effective date: May 16, 2013*

## **Senate Bill 178**

### *Oregon Department of Aviation*

Current authority of the Oregon Department of Aviation (ODA) is to issue citations for offenses as outlined in ORS 837 in cases where the offense is witnessed by the Director or his/her representative. Given that the Department manages 28 airports across Oregon, however, the occasions when Department staff may be present to witness such events can be rare. Senate Bill 178 provides the ODA with the authority to issue civil penalties up to \$720 for violations of aviation laws, rules, or orders.

Senate Bill 178 also provides the Department with authority to impose a larger civil penalty of up to \$2,500 for violations under ORS 837.080. Such offenses include operating an aircraft while under the influence of intoxicating liquor, drugs or controlled substances, or doing so in a careless or reckless manner so as to endanger the life or property of another person.

*Effective date: June 13, 2013*

## **Senate Bill 260**

### *ConnectOregon V*

The Legislative Assembly created the *ConnectOregon* program in 2005 to provide funding in the form of grants and loans for non-highway transportation projects, including aviation, marine, passenger and freight rail, and public transportation projects. The initial program provided \$100 million in lottery-backed bonds, which provided funding for 38 projects. It was followed by an additional \$100 million in 2007 (30 projects) and 2009 (40 projects).

The Legislative Assembly approved \$40 million for *ConnectOregon* IV in 2011; the funds were used to help finance 38 projects, which were leveraged for a total of \$95 million in non-*ConnectOregon* funds.

Overall, the *ConnectOregon* program, in its four iterations, has received a total of 424 eligible project applications, of which 203 were funded. When combined with leveraged funds, the program has resulted in a total of \$834 million in direct investment to multimodal transportation improvements.

Senate Bill 260 authorizes the fifth iteration of *ConnectOregon*, to be allocated to five geographic regions across Oregon, with each region guaranteed to receive at least 10 percent of the total allocated, provided that there are qualifying projects in each region. A separate measure, Senate Bill 5533, allocated \$42 million to provide grants through the program, with bonds to be sold in Spring 2015. A third measure, House Bill 5008, included a budget note directing the Oregon Department of Transportation to take steps to ensure that projects funded through the program are delivered on time and on budget. These steps may include withholding up to five percent of loan funds until the project is completed and the recipient has submitted a final performance measure report.

*Effective date: August 14, 2013*

## **Senate Bill 487**

### *Slow-moving vehicle emblem requirements*

ORS 815.110 outlines the types of vehicles that are required to display a slow-moving vehicle emblem (SMV) when operating such vehicles on Oregon roadways. The list includes: vehicles (or combinations of vehicles) that are designed for customary use at speeds of less than 25 miles per hour;

golf carts or similar vehicles when operated by a person with a disability; and Class I, II and IV all-terrain vehicles when being operated on a highway as part of agricultural or farming operations.

The slow-moving vehicle emblem is to be displayed on the rear of a vehicle to provide warning to other vehicles approaching from behind that the vehicle ahead may be moving below the posted speed limit. The emblem is to be placed at the center of the vehicle, between two and six feet above the ground and is to be in the shape of an equilateral triangle with points removed; the center is a 12" triangle of yellow-orange fluorescent material, with a 1-3/4" border of dark red, highly reflective beaded material.

Senate Bill 487 expands the offense of violation of the use of SMV emblem requirements to include any use of a SMV emblem on vehicles that are not required to use them under ORS 815.110.

*Effective date: January 1, 2014*

## **Senate Bill 810**

### *Voluntary program for vehicle road usage charge*

The Road User Fee Task Force (RUFTF) was established by the 2001 Legislative Assembly through House Bill 3946 to study revenue options and recommend a replacement for the current road tax system, which consists of a combination of motor vehicle fuel taxes and weight-mile taxes. RUFTF was created out of concern that the gas tax is a declining revenue source over the long term, while road maintenance and modernization costs continue to rise. The issue is by the introduction of high-mileage hybrid electric vehicles, as well as plug-in electric vehicles that use no gasoline and

therefore currently pay no road usage charge. The Oregon Department of Transportation (ODOT) conducted a year-long pilot project to study a possible electronically collected mileage fee; the Department conducted a follow-up pilot project in 2012-13 to test the feasibility of an open technology platform alternative to the original pilot project, where drivers have the ability to select a third-party provider for in-vehicle technology, invoicing, and payment.

Senate Bill 810 establishes a voluntary Road Usage Charge (RUC) process for up to 5,000 drivers. Participants would pay a 1.5 cents-per-mile RUC in lieu of motor fuel taxes; drivers will be reimbursed for taxes paid during refueling. Vehicles may be equipped to allow the collection and reporting of metered mileage. A private sector service provider will collect the RUC.

*Effective date: October 7, 2013*

## **Senate Bill 833**

### *Driver cards*

Senate Bill 1080 (2008) codified the requirement created by Governor Kulongoski's Executive Order 07-22 requiring verification of Social Security numbers (SSNs) of applicants for driver licenses, driving permits, and identification cards issued by the Driver and Motor Vehicle Services Division (DMV) of the Oregon Department of Transportation (ODOT). Senate Bill 1080 instituted the requirement that applicants provide proof of U.S. citizenship or lawful presence in the United States, and an SSN or proof of eligibility for an SSN, to be licensed or permitted to operate a motor vehicle on state highways. The 2008 law was enacted to comply with requirements of the federal

Real ID Act; that Act permitted states to issue other types of driving licenses and permits, provided that they are clearly marked as invalid for federal identification purposes.

Senate Bill 833 directs ODOT to create and issue a driver card that is subject to all statutes and procedures that govern driver licenses and driver permits, with the exception that the driver card does not require applicants to prove they are legally present in the United States. The driver card is to be valid for four years. The driver card must not indicate that it is a license or permit and must include a distinguishing feature to identify it as a driver card. A driver card would not be usable for identification purposes except to designate that the individual is an organ donor, an emancipated minor, a veteran, or to establish identity for civil proceedings or missing person investigations.

Based on estimates of undocumented immigrants, DMV assumes a four percent increase in ongoing demand over currently forecast driver license/permit transactions. This increased level continues each biennium and is approximately 41,000 transactions for a full biennium. Additionally, a potential backlog of applicants exists of approximately 84,000 transactions, which is to be processed from January through September 2014.

*Effective date: January 1, 2014*

## LEGISLATION NOT ENACTED

### House Bill 2453

#### *Mile-based road usage charge*

In 2001, the Oregon Legislative Assembly created the Road User Fee Task Force (RUFTF). RUFTF proposed a charge on vehicle miles traveled to replace the fuels tax in the 2003 report to the Legislative Assembly. With the introduction of highly fuel-efficient vehicles, the Governor, Senate President, and House Speaker reconstituted the RUFTF in 2010 to address issues with the gas tax, the state's principal road revenue mechanism, due to electric vehicles and plug-in hybrid vehicles that will pay very little fuel tax or none at all.

Oregon relies on the fuels tax as the principal component of the state's road finance structure. Furthermore, the state bases its weight-mile tax rate for heavy trucks on fuels tax collections. This means Oregon's road funding is dependent upon fuels tax collection receipts for approximately 70 to 75 percent of the road revenues. With fuel tax and weight mile receipts not expected to keep up with inflation into the future, the state's ability to maintain and enhance its road system may be jeopardized.

House Bill 2453 would have required drivers of vehicles rated for 55 miles per gallon equivalent or better to pay a per-mile road usage charge instead of fuel taxes. The measure also authorized other vehicle owners to choose to pay a road usage charge. Drivers paying the road usage charge who paid fuel taxes at the pump would have been eligible for a refund of taxes paid. The measure directed the Oregon

Department of Transportation to establish methods for reporting vehicle miles traveled, which may have been based on the methodology used during a 2012 pilot project. Monies collected through the road usage charge would have been transferred to the State Highway Fund.

## **House Bill 2696**

### *Tollway public-private partnership*

The Coastal Parkway Project is a proposed public-private partnership that would connect Highway 18 to Interstate 5, which is an approximate distance of 12 to 14 miles. The new facility would be a tollway, with drivers utilizing the road required to pay an unspecified toll for doing so; no portions of the existing Oregon public highway would be tolled. Private financing, design-build delivery model with Oregon-based contractors and designers would be used to construct the project. The project is meant to alleviate congestion between Newberg and Dundee, which has increased significantly during recent years. The Oregon Department of Transportation (ODOT) has begun development of a Newberg Dundee bypass project to alleviate this congestion; however, that project does not provide a corridor between Highway 18 and Interstate 5.

House Bill 2696 would have directed ODOT to approve tollway projects proposed by a private entity in cases where the entity established ability to finance and pay all costs for acquisition, design, construction, and maintenance; the entity had conducted all environmental studies necessary for construction; and the entity agreed to transfer ownership of the facility to the State of Oregon once all the project-incurred private debt had been paid. Approved projects would have been eligible to utilize

the states eminent domain authority as necessary for project completion.

## **House Bill 2277**

### *Studded tire impact study*

In 2000, the Oregon Department of Transportation (ODOT) conducted a study in an attempt to quantify costs to damaged highways and road systems. The research estimated that studded tires caused approximately \$40 million to \$50 million annually in statewide damage to the road systems. The Department spends approximately \$11 million a year repairing damaged roads by repaving. Research shows studs are more efficient than all-weather tires on icy roads, but less effective on packed snow or any other conditions because the metal prongs actually reduce traction between the road and tire. Tire technology has advanced and has been brought to the market that closes the performance gap between snow tires and studded tires, including 3-D sipping, rubber compounds that get more grip the colder it gets, and silica glass embedded in the rubber.

House Bill 2277 would have directed ODOT to conduct a study on the impact of studded tires on the highway maintenance costs and report the findings to the 2015 Legislative Assembly. The purpose of the report would have been to provide updated information quantifying the impact of studded tires on highway maintenance, review current snow tire and studded tire usage data, and review recent improvements in tire technology.

## **Senate Bill 294**

### *Cell phone use by taxicab operators*

In 2007, House Bill 2872 was enacted which prohibits drivers under the age of 18 from using mobile devices, typically cell phones, while operating a vehicle. The measure created the violation as a secondary offense, meaning that while a driver could be cited for the violation if stopped for another reason, the driver could not be stopped solely for suspicion of driving using a mobile device. In 2009, the law was broadened with the passage of House Bill 2377, which expanded application to all drivers and declared that the offense would be considered a primary offense, meaning that a driver could be stopped solely for suspicion of using a mobile device while driving. Additionally, House Bill 2377 provided exemptions for specific users, e.g., persons utilizing a hands-free accessory device to operate the mobile device. Other exemptions included for public safety personnel and amateur radio operators. House Bill 3186 (2011) clarified that the exemptions apply only to voice communication functions of the devices. In all cases, violations are considered a Class D traffic violation.

Senate Bill 294 would have expanded taxicab operators with a seating capacity of seven or fewer occupants who are operating under a city, county, or other local government-issued license or permit, if such license is required for operation of the taxicab, to the list of permitted users of mobile communication devices while operating a motor vehicle.

## **Senate Bill 511**

### *Prohibits driving in left lane except to pass*

Under current statute, certain motor vehicles are required to remain in the right-most lane while traveling along a multilane highway. Unlike many other states, Oregon does not designate the left-most lane of multilane highways as a passing lane. In those states, a driver can be cited for failing to move back into the right-hand lane after passing a slower vehicle moving in the same direction. However, ORS 811.325 specifies that campers, trailers, and vehicles with a registered weight of over 10,000 pounds must be driven in the right lane except to pass, to turn left, to avoid emergency conditions, to allow vehicles to merge from an onramp, or when necessary to follow traffic control devices. The offense is considered a Class B traffic violation, punishable by a maximum fine of \$360.

Senate Bill 511 would have expanded the applicability of the requirement to travel only in the right lane of a multilane highway to all vehicles.

## **Senate Bill 612**

### *Vehicle titling*

The Driver and Motor Vehicle Services Division (DMV) of the Oregon Department of Transportation provides a service in which a vehicle dealer may expedite the process for receiving a replacement title on a vehicle in cases where documentation timelines are a factor due to federal odometer rules. The federal rule requires that the odometer disclosure from the owner of record be made on the title itself. In cases where the title is lost, a replacement title must first be obtained to enable proper

disclosure. The expedited process results in DMV providing a replacement title in about five business days and costs an additional \$10 for processing.

Senate Bill 612 would have established a separate route for acquiring an expedited vehicle title from DMV. Upon request, and with payment of an additional \$100 fee, the dealer would have received the vehicle title with a shorter turnaround time, approximately five business days.

## **Senate Bill 741 and Senate Bill 742**

### *Helmet requirements for bicyclists*

Oregon law requires bicycle riders under the age of 16 who are riding on a highway or on public premises (streets, roads, sidewalks, and public parks) to wear protective headgear that meet minimum standards as outlined by the Oregon Department of Transportation. An exemption from the requirement is provided for persons whose religious beliefs would be violated by wearing the protective headgear. Violations are punishable by a fine of \$25. Persons operating a bicycle with a passenger under the age of 16 must also ensure that the passenger is wearing protective headgear. Similar requirements, with identical penalty for violation, exist for persons riding skateboards, scooters or in-line skates.

Senate Bill 741 would have added roller skates to the list of devices that a person under 16 years of age be required to wear protective headgear. Senate Bill 741 also specified that the requirement to wear protective headgear while operating a bicycle, skateboard, scooter, in-line skates, or roller skates applies to all persons who are operating a bicycle, carrying another person on a bicycle who is under the age of

16, or who is using a skateboard, scooter, in-line skates, or roller skates as part of an organized exhibition, competition, or contest, regardless of whether the activity is taking place in an area open to the public.

Senate Bill 742 would also have added roller skates to the list of devices that a person under 16 years of age may only operate while wearing protective headgear. The measure also expanded applicability of the requirement to wear protective headgear to all riders under 18 years of age. In addition, the measure specifies that riders 17 and younger must wear protective headgear while operating bicycles, skateboards, scooters, in-line skates, and roller skates regardless of whether they are on a highway, public premises, or on private land.

## **Senate Bill 756**

### *Donations for off-road bike/pedestrian facilities*

Senate Bill 756 would have allowed vehicle owners to make a donation at the time that they register their vehicle, or renew their vehicle registration, to the State Parks and Recreation Department Fund, for the purpose of improving bicycle and pedestrian facilities in Oregon.

Many bicyclists in Oregon also own registered motor vehicles. Previous proposals to have bicyclists pay a registration fee for their bicycles have been problematic due to the cost of implementing a collection system for such a fee; a similar problem applies to efforts to institute a sales tax on bicycles. Senate Bill 756 would have created a voluntary check-off system by which motor vehicle owners, when registering or reregistering their vehicle, could opt to pay an additional fee to help pay for scenic bikeways.



# Veterans

## **House Bill 2037**

### *State licensure for military spouses*

Many occupations require a state license or certification based on state-specific conditions and processes, which can contribute to periods of unemployment when people move from one state to another. Generally, military spouses are more likely than their civilian counterparts to be relocated, as a function of their partner's military service. The delays and added expense of repeated licensure from state to state can inhibit a military spouse's ability to work in his or her chosen field.

House Bill 2037 requires health professional regulatory boards and Oregon's Teacher Standards and Practices Commission, to issue licenses to practice or teach, to the spouses or domestic partners of active servicemembers who are subject to military transfer to Oregon, if certain conditions are met.

*Effective date: June 11, 2013*

## **House Bill 2044 and House Bill 2046**

### *Conservatorship Program for veterans*

The Oregon Department of Veterans' Affairs (ODVA) operates a Conservatorship Program (Program) for veterans deemed incompetent by either the U.S. Department of Veterans Affairs or the courts; however, the Program is not self-sufficient. Under current law, the ODVA may charge a fee of no more than five percent of the income under its management – significantly less than private conservators. In addition, the ODVA does not charge destitute veterans in need of conservatorship services, and it may

waive its claim against a veteran's estate if the estate is without income, even if there are other significant holdings. The ODVA covers the cost of the Program by using funds from its loan department, but as more veterans age, the need for conservatorship and personal representative services is anticipated to increase.

Two companion measures were introduced in 2013, designed to improve the financial stability of the ODVA's Conservatorship Program and make it sustainable: House Bill 2044 removes the five percent limit on fees and allows the ODVA to adopt rules to establish reasonable compensation for the Program; and House Bill 2046 permits the ODVA to retract its waiver and file a claim to recuperate costs from a veteran's estate, provided the payment of costs will not deplete the estate or pose a hardship.

*Effective date: June 4, 2013, and January 1, 2014, respectively*

## **House Bill 2083**

### *Service contracts cancellation*

When servicemembers are called to duty away from their Home of Record, they may not be able to utilize services they have contracted for, such as internet, telecommunications, and health club memberships. In 2009, the Legislature passed House Bill 3020 incorporating the consumer protection provisions of the federal Servicemembers Civil Relief Act (SCRA) into Oregon's Unlawful Trade Practices Act (Oregon's general body of consumer protection law). The SCRA contains a provision for the termination of telephone service contracts but not for other contracts.

House Bill 2083 provides a process to allow servicemembers to suspend or terminate internet, telecommunications, television, and health club services when they are ordered to report for military duty.

*Effective date: January 1, 2014*

## **House Bill 2158**

*In-state college tuition for veterans, and more tuition waivers for veterans' dependents*

Current law provides an in-state tuition rate for Oregon residents; an out-of-state tuition rate for nonresidents; and a rate that is halfway between the two for qualified nonresident veterans. The GI Bill only covers the cost of in-state tuition. Beginning with newly enrolled students for fall of 2013, House Bill 2158 requires all undergraduate veterans with either an honorable discharge or a general discharge under honorable conditions to receive in-state tuition rates, if the veteran demonstrates a physical presence in Oregon within 12 months of enrollment.

The measure also adds the children of Purple Heart recipients, awarded from 2001 forward, to the list of dependents eligible to receive tuition waivers under the Veterans' Dependent Tuition Waiver program. Oregon's tuition waiver program for the dependents of deceased and disabled veterans requires community colleges and universities to waive tuition for the dependents of veterans killed on active duty, or as a result of a service-connected disability. Universities must further waive tuition for the dependents of veterans who are 100 percent disabled as a result of military service. House Bill 2158 enlarges the group of eligible dependents by adding the children of recipients of the Purple Heart, which is awarded only to those who

are wounded in combat. In order to provide veterans with in-state tuition and expand the tuition waiver program, the measure modifies the accounting for the Veterans' Dependent Tuition Waiver program as a whole, permitting other benefits, such as federal grants and scholarships, to be applied toward tuition before state funds are expended.

*Effective date: June 24, 2013*

## **House Bill 2417**

*Veterans housing assistance*

One out of every six men and women in homeless shelters across the country is a veteran. Compared to individuals in the same age range, among the general population, veterans aged 18-30 are twice as likely to be homeless. The United States Interagency Council on Homelessness estimates there are about half a million veterans paying more than half their income towards rent. In Oregon, many working veterans do not earn enough to afford a median-priced home. Unstable housing often correlates with other obstacles, such as unemployment, poverty, substance abuse, and/or mental or physical health issues. Stable housing can dramatically improve a veteran's ability to overcome obstacles and succeed with reintegration into civilian life.

House Bill 2417 increases an existing property recording and filing fee collected by county clerks, from \$15 to \$20 dollars, and requires a fixed percentage of funds be spent by Oregon's Housing and Community Services Department specifically to assist homeless veterans, veterans at risk of becoming homeless, and low-income veterans and their families.

*Effective date: January 1, 2014*

## **House Bill 2422**

### *Department of Human Services outreach to veterans*

In 2012, the Legislative Assembly enacted House Bill 4064, which directs the Bureau of Labor and Industries (BOLI) to inquire about the veteran status of every individual seeking services, and to share that information with the Oregon Department of Veterans' Affairs (ODVA). The implementation of House Bill 4064 led to approximately 70 veterans being identified and connected with the ODVA thus far. House Bill 2422 is modeled after House Bill 4064, but applies to the Department of Human Services (DHS). House Bill 2422 requires that when a veteran contacts DHS in writing about certain assistance programs, DHS must communicate the veteran's name and address to the ODVA, with the veteran's permission.

About 330,000 veterans currently reside in Oregon. The ODVA estimates about 230,000 do not receive benefits, and of those, around 100,000 would qualify if they could be identified and contacted. The potential for outreach with assistance from DHS has an impact, as DHS interacts with approximately 800,000 adults every year.

*Effective date: January 1, 2014*

## **House Bill 2708**

### *Fallen Hero roadside memorial signs*

House Bill 2708 permits Fallen Hero roadside memorial signs for members of the Armed Forces killed in action, upon receipt of funds by the Oregon Department of Transportation (ODOT) to cover the cost of installation and maintenance.

House Bill 2708 is modeled after House Bill 3039 from 2011, that established the Roadside Memorial Fund to receive and appropriate monies to ODOT to erect roadside memorial signs commemorating law enforcement officers killed in the line of duty.

*Effective date: January 1, 2014*

## **Senate Bill 1**

### *Veterans Day off for veterans*

Veterans Day is set aside to honor all servicemembers. Publicly employed veterans may enjoy the day off, while many privately employed veterans may not. Senate Bill 1 enables all employed veterans, if possible without undue difficulty for employers, to enjoy the day off, on the one holiday that is dedicated to them.

*Effective date: April 4, 2013*

## **Senate Bills 34 and 35**

### *Home loans for veterans*

The Oregon Department of Veterans' Affairs (ODVA) provides financing for veterans purchasing a home in Oregon. The loan program is a "win-win" for both veterans and the ODVA: the loan products are competitive and in demand, and the success of the program funds not only ODVA's core mission, but other services for veterans that might not otherwise be viable, such as the Conservatorship Program (see House Bills 2044 and 2046).

Senate Bill 34 increases the number of loans a qualified veteran may receive from the ODVA, from two to four, to permit otherwise eligible persons to borrow up to

the current maximum benefit amount of \$417,000 each time.

In coordination with Senate Bill 34, Senate Bill 35 makes it possible for ODVA loans to be covered by the federal Home Loan Guarantee Program offered by the U.S. Department of Veterans Affairs, by tying loan amounts to the loan-to-value ratio required by the federal program.

*Effective date: May 23, 2013*

## **Senate Bill 124**

*Criminal sentences for veterans*

In criminal cases, within certain limits, convicted defendants and prosecutors may argue for a range of sentencing conditions, and a court may consider evidence it deems appropriate to justify either a more lenient or a harsher sentence.

Senate Bill 124 specifies that one of the factors a court may consider is a defendant's veteran status, but only for purposes of mitigation.

*Effective date: June 6, 2013*

## **Senate Bill 125**

*Postpone administrative hearings for servicemembers*

The Servicemembers Civil Relief Act (SCRA) is a body of federal law that offers a number of protections for servicemembers while they are on active duty, including the postponement or suspension of certain civil processes. While on active duty, a servicemember may be protected from debt collection and may delay pending administrative and court proceedings. The

SCRA requires the Military Department to notify servicemembers of these rights and protections.

Oregon law requires state agencies to notify parties of certain rights and procedures in advance of hearings in contested cases, and of their right to a hearing generally. Many state agencies also voluntarily include information about the SCRA with these notices, in case one of the parties is a servicemember. Senate Bill 125 makes this a requirement: any state agency not already providing information to parties about the SCRA must add a statement describing an active servicemember's right to stay proceedings and provide contact information for military legal assistance providers.

*Effective date: September 1, 2013*

## **Senate Bill 461**

*Designating a memorial highway for Vietnam veterans*

Senate Bill 461 designates Interstate 84, from Oregon's border with Idaho west to the point where it meets Interstate 5, as the Vietnam Veterans Memorial Highway.

A majority of states honor their Vietnam veterans with the dedication of a memorial highway. More than 57,000 Oregonians served in the Vietnam War and more than twice that number now live in Oregon. The Oregon State Council of Vietnam Veterans of America offered to fund the installation and maintenance of appropriate signage at no cost to the taxpayer, and Senate Bill 461 was enacted to accomplish this goal.

*Effective date: January 1, 2014*

## Senate Bill 762

### *Veteran suicide prevention*

According to a report published in September 2010 by the Oregon Department of Human Services, Office of Disease Prevention and Epidemiology, Injury and Violence Prevention Program, there are more injury-related deaths in Oregon due to suicide than to auto accidents. The age-adjusted suicide rate among Oregonians in 2007 was 35 percent higher than the national average, and suicide rates have been increasing since 2000. At the time the report was published, approximately 27 percent of suicides occurred among veterans. The suicide rate among male veterans in particular, was 45.7 for every 100,000,

compared to 27.4 for every 100,000, among males who were not veterans.

Senate Bill 762 adds a suicide prevention program to the outreach and other services administered by the Oregon Department of Veterans' Affairs (ODVA) that are funded by voluntary contributions. ODVA will utilize its existing partnerships and Veterans Service Officers, social media, training opportunities, newsletters, and email distribution lists, to make veterans and their advocates aware of existing suicide prevention services available through the U.S. Department of Veterans' Affairs, the National Guard, and Lines for Life (a nonprofit organization).

*Effective date: August 14, 2013*

# Water

## **House Bill 2259**

### *Fees charged by Water Resources Department*

The Oregon Water Resources Department (WRD) conducts a variety of transactions, including processing water right applications and transfers and issuing water right certificates and limited licenses. The fees charged by WRD are established in statute and were last modified in 2009; those increases were scheduled to sunset in 2013.

House Bill 2259 modifies the fees assessed by WRD. These fees revert to 2009 levels beginning July 1, 2017.

*Effective date: July 25, 2013*

## **House Joint Memorial 7**

### *Drinking Water and Clean Water State Revolving Funds*

The Drinking Water State Revolving Fund and the Clean Water State Revolving Fund are both used by communities to upgrade water and wastewater systems. Many of these systems are becoming increasingly ineffective due to age. By increasing investment in these funds, Congress can provide a means to many communities to afford repairs to existing systems or replacement of those systems.

House Joint Memorial 7 urges Congress to increase investment in the Drinking Water State Revolving Fund and the Clean Water State Revolving Fund.

*Filed with Secretary of State: May 22, 2013*

## **Senate Bill 199**

### *In-stream leasing program*

Oregon's in-stream leasing program provides a voluntary means to aid the restoration and protection of stream flows. This arrangement provides benefits both to water right holders and to in-stream values by providing water users with options that protect their water rights while leasing water for in-stream benefits. The split season water right leasing program was established by the Legislature in 2001; in 2007, the Legislature extended the program sunset to January 2, 2014. The split season leasing program allows a water right to be used for both in-stream and out-of-stream uses provided the uses do not occur at the same time and do not result in injury to other water rights.

Senate Bill 199 establishes a five-year term on all in-stream leases with unlimited renewals and caps the total period for which a water right may be leased for split season use to a total of 10 years. The measure requires the holder of the water rights involved in a split season lease to measure and report use to the Water Resources Department (Department). The Department is authorized to revoke or modify an order approving an in-stream lease if the Department determines the in-stream use has or may result in injury to an existing water right. Senate Bill 199 also extends the sunset on the split season leasing program to January 2, 2024.

*Effective date: January 1, 2014*

## **Senate Bill 200**

### *Water right assignment*

Generally, a water right is attached to a parcel of land; this is known as “appurtenancy.” When land is sold, the appurtenant water right goes with the land to the new owner. As properties are divided and sold, the water rights are also affected. This can lead to a circumstance where some permit holders are ready to certificate their portion of a water right, and others with a portion of the water right are not ready or willing.

Senate Bill 200 establishes a process for a holder of a water right for agricultural use to certificate their portion of an original water right permit as they become eligible. The new permit would carry forward all conditions from the original permit and would not release any permit holders from obligations under the original permit.

*Effective date: January 1, 2014*

## **Senate Bill 839**

### *Water Supply Development Account*

Most of the surface water resources in Oregon are fully allocated during the summer months. Increasingly, water users are relying on tools such as water conservation, re-use, transferring existing water rights, and water storage to meet their needs during the summer months. Many water users store available winter water (surface water) to supply late season or year-round uses. The history of storing water in Oregon dates back to the 1800s when projects consisted mostly of ponds or small dams across streambeds. As the state’s population grew, so did the scale and

purpose of these projects. Before long, developers and governments were building major dams and reservoirs to meet the increasing water demands for power production, flood protection, and out-of-stream needs during the dry summer months. In Oregon today, there are more than 15,000 water rights authorizing the storage of surface water. Most of these water rights are for small ponds or reservoirs storing less than 9.2 acre-feet, although there are more than 60 reservoirs with capacities exceeding 5,000 acre-feet each.

Senate Bill 839 establishes the Water Supply Development Account (Account) which is continuously appropriated to the Water Resources Department (WRD) to make loans and grants to evaluate, plan, and develop in-stream and out-of-stream water development projects and to cover necessary administrative and technical costs. The Act establishes a process for scoring and ranking projects. Senate Bill 839 requires that all projects applying for funding from the Account be evaluated based on the public benefit, which includes the economic, environmental, and social or cultural benefits. Senate Bill 839 directs the WRD to establish seasonally varying flows before issuing a loan or grant. The Act establishes a task force to review the structure established for loans and grants distributed through the Account and to propose changes to the structure the group determines to be warranted. The Act creates an additional task force to act as an advisory body on the functional needs of watersheds for seasonally varying flows and the financial feasibility of new water storage projects. Both task forces are required to report to the Governor and the Legislative Assembly no later than July 1, 2014.

*Effective date: August 14, 2013*

# LEGISLATION NOT ENACTED

## House Bill 3491

### *Columbia River Treaty oversight*

The Columbia River Treaty is an agreement between the United States and Canada for the cooperative development of water resources regulation in the upper Columbia River Basin. The treaty has no end date, but it includes an option for either country to terminate most treaty provisions any time after September 16, 2024, if at least 10 years advance notice is given.

House Bill 3491 would have required the Governor to report to the Legislative Assembly regarding the participation or input of the Governor or any state agency in the multi-year review process called the Columbia River Treaty 2014/2024 Review. A budget note was adopted directing the Water Resources Department to report quarterly to the House and Senate environment and natural resources committees regarding the status of the review.

## Senate Bill 217

### *Annual water rights management fee*

Water rights are used beneficially for industrial, agricultural, municipal, domestic, and in-stream purposes. Currently, there are more than 80,000 water rights in Oregon. Once the transaction to obtain a water right permit, certificate, or transfer is complete, the water right holder pays no further fees. In 2010, the Water Resources Commission (Commission) convened a group of stakeholders to discuss the best way to

stabilize revenue to the Water Resources Department (WRD). The Commission recommended an annual fee charged to all those holding water rights (permits, certificates, decrees, or groundwater registrations) as a means of stabilizing revenue to WRD.

Senate Bill 217 would have imposed an annual management fee of \$100 on each primary and each supplemental water right held for waters of state under a water right permit, water right certificate, decree, or ground water registration. The money collected would have been dedicated for use in carrying out Water Resources Department activities involving water rights management.

## Senate Bill 523

### *Mixing zone marker system*

A mixing zone is an area where wastewater discharged from a permitted facility enters and mixes with a stream or water body. Water quality standards may be exceeded in mixing zones as long as acutely toxic conditions are prevented and all beneficial uses, such as drinking water, fish habitat, recreation, and other uses are protected. The Department of Environmental Quality calculates mixing zones to be as small as feasible. The size of the zone varies based on the concentration of the wastewater discharge, water quality standards, location of the discharge in relation to critical habitat or drinking water intakes, and size or flow of the water body. Not all permitted facilities have mixing zones. Most mixing zones in Oregon vary in size from 5 to 300 feet from the point of discharge.

Senate Bill 523 would have required any water quality permit holder who discharges persistent bioaccumulative toxins into

Oregon waters at concentrations that cause waters to fail to meet water quality standards to pay for the installation and maintenance of a marker system.

## **Senate Bill 846**

### *Umatilla Basin Water Storage Program*

Farmers in the Umatilla Basin have been seeking additional irrigation water for more than 20 years. Irrigation water use has dropped basin aquifers by up to 500 feet in a matter of decades. A carbon-dating study showed wells had reached water that had been underground for 27,250 years.

Senate Bill 846 would have required the Water Resources Department (WRD) to

establish the Umatilla Basin Water Storage Program for developing water resources in Willow Creek, Walla Walla, and Umatilla watersheds to increase water supplies in northeastern Oregon and to provide liaison services between parties wishing to engage in water-related transactions that may affect water supplies. The Act would have required WRD to dedicate at least one full-time employee to program administration during the 2013-2015 biennium. Senate Bill 846 would have required the Water Resources Commission to appoint a work group to study and make recommendations regarding a new office to address water supply issues in northeastern Oregon.