

LEAGUE OF OREGON CITIES

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# 2018 LEGISLATIVE SESSION SUMMARY OF BILLS

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# 2018 OREGON LEGISLATIVE ASSEMBLY

## OVERVIEW

The 2018, “short” session of the Oregon Legislature adjourned Saturday, March 3 at about 5:00 p.m., eight days prior to its constitutionally mandated deadline. Although characterized once again by many heavy policy bills, which brought into focus partisan differences, the session ended relatively amicably.

For the League it was a session of mixed results with the passage of transient lodging tax legislation, some PERS relief and the maintenance of an exemption for small cities from having to provide reports on transportation financing. However, it was a disappointing session in that in the waning hours bills repealing the gigabit property tax exemption and amending quality-based selection statutes did not get across the finish line.

Despite the wins and disappointments much was accomplished in terms of setting the stage for more accomplishments in the 2019 session. Along with the additional horsepower that the League’s policy committees and a more robust grassroots member involvement program portends in terms of positive legislative outcomes in 2019, the groundwork that was laid during the 2018 session, even in the face of disappointment, will likely pay dividends going forward.

The following is a summary of the legislation (passed bills and failed bills) of concern to cities that was considered in each policy area.

Click on the bill number to view the full text of the bill.

### How to Read the Bill Summaries

[HB 4120: Lodging Taxes: Intermediaries](#)

*Effective Date: July 1, 2018*

Effective Date - indicates the date on which the bill becomes effective

# COMMUNITY DEVELOPMENT

## Building Codes

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### BUILDING CODES – PASSED BILLS

#### **[HB 4144](#): Contractor Businesses**

*Effective Date: January 1, 2019*

HB 4144 waives fees and eliminates training requirements for contractor applicants who provide services as a sole proprietor if they can demonstrate at least eight years of specified experience when applying for a residential general or residential specialty contractor’s license. The waiver does not apply to renewals or to applicants who would otherwise be denied or disqualified under current statute. HB 4144 also creates a loan program—run by Business Oregon—for contracting businesses owned or managed by a sole proprietor who operates outside the Willamette Valley and agrees that 20 percent of their work will be on qualified projects. In addition, the bill allows a contractor working outside the Willamette Valley who works on qualified projects to receive financial support from the Higher Education Coordinating Commission to recruit, train or retain workers. The League supported the bill, as the lack of qualified contractors and subcontractors is one factor slowing housing development across the state.

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### BUILDING CODES – FAILED BILLS

#### **[HB 4086](#): Third Party Building Inspection Programs**

HB 4086 would have done two things. First, it would have allowed specialized inspectors to perform inspections using their current certification regardless of their employer. The League supported this portion of the bill. Second, HB 4086 would have required that a city with a building inspection program have a building official and a head structural inspector either hired by the city directly, shared through an intergovernmental agreement with other governmental bodies, or employed by a council of governments. This would not have impacted all cities that have local inspection programs, but for a sizeable number of cities, it would have significantly impacted their programs and budgets. Therefore, the League did not support this portion of the bill and did not support the bill overall.

## Economic Development

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### OVERVIEW

The 2018 session saw little activity in the economic development area. The interplay of recent federal tax cuts with Oregon’s tax code was an important topic for small businesses and large corporations with overseas assets that will likely be repatriated and taxed in the U.S. (see [SB 1528](#) and [SB 1529](#)). Businesses are also gearing up for the 2019 session, which is expected to include major state tax reform

policy discussions with a business tax focus. Oregon's economy continues to grow, but government costs continue to outpace revenue growth. Cost containment measures regarding PERS and health care costs will likely need to accompany tax reform. Comprehensive state and local tax reform is long overdue and the League is working with coalition partners to ensure property tax reform is on the table.

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## ECONOMIC DEVELOPMENT – PASSED BILLS

### **SB 1516: Small Business Expansion Loan Program**

*Effective Date: January 1, 2019*

SB 1516 establishes the Small Business Expansion Loan Fund to support the acquisition of business assets or cover business operating expenses. The Oregon Business Development Department (OBDD) will administer the program. Loans may be made to individuals or businesses with 50 or fewer employees. Up to 20 percent of the moneys available in the fund may be reserved for lending to individuals with low-to-moderate income and low-to-moderate personal net worth. No loan may be made for an amount greater than \$2 million. OBDD may charge fees to pay for administrative costs and expenses associated with administering the loans.

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## ECONOMIC DEVELOPMENT – FAILED BILLS

### **HB 4011: Bovine Manure Tax Credit**

HB 4011 would have adjusted the bovine manure tax credit program by adjusting the annual \$5 million cap on the credit to a calendar instead of a tax year. The bill did not advance after hearings, but the adjustment was included in an omnibus tax bill, HB 4028.

### **HB 4025: Economic Resilience**

HB 4025 would have required the Legislative Policy and Research Office (LPRO) to study methods for supporting economic resilience in communities affected by emergencies or disasters declared by the governor. The bill required a report to the emergency preparedness and economic development committees of the Legislature by September 15, 2018. The Oregon Business Development Department was directed to assist if requested. HB 4025 was in response to 2017's wildfires, and a desire to do resilience planning and develop best practices for wildfire recovery. Wildfire recovery councils were formed in the Columbia Gorge and southwest Oregon to: assess the impacts of last year's fires; prioritize assistance needs; and work with the state's Regional Solutions program to coordinate state agency tools. These councils identified needs, including access to capital for small businesses, environmental recovery, public safety, and protecting regional brands as business and tourist destinations. While the bill remained in the Ways and Means Committee upon adjournment, the LPRO still may be tasked with conducting the study. In addition, \$500,000 was appropriated to the Local Economic Opportunity Fund in HB 5201, and that fund may be used to assist with resiliency and gap funding.

### **HB 4069: County Video Lottery Allotment**

HB 4069 would have provided that in each biennium, 2.5 percent of the forecasted net receipts from video lottery games be transferred to counties for economic development activities. The bill also contained a

reconciliation procedure to address differences between forecasted and actual net receipts. Present law calls for a 2.5 percent transfer, but the Legislature has shortchanged the counties in their state budgeting process when receipts outpaced the forecast. The amended bill received a “do pass” recommendation from the House Revenue Committee but died in the Joint Ways and Means Committee. However, a budget note was put in HB 5201 that should provide an actual receipts adjustment for the 2017-19 biennium.

### **HB 4083: Short Line Railroad Tax Credit**

HB 4083 would have provided a new tax credit for owners or lessees of short line railroads to undertake rehabilitation projects. The credit would have been equal to the lesser of \$3,500 multiplied by the number of miles of short line railroad track the taxpayer owns or leases in Oregon, or 50 percent of the certified short line railroad rehabilitation project costs. Unused tax credits could be carried forward for up to five succeeding tax years and an unspecified biennial credit cap was anticipated. The Oregon Department of Transportation lists 17 short line railroads in Oregon, which might help reduce truck and traffic congestion issues.

## **Housing**

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### **HOUSING**

As the statewide housing shortage continued during the session, the Legislature considered several ways to address the issue. Various approaches were proposed, mostly focused on creating resources to assist in the development of affordable housing. Some of the assistance that was approved during the session provides a one-time, large investment of state resources in technical assistance for local governments. In addition, the Legislature increased some long-term funding sources for affordable housing, but these funds do not currently assist cities directly. Housing is an issue that will continue to be a primary concern if the gap between need and development is not closed.

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### **HOUSING – PASSED BILLS**

#### **HB 4006: Housing Reporting Requirements and Technical Assistance**

*Effective Date: On passage*

HB 4006 contains three components. First, the bill requires cities with populations of 10,000 or more and with more than 25 percent of city households severely rent burdened—defined as spending 50 percent or more of household income on rent—to hold an annual meeting to discuss the causes of and options for addressing rent burden; and to annually complete a survey regarding city policies related to affordable housing. The Oregon Housing and Community Services Department (OHCS) is required to inform cities which meet these thresholds on an annual basis. The survey will be developed by OHCS and the Oregon Department of Land Conservation and Development (DLCD).

Second, HB 4006 requires cities with population of 10,000 or more to provide the DLCD information related to the number of permits and units developed in the prior year for the following types of housing:

- a) Residential units;
- b) Regulated affordable residential units;
- c) Multifamily residential units;

- d) Regulated affordable multifamily residential units;
- e) Single-family units; and
- f) Regulated affordable single-family units.

Third, the bill allocates \$2 million for housing research and technical assistance, of which \$1.73 million is designated for the DLCD to provide technical assistance to local governments, prioritizing cities with a high percentage of severely rent burdened households. This is a single allocation of funding, and it is unclear if it will be included in future state budgets. The remaining \$270,000 is designated for the OHCS to conduct a study of the cost drivers for affordable housing and use any remaining money for technical assistance grants to promote the development of affordable housing.

### **HB 4007: First-Time Homebuyers Account and Document Recording Fee Increase**

*Effective Date: June 2, 2018*

HB 4007 allows a first-time home buyer to establish a savings account for the purchase of a single-family residence. Funds contributed to the account would be subtracted from the individual's income, up to \$5,000 for a single filer and \$10,000 for joint filers. Interest and other earnings in the account would not be taxable. The account could only be held for 10 years, and the amount in the account is limited to \$50,000.

In addition, HB 4007 raises the fee for recording documents with a county from \$20 to \$60. The state expects that this increase will provide an additional \$30.5 million for the remainder of the 2017-2019 biennium and more than \$60 million in the next biennium. Funds raised from the document recording fee are focused on low-income and affordable housing projects, and 25 percent is set aside to serve veteran populations. The money is divided among three state programs: 10 percent Emergency Housing Account; 14 percent Home Ownership Assistance Program; and 76 percent General Housing Account Program. For the funds in the General Housing Account Program, 6 percent is reserved for capacity building and technical assistance, and the League is focused on ensuring availability of this portion for local government applicants.

### **HJR 201: Constitutional Referral on General Obligation Bonds for Affordable Housing**

*Effective Date: Subject to Passage by Oregon Voters in 2018 General Election*

HJR 201 refers to Oregon voters a constitutional amendment allowing general obligation bonds to be expended on affordable housing projects that are developed, owned and/or operated by private parties under certain conditions. Currently, the Oregon Constitution prohibits counties, cities, towns and other municipal corporations from becoming stockholders in any joint company, corporation or association, or from raising money for, or loaning its credit to, such companies, corporations or associations. To finance the capital costs of affordable housing under certain conditions, HJR 201 allows a local government to use bonds which are payable from ad valorem taxes and not subject to the limitations outlined in Section 11 or 11(b) of the Oregon Constitution. If the referral passes, there will be additional requirements for cities that opt to use general obligation bonds for this purpose.

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## HOUSING – FAILED BILLS

### **HB 4108: Tax Credit for Housing Development**

HB 4108 would have created a tax credit for housing developers developing single-family units which are affordable to households earning up to 120 percent of an area’s median income. The bill would have provided up to \$10 million in credits each year. The tax credits were intended to provide an incentive for more development of single family homes that are affordable to those with “workforce” incomes, traditionally defined as a household earning 80 to 120 percent of the area median income.

## Land Use

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## LAND USE – PASSED BILLS

### **HB 4031: Land Use Omnibus Bill**

*Effective Date: March 16, 2018*

HB 4031 includes multiple concepts relating to one-off land use issues. First, the bill re-authorizes guest ranches on exclusive farm use lands in eastern Oregon to address a statute that had expired. It also includes an extension for certain transfer development rights related to small-scale recreation communities that were originally planned for development in the Metolius area. Third, the bill contains a technical fix related to a pilot project related to development around an airport.

Finally, HB 4031 includes a technical fix to the mandate requiring local governments to allow accessory dwelling units (ADUs) where single family residences are permitted. Instead of requiring counties to permit ADUs in all residential zones, the bill only impacts those that are also within an urban growth boundary. While the change does not directly affect the mandate on cities, cities should work with their county counterparts to ensure that ADUs built in these areas will fit within the plans for urbanization when land is incorporated into a city’s boundary.

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## LAND USE – FAILED BILLS

### **SB 1502: Land Use Approvals in Eastern Oregon**

SB 1502 would have permitted small counties in eastern Oregon to allow for non-conforming uses within non-resource lands. This bill was a place holder for ongoing conversations about how to improve the land use process for smaller, eastern Oregon counties and the cities within those counties. This conversation will continue into future sessions.

### **HB 4034: ADU Technical Fix**

HB 4034 would have provided a technical fix to the mandate requiring local governments to allow accessory dwelling units (ADUs) within counties. The bill would have limited the requirement that counties permit ADUs in all residential zones to only those that are also within an urban growth boundary. (See [HB 4031 – Land Use Passed Bills](#).)

## **HB 4092: Mandatory Airport Runway Extension**

HB 4092 would have established standards for the expansion of certain state airports located on land zoned for exclusive farm use. The bill would have required the affected local government to update its comprehensive plans to allow for the extension of runways—unless there were significant impacts on existing farm practices or public health, safety, or welfare of residents near the airport. This decision would not have been exempt from the review normally provided for such land use decisions. Finally, HB 4092 would have required the Oregon Homeland Security Council to prioritize state airports for resiliency investments and consider certain state airports as critical emergency preparedness, response, recovery and resiliency platforms.

# ENERGY & ENVIRONMENT

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## OVERVIEW

Despite the brief nature of the 2018 legislative session, the Legislature engaged in several significant energy and environment policy discussions. Arguably, one of the most significant policy debates was on the potential implementation of a cap-and-invest program in Oregon. HB 4001 and SB 1507 were both introduced following an interim work group process that was announced in the fall of 2017. That process involved four separate workgroups that each held three meetings from September to November. The work groups were asked to provide input and suggest revisions to cap-and-trade legislation that had been previously introduced, but did not pass, during the final days of the 2017 session (SB 1070). While neither bill introduced during the 2018 session passed, the Legislature appropriated \$1.4 million in general funds to create and staff a Carbon Policy Office. These funds will also support several studies, including an economic impact analysis of a cap-and-trade program on jobs and the state's economy. The analysis will also assess potential opportunities for carbon sequestration. In addition, it has been announced that House Speaker Tina Kotek (D-Portland) and Senate President Peter Courtney (D-Salem) will convene and co-chair a new Joint Committee on Carbon Reduction. It is highly anticipated that this new committee will be instrumental in the development and consideration of similar legislation during the 2019 legislative session.

In addition to the cap-and-trade proposals, the Legislature contemplated other significant energy and environment legislation including:

- **Cleaner Air Oregon** – Legislation authorizing the Oregon Environmental Quality Commission to adopt new health-based criteria for toxic air emissions (see [SB 1541 – Passed Bills](#)).
- **Clean Diesel** – Legislation that would have mandated the reduction of both on-road and off-road diesel emissions (see [HB 4003 – Failed Bills](#)).
- **Oregon Department of Energy Oversight** – Two bills were introduced that would have created a new Oregon Energy Commission as a policy and rulemaking body for the department. One of those bills, SB 1519, would have required the department to develop a statewide strategic energy plan and would have reduced the cap on the energy resource supplier assessment—an assessment that is currently used to fund department programs and activities (see [SB 1519](#), [SB 1537](#) and [HB 4148](#) – Failed Bills).

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## ENERGY & ENVIRONMENT – PASSED BILLS

### **[SB 1541](#): Cleaner Air Oregon Program Implementation**

*Effective Date: On passage*

SB 1541 authorizes the Oregon Environmental Quality Commission (EQC) to require reductions from specific industrial and commercial air contamination sources if the permit holder is required by law to have a permit and is found to have exceeded specific benchmarks for lifetime cancer and noncancer health

risks. The bill establishes methods by which the Oregon Department of Environmental Quality will evaluate and regulate public health risks from emissions. In addition, the bill provides potential exemptions for sources that utilize best available control technology to limit or reduce toxic air emissions. If a regulated source exceeds certain excess non-cancer risk benchmarks, and the contaminants are expected to have developmental human health effects associated with prenatal or postnatal exposure or other severe human health effects, the EQC can adopt rules to regulate those specific sources.

The bill also authorizes the EQC to establish a pilot program within Multnomah County to evaluate and control cumulative public health risks from toxic air emissions from multiple contamination sources. The requirements of the pilot program would be in addition to other requirements established in the bill. Specific benchmarks for excess cancer risks become more stringent beginning January 1, 2029.

## **HB 4022: State Agency Electric Vehicle Devices & Facilities**

*Effective Date: June 2, 2018*

Current law allows the Oregon Department of Administrative Services (DAS) to install electric-vehicle charging devices or facilities, but limits the number of devices or facilities to no more than 10 locations during a biennium. For all other state agencies, the limit is five per biennium. HB 4022 will allow DAS to install as many electric-vehicle charging devices or facilities as deemed sufficient to meet demand. Further, DAS would establish criteria through rulemaking for other state agencies to determine the appropriate number of locations to be installed. In addition, HB 4022 makes changes to the way in which a state agency may establish and adjust pricing for using devices or facilities located on premises owned or controlled by the agency. The pricing criteria outlined in HB 4022 includes requirements for state agencies to calculate a uniform price, while prohibiting prices that exceed 110 percent of the average market price in the county where the device or facility is located. Finally, the bill requires DAS to report back to the Legislature on implementation of the legislation.

## **HB 4118: Good Neighbor Authority on Federal Forestlands**

*Effective Date: On passage*

In 2016, Oregon Governor Kate Brown signed a Good Neighbor Authority Master Agreement with the U.S. Forest Service. Good Neighbor Agreements were congressionally re-authorized in 2014 and serve as a tool for states to work proactively with the federal government to promote forest management activities on federal land. Under such agreements, the state can perform forest, rangeland and restoration services on lands owned by the U.S. Forest Service or Bureau of Land Management. Eligible activities include the treatment of insect or disease-infested trees, reduction of hazardous fuels, and any other activities to restore or improve the rangeland, forestland or watershed health.

HB 4118 outlines that the state should pursue Good Neighbor Agreement projects that increase timber harvest volume, contribute to job creation, reduce wildfire risks, improve wildlife and habitat and stimulate local economies. The bill requires prioritization of projects that: increase the pace, scale and quality of restoration services; maximize economic benefit to the state; and recover state agency costs for project implementation. In addition, the bill requires the governor and the Federal Forest Working Group of Oregon Solutions at Portland State University to develop specific recommendations consistent with goals outlined in the bill. Those recommendations must be reported to the Legislature by March 1, 2019. Finally, the bill appropriates \$500,000 in general fund dollars to support the development, planning and implementation of Good Neighbor Agreement projects.

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## ENERGY & ENVIRONMENT – FAILED BILLS

### **SB 1507: Cap and Trade**

SB 1507 was one of two bills introduced during the short session that proposed implementation of a cap-and-trade program in Oregon. Both bills (SB 1507 and HB 4001) were introduced following an interim work group process in the fall of 2017.

As introduced, both SB 1507 and HB 4001 updated existing state greenhouse gas reduction targets and would have required the Oregon Environmental Quality Commission to establish an overall statewide cap on greenhouse gas emissions. The statewide cap would be reduced over time to achieve emission reductions of 80 percent below 1990 emission levels by the year 2050. The bills would have required regulated entities to obtain an allowance for every metric ton of carbon, or carbon-equivalent, of emissions produced. With some exceptions, entities with emissions greater than 25,000 metric tons per year would be considered “regulated entities” and therefore, subject to the requirements. The bills also set forth provisions for distributing allowances and establishing a market by which allowances would be auctioned and possibly traded in a secondary market. Revenues from auction proceeds would be dedicated to a Transportation Decarbonization Investment Fund, a Climate Investment Fund and a Just Transition Fund.

SB 1507 and HB 4001 would have established a Joint Legislative Committee on Climate to provide legislative oversight for the program and make recommendations on expenditures of auction proceeds. In addition, a 21-member program advisory committee would have been created to advise on the development and implementation of program rules, expenditures and investments.

While SB 1507 and HB 4001 were similar in overall policy and general program requirements, there were some significant policy differences between the bills, including: limitations on the use of offset projects for program compliance; exemptions for certain industries; and provisions for the distribution and use of allowances for investor-owned utilities. It is highly anticipated that similar legislation will be considered during the 2019 session.

### **SB 1508: Cleaner Air Oregon Fees**

SB 1508 proposed to assess additional fees for air contamination sources operating under a state, regional or federal air quality permit. The new fees would be in addition to existing permit fees and would be used to fund the development and implementation of a program to reduce public health risks from toxic air emissions from commercial and industrial air contamination sources. Under the bill, total fees collected for the 2017-19 biennium could not exceed \$2 million.

SB 1508 was introduced in response to the efforts of the Cleaner Air Oregon Advisory Committee. That committee was established in the fall of 2016 in response to the discovery of several toxic metals in air quality samples in the Portland area. The committee completed work in August of 2017 and proposed rules were issued in October. SB 1508 did not pass during the 2018 session. However, a similar fee increase was included in a more comprehensive bill that also codified a new health-based air quality program (see [SB 1541 – Passed Bills](#)).

### **SB 1519: Oregon Energy Commission**

SB 1519 would have established a 10-member, governor-appointed, Oregon Energy Commission, which would have consisted of six voting members and four non-voting members. The bill outlines the purpose of the commission and transfers rulemaking authority from the Oregon Department of Energy (ODOE) to

the commission. Authorities for the Energy Facility Siting Council would not have been impacted under SB 1519. SB 1519 would have required the ODOE to develop a statewide strategic energy plan. In addition, the bill would have transferred the small-scale energy loan program to the Oregon Business Development Department.

Finally, SB 1519 proposed modifications to the current assessment imposed on energy supplier gross receipts. That assessment, known as the energy supplier assessment, typically funds more than one-third of the department's operating budget. Currently, the assessment is capped at 0.375 percent. SB 1519 would reduce the cap to 0.15 percent. A public hearing and work session were held on SB 1519, but the bill failed to pass out of the Joint Ways & Means Committee prior to adjournment.

### **SB 1537: Oregon Energy Commission**

Similar to SB 1519 (see above), SB 1537 proposed to establish an Oregon Energy Commission and would have delegated the current authorities of the Oregon Department of Energy to the commission. The bill also proposed to transfer the small-scale energy loan program to the Oregon Business Department. While SB 1537 included many of the same provisions as SB 1519, the bill did not propose similar changes to energy supplier assessment.

### **HB 4001: Cap-and-Trade**

HB 4001 was one of two bills introduced during the short session that proposed implementation of a cap-and-trade program in Oregon. Both bills (HB 4001 and SB 1507) were introduced following an interim work group process in the fall of 2017.

As introduced, both HB 4001 and SB 1507 updated existing state greenhouse gas reduction targets and would have required the Oregon Environmental Quality Commission to establish an overall statewide cap on greenhouse gas emissions. The statewide cap would be reduced over time to achieve emission reductions of 80 percent below 1990 emission levels by the year 2050. The bills would have required regulated entities to obtain an allowance for every metric ton of carbon, or carbon-equivalent, of emissions produced. With some exceptions, entities with emissions greater than 25,000 metric tons per year would be considered "regulated entities" and therefore, subject to the requirements. The bills also set forth provisions for distributing allowances and establishing a market by which allowances would be auctioned and possibly traded in a secondary market. Revenues from auction proceeds would be dedicated to a Transportation Decarbonization Investment Fund, a Climate Investment Fund and a Just Transition Fund.

HB 4001 and SB 1507 would have established a Joint Legislative Committee on Climate to provide legislative oversight over the program and to make recommendations on expenditures of auction proceeds. In addition, a 21-member program advisory committee would have been created to advise on the development and implementation of program rules, expenditures and investments.

While HB 4001 and SB 1507 were similar in overall policy and general program requirements, there were some significant policy differences between the bills, including limitations on the use of offset projects for program compliance; exemptions for certain industries; and provisions for the distribution and use of allowances for investor-owned utilities. It is highly anticipated that similar legislation will be considered during the 2019 session.

### **HB 4002: Cleaner Air Oregon Fees**

HB 4002 would have imposed additional fees for air contamination sources operating under a state, regional or federal air quality permit. The new fees would be in addition to existing permit fees and

would be used to fund the development and implementation of a program to reduce public health risks from toxic air emissions from commercial and industrial air contamination sources. Under the bill, total fees collected for the 2017-19 biennium could not exceed \$2 million.

HB 4002 was introduced in response to the efforts of the Cleaner Air Oregon Advisory Committee. That committee was established in the fall of 2016 in response to the discovery of several toxic metals in air quality samples in the Portland area. The committee completed work in August of 2017 and proposed rules were issued in October. HB 4002 did not pass during the 2018 session. However, a similar fee increase was included in a more comprehensive bill that also codified a new health-based air quality program (see [SB 1541 – Passed Bills](#)).

### **HB 4003: Clean Diesel**

Similar to legislation contemplated during the 2017 session, HB 4003 would have mandated the reduction of diesel emissions from on-road and non-road vehicles and equipment. The legislation would have required the Oregon Environmental Quality Commission (EQC) to adopt administrative rules to prohibit, as of 2019, the purchase or addition of nonroad diesel equipment that does not meet or exceed federal exhaust emission standards. In addition, HB 4003 would have required adoption of administrative rules mandating that all medium and heavy-duty trucks have a 2007 model year or newer engine by the year 2029. The bill included specific exemptions from the diesel engine phase-out requirements and would require the EQC to establish rules for alternative compliance options. HB 4003 also proposed a mandatory diesel non-road engine registry and authorized the EQC to establish fees for owners to register nonroad diesel engines.

In addition to specific emission requirements, HB 4003 contained public contracting provisions requiring some local governments to set aside 1 percent of the total contract price for certain projects to upgrade and retrofit private equipment for use in those projects.

### **HB 4015: Oregon Conservation & Recreation Fund**

HB 4015 would have established an Oregon Conservation and Recreation Fund to be administered by the Oregon Department of Fish and Wildlife. Programs funds would have been used to promote the health of ecosystems, as well as fish and wildlife species, through conservation programs and strategies. Funds would also be used to improve public engagement in hunting and fishing opportunities, and to improve upon public education to support healthy fish, wildlife and habitats. As introduced, HB 4105 appropriated \$13 million from the state's general fund to the Oregon Conservation and Recreation Fund. However, an amendment reduced that amount to \$40,000. A public hearing and work session were held on HB 4015, but the bill failed to make it out of the Joint Ways & Means Committee prior to adjournment.

### **HB 4109: Carbon Sequestration Study**

HB 4109 would have required the Oregon Department of Environmental Quality and the Oregon Department of Forestry to coordinate on a study to evaluate opportunities for the state to promote carbon sequestration and regional approaches to reduce greenhouse gas emissions through carbon sequestration. The study would identify opportunities for providing incentives, including tax credits, to industries for carbon sequestration activities.

## **HB 4126: Household Hazardous Waste Stewardship Program**

HB 4126 would have established a product stewardship program for the collection of household hazardous waste products. The bill would have required manufacturers to support the collection and environmentally-sound management of covered products. Covered products excluded batteries, mercury containing lamps and thermostats, pharmaceutical drugs, architectural paint, certain agricultural products, electronics, vitamins and dietary supplements. HB 4126 would have banned the sale of covered products in Oregon unless the product was labeled for and included in a plan for an approved stewardship program. In addition, the bill would have required manufacturers and retailers to provide consumers with information on available collection opportunities for covered products.

## **HB 4148: Oregon Energy Board**

HB 4148 would have established a seven-member Oregon Energy Board to oversee the operations of the Oregon Department of Energy. The bill would have required the board to develop a statewide strategic energy plan. The board would also have been required to advise and make recommendations to the department related to planning, policy, legislative concepts and the department's budget. Two similar, but more comprehensive bills, were introduced in the Senate (see [SB 1519](#) and [SB 1537](#) – Failed Bills).

# FINANCE & TAXATION

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## OVERVIEW

Passing any tax or finance legislation in a short session is challenging, and thus the list of passed bills is short. The League spent the entire session advocating for passage of a gigabit repeal and a lodging tax improvement. The gigabit bill, HB 4027, ran out of time in the Senate and will likely be back in the 2019 session. The lodging tax improvement bill, HB 4120, passed, and the League thanks all of the cities that stepped up with lobbying, testimony, emails, and phone calls. This is an important win for Oregon's 241 cities. The revenue committees spent the bulk of the session trying to understand and respond to federal tax changes (see [SB 1528](#) and [SB 1529](#)). A state revenue package with tax reform is expected in 2019, and the League looks forward to working on property tax and excise tax reform to assist cities.

## Property Taxes

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### PROPERTY TAXES – PASSED BILLS

#### **[HB 4028](#): Omnibus Property Tax and Income Tax Credit Bill**

*Effective Date: June 2, 2018*

HB 4028 became the omnibus tax bill, with several property tax exemptions and income tax credit amendments added at the end of the session. The bill: extends the sunset of a low-income housing property tax exemption by six months to conform with the tax year; changes the definition of “rural” to increase the areas in the state where a permissive new industrial property tax exemption is available; and allows cemetery property, when converted to low income housing, to avoid 10 years of back taxes that would normally become due (still a work in progress with an interim work group expected). HB 4028 also makes the following income tax credit changes: clarifies that the term “bovine” refers to “cattle” and adjusts the \$5 million annual cap on the manure credit to a calendar instead of a tax year; adjusts the definition in the affordable housing lenders tax credit program to allow a nonprofit corporation or housing authority that has a controlling interest in a limited partnership to be a qualified borrower for purposes of the credit; adjusts appropriations regarding the film and video tax credit when available credits are not all sold through an auction; and makes adjustments to the working family household and dependent care tax credit, focused on limits and calculations related to employment-related expenses and schooling.

#### **[HB 4139](#): Heavy Equipment Taxation**

*Effective Date: June 2, 2018*

HB 4139 replaces the existing personal property tax system for heavy equipment held for rental with a 2 percent point-of-sale tax. Heavy equipment rental providers will file quarterly tax returns and remit the sales tax to the Oregon Department of Revenue (DOR). The DOR will return the revenue to the county in which it was rented, where it will be distributed to taxing districts using the tradition property tax methodology. The League was neutral on the bill, as it ensures that local governments will be made whole yearly by the rental companies if there is a revenue loss. This type of personal property is very mobile and often missed in property tax assessments. HB 4139 requires the DOR to submit a report on the new program on or before July 1, 2022.

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## PROPERTY TAXES – FAILED BILLS

### **SB 1515: Children’s Districts**

SB 1515 would have authorized the formation of a new special district to provide services for children. The bill would have given these districts traditional special district powers, including the ability to levy and collect property taxes to pay for services. The League, along with a coalition of local governments, again opposed the bill because property tax levies for a new special district would cause or exacerbate compression for taxing districts due to Measure 50. In addition, there would be geographic tax inequities, depending on the borders of the proposed district. The League also opposed SB 1515 because children’s districts could be duplicative. That is, they could compete with other successful programs, as many services authorized under the bill already exist or can be provided by school districts, cities, counties and recreation districts.

### **HB 4027: Gigabit Property Tax Repeal**

HB 4027 would have repealed the generous 2015 gigabit property tax exemption provided to qualified centrally-assessed taxpayers. The exemption has failed to provide the intended broadband expansion benefits and has instead been interpreted in ways that do not ensure a return on investment to taxing districts. The League, along with a coalition of city, county, school and special district advocates, lobbied heartily through the session for the bill’s passage. HB 4027 would have kept the exemption for one year for two companies that have a pending exemption application: Comcast and Frontier. The League supported compensation to these companies, as the short-term loss is necessary to avoid larger long-term revenue losses to all local governments and schools. In addition, HB 4027 would have extended the sunset of a low-income housing property tax exemption by six months to conform to the tax year. The sunset extension was later included in HB 4028, which did pass. HB 4027 came about after a work group (which included the League), led by Representative Rob Nosse (D-Portland), worked on the gigabit issue throughout the interim. The bill passed the House and died in the Senate during the last week of session amidst end-of-session negotiations. Legislation is expected to return in 2019.

### **HB 4078: Industrial Property Tax Exemption**

HB 4078 would have made changes to statutes governing a new local government permissive property tax exemption made available to qualified industrial property (see [HB 1565](#) from 2016). Specifically, HB 4078 clarified and expanded the definition of rural, and therefore eligible, areas for the exemption. The legislation also would have expanded eligibility to include a location that has not formerly been used for industrial purposes. There were some brownfield cleanup references added to the program as well, but those seem to have been made in error. HB 4078 did not advance in the House, but the bulk of the bill was added as an amendment to HB 4028 in the Senate.

# Excise Taxes

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## EXCISE TAXES – FAILED BILLS

### **SB 1564: Liquor Tax: Distillery Exception**

SB 1564 would have created a new distillery tasting room permit, and allowed distilleries to earn up to \$500,000 in direct sales per year without becoming a retail agent of the Oregon Liquor Control Commission (OLCC). Distillers can currently make direct sales, but they are treated as agents of the OLCC (like a liquor store) and are provided a commission for their sales by the agency. A portion of each sale goes to the state for distribution, with cities receiving a 34 percent share of those liquor revenues. SB 1564 would have exempted direct sales by distillers from this tax and the revenue sharing process. The League opposed this legislation, as it would have had a substantial adverse impact on the city share of state shared liquor tax revenues. An interim work group is expected to address this issue of how to more fairly compensate distilleries that make direct sales.

### **HB 4146: Cigarette Tax Increase**

HB 4146 would have provided a modified funding package for paying for Medicaid costs. The bill would have used revenues from the Tobacco Master Settlement Agreement and various provider assessments, including ambulatory surgical centers, emergency ambulance services, and modified hospital assessments. HB 4146 also called for an unspecified increase in cigarette taxes as part of the package, and cities would have also received a portion of an increase. Because the temporary hospital tax (Measure 101) that was referred to the voters passed in January, this alternative funding stream did not advance.

# Lodging Taxes

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## LODGING TAXES – PASSED BILL

### **HB 4120: Lodging Taxes: Intermediaries**

*Effective Date: July 1, 2018*

HB 4120 revises the definition of “transient lodging intermediary” to clarify that all online platforms are subject to lodging tax collection, as well as filing and payment requirements, unless otherwise provided for by a city or county. Passage of the bill was a priority for the League, which maintained that legislation passed in 2013 was intended to treat intermediaries the same as traditional hotels and motels.

Unfortunately, some companies found potential loopholes in the 2013 statutory wording and also changed their online business platforms over time. As a result, cities have faced enforcement challenges and have had to treat some intermediaries differently. To adapt, many cities have signed unfavorable voluntary collection agreements in order to receive lodging tax revenues. With the bill, the responsibility for collecting and paying the tax will rest clearly with intermediaries and agreements will not be necessary.

HB 4120 will also make it more feasible for the state to collect local taxes on behalf of the cities with which it has intergovernmental agreements, because the bill aligns both state and local tax treatment of

intermediaries. The League is hopeful that a state collection option will be made available by January 1. Originally, HB 4120 had also provided subpoena authority to local governments seeking disclosure of lodging tax records. However, that language was removed by amendment. The League had requested specific statutory recognition of this authority, as some online intermediaries refuse to disclose business records (including rental location information), citing protections under the federal Stored Communications Act. Cities are advised to rely on their home rule authority for requesting such records.

## Miscellaneous State Taxes

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### MISCELLANEOUS STATE TAXES – PASSED BILLS

#### **SB 1528: Income Tax: Pass-Through Deduction and State and Local Tax Work Around**

*Effective Date: June 2, 2018*

SB 1528 rolls back a new state business tax break automatically created by 2017 federal tax reform. Oregon tax law is generally connected to the federal tax code, unless the state specifically disconnects from it. The federal tax break would have allowed “pass-through” businesses to deduct 20 percent of their gross income from their state taxes, starting this year. “Pass-through” refers to businesses like S-corps and limited liability companies that pay taxes using the individual income tax code rather than the corporate code. The bill’s disconnection from this break restores roughly \$200 million per year to the state budget. SB 1528 also creates an attempted work-around for the new \$10,000 federal cap on deductions for state and local taxes (SALT), which primarily impact high-income Oregonians. The bill allows state taxpayers to buy a combined \$14 million in tax credits to fund Oregon opportunity grants—specifically, need-based college scholarships. Those taxpayers could then claim their tax credit purchases as a charitable deduction on their federal income taxes. This bill passed on close partisan votes, and the legality of the measure may be challenged. Tax increase bills require a three-fifths vote, but the Legislature’s lawyers ruled this measure reduced an existing tax break and was not a new tax increase.

#### **SB 1529: Income Tax—Business Repatriation of Assets & Revenue for PERS**

(See [Human Resources Section](#) for Bill Summary)

#### **HB 4026: Charitable Donations**

*Effective Date: June 2, 2018*

HB 4026 prevents the Oregon Department of Revenue from considering charitable contributions or activities as a factor when determining the residency of a personal income tax filer. Historically, charitable contributions and activities is one of many factors used to determine if a personal income tax filer is a resident of Oregon or a different state. Removal of consideration of this factor will assure that tax filers are not discouraged from making donations in Oregon.

# GENERAL GOVERNMENT

## General Government

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### GENERAL GOVERNMENT – PASSED BILLS

#### **[HB 4143: Opioid Pandemic Bill](#)**

*Effective Date: On passage*

HB 4143 is the product of Oregon Governor Kate Brown’s Opioids Taskforce, and is designed to make achievable and genuine progress in combatting the state’s opioid pandemic. Specifically, this legislation:

- Establishes a pilot project to provide peer support in emergency rooms for overdose patients;
- Requires that all healthcare practitioners with prescribing authority register with the prescription monitoring program; and
- Directs to the Oregon Department of Business and Consumer Services to conduct a study on barriers to medical assisted addiction treatment.

## Marijuana

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### MARIJUANA – PASSED BILLS

#### **[SB 1544: Marijuana Program](#)**

*Effective Date: June 2, 2018*

SB 1544 makes a number of changes to the Oregon’s recreational and medical marijuana programs. Of principal interest to several League members, the bill resolves a conflict between tax payer confidentiality requirements and Oregon’s local government budget law. Heretofore, if a city had a small number of recreational marijuana establishments, listing revenue from its retail marijuana tax was viewed by the Oregon Department of Revenue as releasing individual tax payer information. SB 1544 also adds resources for enforcing Oregon’s marijuana laws, and establishes a grant program within the state’s Criminal Justice Commission for police and sheriff agencies to combat illicit marijuana sales, processing and production. Oregon currently produces significantly more marijuana than is consumed within the state and continues to export large amount of product, thus drawing the attention of federal agencies.

# Public Safety

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## PUBLIC SAFETY – PASSED BILLS

### **HB 4116: Distracted Driving**

*Effective Date: March 16, 2018*

HB 4116 clarifies that a “hands-free device” is a mobile phone feature that may be operated with a simple tap or swipe of the finger. The change was made necessary as persons ticketed for operating phones while driving were able to claim that the extended contact with their mobile device was the operation of a hands-free device, which is allowable under state statute. The bill also exempts the operators of oversized vehicles, who are required by federal law to use pilot cars, from the prohibition against two-way communications devices while driving.

### **HB 4145: Firearm Regulation**

*Effective Date: January 1, 2019*

HB 4145 prohibits persons who are subject to protective orders, and those who have been convicted of misdemeanor violent offenses against romantic partners, from possessing firearms or ammunition. Previously, these restrictions only applied when these crimes were committed against a person in co-habitation with the offender. The bill also requires the Oregon State Police (OSP) to enter all convictions and court orders that result in a person being barred from owning a firearm or ammunition into Oregon’s Law Enforcement Data System and the database operated by the National Crime Information Center. Finally, HB 4145 instructs the OSP to notify all relevant jurisdictions when a person prohibited from owning a firearm attempts to purchase one, and police agencies to report on the disposition of those notifications.

# HUMAN RESOURCES

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## HUMAN RESOURCES – PASSED BILLS

### **SB 1529: Incentive Fund Capitalization**

*Effective Date: June 2, 2018*

SB 1529 establishes and appropriates money to the Employer Incentive Fund (EIF), which will be used to assist PERS employers in meeting their state mandated obligations. Monies generated in this bill for the EIF result from re-connecting Oregon's tax code to the federal tax changes made in late 2017. Eighteen percent of the total amount raised by this bill is dedicated to the EIF, and the Legislative Revenue Office projects that the fund will receive \$25 million as a result.

### **SB 1566: Incentive Fund Framework**

*Effective Date: June 2, 2018*

SB 1566 establishes eligibility criteria for the Employer Incentive Fund established in SB 1529 (see above). The match rate is up to 25 percent of a PERS employer's contribution. All PERS employers are eligible to receive matching funds; however, an employer must have an approved Unfunded Actuarial Liability Resolution (UALR) plan. The PERS agency is tasked by the bill with developing rules and technical assistance for agencies to develop their UALR plans. An employer must make a minimum contribution of \$25,000, and the maximum amount to be matched is up to 5 percent of the employer's UAL or \$300,000, whichever is greater. The employer must apply to reserve matching funds by no later than December 31, 2019, and lump sum payments must be made by July 1, 2023. Contributions generated from debt financing are not eligible to receive a match. Employers with unfunded actuarial liabilities of more than 200 percent of their PERS-eligible payroll will be eligible for the first 180 days after enactment of the bill. The fund then becomes open to all other employers up to the amount remaining in the Employer Incentive Fund.

### **HB 4005: Prescription Drug Transparency**

*Effective Date: March 12, 2018*

HB 4005 establishes a statewide prescription drug cost and price transparency program, and requires prescription drug manufacturers to report information regarding qualifying prescription drugs to the Oregon Department of Consumer and Business Services (DCBS). Under the new law, drug manufacturers will be required to report on: production, marketing, and research costs; use of consumer assistance programs; and current prices of, or planned price increases for, prescription drugs in a given period. HB 4005 also gives the DCBS authority to impose civil penalties for drug manufacturers that fail to comply with requirements of the act. Health insurers with a prescription drug benefit are required to report specified information to the DCBS on qualifying prescription drugs. The bill is an attempt to gain clarity on drug price increases.

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## HUMAN RESOURCES – FAILED BILLS

### **SB 1531: Police Mental Health Counseling**

SB 1531 would have required police departments to provide an appointment for all police officers in their employ once every two years. The appointment did not include an assessment or screening, and the employer would have had no knowledge of any diagnosis or content of the appointment. The bill was opposed by the League, as a costly requirement and duplicative of benefits already provided through employee assistance programs, health insurance and workers compensation.

### **HB 4103: Mail-Order Pharmacies**

HB 4103 would have prevented employers from providing incentives in their health insurance plans for the use of mail-order pharmacies. These pharmacies provide the lower cost prescription drug coverage for employers and consumers, and allow people with chronic conditions access to 90-day supplies of medications, thus making them more likely to adhere to their treatment plans. Citycounty Insurance Services (CIS) and most self-insured cities utilize mail-order pharmacies, therefore the bill would have had a negative impact on cities and their employees. HB 4103 was opposed by the League.

### **HB 4156: Prescription Benefit Restrictions**

HB 4156 would have prevented health insurance plans from removing medications or changing amounts paid for medications during a plan year. It was not the stated intention of the bill's sponsors to include local government benefits in HB 4156, but the crafting of the legislation would have done this. The bill was opposed by the League, as it would have prevented the adjustment of coverage when competing drugs entered the market, and would have prohibited removing a drug until action was taken by the United States Food and Drug Administration (FDA). Typically, when a single drug is available for an illness or condition, as was the case with a hepatitis C treatment, the cost of the drug can be exorbitant and benefit plans should be able to make adjustments when a less expensive option becomes available. Additionally, pharmacy benefits managers typically remove dangerous drugs from their formularies faster than the FDA acts, thus enhancing patient safety.

# PUBLIC CONTRACTING

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## OVERVIEW

The League, along with many other local government partners and members, invested considerable time and effort during the 2018 legislative session in addressing concerns expressed over the currently-mandated process for hiring architects, engineers and several other types of professional service providers. The current process, commonly referred to as qualification-based selection, or QBS, prohibits contracting agencies from considering price before the initial selection of a firm based on qualifications alone. Through its legislative policy committee process and other forums, the League has heard frustration expressed from many cities across the state because they feel the current process lacks accountability and transparency. In addition, cities have expressed concern that the current process does not lend itself to ensuring the best overall value when public dollars are being spent on these services.

Following a series of meetings that began in late 2016 between local governments and the Oregon Chapter of American Council of Engineering Companies (ACEC), the League requested introduction of legislation during the 2017 session to address concerns with the current QBS process. Unfortunately, the meetings failed to result in the identification of any solutions that would be supported by ACEC and our bill did not pass.

In the fall of 2017, the city of Hillsboro contacted Representative Susan McLain (D-Hillsboro) to request introduction of a “QBS-fix” bill during the 2018 session. As a result, HB 4127 was introduced, and several meetings were held prior to the session. However, it became clear once again, that the bill would be met with considerable opposition. HB 4127 passed the House, but failed to pass out of the Senate prior to adjournment (see [HB 4127 – Failed Bills](#)). The League will be participating in an interim work group on QBS, and anticipates the introduction of legislation for the 2019 session.

It must be noted that many cities played an active role in support of HB 4127. Had it not been for the efforts of more than 50 local governments reaching out to their legislators, the bill would not have been as successful as it was. The League appreciates that outreach and strongly encourages cities to continue to talk to legislators about the need for change to the current QBS process.

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## PUBLIC CONTRACTING – PASSED BILLS

### **[SB 1565](#): State Procurement Pilot Program**

*Effective Date: June 2, 2018*

SB 1565 requires the Oregon Department of Administrative Services (DAS) to implement a pilot program to evaluate a reverse auction method for procuring goods and services under ORS chapter 279B. Through a reverse auction, sellers of goods and services would openly compete on price. The bill would require DAS to use the reverse auction method for a minimum of 10 separate procurements for a contract of \$150,000 or more. To evaluate the efficacy of a reverse auction program, DAS will collect information from state agencies participating in the pilot program. That information will include identification of cost savings, potential nonmonetary benefits and any identifiable benefits or detriments to bidders and proposers. DAS is required to report the results of the evaluation to the governor and the Legislature by December 31, 2019.

In addition to the reverse auction pilot program established by SB 1565, the bill establishes another pilot program requiring state contracting agencies, in their evaluation of prospective contracts for goods and services, to weigh price at not less than 30 percent of the total weight that the state contracting agency gives to all factors in the final evaluation of a proposal. The bill allows state agency directors to seek a waiver from the cost-weighting requirement if they determine, in writing, that such a waiver is in the best interest of the agency.

The bill provides that both pilot programs will sunset on January 2, 2020.

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## PUBLIC CONTRACTING – FAILED BILLS

### **HB 4127: Modifications to Qualification-Based Selection (QBS)**

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

HB 4127 was introduced in response to concerns expressed by many cities and other local governments that the current process is time consuming, lacks transparency, and does not lend itself to the best overall value for the spending of public dollars. The optional process authorized in HB 4127 would have allowed cities and other contracting agencies to engage in an initial qualifications-only screening process. After completing that first step of the process, the contracting agency would select up to three qualified firms with which to negotiate. The city could then ask those firms for pricing information, including the number of hours proposed for the service required, expenses, hourly rates and estimated overhead costs. The bill, as originally introduced, would have allowed the local contracting agency to select up to five qualified firms. The bill was amended in the House to limit that number to three qualified firms. The amended HB 4127 passed the House and had a public hearing in the Senate, but did not receive a work session prior to adjournment. It is anticipated that stakeholders, including the League, will continue to work in the interim to address concerns with the current QBS process so that legislation can be introduced during the 2019 session.

### **HB 4128: Contractor Certification Mentorship Program**

Through the state's Certification Office for Business Inclusion and Diversity, businesses can become certified as minority-owned, women-owned, service-disabled veteran-owned, or emerging small businesses. This certification can be helpful as certain government projects may have specific requirements or targets for contracts to be awarded to certified businesses. To be eligible for certification, certain requirements must be met, including three-year average annual gross receipts under a specified threshold.

HB 4128 would allow a business to exceed the gross receipts threshold, but maintain certification, if the business subcontracts at least 20 percent of the value of a contract to another certified firm and engages in

a mentorship program with that firm. The bill would have required contracting agencies, including cities, to set aside one-half of 1 percent of the total price for a public contract to pay for expenses incurred for a mentor program associated with the project. The funds set aside would only be required for public contracts that are subject to certified firm utilization requirements. The League, and other local governments, expressed concern that the mandate in HB 4128 could create an unintended disincentive for contracting agencies that may be considering adoption of voluntary utilization goals.

# TELECOMMUNICATION/BROADBAND

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## OVERVIEW

Only two telecommunications/broadband policy bills of significance to cities were introduced in the 2018 session, and both passed. HB 4023 will assist cities with broadband deployment, and HB 4155 seeks to restore net neutrality on a limited basis in Oregon.

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## TELECOMMUNICATION/BROADBAND – PASSED BILLS

### **HB 4023: Broadband Deployment**

*Effective Date: On passage*

HB 4023, recognizing the importance of the delivery of high-speed internet services to rural communities in Oregon, authorizes the state's chief information officer to make such technology available to local governments pursuant to adopted rules identifying and limiting instances of possible competition with a private telecommunications provider. HB 4023 establishes a rulemaking process which will include a representative of the League.

### **HB 4155: Net Neutrality**

*Effective Date: On passage*

HB 4155 will prohibit a public body, including cities, from contracting with an internet service provider (ISP) which does not practice net neutrality, except in certain specified circumstances. This is in reaction to the Federal Communications Commission overturning net neutrality regulations effective in April 2018. Among others, this restriction will not apply in instances when there is only one ISP providing services to a particular community. The Oregon Public Utility Commission is given the authority to make determinations as to when exceptions should be granted.

# TRANSPORTATION

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## OVERVIEW

Because of the size and complexity of HB 2017, the 10-year, \$5.3 billion multi-modal transportation package enacted by the 2017 Legislature, technical and policy fixes were needed. HB 4059 (technical) and HB 4060 (policy) were drafted for consideration during the short session to accomplish those results. Ultimately the two were merged into HB 4059, which passed without controversy. Important to small cities was an amendment that the League was able to include exempting municipalities with populations less than 5,000 from having to comply with the detailed financial reporting requirements contained in the original transportation package.

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## TRANSPORTATION – PASSED BILLS

### **SB 1506: Wounded Warrior Parking Permits**

*Effective Date: On passage*

SB 1506 creates an Oregon Wounded Warrior parking permit, allowing veterans with a service-related disability of at least 50 percent and an honorable discharge, to park free in metered and time-limited public parking spaces.

### **SB 1532: Motor Scooters**

*Effective Date: January 1, 2019*

SB 1532 re-defines “motor-assisted scooter” to allow for designs with four wheels (current law restricts to three) and eliminates references to handlebars in recognition of the use of other steering mechanisms.

### **SB 1536: Mass Transit Districts**

*Effective Date: January 1, 2019 (removes certain mass transit district financing restrictions effective January 1, 2026)*

SB 1536 requires that directors of certain mass transit districts be appointed by the governor rather than elected, as is current practice. Current directors may serve out their current terms unless discharged by the governor earlier.

### **HB 4059: Omnibus Transportation “Fix-It” Bill**

*Effective Date: June 2, 2018*

SB 4059 became the omnibus bill, incorporating its original draft with HB 4060 to provide both technical and policy fixes to HB 2017, the comprehensive transportation funding package approved by the Legislature in 2017. It contains a myriad of adjustments to that bill. Of note to cities, however, is the amendment gained by the League clarifying what had been a conflict between existing statute and the new law passed last year.

Previously, cities with populations less than 5,000 were exempt from having to file statutorily-mandated financial reports on the sources and uses of their street and road budgets. Notwithstanding that exemption however, HB 2017 included small cities in that reporting requirement as part of an increased emphasis on

accountability by entities responsible for the management of state highway funds. The League was able to add language to HB 4059 continuing the exemption for small cities from these detailed reporting requirements on the basis that they are unprecedented and would have put an undue burden on the state's smallest cities while providing accountability for the management of only a small fraction of the state's highway revenues.

### **HB 4062: Vehicle Registration Plates**

*Effective Date: June 2, 2018*

HB 4062 modifies fees charged by the Oregon Department of Transportation for certain documents and services relating to vehicle titling and registration, driving privileges and vehicle business certificates. The new law will specify that when vehicle license plates are transferred between vehicles owned by different individuals, the remaining registration period on the plates ceases for both vehicles.

### **HB 4063: Autonomous Vehicles**

*Effective Date: On passage*

HB 4063 designates the Oregon Department of Transportation as the lead agency in developing state programs and policies relative to autonomous vehicles. Further, the legislation creates a 31-member task force to prepare recommended legislation for inclusion in a report submitted to the Legislature no later than September 15, 2018. The League gained an amendment to HB 4063 ensuring city representation on the task force.

### **HB 4064: Willamette River Bridge Funding**

*Effective Date: June 2, 2018*

HB 4064 perpetuates the authority of Multnomah County to utilize revenues from the county-imposed registration fee to fund bridge maintenance in the county without having to distribute a portion of the revenues to cities within the county. This exemption from the city distribution for Multnomah County was initially granted by HB 2001 (2009), the Jobs and Transportation Act, in support of the Sellwood Bridge replacement project.

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## TRANSPORTATION – FAILED BILLS

### **SB 1509: Commercial Vehicle Idling**

SB 1509 would have repealed a preemption on the ability of local government to regulate the idling of diesel engines on commercial vehicles weighing in excess of 26,000 pounds. The bill would have narrowed idling restrictions on vehicles waiting to load and unload, and, after January 1, 2020, would have removed the idling exemption for certain specific purposes, including air conditioning or heating during a rest or sleep period. Finally, vehicles for which the manufacturer could demonstrate compliance with idling emission standards (30 grams per hour of nitrogen oxides) also would have been exempt from idling restrictions.

## **HB 4060: Transportation Policy**

HB 4060 was one of the two “fix-it” bills introduced to address technical and policy errors in the 2017 transportation package. Drafted initially as the policy bill, HB 4060 was later amended and merged with HB 4059 and became the omnibus transportation “fix-it” bill that was approved by the Legislature.

## **HB 4061: Vehicle Registration**

HB 4061 would have declared that a registration on any vehicle initially registered on February 29 would expire on the last day of February four years later.

# WATER

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## WATER – FAILED BILLS

### **SB 1558: Transfers of Stored Water**

SB 1558 proposed several changes to the ways in which water can be transferred or changed. Under the provisions of the bill, stored water would be considered a water use that is eligible to be transferred. The bill would have authorized the Oregon Water Resources Department (OWRD) to approve transfers of stored water from one location to another. SB 1558 would have allowed an applicant to use the state's transfer process in lieu of being required to obtain a new water right. In addition, the bill clarified the authority of the OWRD to approve transfers of stored water for instream purposes. This bill was introduced to address specific concerns in the Deschutes Basin. Several meetings between stakeholders, legislators and legislative committee staff were held in the weeks prior to the session to address issues with the bill. However, due to ongoing concerns, SB 1558 did not receive a public hearing. Further discussions concerning the transfer of stored water are anticipated during the interim.

### **HB 4016: District Temporary Transfers in the Klamath**

HB 4016 would have authorized irrigation districts, along with several other specific water-related districts, to temporarily transfer the place of use for water under a determined claim in the Klamath Project. The bill would have allowed a transfer of water to other lands within district boundaries. It also included protections against enlargement of the water being transferred and additional provisions to prevent injury to other determined claims or existing water rights. HB 4016 was introduced to allow for more flexible management of irrigation district water during the adjudication process that has been ongoing in the Klamath Basin. It is anticipated that the adjudication will be completed in five to 10 years. As a result, the bill included a sunset of the temporary transfer authorities of 2026.

### **HB 4029: Deschutes Bridge**

HB 4029 would have prohibited a public body, local service district, or any person from constructing a bridge within certain scenic waterway segments on the Deschutes River. The bill was introduced to address local concerns over the construction of a pedestrian footbridge to connect segments of the Deschutes River trail system. A similar bill was considered during the 2017 legislative session. HB 4029 would have also required the Oregon Parks and Recreation Department to consult with certain federal, state and local government agencies to develop a study of potential alternative routes to connect the trail system. Following a public hearing in the House, the bill died in the Joint Ways & Means Committee.

# STATE BUDGET

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## STATE BUDGET – PASSED BILLS

### **SB 5702: Bond Bill**

*Effective Date: On passage*

In SB 5702, the Legislature authorized an additional \$84.3 million in general obligation bonds, \$121.6 million in revenue bonds, \$275 million in pass-through revenue bonds, more than \$19.15 million in lottery bonds, and \$17 million in certificates of participation and other financing agreements. The Oregon Water Resources Department is directed in a budget note to report to the Emergency Board, no later than December 2018, on publicly owned high-hazard dams in Oregon that have unsatisfactory or poor condition ratings. Another bill highlight is the approval of \$74.6 million in bonds to fund important capital projects for five public universities (Eastern Oregon University, Oregon State University Cascades Expansion, University of Oregon, Western Oregon University and Southern Oregon University).

### **SB 5703: Program Change Bill**

*Effective Date: On passage*

SB 5703 implements several statutory changes necessary to support a balanced 2017-19 biennial state budget and respond to budget changes made as a result of 2018 legislation. The adjustments in the bill increase total lottery allocations by \$71.76 million, as lottery revenues are exceeding forecasts. More than \$70 million from lottery revenues were allocated to the State School Fund, and more than \$1.7 million went to Business Oregon. Adjustments to the Criminal Fine Accounts revenues were also made, resulting in an increased allocation of \$3.7 million to the Oregon Department of Public Safety Standards and Training, which will permit an increase in the number of the department's training classes. Lastly, an adjustment to the choice of state deposit accounts will ensure that a portion of the distribution of the state's marijuana tax revenues will assist with mental health treatment, as well as alcohol and drug abuse prevention, early intervention and treatment.

### **HB 5201: Budget Reconciliation Bill (Christmas Tree Bill)**

*Effective Date: On passage*

The reconciliation bill, otherwise known as the Christmas tree bill, implements additional pieces of the state budget for the 2017-19 biennium. The bill provides numerous appropriations for several specific city and community projects, the “ornaments” of the Christmas tree bill.

Highlights of the bill that will benefit cities are:

- Housing and Community Services Department
  - \$23.2 million for shelter capacity and homelessness prevention services provided through the Emergency Housing Assistance program
  - 1.15 million for veterans' homelessness and housing stability activities
- Carbon Policy Office
  - \$1.4 million in general funds to create and staff a new Carbon Policy Office. The funds will also support several studies including an economic impact analysis of a cap and trade

program on jobs and on the state's economy. The analysis will also assess potential opportunities for carbon sequestration.

- Department of Public Safety Standards and Training
  - \$3.65 million for the addition of six classes to the 2017-19 Public Safety Academy training calendar
- Oregon Department of Transportation (ODOT)
  - \$14,690,000 for administration of ODOT's local government program
- Oregon Business Development Department
  - \$500,000 for the Local Economic Opportunity Fund to assist with community economic resilience planning
  - \$1,250,000 of Lottery Funds to the Oregon Growth Fund (transfer from Strategic Reserve Fund)