



Bend Metro Park & Recreation District

August 20, 2019

# Board of Directors Agenda and Reports

[www.bendparksandrec.org](http://www.bendparksandrec.org)



*play for life*



## **Our Vision**

To be a leader in building a community connected to nature, active lifestyles and one another.

## **Our Mission**

To strengthen community vitality and foster healthy, enriched lifestyles by providing exceptional park and recreation services.

## **We Value**

Excellence by striving to set the standard for quality programs, parks and services through leadership, vision, innovation and dedication to our work.

Environmental Sustainability by helping to protect, maintain and preserve our natural and developed resources.

Fiscal Accountability by responsibly and efficiently managing the financial health of the District today and for generations to come.

Inclusiveness by reducing physical, social and financial barriers to our programs, facilities and services.

Partnerships by fostering an atmosphere of cooperation, trust and resourcefulness with our patrons, coworkers and other organizations.

Customers by interacting with people in a responsive, considerate and efficient manner.

Safety by promoting a safe and healthy environment for all who work and play in our parks, facilities and programs.

Staff by honoring the diverse contributions of each employee and volunteer, and recognizing them as essential to accomplishing our mission.

*play for life*

District Office | Don Horton, Executive Director

799 SW Columbia St., Bend, Oregon 97702 | [www.bendparksandrec.org](http://www.bendparksandrec.org) | (541) 389-7275



# Board of Directors

August 20, 2019

District Office Building | 799 SW Columbia | Bend, Oregon

## AGENDA



### 5:30 p.m. CONVENE MEETING

### WORK SESSION

1. City of Bend Transportation System Plan update – *Karen Swirsky, City of Bend (45 min)*
2. Park Services Report: Custodial Program – *Jason Monaghan and Glen McClean (20 min)*
3. CAPRA Overview – *Michael Egging (20 min)*
4. Legislative Update – *Don Horton (20 min)*

### VISITORS

The board welcomes input from individuals at our public meetings about district-related issues. Meeting attendees who wish to speak are asked to submit a comment card provided at the sign-in table. Speakers will have 3 minutes for comments. If there are questions, follow up will occur after the meeting. Thank you for your involvement and time.

### CONSENT AGENDA

1. Meeting Minutes – 07/16/2019

### EXECUTIVE DIRECTOR’S REPORT

PROJECT REPORT – Attachment in board report

### BOARD MEETINGS CALENDAR REVIEW

### GOOD OF THE ORDER

### ADJOURN

**EXECUTIVE SESSION** – The Board will meet in Executive Session upon adjournment of the regular meeting pursuant to ORS 192.660(2)(e) for the purpose of discussing real property transactions and ORS 192.660(2)(h) for the purpose of consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed. This session is closed to all members of the public except for representatives of the news media.



#### Accessible Meeting/Alternate Format Notification

This meeting location is accessible. Sign and other language interpreter service, assistive listening devices, materials in alternate format or other accommodations are available upon advance request. Please contact the Executive Assistant no later than 24 hours in advance of the meeting at [sheilar@bendparksandrec.org](mailto:sheilar@bendparksandrec.org) or 541-706-6151. Providing at least 2 business days’ notice prior to the meeting will help ensure availability.

<b>BOARD AGENDA COMMUNICATION</b>
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<b>AGENDA DATE:</b>	August 20, 2019
<b>SUBJECT:</b>	City of Bend Transportation System Plan Update
<b>STAFF RESOURCE:</b>	Sarah Bodo, Park Planner Michelle Healy, Planning and Park Services Director
<b>GUEST PRESENTER:</b>	Karen Swirsky, Senior Planner, City of Bend
<b>PREVIOUS BOARD ACTION:</b>	TSP update on June 5, 2018
<b>ACTION PROPOSED:</b>	None
<b>STRATEGIC PLAN:</b>	
<b>Pillar:</b>	Operations and Management Practices
<b>Outcome:</b>	A balance between caring for existing infrastructure and new development
<b>Strategy:</b>	Ensure the District is maintaining its adopted Level of Service Targets

**BACKGROUND**

The transportation system plan (TSP) is part of the City of Bend's comprehensive plan and guides transportation planning for the city over a 20-year timeframe. The city's TSP is expected to be completed in spring of 2020.

The district invited Karen Swirsky, from the city's growth management department, to present information and answer questions about the TSP including background, current status, and how this work interfaces with district planning and development efforts. Planning and development department staff serve on the city's technical advisory committee for the TSP and are working with the city to coordinate the district's trail plans into the new TSP.

**BUDGETARY IMPACT**

None

**STAFF RECOMMENDATION**

None, for informational purposes only.

**MOTION**

*None*

**ATTACHMENT**

None, information will be presented at the board meeting.

<b>BOARD AGENDA COMMUNICATION</b>
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<b>AGENDA DATE:</b>	August 20, 2019
<b>SUBJECT:</b>	Park Services Custodial Program
<b>STAFF RESOURCE:</b>	Jason Monaghan, Facilities Manager Glen McClean, Custodial Supervisor
<b>PREVIOUS BOARD ACTION:</b>	None
<b>ACTION PROPOSED:</b>	None- for information only
<b>STRATEGIC PLAN:</b>	NA

**BACKGROUND**

In order to assist the board of directors in developing familiarity with the programs and services delivered by the park service department, park services staff will make a brief presentation on a specific program during the second work session of each month. The presentations will include an overview of the program history, content, goals and outcomes.

This month's report will feature the Park Services Custodial Program. We will discuss a brief history of the program and focus on the successful transformation of this division due to innovation and improved business practices.

**BUDGETARY IMPACT**

The program is a part of the park services general fund budget.

**STAFF RECOMMENDATION**

None, for information purposes only

**MOTION**

None

**ATTACHMENT**

None

<b>BOARD AGENDA COMMUNICATION</b>
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<b>AGENDA DATE:</b>	August 20, 2019
<b>SUBJECT:</b>	CAPRA Overview
<b>STAFF RESOURCE:</b>	Michael Egging, Recreation Services Manager
<b>PREVIOUS BOARD ACTION:</b>	None
<b>ACTION PROPOSED:</b>	None
<b>STRATEGIC PLAN:</b>	
<b>Pillar:</b>	Operations & Management Practices
<b>Outcome:</b>	Financial well-being supported by strong business practices
<b>Strategy:</b>	Invest in services that provide the greatest community benefit while maintaining financial stability.

**BACKGROUND**

Bend Park and Recreation District is nationally accredited through The Commission for Accreditation of Park and Recreation Agencies (CAPRA). The CAPRA Commission is made up of members from seven national park and recreation agencies, including sponsorship by the National Recreation and Park Association (NRPA). There are currently only 169 accredited park and recreation agencies in the United States.

CAPRA provides standards and procedures for the evaluation of public park and recreation agencies through a program of self-evaluation and outside peer review, which enhances the performance of the agency and promotes the effectiveness of a public tax-funded agency. There are 151 standards, covering the whole range of operations, that the district must show examples to verify compliance.

In 2012, accreditation became a key strategic initiative of the district. A team was formed, made up of staff that spans all divisions and levels of the organization. The accreditation requires ongoing inter-departmental cooperation, comprehensive system evaluation, and an in-depth look at process improvement. In 2015, the district achieved initial accreditation. In order to maintain this status, the district must go through the process every five years. We are scheduled to be reviewed again in the spring of 2020, with expected official re-accreditation announced at the NRPA conference in the fall of 2020.

The project manager for the district's CAPRA process, Michael Egging, will present the benefits of CAPRA, the history of our initial accreditation, and where the district is in the timeline for re-accreditation.

**BUDGETARY IMPACT**

The district is required to pay a small annual fee to maintain accreditation and a review fee of \$3,300 in the year slated for accreditation. The district is also required to pay for the expenses related to the CAPRA reviewers' visit, including travel, lodging and food, estimated at \$4,500.

**STAFF RECOMMENDATION**

None – Information only

**ATTACHMENT**

None

<b>BOARD AGENDA COMMUNICATION</b>
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<b>AGENDA DATE:</b>	August 20, 2019
<b>SUBJECT:</b>	Legislative Update
<b>STAFF RESOURCE:</b>	Don Horton, Executive Director
<b>PREVIOUS BOARD ACTION:</b>	None
<b>ACTION PROPOSED:</b>	None
<b>STRATEGIC PLAN:</b>	NA

**BACKGROUND**

The Oregon Recreation and Park Association (ORPA) represent member agencies in Salem during each legislative session. ORPA hires a lobbyist which is partially funded by Special Districts Association of Oregon (SDAO). The ORPA Board of Directors appoints a legislative committee to work on behalf of the board on legislation issues that could have an impact on the park and recreation profession. Don Horton has been the chair of the ORPA legislative committee for the past decade.

Rainmakers Government Strategies, headed by Cindy Robert, is the firm that works for ORPA and the legislative committee. Ms. Robert provides periodic reports for the committee and ORPA board during the legislative session and a more detailed report at the end of the session. Attached is a copy of the 2019 End-of-Session Legislative Report prepared by Ms. Robert.

In addition to the work done by ORPA, the district hires its own lobbyist. The district has retained Erik Kancler with Kancler Consulting to do this work on behalf of the district. Mr. Kancler also works in the same capacity for the City of Bend. His role is different from the work done by ORPA in that he looks specifically at the interests of the district. Erik is not hired to track bills in the same way that Rainmakers does, but focuses on those topics that are of direct importance to the work we do, such as protection of the SDC program and work on the South UGB Bridge. He is also the “eyes and ears” around the Oregon Capital listening for those topics that may have an impact on district operations. Attached is a short outlook on upcoming concerns.

A third way in which we pay attention to the laws enacted by the legislature is through an employment attorney. We retain Katy Tank, with Tank Law, to work with us on specific personnel issues. In addition to the work she does, Ms. Tank provides a summary of laws enacted that impact human resource policy. Attached is a copy of those laws that with drive policy updates this year.

In the work session Don Horton will go over the pertinent legislation affecting district operations.



**BUDGETARY IMPACT**

NA

**STAFF RECOMMENDATION**

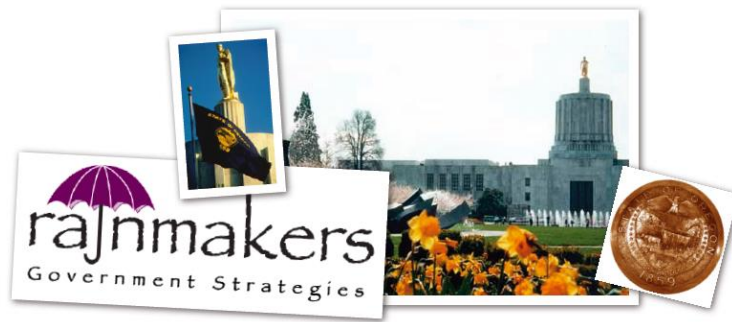
NA

**MOTION**

NA

**ATTACHMENT**

2019 End-of-Session Legislative Report, Proved by Rainmakers  
Summary Sheet of 2019 legislative session provided by Katy Tank and Erik Kancler



July 2019

## What Just Happened?

### *The Power of Quorum*

Going into the 80<sup>th</sup> legislative assembly with the Democrats holding super-majorities in the House and the Senate, we knew that the Republicans' ability to stop policy changes that required a simple majority was gone. We also knew that the Republicans' ability to defeat tax measures which require a 3/5 vote was seriously handicapped and relied on some moderate Democrats flipping to their side. We also surmised that the only tool the Republicans had was the power of denying a quorum, but we didn't really think they would use this last-ditch strategy. Certainly, we expected President Courtney and Speaker Kotek to avoid a breakdown through partnering and compromising with all members. What we didn't see coming was that the Senate Republicans would use this tool – not once, but twice – and successfully.

Neither the House nor the Senate are constitutionally able to conduct business without 2/3rds of its members present. That means two Republicans must be present on both the Senate and House floors in order for business to be conducted.

For four days in May, the Senate Republicans walked out in protest of the Student Success Act, which includes a 0.57% increase in taxes for corporate revenue over \$1 million dollars. To come back, they had a list of demands which included failure of gun control and vaccination requirement legislation. The walk out resulted in no actual changes to the Student Success Act and the Republicans all voted "No" on it when they returned, but denying quorum leveraged their ability to negotiate on other bills.

The second walk out was nine days long and in protest of Cap and Trade legislation. No bargaining or bill trades happened to get the Senate Republicans back – they wanted the bill killed and they got their way. Despite State Police being sent out to find the defectors (most of whom left the state and hid) and some strong rhetoric and condemnations, the caucus stood firm. Citing rural community devastation if the bill passed due to high energy costs, increasing gas prices and job killing expenditures for industry, the caucus was bolstered by some of the largest protest rallies in the history of the capitol.

Despite these moves, Democrats did use their super-majority powers, as well as a little bi-partisanship to pass some significant changes that impact all citizens and businesses in Oregon.

## **Corporate Tax Increase**

The legislature passed and the Governor signed HB 3427, the “Student Success Act” which includes a corporate tax rate increase of 0.57% for all income above \$1 million. The bill also reduces personal income tax rates for the lowest three tax brackets by 0.25 percent (certainly helpful if the bill ends up being referred to voters). At passage, the tax was expected to raise \$2 billion in the 2021-2023 biennium. With an upgraded revenue forecast unveiled after the bill passed, the amount may in fact be closer to \$2.6 billion (\$1.3 billion per year for schools).

Revenue from the corporate tax increase will be used to bolster three education areas:

- School district budgets: 50% of funds are distributed to school districts based on student enrollment with extra funds going to districts with students below the poverty line. Districts must apply for the money and can use the funds for more instructional time, student health and safety, broadened course offerings or smaller classes.
- Early learning: 20% of funds are for early childhood special education, early intervention services, and preschool for low-income children.
- Statewide initiatives: 30% of funds are to improve high school graduation rates, career training, and provide school meal programs statewide.

The Tax Foundation of Oregon has developed a calculator to help businesses with revenue over \$1 million to determine the impact:

<https://files.taxfoundation.org/20190501152303/How-to-Calculate-Oregons-Proposed-Corporate-Activity-Tax-Under-HB-3427-Flowchart1.pdf>

There is talk about a signature petition effort to have a repeal of the measure on the ballot. Anticipating that might happen, the legislature passed a bill moving such a referendum up to January 2020 rather than November 2020.

## **Paid Family and Medical Leave**

While the introduced bill included all sized businesses, longer leave and more cost to employers, a bipartisan negotiation led to a final bill that looks more like the program adopted in Washington State:

- State-run insurance program, administered by the Employment Department, and funded through payroll tax contributions:
  - Premium collection begins January 1, 2022
  - Employees can begin to take leave January 1, 2023
- 12-weeks paid family and medical leave annually.
- All employees are eligible for program after they have earned \$1,000.
- Maximum payroll tax of up to 1%:
  - 60% employee paid
  - 40% employer paid
- Employers with 25 or fewer employees are not required to pay the premium.
- All employees are required to pay regardless of business size.
- Job protection requirements for employees who utilize the program.

### **Plastic Bag and Straw Bans**

HB 2509 prohibits retail establishments and restaurants from providing single-use checkout bags to customers. The bill defines a "reusable plastic checkout bag" as a bag made of durable plastic at least 4 mils thick. Exemptions include:

- Bags provided for package bulk items such as fruit, vegetables, nuts, grains, greeting cards, or small hardware items;
- Bags that contain or wrap frozen food, meat, fish, flowers, plant, or other item because of dampness or sanitation; or contain an unwrapped prepared food or bakery good;
- Bags that contain a prescription drug;
- Newspaper bags;
- Door hanger bags;
- Laundry bags;
- Dry cleaning bags;
- Bags sold in a package of multiple bags for uses such as food storage, trash bags, or pet waste collection.

The bill further requires a retail establishment providing recycled paper checkout bags to charge a customer a fee of five cents or more for each bag, unless the customer has a government benefit voucher that comes with food programs.

SB 90 prohibits a food and beverage provider or a convenience store from providing a single-use plastic straw to a consumer unless specifically requested by the consumer. Exempted from the prohibition are:

- A straw made from materials other than plastic, including paper, pasta, sugar cane, wood, or bamboo;
- Straws attached to or packaged with a beverage container;
- Straws offered for sale in bulk or unconnected with provision of food or beverage;
- Straws provided in connection with delivery to a consumer in a vehicle.

The definition of "food and beverage provider" does not include a health care facility or a residential care facility that provides single-use plastic straws to patients or residents.

Both bans become operative January 1, 2020.

### **Clean Diesel**

HB 2007 phases out old diesel engines for on-road trucks in Multnomah, Clackamas and Washington counties. Older truck diesel engines will disappear over the next 10 years, with this legislation requiring that all medium and heavy-duty trucks registered in Oregon be upgraded to a 2010 model engine or newer by 2029. Trucks may comply by switching to a cleaner fuel or by using retrofit technology to capture emissions. Additionally, in those counties, any state contract work over \$20 million must be done by contractors with 2010 model year or newer on and off-road diesel engines and equipment that meet certain emission standards in performance of the contract. The bill did establish a grant fund (from Volkswagen settlement dollars) to help truck owners. Emergency vehicles, farm tractors and equipment, log trucks, trucks used for 5,000 miles or fewer in a year and motor homes were exempted.

## **Rent Control**

Early in the session, Oregon became the *first state* in the nation with rent control. Not convinced that supply is actually the issue, Democrat leadership prioritized capping how much tenants can be charged, when they can be terminated and how much they must be paid to relocate.

SB 608 caps rent increases at 7% per year + Consumer Price Index (which currently adjusts to just over 10%), restricts no-cause terminations to the first year of the tenant's occupancy and establishes a relocation fee equal to 1 month's rent for tenants being displaced.

## **PERS Changes**

Long awaited, often talked about, and part of the negotiation during the first Republican walkout over the corporate tax increase, the Public Employee Retirement System changes forced Democrat hands and pitted them against the unions that support and partner with them. Speaker Kotek and President Courtney had to exert power over their caucuses to get just enough Democrats to vote for the changes in SB 1049. A few Republicans voted for the bill, some said the changes weren't enough, while others scolded Democrats for going back on agreements with PERS members (look for that line in campaign season).

Major provisions of the bill are:

- Providing employee members a choice in selecting investment options;
- Redirecting employee contributions from their own accounts to payment of PERS debt;
- Limiting the Final Average Salary used to calculate the Full Formula Plus Annuity and Full Formula benefits;
- Capping annual salary at \$195,000 for all purposes;
- Broadening retired workers ability to return to work;
- Stretching out the payment timeline for state paying off debt.

Interestingly, the legislature provided an approving nod to sport betting games within the lottery by dedicating some profits to state matching funds for employer contributions to PERS. The combined savings from the measure are expected to reduce system-wide employer contribution rates by 5.43%, equaling \$1.2 to \$1.8 billion a biennium beginning in 2021-23.

## **SJR 18 – Campaign Finance Reform Potential**

Your November 2020 ballot will include this referral from the legislature that would amend the Oregon Constitution to authorize regulation of use of moneys in political campaigns. No numbers are included – first must come this change to the State Constitution which currently considers campaign contributions and expenditures forms of expression protected by Article I, Section 8.

Oregon is one of few states that do not cap contributions. *The Oregonian* recently reported that “Per capita, corporate interests have given more money to the average Oregon lawmaker than in any state in the country” and that “Oregon’s failure to regulate campaign money has given rise to an arms race that makes elections some of the nation’s costliest. The 2018 governor’s race broke records, with Brown, a Democrat, and Knute Buehler, a Republican, raising nearly \$40 million.”

## Oregon Recreation and Park Association

Input from our members, participation in workgroups and attendance at interim committees made it clear going into the legislative session that our priorities were: 1) fixing the Connect Oregon trails funding required by OPRD, 2) protecting recreational immunity, 3) defeating requirements to allow employee off-duty marijuana use, 4) protecting our SDC authority, 5) and providing positive input on special districts changes. ***We succeeded on all fronts!***

The language we worked on for Connect Oregon funding of bike/pedestrian trails via OPRD was adopted and the sunset the OPRD wanted was included. The change is intended to protect the current process for funding local trails and assure that funding is not diluted:

SECTION 28. (1) Each biennium, in cooperation with the Department of Transportation, the State Parks and Recreation Department shall allocate, for bicycle and pedestrian transportation projects to meet recreation and transportation needs, up to \$4 million of lottery revenues designated for outdoor recreation improvement projects.

(2) Each biennium, the State Parks and Recreation Department shall allocate one-half of the funding described in subsection (1) of this section for the purpose of providing grants for bicycle and pedestrian transportation projects through local and regional grant programs.

(3) Each biennium, the State Parks and Recreation Department shall allocate one-half of the funding described in subsection (1) of this section for the purpose of funding bicycle and pedestrian transportation projects on signature, scenic or recreation trails within the State of Oregon.

SECTION 29. Section 28 of this 2019 Act is repealed on January 2, 2025.

And while Connect Oregon itself did not receive additional funding, the Ways & Means Committee noted that there may become money available for a next round of competitive grantmaking because of project changes.

Prior to session, an ORPA workgroup was presented with recreational immunity language provided by a woodland group. We had many concerns about unintended consequences and could not support. Two versions of the bill died.

For a second legislative session, we fought against legislation that would allow employees to utilize all substances allowed by law outside of work hours. This would add marijuana use to tobacco use as something employers could not restrict as a condition of employment. Because there is not a test for impairment after use, only presence, we will continue to oppose such legislation.

Finally, SDC changes were thwarted and changes to special district law (focused on formation of children's districts and the Happy Valley withdraw from a parks district) also went by the wayside.

## **Other Enacted Legislation Explanations – Taken in part from Legislative Staff Measure Summaries**

### **HB 2001 – Missing Middle Housing**

**Effective Immediately**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2001/Enrolled>

### **HB 2003 – Regional Housing Inventory**

**Effective Immediately – Operative January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2003/Enrolled>

HB 2001 outlines regulations related to middle housing, including where middle housing is allowed and how it can be regulated. Cities are directed to update their land use regulations or amend comprehensive plans in order to encourage middle housing by June 30, 2021 or by June 30, 2022, with deadlines based on population.

HB 2003 Requires Housing and Community Services Department with Department of Land Conservation and Development and Oregon Department of Administrative Services to develop methodology to conduct regional housing needs analysis and, for certain cities and Metro, to estimate existing housing stock, to establish housing shortage analysis and to estimate needed housing units for next 20 years.

*Both of these bills originally contained changes and restrictions to System Development Charges – but stakeholder input removed and/or mitigated. However, the Speaker of the House has made it clear that she wants an interim workgroup to address SDCs and how they can be altered to make housing more affordable.*

### **HB – 2005 Paid Family & Medical Leave**

**Effective September 30, 2019**

**January 1, 2022 premiums would begin to be collected**

**January 1, 2023 employees could begin to access paid leave**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2005/Enrolled>

Oregon currently requires family medical leave for employers with 25 or more employees. Leave can be taken for a serious illness, care for a family member who is ill, or bonding with a newborn or newly adopted child. More than half of Oregon workers are eligible for unpaid family and medical leave benefits under the federal Family and Medical Leave Act of 1993 (FMLA) and the Oregon Family Leave Act (OFLA). Oregon does require employers of 10 or more workers (six for employers in Portland) to allow employees to accrue and use up to 40 hours of paid sick leave each year.

Under HB 2005, an insurance program is created to provide employees with a portion of wages while on family and medical leave or military family leave. The new program will require employees to have received at least \$1,000 in wages during base year and to have contributed to fund in an amount determined by Director of Employment Department to be eligible for the benefit. The legislation directs the Employment Department to set contribution rates, collect payroll contributions and otherwise administer the program.

Program details:

- Premium responsibility split 40 employer / 60 employee.
- Employers with 25 or more employees pay (40% of 1% of payroll) and employees pay (60% of 1% of payroll).
- Employers with less than 25 employees don't pay the "employer premium."

- Caps eligible employee's average weekly wage used in calculation at Social Security cap of \$132,900.
- Caps weekly benefit amount at 120% of state average weekly wage (approximately \$1,215). It also establishes a minimum weekly benefit amount as 5 percent of state average weekly wage (approximately \$50).
- Allows employee to use accrued paid leave (i.e., vacation leave, sick time) in addition to receiving paid family and medical leave insurance benefits to replace wages up to 100 percent.
- Job protection attaches 90 days.
- Modifies job protections for employee who work for employer with fewer than 25 employees: they may be returned to a different position with similar job duties and with the same pay and benefits.
- Prohibits civil action against employer who takes necessary action to restore employee returning from leave by terminating temporary replacement or returning employee transferred to fill vacancy to prior position.
- Authorizes use of leave will be expanded for specified crime-related purposes ("safe leave").
- Requires employee who commences unforeseeable leave without advance notice to provide oral notice to employer within 24 hours and written notice within three days.
- Explicit language that this Act does not require any collective bargaining agreements to be reopened.
- Extensive rule-making will need to be undertaken to fill in the gaps.

## **HB 2007 – Clean Diesel**

**Operative January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2007/Enrolled>

Extends the authorized uses of moneys from the Volkswagen Environmental Mitigation Trust Agreement and directs Department of Environmental Quality to award grants for purpose of reducing emissions from diesel engines. Phases-in prohibition on Department of Transportation titling, registering, or renewing registration of specified vehicles, in specified locations (tri-county area only), with diesel engines that have not been retrofitted. Requires Environmental Quality Commission to adopt rules governing the certification of retrofit technologies applicable to diesel engines. Imposes diesel engine-related requirements applicable to public improvement contracts. Creates Supporting Businesses in Reducing Diesel Emissions Task Force, requires Department of Transportation to provide Legislative Assembly with annual report related to registration of medium- and heavy-duty trucks, and creates voluntary emission control program applicable to construction equipment. Declares emergency, effective upon passage.

*An effort to have the diesel engine-related requirements applicable to ALL public improvement contracts was significantly narrowed:*

Subsection (2) of this section applies only to a public improvement contract for a public improvement:

- (a) With a value of \$20 million or more;
- (b) For which the contracting agency is a state contracting agency; and
- (c) If the public improvement is located within Multnomah, Clackamas or Washington County



**HB 2016 – PECBA – Janus Response 1** (also see HB 3009)

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2016/Enrolled>

**BACKGROUND:**

The Public Employee Collective Bargaining Act (PECBA), enacted in 1973, codifies the laws governing employment relations and public employers and employees in the state, counties, cities, school districts, transportation districts, and other local governments, as well as private employers not subject to the jurisdiction of the National Labor Relations Board. From the *Janus v. AFSCME* ruling by the U.S. Supreme Court, public sector unions may no longer extract agency fees from non-consenting employees; employees must clearly and affirmatively consent before any money is taken from them.

**WHAT THE MEASURE DOES:**

Makes changes to Public Employee Collective Bargaining Act.

Designated Representative: Requires public employer to allow employee who is designated representative to engage in specified activities during employee's regularly scheduled work hours without loss of pay, seniority, or other benefits. Requires collective bargaining agreement be reopened, upon request of labor union, to negotiate terms and conditions for designated representative's release time, which is leave of absence to engage in labor union business. Requires labor union to reimburse employer for compensation paid to designated representative on release time unless otherwise agreed to. Entitles designated representative to receive retirement credit for release time and reinstatement to same position and location.

Access and Communication: Requires public employer to provide exclusive representative reasonable access to employees within bargaining unit. Requires employer provide exclusive representative with specified personal information about employees in bargaining unit, including phone, address, title, and salary. Allows exclusive representative to use employer's electronic mail system to communicate with employees in unit. Makes labor organization's access to and communication with represented employees a mandatory subject of bargaining. Adds to Legislative Assembly's policy statement on collective bargaining the importance of exclusive representative's direct access to and communication with represented employees.

Dues and Fees: Allows parties to agree to authorize public employer to deduct union dues and fees from employee's pay. Requires labor organization to provide employer with list of employees who provided authorization for deductions. Requires employer to deduct amount authorized by employee and remit payments to designated organization or entity. Requires labor organization to defend and indemnify employer who relied on list but made unauthorized deduction. Deletes requirement that employee make payment in lieu of dues to a charitable organization if employee does not associate with labor organization for religious reasons. Deletes requirement that employer deduct amount from employee's pay and remit to labor organization in accordance with fair-share agreement.

**HB 2076 – Boat Operators**

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2076/Enrolled>

In 2009, the Oregon legislature enacted House Bill 2583, the "Clean Launch Law," which requires that a person may not launch a boat into the waters of this state if the boat has aquatic invasive species on its exterior or within its bilge, livewell, motorwell, or other interior locations. Oregon law does not require boaters to drain standing water from a boat removed from waters of the state. Currently, law

enforcement officers lack authority to boaters to return for invasive species inspection but can issue a citation. According to the Oregon State Marine Board (Board), about 20 percent of people transporting a boat fail to comply with invasive species check station stops. In 2009, the Oregon legislature enacted House Bill 2220, which established the Aquatic Invasive Species Prevention Fund (Fund) and specified that funds are continuously appropriated to the Board for the purpose of administering the aquatic invasive species prevention permit program.

House Bill 2076 requires person to remove or open device to drain water from a boat removed from state waters before transporting the boat within the state. Punishes failure to remove or open device with a maximum fine of \$250. Exempts marine sanitation devices, persons holding permit to transport live fish, persons involved in certain authorized fishing activities, and boats operated by peace officers or emergency responders. Authorizes Department of Fish and Wildlife, State Marine Board (Board), or Department of Agriculture to order the decontamination of any recreational or commercial watercraft that is inspected at a check station and requires boat operator to cooperate with ordered decontamination process. Punishes failure to cooperate with maximum fine of \$250. Authorizes peace officer to stop persons transporting commercial or recreational watercraft and order return to aquatic invasive species check station if the peace officer has probable cause and there is an open check station within five miles of the stop. Punishes failure to comply with peace officer request as a Class C misdemeanor with a maximum of 30 days imprisonment, \$1,250 fine, or both. Specifies that the Aquatic Invasive Species Prevention Fund may consist of invasive species permit fees, money from state and federal agencies or local governments, appropriated funds, gifts, grants, or contributions from any source. Establishes that this fund may be used for costs associated with the aquatic invasive species prevention permit program, to award grants, and for related purposes of Board. Establishes that bonded agents who issue temporary boat operating permits may charge a fee prescribed by the Board. Requires Board to revise the fee every three years based on the U.S. City Average Consumer Price Index for All Urban Consumers for All Items. Specifies "nonmotorized boat" include a sailboat that is at least 10 feet but less than 12 feet in length; "motorboat" includes a sailboat at least 12 feet in length.

### **HB 2077 – Boat Livery Registration**

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2077/Enrolled>

According to the Oregon State Marine Board (OSMB), a boat livery, which is a boat rental business, is required to properly equip each boat with safety equipment and maintain records for six months. Currently, the OSMB has a voluntary registration for livery operators, which gives a discount to livery operators on their motorized rental boat registrations and aquatic invasive species permits.

House Bill 2077 prohibits operation of a boat livery without a boat livery registration issued by the State Marine Board. Requires person operating boat livery to renew registration every two years. Requires boat livery registration application include: applicant name; business address and telephone number; proof of registration with the Secretary of State, if required; number and types of boats provided by the livery; and any other information the Marine Board considers necessary. Imposes penalty for failure to register or renew registration as a Class B violation punishable by a maximum fine of \$1,000. Excludes seaplanes from boat livery registration.

## **HB 2078 – Boat Safety Education**

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2078/Enrolled>

In 1999, the Oregon legislature enacted House Bill 2977, which established a boat safety education program. The law requires that a person pass an examination that tests for the minimum standard of boating safety, establishes a fee for the boat safety education certificate, and allows new boat owners to operate their boat for 60 days under a temporary permit before obtaining their required boating safety education card.

House Bill 2078 removes provision allowing new boat owners to operate boat for 60 days before obtaining boating safety education card. Removes provision allowing nonresidents to operate boat with more than 10 horsepower for less than 60 consecutive days without boating safety education card. Specifies that nonresidents in possession of boating safety education card approved by the National Association of State Boating Law Administrators meet card requirement. Clarifies statutory language regarding minimum standards for boating safety education, education cards, and other terms.

## **HB 2079 – Boating Offenses**

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2079/Enrolled>

Under current Oregon law, a person commits the crime of reckless operation of a boat if the person operates a boat carelessly and heedlessly in willful or wanton disregard of the rights, safety, or property of others. Additionally, failure to carry properly sized personal flotation device for each person on board that is easily accessible is a Class B violation. Meanwhile, a person who boats under the influence of intoxicates (BUII) is not eligible to apply to title, register, or number a new boat and shall have all current titles, registrations, or numberings canceled for at least one year and substantially longer if the person refused to take an otherwise lawfully requested breath, urine, or blood test after being arrested under suspicion of BUII.

House Bill 2079 renames the crime of reckless operation of a boat to reckless boating and replaces obsolete language with the recklessness standard used in the vehicle code. It also reduces the classification of failing to carry a personal flotation device from a Class B violation to a Class D violation, requires suspension of an individual's boating safety education card for one year if the individual is convicted of reckless boating or BUII, and provides that a person arrested for BUII who refuses a breath, urine, or blood test will have his or her boating safety education card suspended for three years and is ineligible to apply for a title, registration, or numbering his or her boat during that time. The bill also removes the requirement that a person convicted of BUII have his or her current title, registration, or numbering canceled if convicted of BUII to ensure non-parties are not affected. Finally, HB 2079 modifies provisions requiring person to be informed about rights and consequences relating to boating under influence of intoxicants.

## **HB 2080 – Marine Board Fees**

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2080/Enrolled>

In 2015, the Legislature passed HB 2459, which increased the biennial fee for boat registration from \$3 to \$4.50 and increased the original boat title or title transfer application fee from \$30 to \$50. According to OSMB, registration revenue has decreased by 10% since 2015.

House Bill 2080 increases fee for boating safety certificate from \$10 to \$20. Increases biennial fee for original or renewal certificate of identification number or registration for all sailboats 12 feet and longer and all motorboats from \$4.50 to \$5 plus \$5.95 per foot. Specifies that \$5 of each original or renewal certificate be deposited in the Aquatic Invasive Species Prevention Fund. Removes existing biennial fee for motorboat aquatic invasive species prevention permit. Increases application fee for original boat title or title transfer from \$50 to \$75.

## **HB 2333 – Recreational Vehicles *(also see SB 410)***

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2333/Enrolled>

### **WHAT THE MEASURE DOES:**

HB 2333 clarifies the difference between recreational vehicles, which are titled and registered with the Oregon Department of Transportation, and park model recreational vehicles (also known as “tiny homes on wheels”), which are more than eight and a half feet wide and may be titled, but not registered, with ODOT. The measure removes regulation of recreational vehicles from the Department of Consumer and Business Services.

### **BACKGROUND:**

Until recently, park model recreational vehicles (also known as “tiny homes on wheels”) were regulated by the Department of Consumer and Business Services (DCBS) as recreational vehicles (RVs). Under current law, DCBS regulates the construction of manufactured structures, which includes recreational vehicles, manufactured dwellings, and recreational structures. Manufacturers obtain certification by registering with DCBS and providing an approved quality control manual. Certified manufacturers may purchase insignias of compliance from DCBS, which are affixed to recreational vehicles intended for rent, lease, or sale in Oregon.

DCBS recently adopted a rule that changed the definition of “recreational vehicle” to exclude recreational vehicles with wood siding, pitched roofs, or bay windows, all of which are common features of park model recreational vehicles. Manufacturers and owners of these vehicles are no longer able to receive the recreational vehicle insignia of compliance from DCBS.

After a brief lapse, the Oregon Department of Transportation (ODOT) has resumed issuing title and registration documents to those units that are no wider than 8.5 feet. The measure would deregulate the construction of recreational vehicles, including park model recreational vehicles. The measure would define a park model recreational vehicle as a recreational vehicle that is more than 8.5 feet wide. It would permit ODOT to issue a title to any recreational vehicle, but not a registration, for a park model recreational vehicle. It would remove regulation of the construction of recreational vehicles from DCBS.

### **HB 2351 – Willamette Greenway Regulations**

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2351/Enrolled>

In 1967, Oregon Governor Tom McCall proposed the idea of a greenway to enhance the scenic, recreational, historic, natural, and agricultural qualities along the Willamette River. The boundaries of the Willamette River Greenway were identified and adopted in the 1980s. Statewide Land Use Goal 15 specifically pertains to the Willamette River Greenway, and requires that adjacent cities and counties adopt local plans and development criteria.

HB 2351 Authorizes the Oregon State Marine Board (OSMB) to adopt special regulations for boat operation on the Willamette River within the Willamette River Greenway, including establishment of designated speed and other methods for the protection of shoreline, public and private property, fish and wildlife habitat, and vegetation. Requires OSMB, when adopting special regulations, to consider Department of Land Conservation and Development Commission statewide land use planning goals and guidelines to protect, conserve, and maintain: natural, scenic, historical, agricultural, economic, and recreational qualities of land along Willamette River Greenway. Exempts tugboats, towboats, barges, launch vessels, and other commercial vessels from special regulations on Willamette River mile 0 to 26.

### **HB 2352 – Towed Water Sports**

**Effective July 21, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2352/Enrolled>

*An end of session amendment to this limited the effects of the bill to the Newberg Pool. ‘Newberg Pool Congested Zone’ means the portion of the Willamette River beginning at river mile 30 and ending at river mile 50.*

Creates towed watersports program within State Marine Board. Requires person operating motorboat for purpose of engaging in towed watersports on specified waters of this state to hold towed watersports endorsement. Requires owners of motorboats engaged in towed watersports on specified waters of this state to hold towed watersports motorboat certificate. Punishes by maximum of \$1,000 fine. Punishes second or subsequent offense within three years by maximum of \$2,000 fine and requires court to order person to not operate boat for one year and to complete boating safety course. Requires court to order person to not operate boat for one year and to complete boating safety course if person is convicted of certain boating offenses within three-year period preceding date of person's current conviction. Directs State Marine Board to suspend person's towed watersports endorsement and towed watersports motorboat certificate if board receives notice from court that person has been convicted of certain boating offenses.

### **HB 2353 – Public Records *(this is the only public records bill that passed)***

**Effective June 14, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2353/Enrolled>

Under Oregon law, every person has the right to inspect any public record of a public body in this state, subject to exemptions. Unless otherwise expressly provided by statute, the custodian of any public record must furnish proper and reasonable opportunities for inspection and examination of the records. A public body must respond to a written public record request as soon as practicable and without unreasonable delay. A response to a public records request is complete when the public body provides access to the requested public record information, asserts an exemption, or provides a combination of

the two when some information is exempt and some is not exempt. The failure of a public body to provide a proper and timely response is treated as a denial of the request. House Bill 2353 allows the Attorney General, a district attorney, or a court to require the public body pay a \$200 penalty to the requester, plus reasonable attorney fees, if the Attorney General, district attorney, or court determine that the public body responded to the request with undue delay or failed to respond to the request. Allows the Attorney General, district attorney, or court granting a petition filed under this section to provide for a fee waiver or fee reduction in the order granting the petition.

**HB 2415 – Public Contract Retainage**  
**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2415/Enrolled>

**WHAT THE MEASURE DOES:**

If a contract price exceeds \$500,000, requires a contracting agency to place amounts deducted as retainage into an interest-bearing escrow account. Interest on the retainage amount would accrue from the date the payment request is approved until the date that the retainage is paid to the contractor to which it is due. Also requires an owner, contractor, or subcontractor, if a contract price exceeds \$500,000, to place amounts withheld as retainage into an interest-bearing escrow account.

**BACKGROUND:**

Retainage is a portion of the agreed upon contract price deliberately withheld until the work is substantially complete to ensure a contractor will satisfy its obligations under a construction contract. With respect to public contracting, a contracting agency may reserve as retainage from a progress payment an amount no greater than five percent of the payment. Upon a written request by the contractor and approval by the contractor's surety, the contracting agency may choose to reduce the amount retained and, after 50 percent of the work is completed, the agency may choose to eliminate the retainage. Once 97.5 percent of the work is complete, the contracting agency may use its discretion to reduce the retained amount to 100 percent of the value of the work yet to be completed. Retainage held by the contracting agency must be paid to the contractor as part of the final payment and interest earned on money retained is due to the contractor. Five percent retainage is allowed on private projects. Retainage is a portion of the agreed upon contract price deliberately withheld until the work is substantially complete to ensure the contractor will satisfy its obligations under a construction contract. Current statute requires the contracting agency for a public improvement contract to make monthly progress payments and allows the contracting agency to withhold up to five percent of the progress payment as retainage. Upon written request from the contractor and approval of the contractor's surety, the contracting agency may reduce or eliminate retainage on any monthly contract payments after 50 percent of the contracted work is completed. The agency may reduce or eliminate retainage at its own discretion after 97.5 percent of the contracted work is complete. Any retainage held by the contracting agency must be paid to the contractor as part of the final payment with interest of one and a half percent per month. For private contracts, an owner, contractor, or subcontractor may withhold up to five percent of the contract price as retainage. Any retainage must be paid to the contractor with the final payment with interest of one percent per month.

**HB 2592 – Transportation Package Fix**  
**Effective September 30, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2592/Enrolled>

- Modifies definition of "bicycle" and "taxable bicycle" for purposes of bicycle excise tax.
- Specifies requirement and exemption for repayment of electric vehicle rebate.
- Increases maximum statutory weight and width for Class IV all-terrain vehicles.
- Authorizes Metro to impose vehicle registration fee, if approved by voters by December 31, 2022, separate from other local government registration fees.
- Clarifies duties of Continuous Improvement Advisory Committee relative to Oregon Transportation Commission. Authorizes compensation.
- Modifies conflict-of-interest provisions related to appointment of members of Commission.
- Modifies statutory reference to Brooks rail siding project.
- Eliminates requirement for semiannual revenue reports related to House Bill 2001 (2009).
- Clarifies vehicle sales to car rental companies using electronic integrator are not subject to privilege tax.
- Increases maximum weight for vehicle idle reduction system from 400 pounds over variance permit to 550 pounds above variance permit.
- Clarifies confidentiality between Department of Revenue and Department of Transportation.
- Specifies use of moneys to repay bond debt service on Highway User Tax Bonds.
- Sets permanent registration rate for state-owned and undercover vehicles at \$10.
- Clarifies that tax expenditures related to transportation taxes remain in effect until explicitly repealed by Legislative Assembly.
- Revises provisions related to Connect Oregon program.
- Establishes the Multimodal Active Transportation Fund and directs Department of Transportation to make grants from Fund as directed by Oregon Transportation Commission.
- Directs State Parks and Recreation Department to make grants for bicycle and pedestrian projects related to recreation and transportation purposes, with provision set to sunset January 2, 2025.
- Aligns Oregon Statute with International Fuel Tax Agreement.
- Clarifies that neighborhood electric vehicles and zero-emission motorcycles are eligible for electric vehicle rebate program.
- Specifies repayment responsibility for recipients of electric vehicle rebates who end ownership or lease before required time has elapsed, and allows administrator to waive repayment.
- Makes plug-in hybrid vehicles persons eligible for Charge Ahead rebate program.
- Provides method by which who purchased electric vehicle between January 1, 2019 and August 2, 2018 may apply retroactively for zero-emission vehicle and/or Charge Ahead rebates.
- Replaces requirement for motor carrier weight receipts with weight identifiers.
- Exempts bucket trucks from definition of "fixed load vehicle."

**HB 2652 – Water Helmets**  
**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2652/Enrolled>

Oregon law requires boat outfitters and guides to carry equipment such as first-aid, life jackets, light and smoke flares, and running lights. "Outfitters and guides," as defined in ORS 704.010, include any person compensated for providing or offering outfitting and guiding services in this state or any person who



holds federal special use permits for commercial outfitting and guiding. House Bill 2652 A would require outfitters and guides operating on class III or higher waters to rent, sell, or otherwise make available helmets to all passengers.

**HB 2769 – Qualifications Based Selection of Design Professionals**  
**Effective September 30, 2019**  
**Operative January 1, 2020**

*(Involved in interim workgroup that developed bill)*

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2769/Enrolled>

**BACKGROUND:**

State and local governments use Qualifications-Based Selection (QBS) to procure architectural, engineering, land surveying, photogrammetric mapping, or transportation planning services. QBS requires contracting agencies to make selections on the basis of each consultant's qualifications for the type of professional service required. QBS allows a contracting agency to ask for or use pricing policies and proposals, or other pricing information, to determine consultant compensation *only after* a candidate is selected. If negotiations regarding compensation do not reach a level that is reasonable and fair to the contracting agency, the contracting agency can then select the second most qualified consultant, and request pricing information, and so on, one at a time, in descending order.

**WHAT MEASURE DOES:**

HB 2679 allows consideration of pricing information in QBS was discussed in 2018 (House Bill 4127). A workgroup met throughout the interim to develop the policy changes contained in HB 2769. The measure allows a local government contracting agency to select up to three of the most qualified firms that have responded to a request for qualifications and then request pricing policies and other pricing information from those firms prior to making a selection. Requires the local contracting agency to state in solicitation documents what factors will be used to evaluate proposals, including pricing information. Limits weight given to price proposal to 15 percent. Establishes rights to protest a state or local contracting agency's use of Qualifications-Based Selection.

**HB 2829 – Oregon Conservation and Recreation Fund**  
**Effective July 1, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2829/Enrolled>

HB 2829 establishes the Oregon Conservation and Recreation Fund within the State Department of Fish and Wildlife for carrying out activities that serve to protect, maintain, or enhance fish and wildlife resources in Oregon. Activities include: implementing conservation programs and strategies; improving engagement of public in hunting, fishing, and other outdoor recreation opportunities; improving educational outreach and engagement of public, including diverse and underserved communities; joint projects with the Oregon Parks and Recreation Department or other state agencies as recommended by the Oregon Conservation and Recreation Advisory Committee; other conservation, management, research, habitat improvement, enforcement, outdoor recreation, or education activities. The fund sunsets July 1, 2021.

The measure also establishes the Oregon Conservation and Recreation fund Advisory Committee to make recommendations on the use of the money in the fund. The bill establishes a \$1 million General Fund special purpose appropriation to the Emergency Board. This money is set aside for the 2019-21 biennium and can be released to the Department of Fish and Wildlife if \$1 million of private funds from



non-state or federal sources are received as match. If matching funds are received, the Department may return to the Legislature for any necessary limitation or position authority. If matching funds are not received, the money in the special purpose appropriation is returned to the General Fund at the end of the 2019-21 biennium.

**HB 2835 – Waterways Access**  
**Effective September 30, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2835/Enrolled>

The public has the right to use an Oregon waterway for recreation if the waterway is navigable for title purposes, if the waterway is floatable for purposes of the Public Use Doctrine, or if it is both. If a waterway is navigable for title purposes, a person may generally use the beds and banks up to the line of ordinary high water. Any activity allowed on other public lands is permissible up to the line of ordinary high water. A person may go above the ordinary high water line only if absolutely necessary. The Department of State Lands is responsible for the management of state-owned waterways.

House Bill 2835 would require a state agency to post notice on its agency website before restricting or closing a public access site to a floatable natural waterway. The measure would also require agencies to report annually to the Legislative Assembly on any public access sites restricted, closed, opened, or reopened in the previous calendar year.

Defines "public access site" as a site on state public lands where the public may access the lands for recreational use of a floatable natural waterway. Requires state agencies to post notice on agency's website 30 days prior to date of restricting or closing access to a public access site. List circumstances when posting is not required. Requires state agencies that restricted, closed, opened, or reopened access to a public access site, submit report on number of restrictions or closures of public access sites to Legislative Assembly on or before January 1 each year. Stipulates measure does not impact agency jurisdiction or responsibility. Authorizes state agencies to adopt rules to carry out provisions of measure. Declares that measure does not restrict federal navigation servitude or restrict or expand any rights persons have under common law. Defines "project" as the construction of a new bridge or improvements to an existing bridge over a floatable natural waterway; specifies "project" does not include existing bridge maintenance. Clarifies process and factors the Oregon Department of Transportation must consider after receiving proposed changes to a bridge construction or improvement project. Requires Oregon Department of Transportation (ODOT) notify Department of State Lands (DSL), Oregon State Parks and Recreation Department (ORPD), and Oregon State Marine Board (OSMB) when recommending such projects for funding under draft Statewide Transportation Improvement Program (STIP) unless: proposed project is on limited access highway or ferry terminal; or ODOT determines that siting public access near proposed project is not feasible. Allows DSL, OPRD, and OSMB to propose changes to ODOT-proposed projects to enable public access and to provide ODOT with estimate of: availability of funding from other sources than State Highway Fund for public access sites near proposed project; likelihood and type of potential public use of public access near proposed project; and any impacts associated with existing public access near proposed project. Prohibits state agency that proposes project from altering purpose or need of project based on proposed changes. Requires ODOT, prior to approval of project funding under STIP, consider estimates of: available funding from State Highway Fund and other sources; likelihood and type of any potential public use of public access site; impacts associated with existing public access near proposed project; and impacts on traffic, roadways, or highway safety from existing public access near proposed project. Requires ODOT, to greatest extent practicable, not adversely impact existing lawful public access.

**HB 3009 – Union Fees – Janus Response 2** (also see HB 2016)  
**Effective June 20, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB3009/Enrolled>

Allows labor organization to charge reasonable fees and costs to police officers, sheriffs, or deputy sheriffs for representing them in matters unrelated to negotiation of a collective bargaining agreement if employee is not a member of the union and has not entered into fair-share agreement. Applies to contracts and agreements in effect, entered into, renewed, or extended on or after effective date.

**HB 3168 – Electric Boats**  
**Effective September 30, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB3168/Enrolled>

House Bill 3168 would authorize the use of a motor to propel a boat on the water bodies listed in ORS 830.180 if: the boat is propelled by an electric motor at a maximum of slow-no wake speed as defined by the Board and the Board adopts a rule authorizing such use on the water body.

*As reference:*

**830.180 Use of motors prohibited on certain lakes; exceptions.** No person, other than the Department of State Police and governmental agencies of this state and the federal government having jurisdiction over the following described waters, shall use a motor for propelling a boat or for any purpose on the following named waters of this state located in the counties named:

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Counties	Lakes, Reservoirs and Rivers
Clackamas	Trillium Lake
Deschutes	Charlton, Devils, Irish, Lucky, North and South Twin, Taylor, Three Creek and Todd Lakes
Douglas	Opal and Timpanagos Lakes
Hood River	Lost Lake
Jackson	Squaw Lakes
Jefferson	Horseshoe, Dark and Olallie Lakes, and on that portion of the Deschutes River between Pelton Dam and the Wasco County line
Lane	Gold Lake
Linn	Clear Lake
Marion	Breitenbush Lake
Wasco	Frog Lake, and on that portion of the Deschutes River bordering the Warm Springs Indian Reservation

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## **SB 28 – Tourist Facility Fees**

**Effective July 1, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB28/Enrolled>

SB 28 increases the statutory fees related to the licensing and inspection of tourist facilities, public spas and pools, bed and breakfasts, restaurants and vending machines, and for restaurant plan reviews. These fees were last revised in 2003 and support the corresponding regulatory work required of the Oregon Health Authority. Because OHA delegates most of this work to local public health authorities, the anticipated fiscal impact on the OHA budget is expected to be minimal. In 2019-21, OHA expects the fee increases to generate approximately \$64,000 in additional revenue to support the agency's costs.

### **AS REFERENCE**

ORS 446.310 defines "Tourist facility" as any travelers' accommodation, hostel, picnic park, recreation park and organizational camp. The fee cap was moved from \$60 to \$100. Recreation parks shall pay an additional fee which was moved from \$2 to \$3 for each space.

The annual fee for maintaining a public swimming pool, public spa pool, public wading pool or bathhouse went from \$100 to \$275. The annual fee for each additional public swimming pool, public spa pool, public wading pool or bathhouse, or any combination of those facilities, on the same site [shall be an amount equal to is 60 percent of the fee for the first license.

The application fee for a variance application was increased from \$150 to \$480

## **SB 47 – Waterway Access Permit**

**Effective September 30, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB47/Enrolled>

Establishes Waterway Access Fund (Fund). Appropriates moneys in Fund to the Oregon State Marine Board to award grants for non-motorized boat waterway access, boating safety education, and waterway access for under-served communities. Requires person 14 years of age or older to carry waterway access permit while operating a non-motorized boat. Establishes permit fees and deposit of a portion of each fee into the Fund and remainder into the Aquatic Invasive Species Prevention Fund Account. Establishes exemptions from requirement to obtain waterway access permit. Eliminates requirement that person operating a non-motorized boat, at least 10 feet or more, must purchase Aquatic Invasive Species (AIS) permit and stipulates a person operating a sailboat, at least 12 feet, must purchase AIS permit. Makes violation of requirement to obtain a waterway access permit a Class D violation. Requires Marine Board to collaborate with recreation user groups and law enforcement agencies to educate non-motorized boaters about the requirement to obtain a permit. Requires Marine Board to submit two reports to interim legislative committees on implementation of the permit program; specifies report contents. Makes permit requirement operative on August 1, 2020. Authorizes Marine Board to take actions prior to operative date to enable implementation of permit program on operative date. Makes conforming amendments to AIS permit statutes.

**SB 410 – Recreational Vehicles** (also see HB 2333)

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB410/Enrolled>

Eliminates Department of Consumer and Business Services (DCBS) regulation of recreational vehicle and recreational structure construction. Expands exemption from state building code, plan review, and licensure requirements to include all manufactured structures to be delivered in another state. Creates substitute definitions for use in specified statutes. Makes conforming amendments. Maintains DCBS definition of recreational vehicle adopted in rule until repealed or amended by Director of Transportation. Clarifies that measure does not divest DCBS or local building inspection program of authority over violations committed prior to effective date.

**SB 479 – Workplace Harassment Policies**

**SB 726 – Unlawful Conduct in the Workplace**

**Effective September 30, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB479/Enrolled>

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB726/Enrolled>

HB 479 Requires public employers to establish and adopt a written policy that seeks to prevent workplace harassment.

- Requires policy to include:
  - A statement prohibiting workplace harassment.
  - Information explaining victim's rights through internal process, Bureau of Labor and Industries (BOLI) process, or other available laws, including a timeline under which relief must be sought, available remedies, and the advance notice that is required under ORS 30.275.
  - Statement that person who reports harassment is protected from retaliation.
  - Scope of policy and application to public officials, volunteers, and interns.
  - Explanation that victim may voluntarily disclose information relating to incidents of workplace harassment, and information to connect victim legal and support services.
- Requires employer to:
  - Provide a copy of policy to new employees at time of hire and at any time an employee discloses concerns about workplace harassment.
  - Develop written policies and procedures for prompt investigation of reports of workplace harassment.
  - Maintain records of workplace harassment.
  - Establish a process for filing a complaint.
  - Follow up with the victim at least once every three months in year following report to determine whether harassment has stopped or whether victim has been subject to retaliation.
- Makes it an unlawful employment practice for an employer to enter into a nondisclosure agreement as a condition of employment, continued employment, promotion, compensation, or receipt of benefits if agreement prevents employee from disclosing or discussing employment discrimination or sexual assault.
- Specifies conditions for entering into a settlement, separation, or severance agreement between employer and employee. Provides five-year statute of limitations for action based on prohibited conduct.

SB 726 creates a new unlawful employment practice: An employer is prohibited from entering into a nondisclosure or non-disparagement agreement (NDA) with an employee or prospective employee containing provisions that prevent an employee from disclosing unlawful employment discrimination: (a) between employees; (b) between an employer and employee in the workplace or at off-site work-related events coordinated by the employer; or (c) between an employer and employee off-site. SB 726 also defines sexual assault as unwanted conduct of a sexual nature inflicted upon a person or compelled through force, manipulation, threat, or intimidation and makes it unlawful employment discrimination that an employee may not be prohibited from disclosing via a NDA. Requires a complaint regarding a NDA be filed with BOLI or in circuit court no later than five years after the occurrence of the alleged unlawful employment practice and applies to conduct occurring on or after October 1, 2020. The remedy in either case can include recovery of back pay for the prior two-year period as well as compensatory and punitive damages. Allows civil and administrative remedies for violation against unlawful employment practice.

SB 726 requires private and public employers to adopt written policies to reduce and prevent unlawful employment practices. At a minimum, the policies must include a process for employees to report prohibited conduct; the identity of the person tasked with receiving reports; a description of the applicable statute of limitations; and the prohibition regarding NDAs and its exceptions. The measure directs BOLI to make available model procedures and policies that employers may use as guidance.

### **SB 696 – Outdoor Mass Gathering**

**Effective January 1, 2020**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB696/Enrolled>

Outdoor mass gathering events are defined in ORS 433.735 as "an actual or reasonably anticipated assembly of more than 3,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure." Counties may otherwise define mass gatherings in ordinance. Counties issue permits for these mass gatherings and can require a certain level of insurance be carried by the organizers of the gathering. Currently, the amount of insurance required is capped at \$1 million. This cap was placed in 1993 and has not been raised since.

Senate Bill 696 links the insurance required for outdoor mass gathering events to the limits of liability specified for local public bodies by the Oregon Tort Claims Act.

### **SB 1049 – PERS**

**Effective June 11, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB1049/Enrolled>

SB 1049 relates to public employee retirement and contains provisions to address system funding. The measure:

- Changes the amortization period for select liabilities
- Modifies benefits
- Broadens retired workers ability to return to work
- Provides for unamortized lumpsum side account deposits
- Provides Individual Account member choice in selecting investment options
- Provides for enhanced review of local government Pension Obligation Bond issuances

- Requires the PERS Board to report to the Legislature on changes to actuarial methods and assumptions.

The measure makes technical changes to SB 1566 from the legislative session in 2018. The measure provides for an expedited review by the Oregon Supreme Court.

The measure includes a \$100 million General Fund appropriation and expenditure limitation and directs the transfer of Lottery Funds from sports betting games to be used as state matching funds for employer contributions into new or existing side accounts. The Department of Administrative Services is requested to unschedule \$75 million of the General Fund appropriation until employer matching funds become available. The combined savings from the measure are expected to reduce system-wide employer contribution rates by 5.43% and reduce employer contributions by between \$1.2 to \$1.8 billion a biennium beginning with the 2021-23 biennium.

**SB 5527 OPRD Budget  
Effective July 1, 2019**

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB5527/Enrolled>

The mission of OPRD is to provide and protect outstanding natural, scenic, cultural, historic, and recreational sites for the enjoyment and education of present and future generations. The park system includes more than 108,499 acres of land. The Department receives direction from a seven-member Governor-appointed Commission. The Oregon constitution dedicates 7.5 percent of net Lottery proceeds for public parks, shore and beach access, historic sites, and recreation areas, 12 percent of which is dedicated to funding local government park grants. The Subcommittee approved a budget of \$260,378,532 total funds and 870 positions (602.55 FTE). This includes \$117,278,729 Lottery Funds. The total funds budget is a 14.6 percent increase from the 2017-19 Legislatively Approved Budget and an 18.9 percent increase from the 2017-19 current service level. Lottery Funds are a 7.7 percent increase from the 2017-19 biennium Legislatively Approved Budget and a 6.9 percent increase from the 2017-19 current service level.

*Operational Cost Increases.* This budget increases Other Funds expenditure limitation by \$647,329 and Lottery Funds expenditure limitation by \$616,492, for a total funds increase of \$1,263,821. The funding addresses increased costs for two components of OPRD's reservation system. The first issue, an increase in merchant services costs, is related to an increase in the dollar volume of transactions completed using credit or debit cards. The second part is for costs associated with the transition to contracted call center reservation services from OPRD provided services. The Department transitioned to using contracted call center services in December 2016. Of the nine call center positions established, three were eliminated and six were abolished in favor of the creation of three positions; a design specialist, a public affairs specialist, and a research analyst, as part of a permanent finance plan approved in the 2017-19 biennium. Since the Department repurposed the funding of the six eliminated positions rather than funding the contracted call center services, a funding shortfall was created. The September 2018 Emergency Board provided a one-time increase in expenditure limitation to address the shortfall.

*Park Development.* This program combines the acquisitions and facility investments programs. The resulting program acquires new properties according to an Investment Strategy that provides a framework for prioritizing additions to the parks system. The Engineering Division designs and engineers projects, surveys park land and oversees construction for new parks and for maintenance and improvement of current properties. The subcommittee approved a total funds budget of \$43,352,368 and nine positions (9.00 FTE).

*Prep for State Park System Centennial in 2022.* This budget provides one-time Other Funds expenditure limitation of \$7,000,000 to allow for the construction of several projects in commemoration of the State Parks Centennial. The projects currently planned include development of a new overnight camping facility at Fogerty Creek State Park, a new parking area, visitor orientation/education facility, projects to mitigate congestion at Silver Falls State Park, implementation of visitor/traffic management at Smith Rock, and development of new entrance areas and a visitor welcome center at Smith Rock State Park. Budget provides \$490,000 in Lottery Fund expenditure limitation to supplement existing funding in four community grant programs. The package adds \$150,000 to the Diamond in the Rough historic preservation grant program, increases funding for the Preserving Oregon historic and archaeology grant program by \$150,000, increases funding for the Heritage grant program by \$150,000 for non-building heritage projects, and increases funding for the Museum grant program by \$40,000.

*Invest in Signature State Trails.* This budget provides one-time Other Funds expenditure limitation of \$2,250,000 to provide funding for work on closing gaps in the Oregon Coast Trail and for improvements associated with the extension of the Historic Columbia River Trail. Of the total investment, \$1,250,000 will be used to conduct an assessment of existing Coast Trail conditions and facility needs, provide trail restoration or trail reroutes to achieve maintenance goals, design and construct identified trail side facilities and improve trail signage as needed. The remaining \$1,000,000 would be used in conjunction with the Oregon Department of Transportation (ODOT) funded projects to make improvements at Viento State Park where the Columbia River Highway Trail would intersect.

*Targeted Strategic Park Acquisitions.* Budget provides one-time Lottery Funds expenditure limitation of \$3,000,000 for the purchase of state park property.

*Budget Note Included:* In addition to any other required materials, Oregon Parks and Recreation Department shall provide a report to the Joint Committee on Ways and Means during the budget presentation hearings for the 2021-23 biennium detailing purchases of additional park property completed, or anticipated to be completed during the 2019-21 biennium. The report must include, at a minimum, the specific location, acres, and price paid for each property, and the initial development and management plan for each property.

*Support Multiagency Salmonberry Trail Project.* This budget provides one-time Other Funds expenditure limitation of \$500,000 and the authorization to establish a limited duration position (1.00 FTE) to work as a project manager on the Salmonberry Trail Project. The package recognizes \$425,000 in new revenues from grants and donated funds raised for the project. The remaining funding is carried-forward from prior biennia.

*Invest in Parks and Heritage Staff.* Budget provides expenditure limitation of \$112,591 Lottery Funds and \$118,222 Other Funds and authorizes the establishment of one position (0.88 FTE) as an additional Park Region Manager. This allows OPRD to divide the existing three regions of the state into four regions, reducing travel time and balancing workload. Budget provides ongoing expenditure limitation of \$9,607 Lottery Funds and \$7,503 Federal Funds to reclassify two positions. An Administrative Specialist position will be converted to a Natural Resource Specialist position. An Information Systems Specialist position will be reclassified upward to better reflect current duties.

*Community Support and Grants.* This program administers five grant programs: All-Terrain Vehicle grants, Land and Water Conservation grants, local government grants, the Recreational Vehicle County Opportunity grants, and Recreational Trails grants. The program also includes the Heritage Program, which covers heritage conservation, the State Historic Preservation Office and support for the Heritage Commission. The office administers federal and state programs for historic and archeological resource planning and preservation. The office also assists with the management, development and interpretation of historic and cultural resources in the parks system. The Subcommittee approved a total funds budget of \$51,672,166 and 28 positions (28.00 FTE).

### ***Failed Bills of Note...***

**HB 2082** Requires Class II and Class IV all-terrain vehicle operators 16 years of age or older to carry and present driver license and all-terrain vehicle operator permit.

**HB 2110** Allows landowner to prohibit specified activities on private land.

**HB 2210** Requires Oregon Transparency website to include information regarding elected officials.

**HB 2221** Established Oregon Beach Fund and funds with transient lodging tax.

**HB 2269** Employees must expend amount established by the Oregon Health Policy Board toward providing health care to its employees.

**HB 2315** Modifies provisions regarding division of land by eliminating purchase requirement when land is acquired for public parks or open space.

**HB 2345** Reduces public records request fees charged by state agencies by 50 percent if requester is member of news media.

**HB 2376** Appropriates money to OPRD for outreach and development of education signs warning public about natural dangers of ocean beaches.

**HB 2408** Prevailing rate of wage to public works projects.

**HB 2468** Immunizes from claims by invitees.

**HB 2536** Establishes Oregon Public Places Are Safe Places Investment Fund.

**HB 2671** Lowers age under which person is required to wear protective headgear while operating motor assisted scooter.

**HB 2733** Directs Oregon Tourism Commission to identify, designate and monitor tourism districts.

**HB 2735** Establishes Open Spaces Task Force on Emergency Preparedness.

**HB 3002** Requires contracting agency to provide in certain public contracts that contracting agency will not pay invoice for work on public contract that contractor provides by means of information technology unless contractor verifies work by means of tracking software.

**HB 3099** Authorizes city that was annexed into county service district to petition county board for withdrawal from district.

**HB 3247** Requires placement of automated external defibrillator at public youth sports facility.

**HB 3370** Directs State Marine Board to provide optional licensing of boats as charter boats if boat carries fewer than seven passengers for hire.

**SB 240** Directs governmental agencies of this state to use electronic records and electronic signatures.

**SB 244** Modifies and creates laws related to outfitters and guides and charter boats.

**SB 316** Requires state building code to include provisions requiring installation of diaper changing stations at place of public accommodation.

**SB 341** Provides for immunity for landowner arising out of use of land for hunting even if landowner charges for use.

**SB 379** Provides that conditioning employment on refraining from using any substance that is lawful to use in this state is unlawful employment practice.

**SB 448** Directs Office of Outdoor Recreation to study and make recommendations on development of Oregon Outdoors Pass.

**SB 543** Authorizes formation of children's service districts. Authorizes children's service districts to levy property taxes to fund programs that offer children's services.

**SB 588** Establishes Outdoor Therapy Grant Program within OPRD.

**SB 589** Creates Outdoor Education and Recreation Grant Program.

**SB 662** Allows OPRD to enter into agreement with Willamette River Channel Maintenance Group to improve river navigability and safety and improve marine access to public parks.



## **Legislative Update-Provided by Katy Tank, Employment Attorney**

Paid Family Leave (HB 2005): This new law creates a system similar to the unemployment tax insurance fund. Contributions to the fund would begin 1/1/22, and employees will be able to start taking paid family leave in 2023. The fund will be created through employer and employee contributions, with employees paying 60% of the costs, and employers with 25+ employees paying 40%. The law authorizes a maximum of 12 weeks of insurance benefits, with total paid and unpaid leave capped at 18 weeks. Employers with less than 25 employees are not required to contribute to the fund. Employers who design their own paid family leave program will be able to request an exemption from the funding requirement.

Reasonable Accommodations for Pregnancy (HB 2341): This new law, effective 1/1/20, requires employers with six or more employees to provide “reasonable accommodations” to pregnant employees. Reasonable accommodations includes acquisition or modification of equipment, more frequent or longer breaks, assistance with manual labor or modification of work schedules or job assignments. The new law makes it an unlawful employment practice for an employer, because of known limitations related to pregnancy, childbirth or a related medical condition, to : (a) deny employment if the denial is based on a need to make reasonable accommodations; (b) fail to provide reasonable accommodations absent an undue hardship; (c) take adverse action because an employer has inquired about, requested or used a reasonable accommodation, or (d) require an employee to take leave if other accommodations are available. The new law also requires employers to post signs informing employees of their rights, and to provide a written copy of the notice to new employees at the time of hire, existing employees within 180 days after the effective date of the Act, and within 10 days of receipt of notice that an employee is pregnant.

Nursing Mothers (HB 2593): This new law, effective September 29, 2019, requires every employer to allow nursing mothers with a reasonable (unpaid) rest period to express milk each time the employee has a need to express milk. Employers with 10 or fewer employees are not required to provide these rest periods if it would impose an undue hardship. Employers must also make reasonable efforts to provide a location, other than a restroom or toilet stall, in close proximity to the employee’s work area for the employee to express milk in private.

New Anti-Discrimination Law (SB 726): This new law has several key components, as follows:

(a). Effective 10/1/20, employers cannot require an employee to enter into an agreement that includes a nondisclosure, non-disparagement or any other provision that has the purpose or effect of preventing the employee from disclosing or discussing conduct that constitutes unlawful harassment (including sexual assault). Only at the request of an employee may an employer and employee enter into a settlement, separation or severance agreement which includes such provisions or that includes a no-rehire provision, and even then the employee shall have 7 days to revoke the agreement after signing it. The new law also allows employers to void executive severance or separation payments if, after conducting a good faith investigation, the employer determines that the executive employee

engaged in unlawful harassment and that that behavior was the substantial contributing factor resulting in the separation of employment.

(b). The statute of limitations for unlawful harassment and discrimination is extended from one year to five years.

(c). Effective September 29, 2019, every employer must have a written policy regarding sexual harassment and sexual assault. The policy must include the following: (1) a process for an employee to report prohibited conduct; (2) identify the individual (and an alternate) who is responsible for receiving complaints of harassment; (3) notice that the statute of limitations period for pursuing legal action is 5 years; (4) notice that an employer may not require or coerce an employee to enter into a nondisclosure or non-disparagement agreement; (5) notice that an employee may voluntarily request to enter into such an agreement, with the right to revoke it within 7 days of signing; and (6) notice that employers and employees should document any incidents of unlawful harassment. All employers are required to make this policy available to employees in the workplace, provide a copy to each new employee at the time of hire, and provide a copy to an employee reporting unlawful harassment.

#### **Legislative Update Provided by-Erik Kancler, Lobbyist**

1) No pre-emptive bridge legislation. It's hard to know if there would have been, had BPRD not established a presence. I worked ahead of and early in session to make sure up front that there was no support for such legislation; I know that the expectation of our regular presence served as a deterrent. I've also built a very strong relationship with Oregon Wild in part to help ensure the ability to collaboratively resolve conflicts between recreation and conservation. That goes beyond, but includes, the bridge issue.

2) I worked hard to ensure that no damaging legislation moved forward on SDCs. This was on behalf of both the city and the park district, as our goals were very similar in this regard. I was able to work in direct contact with the speaker's office on this and ensure that elements of HB 2001 and 2003 did not move forward. The speaker has promised to address SDCs in the interim, however, and all indications are that parks SDCs will face significant scrutiny. I've positioned myself to have a seat at the negotiating table in the interim should conversations shape up, as expected.

3) We did a bit of education and outreach on Mirror Pond and explored whether an ask was "ripe" for this session. I think the conclusion for the most part was that, at least up until very recently with the dual resolutions and in light of HB 2085, the answer was that it wasn't. But that may have changed, and I've been in direct contact with our delegation and staff to ensure that they understand how things are progressing and are fully-informed and ready to take supportive action, should opportunities arise.

4) There were a whole bunch of other issues to track and a few to discuss, but nothing else really seemed to warrant attention or action.



# Board of Directors

July 16, 2019

District Office Building | 799 SW Columbia | Bend, Oregon

## AGENDA

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### 5:30 p.m. MEETING CONVENED

#### BOARD PRESENT

- Brady Fuller, Chair
- Ted Schoenborn, Vice Chair
- Nathan Hovekamp
- Lauren Sprang
- Jason Kropf
- Ariel Mendez

#### BOARD ABSENT

- Ellen Grover

#### STAFF PRESENT

- Don Horton, Executive Director
- Michelle Healy, Deputy Executive Director
- Matt Mercer, Director of Recreation
- Julie Brown, Manager of Communications and Community Relations
- Sheila Reed, Executive Assistant
- Brian Hudspeth, Development Manager
- Jeff Hagler, Park Stewardship Manager
- Jeff Amaral, Natural Resources Manager
- Sasha Sulia, Superintendent of Park Operations
- Justin Sweet, Business Analyst
- Bryan Longoria, Marketing Coordinator
- Kim Johnson, Volunteer Coordinator and BPRD Foundation
- Betsy Tucker, Finance Manager
- Ian Isaacson, Landscape Designer

#### MEDIA

- Isaac Biehl, The Source
- Justin Larsen, KTVZ

#### STAFF INTRODUCTIONS

- Justin Sweet, Business Analyst

## WORK SESSION

### 1. Volunteer/Community Engagement Report – *Kim Johnson*

Ms. Johnson explained the district community engagement program as an opportunity for the public to engage as supporters of district efforts. She said the community can be involved in the following areas:

- Volunteer work
- Sponsorships
- Bend Park & Recreation Foundation

The volunteer opportunities vary with the needs of the district. They include:

- Recreation and youth sport programs
- Events, outreach and activities
- Park and trail maintenance
- Administration and special projects

Ms. Johnson said volunteers are involved in almost everything the district does; over 1,550 people volunteered in 2018 and recorded close to 53,000 hours of volunteer time. She said these hours translate to the equivalency of 25.5 full time staff members. With increasing population, the district will continue to need more volunteers. Most of the district adult volunteers serve the youth sports programs as coaches. Adults can also volunteer as greeters/hosts at Riley Ranch, goose hazing in riverside parks, adopt-a-trail and in park maintenance projects.

Ms. Johnson added that teens volunteer in various activities: Jr. Lifeguards, swim instructor aides, preschool and youth fitness, art station, youth enrichment, Cougar Camp, and Therapeutic Recreation.

Ms. Johnson said sponsorships are another way the community can be involved with programs, they are available for youth sports programs, Pavilion programs, and dasher board advertising. Proceeds are directed to the recreation scholarships fund. Sponsors may also support senior center activities and district events.

The Bend Park & Recreation Foundation is made up of a volunteer board that meets three times per year. The foundation board advocates and shows support for district initiatives, provides oversight for donations and district approved projects. Next spring the foundation will host a new curling event fundraiser that will be held in the spring of 2020.

### 2. Park Services Report: Prescribed Burning in Shevlin Park Update – *Jeff Amaral*

Mr. Amaral commented that Shevlin Park has been burning for thousands of years and called it a fire adapted forest. He reviewed the forest history of frequent, low severity fires that have taken place through the years. He said the district is trying to mimic the fires that have naturally occurred through controlled burns. In 2017 and 2018 prescribed burns were conducted in Shevlin Park. The

plan for 2019 includes the continuation of the partnership with the US Forest Service authorized by the Wyden Amendment. The Wyden Amendment allows the forest service to enter into agreements to do fuel reduction work with federal tax dollars on land that is not part of the forest service. The amendment dictates that the district must match at least 20 percent of the cost for the project. Mr. Amaral estimates that the cost will be about \$25,000 resulting in a \$5,000 cost to the district.

Mr. Amaral showed a map of Shevlin Park and explained where the controlled burns had already occurred and where they would happen this year. He then listed the benefits of prescribed fires as follows:

- Forest ecosystem health
- Stimulate fire-dependent trees and plants
- Maintain wildlife habitat
- Cycle nutrients
- Sustain forest ecosystem functions
- Reduces risks of a severe wildfire

Mr. Amaral spoke about past fires that have occurred in the area that burned many homes and acres, remarking that some fires came dangerously close to town. He showed pictures of past wild fires that serve as a reminder and a motivator for fuel reduction in the forests. He reviewed possible dates for the prescribed burns, which are weather dependent. Mr. Amaral said on burn days Aspen Hall reservations have been blocked and Shevlin Park will be closed.

Mr. Amaral listed the partner agencies that work with the district with the controlled burns:

- USFS
- Bend Fire Department
- Project Wildfire
- Deschutes Collaborative Forest
- The Nature Conservancy
- Deschutes County
- OSU/COCC

He concluded by saying that the controlled burns are highly visible to the community and it is important to keep the public informed.

### 3. Riverbend Park South Project Update – *Ian Isaacson and Mathias Perle*

Mr. Isaacson gave a background on the Riverbend Park South Project, stating that the district manages more than 10 miles of river park frontage along the river corridor including the Bend Whitewater Park. He said river recreational use has increased over recent years bringing further challenges to the district to balance recreation demands with aesthetic and environmental protections of the riparian areas.

The district has worked with Upper Deschutes Watershed Council (UDWC) over the last few years to complete an inventory and assessment of the riparian condition of the riverbank along district owned property. This work has resulted in the identification of numerous opportunities for riparian

restoration and improved river access. A memorandum of understanding (MOU) between the district and UDWC followed in April 2018 to formalize the ongoing commitment by both agencies.

Mr. Isaacson showed a map of the highest priority area that lies between Bill Healy Bridge and Farewell Bend footbridge. The project calls for three hardened water access points, fencing and riparian habitat improvements. Public outreach will begin at the end of July to gather feedback from river users. He said the next steps include further design, additional grant funding for permitting, and construction in fall 2019 and spring 2020. He finished the presentation by saying that this project will serve as a template for future projects along the river corridor, it highlights partnerships between agencies and non-profits and demonstrates that recreation and quality habitats are not mutually exclusive.

**6:50 p.m. BREAK/TRANSITION**

**7:00 p.m. BUSINESS SESSION**

**VISITORS**

None

**CONSENT AGENDA**

1. Meeting Minutes – 06/18/2019

***Director Hovekamp made a motion to approve the consent agenda. Director Schoenborn seconded. The motion passed unanimously, 4-0.***

**BUSINESS SESSION**

Director Fuller swore in the newly elected board members, Ariel Mendez and Jason Kropf. Director Mendez and Director Kropf took their seats at the board table and the business session resumed.

1. Presentation of Plaques to Board Members

Executive Director Horton presented a plaque of appreciation to Director Fuller for his service to the board.

2. Election of Board Officers

***Director Hovekamp made a motion to nominate Director Schoenborn to serve as chair of the Bend Park & Recreation District Board of Directors for Fiscal Year 2019-20. Director Sprang seconded. The motion passed unanimously, 5-0.***

***Director Sprang made a motion to nominate Director Hovekamp to serve as vice chair of the Bend Park & Recreation District Board of Directors for Fiscal Year 2019-20. Director Mendez seconded. The motion passed unanimously, 5-0.***

3. Appoint Board Executive Secretary

**Director Hovekamp made a motion to appoint Don Horton, executive director, to serve as executive secretary of the Bend Park and Recreation District Board of Directors for fiscal year 2019-20. Director Sprang seconded. The motion passed unanimously, 5-0.**

4. Approve Board Meeting Dates and Time

**Director Hovekamp made a motion to conduct the Bend Park and Recreation District Board of Directors public meetings on the first and third Tuesdays beginning at 5:30 pm with a work session and a business session beginning at 7:00 pm. Director Sprang seconded. The motion passed unanimously, 5-0.**

5. Appoint Legislative Liaison

**Director Sprang moved to appoint Director Schoenborn, to serve as legislative liaison for the Bend Park and Recreation Board of Directors for fiscal year 2019-20. Director Hovekamp seconded. The motion passed unanimously, 5-0.**

6. Alpenglow Park – Award Design Contract Amendment – Ian Isaacson

Mr. Isaacson gave a brief overview of Alpenglow Park, including size, location, the history of board approval, amenities and access, and community outreach. He said Alpenglow Park is a special project which has required coordination with several local partners including: the city, school district, COID, JL Ward Co. and BNSF Railway. He said this section of Bend is growing very quickly and with continued coordination the district can ensure that the park fits seamlessly with current and future development.

Mr. Isaacson said with the 30 percent drawing set complete the project is ready to move forward through final design. The proposed amendment #5 includes preparation of construction documents, final permitting, construction administration and final cost estimates. He said this amendment will complete the full scope of design services necessary for the development of Alpenglow Park. The cost for amendment #5 is approximately \$1.1 million with an additional 10 percent contingency.

**Director Sprang made a motion to authorize the executive director to negotiate and execute amendment #5 to the contract with Environmental Science Associates for Alpenglow Park in an amount not to exceed \$1,116,037.00 and to approve an additional contingency amount of \$109,713.70. Director Hovekamp seconded. The motion passed unanimously, 5-0.**

7. Convene as Contract Review Board to Conduct a Public Hearing and Approve Resolution No. 431 – Design Build Alternative Form of Contracting Method for the Juniper Swim & Fitness Indoor Pool Renovation Project – Brian Hudspeth and Bronwen Mastro (15 min)

Mr. Hudspeth explained the process of replacing the pool tank, which is a retrofit, at Juniper Swim and Fitness Center. Due to the technical complexity and timing of the project, Mr. Hudspeth would like to use a design build process that allows the district to bring a contractor on board sooner for a more efficient process that will likely cost less. Mr. Hudspeth highlighted other advantages outlined in the board report to this process for this particular project.

Executive Director Horton stated that the board is also designated as the contract review board. The task of the review board is to consider the adoption of the resolution and the findings that justify acting outside of the normal process. The resolution and findings were included in the board packet for the meeting.

The board asked questions about how this process is quicker and cheaper and expressed concern about the complexity of the project. Mr. Hudspeth explained the design-builder option provides both design and construction services reducing the risk of design flaws. Since the contractor is involved at the beginning, this allows for a better understanding of the complexities, owner's needs and the design intent of the project. With the working relationship of the designer and contractor, there are fewer flaws; projects are more likely completed on time and within budget. He further said that this is still a competitive bid process and the district will be able to work with firms that have the necessary experience. He added that staff understands the expertise needed and know what the district will be getting because the bid environment does not require the lowest bid to prevail.

Director Schoenborn announced that the board will now meet as the local contract review board and conduct a public hearing for the purpose of taking public comment on the findings for an exemption to the public bidding requirement. He asked if there was anyone present that would like to make comments; there were no public comments.

***Director Mendez made a motion to adopt Resolution No. 431 exempting the Juniper Swim and Fitness Indoor Pool Renovation Project from competitive bidding, and use the design build alternative contracting method to award a design build services contract. Director Hovekamp seconded. The motion passed unanimously, \*4-0.***

***\*Director Sprang left the meeting prior to the vote.***

#### 8. Full-time Position Request – Matt Mercer (15 min)

Mr. Mercer said the Pavilion has recently added more programming requiring more staff. He requested the board approve the expansion of a part-time position at the Pavilion to a full-time position. This part-time position currently works seasonally at the Pavilion and seasonally as a park steward the rest of the year. With the development of the Pavilion position, park services would like to also expand their seasonal park steward opening to a full time opportunity. With the expansion of both of these full time positions, the request is for one full-time equivalency.

Mr. Mercer explained that the additional revenue added from the roller sport program at the Pavilion will cover the costs of the expansion of the part-time position at the Pavilion.



**Director Kropf made a motion to approve the addition of one full-time equivalent position for the fiscal year 2019-2020. Director Mendez seconded. The motion passed unanimously, 4-0.**

**EXECUTIVE DIRECTOR’S REPORT**

- Executive Director Horton offered a tour of Larkspur Community Center construction site and Alpenglow Park instead of the next board meeting. Aug. 6. Two board members will be out of town for the meeting and the board indicated that they would prefer the tour option.
- Board training is August 13 at Eagle Crest Resort.
- Let’s Picnic has started and Executive Director Horton invited the board to attend.
- The district is hiring a planner for trails, the interviewing will begin soon.

**PROJECT REPORT**

**BOARD MEETINGS CALENDAR REVIEW**

**GOOD OF THE ORDER** Director Hovekamp welcomed Directors Kropf and Mendez to the board.

**ADJOURN** 8:38pm

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Prepared by,  
Sheila Reed

Executive Assistant

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Ted Schoenborn, Chair

\_\_\_\_\_  
Nathan Hovekamp, Vice-Chair

\_\_\_\_\_  
Lauren Sprang

\_\_\_\_\_  
Jason Kropf

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Ariel Mendez



## PLANNING & DEVELOPMENT PROJECT UPDATES August 2019



### **Deschutes River Trail (DRT):**

**Putnam to Riley Ranch Nature Reserve Bridge Segment** – Brooks Resources provided an easement for the trail and parking area. Development of this segment of the trail and the parking area on this property are contingent upon acquisition of a trail easement on the adjoining property with an active surface mine, which may delay the trail project for a few more years.

**Kirkaldy Ct. to Putnam Rd. Segment** – After meetings with adjacent property owners and the Awbrey Meadows Home Owners Association Board of Directors, the issue of the District acquiring a trail easement over the buried Tumalo Irrigation District pipeline has not yet been resolved. The trail alignment is also pending acquisition of other necessary trail easements from the surface mining property.

**Galveston to Miller’s Landing Park Segment** – The District is negotiating with the City of Bend to determine the scope of this project. Staff anticipates a modification to the intergovernmental agreement (IGA) to address additional utility work necessitated by the project. Due to the utility work that was completed over the last two years in the neighborhood, the city wanted to wait a couple more years before beginning another project in that area. This will give both the city and BPRD time to work on a revised scope of work and amend the current IGA. District staff has started conversations with the City of Bend.



**Larkspur Center (Bend Senior Center):** Work continues on the 2nd phase of construction. Phase 2 includes closing the existing facility to accommodate the connections for the new building. Work also includes construction of the east and south parking areas so that parking is available during the remainder of construction once the existing center opens in September. Work on the new building has also started with footings being formed along key gridlines as well as the mechanical and elevator pits. The pool has been excavated and work will begin on erecting the building to finish the pool work under cover later this year.



**Alpenglow Community Park:** The Board approved Amendment #5 to the design contract with ESA at the last meeting on July 16<sup>th</sup>. With the fully executed contract now in place, work continues towards final designs and permitting. Staff is still working with Roats Water on their irrigation line relocation which should be happening this summer.



**Shevlin Park:**

**Signage** – The sign package installation is underway for the new interpretive, wayfinding, and regulatory signs in Shevlin Park and for the 329 acre expansion of Shevlin Park, formerly known as the Tree Farm. District staff will be performing the work throughout the summer as weather allows.

**Accessibility Improvements** – The ADA Improvements project, which is funded by the State’s Local Government Grant Program (LGGP), continues with construction anticipated in the summer of 2019. The project includes upgrading the existing Larch Grove Bridge, installation of a new trail from the parking lot to the Aspen Grove picnic shelter, removal of the existing Hixon Bridge with stream and riparian repair, and accessibility improvements in the parking lot adjacent to Aspen Hall. Work is expected to begin in late July and be complete this fall.



**Big Sky Park Expansion:** Design is progressing, and 90% construction documents will be submitted for BRPD review early September with intent to submit for building permits late 2019. It is anticipated that the project will start construction during Q1 of 2020.



**Drake Park DRT & Bank Improvement Project:** Full design of the project continues with 100% CD’s complete by the first of August. Permit submittal has not happened yet as the agencies require signatures from all of the property owners affected by the work. BPRD is still negotiating with property owners of the remaining easements and it is expected that this will take a few more months to finalize. Construction is currently expected to start during the fall of 2020.



**Juniper Park:** Work continues on phase 2 of the project which is currently out to bid. Phase 2 includes replacing the existing playground with an ADA focused playground, removing the old storage and restroom buildings, new access and parking at 6<sup>th</sup> Street, and construction of a new restroom building that will serve both the park and the outside pool deck area. This work is anticipated to start early fall of this year and be complete by spring of 2020.



**Goodrich Pasture Park:** Comments from the City have been received on the District’s land use application and the design team is working hard at updating the plans and responding to the comments. Work still remains to finalize the street cross section. Since Quimby Road is a gravel road within the city surrounded by existing homes and infrastructure, District staff has been trying to develop a design that will have a minimal impact to existing home owners. Final land use should be received this summer followed by final cost estimates and permitting.



**Pacific Crest Middle School Fields:** Work is underway on the athletic fields. The site is being graded and subsurface drainage, topsoil and amendments are soon to follow. Paving and pathways, irrigation, landscaping and sod work will go into the fall. Sports play is scheduled to begin on the fields in 2020.



**Haul Road Trail:** Staff is working to finalize all of the easements for the trail. Western Federal Lands (WFL) will finalize the contract with AECOM for the next phase of design work in August. It will include the remainder of the design, survey and mapping; 80 percent construction documents are expected for BRPD review in October 2019. Construction on the trail is funded to start in 2021, but WFL believes they can get the money released early targeting construction to start mid-2020. Coordination is ongoing.



**Rockridge Park Restroom:** Rockridge Park has been annexed to the City of Bend, and the district is now able to tie into city utilities for the restroom project. The district opened bids on July 18<sup>th</sup> and has entered a value engineering exercise with the low bidder to attempt to bring the project within budget. Construction is expected to begin in the fall of 2019.



**Empire Crossing Park:** The design package is currently out to bid for construction, with the bid opening August 29<sup>th</sup>, 2019. Staff should have a contractor on board by late September, with construction commencing shortly thereafter. The neighbors around this park are very excited and have been a tremendous asset during the design portion of the project.



**Deschutes River Restoration Planning:** The UDWC and BPRD have received a Technical Assistance Grant from the Oregon Watershed Enhancement Board (OWEB) to complete the design and engineering on the section of river from the Bill Healy Bridge to the Farewell Bend Bridge along river left. UDWC and district staff has awarded a contract for completing the design work and it is anticipated that the design will be completed by summer of 2019.

**Strategic Plan:** On June 18, the board adopted the 2019 Strategic Plan. Staff is developing a strategy to roll-out the plan to each department. Staff is beginning to gather data to assess the baselines for performance measures.

**System Development Charge Methodology (SDC):** The newly adopted SDC methodology was implemented on July 1<sup>st</sup>. Two affordable housing developments (totaling 14 units and \$116,200 in park SDCs) have been approved for SDC waivers to date.

**Deschutes River Access Planning:** Public lands in and around the City of Bend are experiencing rapid increases in use as growing numbers of residents and visitors use public lands for recreation and leisure. With increased use, sensitive wetland and riparian habitats along the Deschutes River have been impacted as hikers, cyclists, bird-watchers, anglers and floaters gravitate to the river corridor for recreational activities. In an effort to manage access to the river, district staff will begin a planning effort to gain a better understanding on how patrons utilize the river and how to make access more sustainable. Staff is collecting river use data this summer and has applied for a Technical Assistance Grant from the National Park Service. The planning effort is expected to begin in the autumn.

**Board Calendar  
2019-2020**

*\*This working calendar of goals/projects is intended as a guide for the board and subject to change.*

**September 3**

Work Session

- ◆ Bend FC Timbers Pine Nursery Project - *Tammy Ambrose and Tara B, FC Timbers (30 min)*
- ◆ Summer Recreation Update and Fall Outlook – *Matt Mercer and Michael Egging (20 min)*
- ◆ River recreation use findings – *Kayla Sicard and Sarah Bodo (30 min)*

Business Session

- ◆ Approve Construction Contract for Rockridge Restroom – *Jason Powell (10 min)*
- ◆ Approve Construction Contract for Juniper Park – *Jason Powell (10 min)*

**September 17**

Work Session

Business Session

- ◆ Empire Crossing Park – Award Construction Contract – *Jason Powell (15 min)*

**October 1**

Work Session

Business Session

**October 15 - ORPA**

**November 5**

Work Session

Business Session

- ◆ Award Design Build contract for JSFC Indoor Pool Tank Renovation – *Bronwen Mastro (10 min)*
- ◆ Award construction contract for COHC Trail Improvements – *Bronwen Mastro (10 min)*

**November 19**

Work Session

Business Session

**December 3**

Work Session

Business Session

- ◆ Appoint Budget Committee Member(s) – *Lindsey Lombard*

**December 17**

Work Session

Business Session