



Both Historic and Histrionic...

The new annual sessions and the House divided 30-30 for the first time made this session part of Oregon history on two accounts. Politically, the House makeup and the very close margins in the Senate (16 Democrats and 14 Republicans), led to “bipartisanship” being the term most used by the media, pundits and the legislators themselves.

But “bipartisanship” connotes a friendliness and agreement of important issues - a common sense, middle-of-the-road route to public policy. Publicly that may have been the image portrayed, but the drama behind the scenes seemed more along the lines of a hostage situation where bills advanced that one party did not like in order for them to see their own issues advance. This is strong-arm strategy, not a philosophical meeting of the minds.

With about 4,000 bills this session, we had roughly the same amount as in past sessions, but, it seemed like more work because every bill was in play. When one party has overwhelming control of the legislature, many bills are automatically discounted. When you have the close margins we had this session, all issues were alive until the end. This year, we never knew what bill might pop back up because the legislator championing it insisted the bill move so that their vote could be counted on for another issue.

The legislative leaderships’ choreography of the process was masterful, the trading intense, and even the strong-arming effective in leading to significant changes for Oregon. On the themes you heard about during the campaign cycle, the economic crises the media reminded us of, and the issues that are discussed at the water cooler, here is how things played out....

Redistricting

The legislature approved redrawing the boundaries of the 60 House and 30 Senate districts in the Oregon Legislative Assembly, reflecting population changes in the 2010 census. This is the first time since 1981 that that the legislature has successfully designed a redistricting plan. The past two plans had to be sent to the Secretary of State because legislators could not agree.

Budget Crisis

The general fund for 2011-13 is forecasted to be about \$15 billion. The Legislative Fiscal office declared this to be \$3.5 billion less than what would have been required to maintain services at their current two-year levels.

Education: Public schools received approximately \$5.738 billion; an amount that will lead to cuts in many school districts as personnel costs exceed income. Community colleges and universities also received less than their needs.

Human services: The state’s health care system has been cut by 11.5 percent. But the assumption is that the health care reorganization being led by the Governor will lead to savings that will supplement the budget in the second half of the biennium. Other social services were certainly reduced, with some, like senior and disabled services, left to hope for better state finances in the second half of the biennium in order to fill their needs for the entire biennium.

Public safety and courts: In the end, the Legislature was able to prevent devastating cuts to the Oregon Youth Authority and backfill a hole in the \$1.4 billion corrections budget by changing sentencing guidelines for probation violations only and by increasing court fees. Total public safety and judicial budget comes in around \$2.5 billion.

Also, remember that these are general funds – the dollars the legislature allocates. The other portions of \$62 billion state budget are federal dollars (approximately \$17 billion) directed to specific programs or are “other funds” (approximately \$30 billion) which are dedicated per the Constitution i.e. the gas tax must be spent on transportation infrastructure.

Tax credit revamp

Tax breaks were critically analyzed this session. Tax credits, while serving some significant purposes, mean less money comes to the general fund. The cuts agreed upon will lead to \$53 million not reaching the general fund in 2011-13, rather than the \$170 million that would have resulted from no changes. Some credits were cut altogether (i.e. film and video production) and others were capped (i.e. the Business Energy Tax Credit).

Employment & jobs creation

SB 192 “Green Jobs” - Will prioritize and encourage the development of green industries in our forests by requiring the State Workforce Investment Board to allow forest products industries to be classified as high-demand green industries.

SB 494 “Access to Business Capital Act” - Removes barriers to loans and capital for Oregon's small businesses by eliminating the sunset and making permanent the changes made by the legislature in February 2010.

SB 817 “Oregon Low Income Community jobs Initiative” - Creates a matching state tax credit to the federal New Markets Tax Credit to further incentivize economic development targeted to federally-designated low-income rural and urban areas. The tax credit against income and corporate excise taxes is equal to 39 percent of the cost of a qualified equity investment.

HB 3000 “Buy Oregon First” - Allows state agencies to give preference to goods and services produced in Oregon when bidding out contracts.

HB 2840 “Green Jobs” - Expands the green jobs growth initiative to include an analysis of growth factors and employment projections for green jobs in forest products industries.

HB 2960 “Cool Schools” - Promotes energy efficiency and weatherization upgrades at Oregon schools, saving valuable education dollars that would otherwise go to utility bills, and creating jobs in school districts across Oregon

Education reform

This issue was the poster child for the hostage taking I referred to early. Significant reforms were made to Oregon's education system, some good, others more political in nature.

SB 248 - Mandates full day kindergarten 2015-16. Bill allows districts to opt-in to the program and receive full funding.

SB 250 - Allows school districts in some Education Service Districts (ESDs) to pilot opting out of their current ESD in order to find cost efficiencies.

SB 252 - Gives educators the opportunity to design local system teacher quality reforms.

SB 253 - Sets a goal that by 2025 40 percent of adult Oregonians will have earned a bachelor's degree or higher, 40 percent an associate's degree or post-secondary credential and the remaining 20 percent at least a high school diploma.

SB 552 - Allows the Governor to appoint a State Superintendent of Public Instruction.

SB 290 - Requires adoption of core teaching standards and stipulates that educator evaluations must include multiple measures of student achievement.

SB 909 – Governor’s priority: Established Oregon Education Investment Board which will lead to a unified "zero-to-20" approach to education aimed at creating better results for students and more resources for teachers in a cost-benefit arena.

HB 2301 - Raises the current enrollment caps on statewide virtual charter schools and replaces them with a limit of no more than three percent of students from any single district.

HB 3417 - Makes a technical fix to how charter school finances are managed and tallied.

HB 3474 - Enhances teacher preparation efforts and standards.

HB 3475 - Creates a fund to improve teacher and administrator preparation.

HB 3681 - Allows parents and students to enroll in the school district of their choice.

HB 3645 - Allows a charter school applicant to seek sponsorship from the Board of Education, a local community college, or a public university.

PERS

More than 20 attempts were made at legislation reforming the Public Employees Retirement system, a huge drain on our state funds. Yet, only one, dealing with retirees who move out of state, actually passed. Those retirees will no longer receive the bonus money that PERS pays retirees to offset state income taxes. State employees will continue to receive the 6% payment to their retirement plans and efforts to make them pay 5% into their health benefits failed.

Health Care

SB 99 – Creates a health exchange

HB 3650 “Health Care Transformation Bill” - Designed to achieve better health outcomes and cost savings in the Oregon Health Plan due to the creation of Coordinated Care Organizations (CCOs) that will keep health care costs down mostly coordination of care among all the levels of service available to keep a patient healthy. Governor Kitzhaber priority bill.

Bottle bill update

Governor Tom McCall ushered the trailblazing Oregon bottle bill through the legislature in 1971, but it has not been updated since then, despite many attempts. This year, retailers, distributors, recyclers and environmentalists came to the table and agreed to expand deposit requirements to most glass, metal and plastic bottles and cans, by 2018, and to shift recycling retailers locations to redemption centers. The increase in deposit from 5 cents to 10 cents will only occur if recycling targets are not met.

Rainy day fund/kicker reform

Interim efforts and Senate Committee work to divert the kicker to a rainy day fund did not succeed. The major proposal was to only give half of the income-tax collections exceeding projections to individual taxpayers, while sending the other half to the state until a reserve fund reached a specified level. In addition, the corporate kicker would have been negated altogether with the funds being sent to higher education. The need to send the issue to the voters, as well as wrangling over a trade on capital gains, kept this issue from advancing.

One change, or rather reversion, to the personal kicker did occur: future kickers will come to taxpayers in the form of tax credit credits, which will save the money it takes to issue checks.

Final Thought...

Al Bernstein said “Success is often the result of taking a misstep in the right direction.” Despite some of the gaming and drama, I would rate this historic session a B+.



Rental Housing Association of Greater Portland

The 2011 legislative session was incredibly successful for RHAGP. We played a role in several bills that ended to our advantage; from thwarting three attempts at rent control, to mitigating efforts to increase court fees, to increasing dishonored check fees, our efforts were worthwhile.

L/T Coalition Bill

Neutral

Passed

SB 293...Makes several changes to statutes regulating rental agreements between landlords and tenants:

- Modifies statutory provisions regulating the negotiation of rental agreements and disclosure of rent and fees.
- With regard to applicant screening charges to cover the cost of obtaining information as part of the rental agreement process, the measure increases the amount an applicant may recover if the vacancy is filled prior to the screening taking place or if no screening is conducted; in such cases the applicant is eligible to recover twice the applicant screening charge paid plus \$150.
- The measure also requires that landlords charging deposits for securing rental agreements must provide a written statement outlining the amount of rent, fees, and deposits; failure to comply results in ability of the tenant to recover up to \$150, increased from \$100 under current law.
- Modifies provisions related to retaliatory actions by landlords.
- Increases threshold from \$500 to \$1,000 by which landlord may choose to destroy or dispose of abandoned personal property.
- Clarifies tenant's rights to apply security deposit or prepaid rent toward rent owed when landlord's property is in foreclosure.
- Allows landlord to require tenant to restore security deposit or prepaid rent within two months when property is no longer in foreclosure.
- Releases immediate family from rental agreement if tenant is a victim of domestic violence, sexual assault, or stalking.
- Revises statutes mandating the installation and maintenance of carbon monoxide detectors.

Applies to rental agreements entered into on or after the effective date.

<http://www.leg.state.or.us/11reg/measpdf/sb0200.dir/sb0293.en.pdf>

MHL/T Coalition Bill - Utilities

Neutral

Passed

SB 294...Changes the methods by which manufactured dwelling park landlords may bill tenants for utilities or services. This legislation is the work product of the Manufactured Housing Landlord/Tenant Coalition.

Currently, landlords of manufactured dwelling parks can recover the cost of water in one of three ways: as part of the rent; on a pro rata basis in which water consumption for the entire park is divided on a pro rata basis among the residents, usually per space; or by billing each resident separately based on individual submeters that measure actual water consumption at each space. SB 929 of 2009 required landlords of large manufactured dwelling parks (200 or more spaces) to no longer charge tenants for water using a pro rata billing method and to convert to water submeters by December 31, 2012.

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SB 294 allows the large parks which must convert to submeters to instead take steps to implement a “super conservation pro rata” billing method. It also allows landlords to recover the cost of installing submeters by imposing a special assessment that is spread over at least 60 months and after notice is given to tenants. In addition to addressing submetering for utilities, the bill also clarifies statutes regarding tenant rights when a manufactured dwelling park or mobile home park is converted to a subdivision.

<http://www.leg.state.or.us/11reg/measpdf/sb0200.dir/sb0294.en.pdf>

Property Taxations

Neutral

Passed

SB 322... Currently, taxpayers who own multiple-unit housing receive an exemption. The exemption only applies to the structure used for multiple-unit housing as well as any associated parking, but not the land or improvements to the property not used as multiple-unit housing. SB 322 extends the multiple unit housing tax exemption to the value of any design or public benefit elements required by the city or county as part of multiple-unit housing construction. The bill modifies the description of design elements benefiting the general public that must be present as required by the county or city in order for a newly constructed or converted structure to be considered multiple-unit housing. SB 322 also adds commercial uses of multiple-unit housing to the list of publicly beneficial design elements that may be required by the city or county to receive the tax exemption and extends the sunset for the multiple-unit exemption from January 1, 2012 to January 1, 2022.

<http://www.leg.state.or.us/11reg/measpdf/sb0300.dir/sb0322.en.pdf>

Notice of Foreclosure

No Position

Passed

SB 491... Modifies requirements for notice of foreclosure and termination of tenancy to tenants of residential dwellings in foreclosure. The Legislative Assembly adopted legislation in 2009 and 2010 designed to provide additional rights to tenants living in residential properties subject to foreclosure sale. Prior to passage of Senate Bill 952 (2009), once a property was foreclosed, tenants were given 30 days notice of the intent to remove them in preparation for sale; that measure granted tenants additional notice and provided for the return of prepaid rent and security deposits. The application of the notice requirements was further clarified with passage of Senate Bill 1013 (2010).

Senate Bill 491 further modifies the requirements for notice of foreclosure and termination of tenancy for residential dwellings in foreclosure. The measure conforms state law to federal law with regard to notice periods. When the federal law sunsets in 2014, the notice periods will revert to the current state requirements. Additional provisions include: revised definition of “bona fide tenancy”; elimination of requirement that tenants provide written evidence prior to qualifying for protection; requirement that purchasers show proper notice was provided before proceeding with eviction, with lack of proper notice being a defense for tenants; requirement that purchasers provide notice within 30 days of sale date that includes their name and contact information, as well as information about tenant rights; and clarification of applicability to dwellings subject to ORS chapter 90.

<http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0491.en.pdf>

Eligible Covenants

Neutral

Passed

SB 519... ORS 86.745 governs the notice of a sale of property brought about by a foreclosure action. SB 519 specifies procedures for properties subject to an affordable housing covenant, making any sale of the property in a foreclosure action subject to the right of the eligible covenant holder or to purchase the property. SB 519 grants to such parties the first right to

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purchase the property for the lesser of the total sum of the obligations secured by the trust deed or a mortgage on the property that is owed and due to all persons that have an interest in the property, or the highest bid received for the property other than a bid from the covenant holder. As a practical matter, this gives the covenant holder "the right of first refusal", or the opportunity to make a bid on the property to be foreclosed superior to other claimants. This right does not supersede the right of prior claimants.

<http://www.leg.state.or.us/11reg/measpdf/sb0500.dir/sb0519.en.pdf>

Notice to Schools

Neutral

Passed

HB 2029...The original bill required a landlord to provide notice to a school district and to the Department of Education if a tenant is evicted from premises and landlord had knowledge that tenant was education provider, tenant allowed education provider to occupy premises, tenant stored student education records on premises or tenant allowed student education records to be stored on premises. We had bill amended to make sure that it applied only to landlords for commercial school buildings. After amending, bill just required the transfer of student education records to school district when a public charter school is dissolved or a charter is terminated.

<http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2029.en.pdf>

Fire Code

Monitor

Passed

HB 2078...Streamlines ORS chapter 479 by deleting a number of statutes that are either outdated, redundant, or are in conflict with the state's current adopted fire and building codes. Repeals certain statutes regarding fire escapes and other fire safety requirements. Deletes statutory specifications regarding fire protection water supply availability for public buildings. Requires the State Fire Marshal to establish fire protection water supply requirements by administrative rule. Expands the types of buildings and structures, or portions of buildings and structures, that are subject to closure for occupancy limit violations.

<http://www.leg.state.or.us/11reg/measpdf/hb2000.dir/hb2078.en.pdf>

Dishonored Check Fee

Support

Passed

HB 2678...Increases bad check fee from \$25 to \$35.

<http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2678.en.pdf>

Writ of Eviction Notice

Neutral

Passed

HB 2694...ORS 105.161 details the process by which a sheriff may serve a writ and eviction trespass notice. Currently, any writ not enforced and served within 30 days following its issuance expires and becomes unenforceable against the person to be evicted. HB 2694 allows for this period to be extended by the court upon a sufficient showing of good cause by the sheriff. The sheriff is required to notify a plaintiff requesting eviction if the operation of a writ of eviction is so extended.

In addition, costs associated with the execution of orders to abate a nuisance carried out by a sheriff after request by a plaintiff are addressed. Currently, a sheriff is required to abate the nuisance at the expense of the defendant and may levy those expenses on the property of the defendant in the form of an execution against the property. HB 2694 permits a sheriff to require that the plaintiff pay all sheriff's fees before executing the warrant, and may require that the plaintiff also pay all expenses incurred in the execution of the warrant. HB 2694 then allows a plaintiff to recover sheriff's fees in addition to other statutorily enumerated damages.

<http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2694.en.pdf>

Court Fees*Monitor***Passed**

HB 2710...The introduced version of this bill included increases in court fees as high as 400%. Many meetings and negotiating led to amending in House Judiciary. Then, minutes before the bill's hearing in the Capital Construction Subcommittee of Ways & Means, a need to raise money for the public safety budget led to changes even beyond the initial bill's scope. Forces worked hard to amend in the full Ways & Means Committee and the resulting C-engrossed version of the bill meets our needs while still helping balance the budget.

As finally approved, HB 2710 updates and simplifies the current statutory revenue and distribution structure related to civil filing fees and assessments with changes becoming effective October 1st, 2011. Of most importance to RHAGP is the establishment of the forcible entry detainer fee at \$75. Prior to session the fee was \$67, and in some versions of HB 2710 it was as high as \$100. We were able to come to agreement on this modest increase to \$75 with similar increase in defendant fees.

HB 2710 also does the following:

- Adds a \$3 filing fee to fund an account to provide assistance to counties with critical state court facility improvement needs.
- Reinstates the Appellate Mediation Program to list of eligible entities.
- Raises the jurisdiction of the small claims departments of circuit and justice courts to \$10,000. Modifies filing fees payable in Small Claims courts of Justice Courts.
- Establishes Small Claims filing fee of \$50 for cases less than \$2,500 and \$90 for case more than \$2,500, but less than \$10,000.
- Establishes a garnishment filing fee of \$35.
- Increases the Small Claims filing fee to \$65.
- Clarifies that declaratory judgment actions are subject to the standard filing fee.
- Increases the fee for issuance of writs of garnishment by the court from \$10 to \$35.
- Prevailing party fee in small claims actions was increased to \$93 (without trial) and \$108 (with trial).

<http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2710.en.pdf>

Mailbox Access*Monitor***Passed**

HB 3361...Contrary to our first thoughts on this bill, the U.S. Postal Service does not specify requirements for accessibility to clustered mailboxes, nor does the Federal Government. Hence, HB 2261 includes clustered mailboxes in the definition of "related facilities" for the purposes of ensuring access to persons with disabilities. The bill requires the Director of the Department of Consumer and Business Services to incorporate clustered mailbox assembly standards in the structural code prior to April 1, 2012, and requires cities and counties to adopt structural code standards for clustered mailbox accessibility in local street and road standards.

<http://www.leg.state.or.us/11reg/measpdf/hb3300.dir/hb3361.en.pdf>

**Rent Control I***Oppose*

HB 2172...Limits amount by which landlord can increase rent for manufactured dwelling space or floating home space. Makes other changes to law governing relationship between landlords and tenants of manufactured dwellings and floating homes. Creates program for resolving disputes between landlords and tenants of manufactured dwellings and floating homes. Directs Manufactured Communities Resource Center to administer program. Authorizes center to impose civil penalty against landlord or tenant for not complying with final order of center. Establishes Tenant and Landlord Dispute Resolution Fund and continuously appropriates moneys in fund to center for purpose of administering program. Requires landlords to register annually with Housing and Community Services Department. Requires landlords to post notice of information related to program. Authorizes imposition of civil penalty against landlord for not registering or not posting notice.

Real Estate Transfer Tax*Oppose*

HB 2518...Permits local governments to impose real estate transfer tax or fee, provided tax or fee is structured progressively based on consideration paid for property, transfers in which buyer is first-time homebuyer are exempt, and marginal rate of tax or fee decreases as length of ownership by seller increases.

Voter Registration*Oppose*

HB 2885...Directs landlords of four or more dwelling units or of facility to supply new tenants with voter registration cards with written rental agreement or, for oral agreement, on first day of occupancy. Directs Secretary of State to supply voter registration cards to landlords.

Rent Control II*Oppose*

HB 3183... Creates exception to statewide policy prohibiting local rent control. Allows cities or counties to establish limits on rental rates or increases in rental rates for spaces in manufactured dwelling parks, mobile home parks and marinas.

Rent Control III*Oppose*

HB 3531...Repeals provision that prevents local governments from imposing conditions on approved permits that effectively establish sales price for residential development or limit purchase to class or group of purchasers.

Energy Performance Scores*Oppose*

HB 3535... Requires State Department of Energy to adopt energy performance rating system. Requires landlords and sellers to disclose energy performance of buildings and units for rent or sale to prospective tenants and buyers.

Tenant of Grantor*Oppose*

SB 481... Requires notice of trustee's sale to be sent to tenant of grantor in trust deed under certain circumstances. Includes tenant of grantor as person that may cure default and requires trustee to provide tenant with information necessary to effect cure.

Failed

Tenant Utilities

Neutral

SB 490... Requires utility providing natural or liquid propane gas, electricity or water to notify residential tenant of possible termination of utility or service paid for by landlord. Allows tenant to retain utility or service for up to lesser of three billing periods or 90 days by paying current amounts due.

Television Antenna

Oppose

SB 507... Imposes building code requirement that new constructions or rehabilitations of multifamily housing include television antenna system. Makes violation subject to civil penalty, not to exceed \$5,000. Modifies landlord-tenant law to require that landlords of multifamily housing provide dwelling units with television antenna system access. Phases in requirement. Makes lack of required television antenna system access uninhabitable condition. Grants tax credit to multifamily housing operator that installs television antenna system at least 12 months prior to date installation is required under landlord-tenant law.