

Government Operations



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Summary
of Major
Legislation

Senate Bill 23

Relating to state workforce diversity.

SB 23 directs the Oregon Department of Administrative Services (DAS) to work in conjunction with the Oregon Disabilities Commission to assess the representation of persons with disabilities in state government employment, the current hiring program for severely disabled persons, and the barriers to increasing their employment. The measure requires recommendations to remedy any under-representation of disabled persons in state employment. The measure requires a report be made to the 70th Legislative Assembly by February 14, 1999.

As of July 1, 1999, SB 23 repeals existing statutory provisions concerning employment of severely disabled persons in state government. State agencies and representatives of the disabled community assert the current statutory provisions for job access by severely disabled persons are not adequate.

Effective Date: October 4, 1997

Senate Bill 86

Relating to government ethics.

SB 86 prohibits certain employees of the Department of State Police who have responsibility for administering state lottery or tribal gaming programs from working in the gaming industry for one year after the end of their employment with the Department. The bill provides exceptions for appointment or employment as an Oregon Lottery Commissioner, Tribal Gaming Commissioner, or a regulatory agent thereof.

The Superintendent of State Police, by rule, has already designated employees in the following positions as prohibited from working within the Oregon tribal and lottery gaming industries for one year after leaving their assignments: Lottery Security Section Administrator, Tribal Gaming Section Administrator, Gaming Enforcement Division Director, Operations Services Bureau Commander, Deputy Superintendent, and Superintendent of State Police. SB 86 makes the prohibition statutory, applying it to the same list of employees who are employed on or after the effective date of the measure.

SB 86 also increases the maximum civil penalty for violation of government ethics laws from \$5,000 to \$25,000. The increase applies to the new state police lottery positions and to specific public employees who are prohibited for a certain period of time from

employment in industries that they regulate.

Effective Date: October 4, 1997

Senate Bill 138

Relating to Senate confirmation of appointments.

SB 138 eliminates the requirement that the Senate confirm the Governor's appointment to the following 14 boards and commissions: Board of Massage Technicians, Capitol Planning Commission, Department of Administrative Services' Advisory Committee, Film and Video Office, Interagency Hazard Communication Council, Mortuary and Cemetery Board, Natural Heritage Advisory Council, Northwest Low-Level Waste Compact Committee, Occupational Therapy Licensing Board, Oil Heat Commission, Pioneer Cemetery Commission, Sanitarians Registration Board, Seismic Safety Policy Advisory Commission, and Travel Information Council.

Effective Date: October 4, 1997

Senate Bill 139

Relating to public contracts.

SB 139 modifies the procedures by which state agencies procure contracts for personal services. The measure allows all public contracts valued at less than \$5,000 to be awarded without following a competitive bid or proposal process. The current threshold is \$2,500. Under SB 139, contracts under \$50,000 can be awarded without following the competitive bid process if they are awarded within 60 days following an emergency. SB 139 also raises to \$75,000 the maximum amount of a personal service contract that can be made without review and approval from the Attorney General.

Under existing law, the Advocate for Minority, Women, and Emerging Small Business must be notified by a state agency that is soliciting a contract or bid request in excess of \$1,000. SB 139 increases that threshold to \$5,000.

Effective July 1, 1998, SB 139 authorizes the Oregon Department of Administrative Services (DAS) or a local contract review board to advertise for bids exclusively by electronic means, as long as the contracts are not for public improvements exceeding \$50,000. DAS has developed the Vendor Information Program (VIP) for electronic advertising of bids. Since VIP has been available, DAS has put only limited information about

bids in the newspaper. With passage of SB 139, DAS expects many local jurisdictions to advertise their bid requests on the VIP.

Effective Date: October 4, 1997

Senate Bill 377

Relating to state parks.

SB 377 establishes the Oregon Adopt-a-Park Program and directs the State Parks and Recreation Department to administer the program. The Adopt-a-Park program works much like the current Partners in Parks program, which focuses volunteer efforts on manageable projects that can provide a real sense of accomplishment and service. Volunteers working in parks are not intended to replace full-time employees. State parks are provided with flexibility in providing supplies and equipment to the volunteers. Under the measure, volunteer contracts are limited to one year at a time.

Effective Date: October 4, 1997

Senate Bill 546

Relating to establishment of semi-independent state agencies.

SB 546 establishes a pilot program of granting semi-independent status to five professional and occupational licensing boards. These boards consist of Engineers and Surveyors, Geologists, Optometrists, Architects, and Landscape Architects.

During the past several legislative sessions, privatization, semi-privatization, or semi-independent status has been granted to Oregon Public Broadcasting, the Oregon Tourism Commission, the Oregon Health Sciences University, the Travel Information Council, and SAIF Corporation. Semi-independent status, as envisioned by SB 546, requires the five boards to contract for services and to operate free from statutes concerning personnel, purchasing, contracting, and budget approval. SB 546 retains audit, investment restriction, and administrative rule adoption requirements. SB 546 also directs the boards to establish an elective appointment method for members in place of appointment by the Governor with Senate confirmation. The measure requires public members to be selected from a list provided by the Governor, authorizes the boards to establish their own fee structures and budgets, requires the boards to submit audits and reports to the legislature. The measure sunsets June 30, 2001.

Effective Date: July 25, 1997

Senate Bill 578

Relating to recording of interests in real property.

SB 578 allows a city to give constructive notice of a governmental interest in real property, or satisfaction thereof, by maintaining records through an on-line electronic medium. The measure requires that on-line access to the electronic medium be provided to any individual or organization.

SB 896 (1995) allowed cities to maintain an electronic database of lien records. Currently, the cities of Portland, Salem, and Eugene maintain their real property interest records electronically. Cities sought the added provisions of SB 578, intending to avoid per-page filing charges assessed by counties. Current statutory language, however, still requires that cities file lien records with the counties, even if they maintain electronic databases. SB 578 removes the duplicate-filing requirement.

Effective Date: October 4, 1997

Senate Bill 822

Relating to certification of building inspectors.

SB 822 allows recognition of out-of-state experience of building inspectors and building officials. Building inspectors and officials are required to be certified by the state to perform building inspections or to certify plan reviews. In many cases, an individual must have five years of on-the-job experience, or a combination of work experience and education to sit for a certification exam. Because Oregon does not recognize national and international certification standards, it is sometimes difficult to fill building inspector and building official positions during times of low unemployment in the building trades. Opponents indicated that national standards are inadequate and compromise safety and quality because they do not require on-the-job experience. SB 822 allows persons not certified in Oregon, but who have their national certification, to be considered for employment as building officials and inspectors.

Effective Date: July 28, 1997

Senate Bill 879

Relating to inmate labor to maintain parks and recreational areas.

SB 879 requires the State Parks and Recreation Department to use state correctional inmate labor to improve, maintain and repair parks and recreation areas.

Inmates are prohibited from performing work that requires possession of a professional license. Under the measure, inmate labor is exempt from public contracts and purchasing requirements. When utilizing inmate labor, the State Parks and Recreation Department is excused from personal service requirements.

Effective Date: October 4, 1997

Senate Bill 974

Relating to construction contractors.

SB 974 requires the Construction Contractors Board to certify home inspectors and to adopt education, training, and minimum competency testing for certification and renewal. After July 1, 1998, the measure prohibits anyone from undertaking or submitting bids for home inspections unless the person is certified by the board. It also prohibits a certified home inspector from contracting to perform repairs on structures they inspect within a year of the inspection. The measure defines a home inspector as a person who, for a fee, inspects and provides written reports on the overall physical condition of a residential structure. The definition exempts building code inspectors and those general contractors registered each year from 1991 to the effective date of the measure.

Residential whole house inspections, which are often contracted for by home buyers, are not currently subject to state regulation. The inspections do not have to be standardized and they may be performed by untrained, unregulated inspectors.

Effective Date: August 11, 1997

Senate Bill 1036

Relating to compensation for exercise of eminent domain.

SB 1036 requires an offer in condemnation proceedings to be accompanied by the written appraisal upon which the condemning entity relied in determining the amount of compensation to offer. The measure requires the offer of compensation to remain undiminished through completion of trial except that, upon motion of the condemner, and upon finding of error, the court may reduce the offer if such order is entered not less than 60 days prior to trial. Unless otherwise agreed, the measure requires the condemner to provide the owner 15 days' written notice of a planned appraisal inspection. SB 1036 specifies that the property owner shall have at least 40 days to accept or re-

ject the compensation offer after receipt of the initial offer and appraisal. If the property owner rejects the offer, they must provide the condemner with a copy of their own appraisal, if any, not less than 60 days before trial or arbitration proceedings. SB 1036 specifies that failure to provide a copy of an appraisal, as required under the measure, precludes use of the appraisal at trial. The measure permits a property owner to elect binding arbitration if the amount of compensation claimed by any party does not exceed \$20,000. If the amount of the claim exceeds \$20,000, but is less than \$50,000, the owner may elect nonbinding arbitration.

The state and its political subdivisions have the right to acquire property owned by individuals through condemnation under the doctrine of eminent domain. Constitutional provisions require the condemning authority to offer full, adequate, and effective compensation. Proponents of SB 1036 assert current statutes have allowed some condemners to pressure property owners into accepting less than fair value for their property.

Effective Date: October 4, 1997

House Bill 2010

Relating to public improvements.

HB 2010 raises the threshold from \$50,000 to \$125,000 for public improvements for which notice and cost estimates must be submitted to the Bureau of Labor and Industries (BOLI). Current law requires a public agency to use the least-cost method of performing construction work, whether it contracts for completion of a project or performs the work with its own equipment and personnel. If the agency intends to perform construction work using its own equipment and personnel on a project that exceeds the threshold, a cost-comparison analysis and reporting are required. The threshold was designed to give public agencies leeway to perform small, local projects in a timely manner. Increasing the threshold will allow public agencies to do more of their own construction work without submitting notice and cost estimates to BOLI.

Effective Date: October 4, 1997

House Bill 2028

Relating to minimum wage violations.

HB 2028 allows the Commissioner of the Bureau of Labor and Industries (BOLI) to assess a civil penalty not greater than \$1,000 for willful violation of minimum wage law provisions. Violations of or pertaining

to subminimum wages, record-keeping, posting, discrimination prohibitions, and minimum employment conditions, or any rule adopted in these areas are subject to penalty. The measure exempts from the civil penalty violations of rules for payment of overtime wages.

Currently, violations of provisions of minimum wage law are punishable as a misdemeanor. BOLI requested the measure in order to address concerns that the non-wage requirements such as meal breaks and rest periods were often violated by employers but, because of the requirement that violators be taken to court, often no action for the violation was taken.

Effective Date: October 4, 1997

House Bill 2034

Relating to public employee retirement.

HB 2034 allows retirees in the Oregon Public Employees Retirement System (PERS) to be paid a retroactive benefit increase of 9.89 percent as a settlement in litigation regarding taxation of benefits. PERS retirement benefits were first taxed by the state in 1991 in order to comply with a U.S. Supreme Court decision requiring that the state treat federal and state retirement benefits in the same manner. In 1992 the Oregon Supreme Court ruled that the state could tax PERS benefits, but that PERS retirees must be compensated for taxes paid on that portion of benefits earned prior to 1991.

HB 2034 also includes provisions which conform Oregon law to the federal Uniformed Service Employment and Reemployment Act relating to pension rights of members who entered the armed forces or the uniformed services. The measure specifies procedures for merging new employers who join PERS and the methods of calculating employer costs for employers who pay the six percent “pick-up” contribution on a pre-tax basis, or who pick up the employee contributions solely for tax purposes.

Effective Date: May 30, 1997

House Bill 2074

Relating to dispenser licenses.

HB 2074 removes population-based limits as a factor used by the Oregon Liquor Control Commission (OLCC) to determining the granting of Class A and Class B liquor dispenser licenses. Dispenser licenses for distilled liquor are issued in three classes: A, B, and C. Generally, Class A licenses are issued to com-

mercial establishments, Class B licenses to private clubs, and Class C licenses to restaurants without separate bar areas.

Currently, the total number of either Class A or Class B licensed premises is limited by statute to one licensee for every 2,000 persons in the state. This population-based limit was established in 1953, when a 1952 initiative petition took effect legalizing the sale of alcoholic beverages by the glass. An additional 100 licensees, above the population-based number, were authorized by legislation in 1979, and another 50 in 1981.

A growing economy, increased tourism, and significantly higher numbers of people dining out is fueling continued growth within Oregon’s hospitality industry. The population-based limit has created a waiting list for new licenses for establishments that have otherwise satisfied OLCC’s requirements. Proponents of the measure assert the population-based limitation slows economic growth and that OLCC now has many other control mechanisms in place to regulate the industry.

Effective Date: October 4, 1997

House Bill 2104

Relating to activities regulated by the Oregon Racing Commission.

HB 2104 authorizes the Oregon Racing Commission to allow both horse and dog racing at the same facility under the same license. HB 2104 also establishes the gross mutual wagering percentage for non-profit greyhound racing at 1.6 percent, consistent with percentage required for for-profit greyhound racing. The measure authorizes the Oregon Racing Commission to refuse renewal of a license for cause, requires racecourse employees to be at least 14 years of age, and provides that off-track mutual wagering may be conducted at any site approved by the commission.

The Oregon Racing Commission has been in existence since 1933. The commission regulates one greyhound track, eight horse tracks, and approximately 6,000 individual licensees, including jockeys, trainers, owners, and vendors.

Effective Date: October 4, 1997

House Bill 2155

Relating to public employee retirement.

HB 2155 allows *all* persons retired from the Public Employees’ Retirement System to work 1,040 hours

per calendar year without affecting their retirement benefits.

Current law provides two different standards: a limit of 1,040 hours applied to management service positions, exempt service, unclassified service, and positions requiring a teaching license; and a limit of 600 hours for all other employees, including all classified employees of the state, cities, counties, and special districts, police and fire employees, non-teaching school employees, and college instructors who are allowed to teach without a teaching license in certain circumstances.

Effective Date: October 4, 1997

House Bill 2181

Relating to the issuance of bonds by public entities.

HB 2181 prohibits enforcement of any statutory or charter initiative or referendum that impairs revenue pledged for existing bonds or other obligations. HB 2181 also directs courts to try to fashion remedies that do not jeopardize bonds and avoid remedies that invalidate bonds or taxes levied for payment on bonds. The measure deletes the notice requirement for redemption of registered bond, allows cities to enter into financial agreements to finance or re-finance obligations, adds county service districts, diking districts, certain water districts, and soil and water conservation districts to those authorized to enter into contracts for leasing, renting, or financing of real or personal property, and adds political subdivisions and public corporations to those authorized by the State Treasurer to establish account outside Oregon. The measure also sets a 60-day deadline for filing of petitions by interested taxpayers for taxes levied to pay bonds not subject to Ballot Measure 5 limits, and authorizes ports to undertake loan projects for revenue bonding purposes. The measure further authorizes revenue bonds created by a port board resolution.

The Oregon Municipal Debt Advisory Commission is statutorily required to recommend changes in state law and local practices to improve the sale and servicing of local bonds. The commission examined municipal debt financing statutes and recommended the changes in HB 2181. The key provisions are aimed at protecting the issuers and purchasers of state and local government bonds.

Effective Date: October 4, 1997

House Bill 2182

Relating to state agency cash management.

HB 2182 grants the State Treasurer authority to enact binding policies and procedures in the area of cash management for state agencies.

The State Treasurer is the cash management officer for the state and is directed to review and advise on cash management practices. In the past, the Attorney General has advised that this designation does not give the Treasurer authority to issue policies and procedures that bind state agencies. Currently, therefore, any policy or procedure issued by the Treasurer is of an advisory nature only which has been problematic in addressing check fraud concerns and other security measures.

Effective Date: October 4, 1997

House Bill 2321

Relating to public contracts.

HB 2321 requires the Attorney General to approve for legal sufficiency all state contracts for personal services, architectural and engineering services, and information technology contracts over \$75,000. Such contracts would not become binding until approved. All other public contracts entered into by the state after the effective date but before July 1, 1998, that are over \$1 million must be reviewed for legal sufficiency before becoming binding. On or after July 1, 1998, the threshold for review drops to \$100,000. Under current law, the Attorney General is required to review only personal service contracts and interstate agreements over \$25,000. The measure allows the Attorney General to exempt from the review certain classes of contracts.

Effective Date: October 4, 1997 (Note: Governor vetoed the Emergency Clause, see veto section)

House Bill 2402

Relating to use of recycled paper in court.

HB 2402 encourages persons who make court filings to use recycled paper that has been printed on both sides. Current law requires state agencies purchasing supplies or personal services, including the courts and their officers, to use recycled paper to the maximum extent it is economically feasible. Persons performing work under contract with a state agency are required to do the same.

Effective Date: October 4, 1997

House Bill 2491

Relating to public records.

HB 2491 exempts from disclosure the address and telephone number in public employee and volunteer personnel records. The measure specifies that the exemption does not apply to elected officials except for judges and district attorneys who may apply for an exemption. Telephone numbers and addresses of employees and volunteers may be disclosed if clear and convincing evidence shows that the public interest requires disclosure. Nothing in the bill relieves a public employer from any duty under the Public Employees Collective Bargaining Act.

Under current law, addresses and telephone numbers of public employees are considered public record and may be given to anyone who requests the information, unless a non-disclosure request from the employee has been granted. A public body may exempt the information from disclosure if the employee demonstrates that the personal safety of the individual or a family member residing with the individual is in danger. Private employers are not required to release their employees' addresses and phone numbers.

Effective Date: October 4, 1997

House Bill 2752

Relating to financial administration of local governments.

HB 2752 revises local budget law, changing provisions regarding accounting terms, the budget process for bonds and other financial obligations, expenditure of funds in an emergency, the budget committee process, notice and publication requirements, inadvertent publication errors, and reserve funds.

HB 2752 was requested by the Oregon Municipal Finance Officers Association. An association committee worked for ten months to undertake a comprehensive review of local budget law to identify problem areas. The statutes relating to local budget law were written in 1963. Much has changed over the years in accounting terminology and practices. HB 2752 makes provisions in the local budget law consistent with generally accepted accounting principles.

Effective Date: October 4, 1997

House Bill 2799

Relating to administrative rules.

HB 2799 modifies the administrative rulemaking process for agencies. HB 2799 lists the persons who must be given notice before a rule is adopted, amended, suspended or repealed and gives the Legislative Counsel Committee authority to direct staff to review and report findings on proposed or adopted rules that are called into question. HB 2799 also allows Legislative Counsel to request a written response from the relevant state agency and request that one or more representatives of the agency appear at a meeting of the Legislative Counsel Committee to explain the agency's position.

Administrative agencies have authority to make rules and render decisions affecting the rights of private citizens, as authorized by statute. The legislature retains authority to review the rules adopted by administrative agencies. HB 2799 strengthens the role of Legislative Counsel, under the purview of the Legislative Counsel Committee, in the review of need, constitutionality, benefits, costs, conflicts, fairness, objections or other issues raised in the rule-making process.

Effective Date: October 4, 1997

House Bill 2903

Relating to information systems problems connected with the year 2000.

HB 2903 requires the Oregon Department of Administrative Services (DAS) to develop a plan to ensure that the state's computer systems operate efficiently through and beyond the year 2000. HB 2903 also requires DAS to develop a Y2K (Year Two Thousand) Corps to correct the state's year-2000 problems. The measure directs DAS to establish agreements with institutions of higher learning to provide programmer training and certification for Y2K Corps personnel.

The year-2000 problem refers to the 2-digit date field found in most computer programs; when the year 2000 arrives, many programs will read the field incorrectly as the year 1900, causing innumerable miscalculations with the potential for staggering consequences. Estimates show the cost of correcting the state's year-2000 problems to be approximately \$40 million; however, as the millennium approaches, demand for programmers to correct problems is expected to cause steep increases in estimated personnel costs. Corrections to the state's computers to eliminate any year-2000 prob-

lems would need to be completed well in advance of January 1, 2000, in order to test all affected systems.

Effective Date: October 4, 1997

House Bill 3041

Relating to revenue bond financing for infrastructure projects.

HB 3041 authorizes issuance of revenue bonds, the proceeds from which are to be used to provide financing for infrastructure projects, including community facilities and state parks projects. HB 3041 establishes the Lottery Bond Fund to repay the revenue bonds issued, obligates net lottery receipts to the fund, prohibits the state from creating a lien on unobligated lottery proceeds superior to pledges dedicated to repayment of lottery bonds, and requires the state to operate the State Lottery until all lottery bonds are paid. HB 3041 authorizes the Oregon Parks and Recreation Department to use proceeds from sale of lottery-backed revenue bonds for state park projects, in an amount up to \$15 million for 1997-99, and \$105 million total, to establish the Oregon Parks for the Future Fund.

HB 3041 also creates the Infrastructure Lottery Bond Fund, and authorizes the Oregon Economic Development Department (OEDD) to use proceeds of lottery-revenue-backed revenue bonds, limited to \$6 million, to provide a state match for federal Safe Drinking Water Act funds. In addition, HB 3041 authorizes OEDD to provide financial assistance through revenue bond financing to municipalities for community facilities projects, including facilities for providing educational, commercial, recreational, cultural, or social services to the public.

The Special Public Works Fund was created by the Legislature in 1987 to help municipalities finance infrastructure improvements. The fund is administered by OEDD. Cities, counties, port districts, water and sanitary districts, and Indian tribes are eligible to apply. The program receives lottery allocations to make loans and grants based on each municipality's financial ability to pay. To generate additional funds for local infrastructure and community facilities projects, the program pools loans made from the Special Public Works Fund and Water/Wastewater Fund to local governments, into revenue bonds backed by local tax, fee, or general fund revenues through the Oregon Bond Bank. HB 3041 authorizes the department to sell revenue bonds from the Special Public Works Fund and

Water/Wastewater Fund in one bond sale (parity), reducing bond issuance costs. HB 3041 authorizes local governments to use the loan pool for additional public facilities.

Effective Date: August 6, 1997

House Bill 3168

Relating to local exchange service rates for call aggregators.

HB 3168 prohibits the Public Utility Commission from requiring independent pay phone providers to pay for line service on a mandatory measured-service basis. Most business telephone service is provided at a flat business rate by local exchange carriers, such as GTE and US West. For businesses that provide public pay phone services independent of the local exchange carriers there is an additional rate component called "weighted" or "measured" line service charged to them by the local exchange carriers. HB 3168 prohibits the additional charge for independent pay phone providers. As a result, they will be treated the same as any other business customer.

Effective Date: October 4, 1997

House Bill 3290

Relating to Metropolitan Building Codes Consolidation Task Force.

HB 3290 creates the Metropolitan Building Codes Consolidation Task Force and specifies the duties and membership of the task force, with staffing to be provided by persons engaged in the electrical and plumbing industries. HB 3290 requires the task force to report to the 70th Legislative Assembly on specific issues relating to building code administration and enforcement in the Portland metropolitan area, including possible jurisdiction consolidation.

There are 17 separate jurisdictions responsible for building permitting and inspection in the Portland metropolitan area. Regional development has rendered jurisdictional boundaries indistinct, and contractors have found it increasingly difficult to ascertain the appropriate authority for electrical inspection and permitting and to adjust to the varieties of code interpretations and inspection procedures.

Effective Date: October 4, 1997

House Bill 3577

Relating to audits.

HB 3577 directs the Secretary of State to schedule performance and program audits of state agencies when authorized by the Joint Legislative Audit Committee. The audits shall be conducted on the basis of risk assessment. In addition to clarifying the meaning of performance and program auditing, the measure is intended to increase the association of the legislature in directing these types of audits. Where practical, the Secretary of State shall contract with private sector auditors to conduct these audits.

Effective Date: August 13, 1997

House Bill 3705

Relating to motor vehicles.

HB 3705 requires employees of the Oregon Department of Administrative Services and the Oregon State System of Higher Education to use their own motor vehicles if they are driving fleet vehicles less than 1,400 miles each month. The measure authorizes employee reimbursement for mileage incurred. Employees driving more than 1,400 miles per month on state business would continue to use state motor pool vehicles. The measure is estimated to save \$85,000 per year.

The measure also provides for the sale of approximately 150 to 200 surplus motor vehicles and, when practical, the replacement of high-maintenance motor vehicles. This is anticipated to provide a one-time revenue influx of approximately \$226,000 and \$2.4 million in savings by decreasing the overall size of the motor pool.

Effective Date: October 4, 1997

House Bill 3744

Relating to financial administration of the Department of Economic Development

HB 3744 consolidates Oregon Economic Development Department line-item funding into a single new fund, the Oregon Community Development Fund, and confers responsibility for distribution of the fund to the Economic Development Commission.

The consolidated Oregon Community Development Fund is intended to provide the commission with flexibility in dealing with economic and community development needs, with particular emphasis on rural and distressed communities and small and existing businesses. The fund will replace specific line item lottery-

revenue allocations to the Strategic Reserve Fund, Small Business Development Centers, Marketplace, Government Contract Acquisition Program, Business Finance, Regional Strategies, Rural Investment Fund, Rural Development Initiatives, Livable Oregon, Water/Wastewater Fund, Special Public Works Fund, Targeted and Key Industry Training, Ports Revolving Loan Fund, Marine Navigation Fund, and Oregon Coastal Zone Management Association. Other funds and federal funds associated with these programs will retain their identity for purposes of federal reporting, but will be considered as part of the Oregon Community Development Fund for the purposes of statewide resource prioritization and distribution.

Effective Date: July 25, 1997

Measures Vetoed by the Governor Senate Bill 485

Relating to state agencies.

SB 485 expands the definition of lobbying to include submitting proposed legislation to any legislative official and discussing proposed legislation with any legislative official. It prohibits an officer or an employee of a state agency from engaging in lobbying on behalf of any state agency or attending legislative hearings or floor sessions except on nonworking hours. It also prohibits a state agency from expending public funds to employ or contract for lobbyist services.

Exemptions to the prohibitions are as follows: an agency employee/officer may provide testimony if requested by a committee member; an agency employee may discuss with legislative staff issues necessary for developing an agency budget; an agency employee may discuss with a legislator or legislative staff proposed legislation or other matters if the legislator or staff initiates the contact; and the Department of Justice may provide legal advice as long as they do not advocate for or against a measure.

SB 485 also exempts the following from the prohibitions: legislative officers or employees; judicial officers or employees; the Governor, the Executive Assistant to the Governor and designated employees in the Governor's office; the Secretary of State and Deputy Secretary of State; the State Treasurer and Chief Deputy State Treasurer; the Attorney General and Deputy Attorney General; the Superintendent of Public Instruc-

tion; employees of the State Accident Insurance Fund Corporation; the Commissioner of Labor and Industries; any state agency director and one person designated by each agency director; and any state officer who serves without compensation or whose compensation consists of a per diem and expense reimbursement. SB 485 requires the agency directors to name their designee before the session begins, allowing a change in designee twice during a session.

Governor's Veto Message (August 8, 1997):

I am returning Senate Bill 485 unsigned and disapproved.

This bill would prohibit state officers and employees from addressing the legislature or attending legislative hearings unless requested by the legislature. The bill goes too far to remedy a relatively minor problem.

As governor I head the Executive branch of state government. This bill places burdensome limitations on the exercise of my constitutional authority and those who act on behalf of my administration.

I believe it is important for the legislature to have the benefit of technical and specialized knowledge that experienced state employees can bring to the legislative process. As a former Senate President I know how valuable it can be to hear from the people who will, after all, be charged with implementing legislative policy direction.

I agree, however, that there should be clearer guidelines on the use of state employees by agencies in fulfilling this valuable function. As a result I will issue an Executive Order prior to the next legislative session detailing guidelines for state employee interaction with the Legislative Assembly.

It is vitally important that state policy not be created in a vacuum without reference to the practicalities of implementations. As a result I have disapproved Senate Bill 485.

House Bill 2321

Relating to public contracts.

HB 2321 requires the Attorney General to approve for legal sufficiency all state contracts for personal services, architectural and engineering services, and information technology contracts over \$75,000. Such contracts would not become binding until approved. All other

public contracts entered into by the state after the effective date but before July 1, 1998, that are over \$1 million must be reviewed for legal sufficiency before becoming binding. On or after July 1, 1998, the threshold for review drops to \$100,000. Under current law, the Attorney General is required to review only personal service contracts and interstate agreements over \$25,000. The measure allows the Attorney General to exempt from the review certain classes of contracts.

Governor's Veto Message (August 15, 1997)

I have signed HB 2321 but disapproved section 6, the emergency clause.

This bill sets up a uniform process for review of state agency contracts by the Department of Justice. The bill requires early review of contract documents which should increase the efficiency and effectiveness of state government.

However, the bill would apply immediately to all designated state contracts once it becomes law. The Department of Justice needs some time to increase staff levels to meet the new requirements.

By disapproving the emergency clause the new law will not take effect until early October.

House Bill 2753

Relating to the eminent domain power of cities.

HB 2753 prohibits a city or entity representing a city from condemning a private education facility or any part of the facility when the purpose is to construct or locate a bicycle path on the education facility. A condemnation would be allowed if the owner or operator of the education facility expressly consented to it.

HB 2753 was narrowly written to address a current situation involving the City of Eugene and Marist High School. Marist, a private school, is on 35-acre parcel bordered by the Willamette River in Eugene. The City of Eugene, over the past 24 years, has developed a city-wide bikeway master plan and has developed nearly 100 miles of bike paths. The city has proposed the development of a bike path along the Willamette River that would include the Marist property. It is estimated that 2,000 bicyclists and 2,000 pedestrians will use the path daily. The city wants to condemn a strip of the Marist property along the river for the bike path. Marist opposes the condemnation stating, among other reasons, that the bike path would impact the security and

operation of its closed campus environment.

Governor's Veto Message (August 15, 1997):

I am returning herewith House Bill 2753 to you unsigned and disapproved.

House Bill 2753 was crafted to address a local issue. The city of Eugene wants to construct a trail along the Willamette River to expand recreational and commuting opportunities for city residents. Marist High School does not want the path to traverse school grounds because of potential student safety and liability issues.

I have long held to a policy of not supporting legislation which interferes with local control, especially on issues which are purely local in focus. Whether, when and how to construct a trail that will mainly be used for local travel fits into this category. Nonetheless, I dedicated a great deal of staff time and energy to facilitate a compromise: a bike path along the river designed to address the safety issues raised by Marist. I feel both parties negotiated in good faith.

As a result of the negotiations, the city is willing to construct fencing and a berm, to install lighting, to remove underbrush, and to erect "no loitering" signs so that there will be a physical and mental separation between the public trail and private school grounds. These improvements are important given that experts in school safety advise that "closed" campuses (e.g., campuses with a limited number of public access points) pose fewer security risks than "open" ones.

I believe the process was fair and the results a vast improvement over the previous situation. Ultimately, however, the residents of the city of Eugene will need to decide this issue through their elected officials.

House Bill 2948

Relating to administrative procedures.

HB 2948 creates the Office of Administrative Hearings. The measure requires that only hearing officers from the Office of Administrative Hearings conduct contested case hearings and act as mediators or arbitrators for certain specified boards, commissions, agencies, and departments including the Secretary of State's office. In a contested case, the hearing officer shall issue written orders, accompanied by written findings of fact and conclusions of law. Under HB 2948, an agency may modify the hearing officer's finding to the extent that the findings of fact are not supported by

substantial evidence in the record. The agency may modify any part of the hearing officer's decision that does not constitute a finding of fact, including any conclusions of law. However, if the agency does modify a hearing officer's decision, the agency shall identify the modification and clearly state the agency's interpretation of the law in question. If the modification is not based on an interpretation of the law, the agency must clearly state the specific grounds relied on in modifying the hearing officer's decision. The agency is required to explain its interpretation.

HB 2948 specifically prohibits an agency from seeking judicial review of a hearing officer's decision. It prohibits officers from communicating with anyone who has an interest in a case before the hearing without an opportunity for all parties to participate. The measure prohibits a party to a contested case from having ex parte communications with a hearing officer. The measure prohibits anyone who has served as an investigator or advocate in a contested case from serving as a hearing officer. The Court of Appeals can set aside a contested case conducted by the Office of Administrative Hearings if the court finds that the agency modified the findings of fact and the hearing officer's findings were supported by substantial evidence.

Governor's Veto Message (August 8, 1997):

I am returning HB 2948 unsigned and disapproved.

The bill would have created a new Office of Administrative Hearings. This independent agency would house and supervise hearings officers who oversee administrative hearings in contested cases.

These are cases involving an agency action relating to a professional license such as a nurse or a psychologist or a barber.

These are also hearings regarding water quality and clean air standards and how those standards are applied for the benefit of the public.

I support the idea of independent hearings officers who can provide a fair hearing for citizens who want to affect agency decisions. But this bill did not adequately address the issue of how to pay for this new department.

There were also provisions relating to ex parte contacts with hearings officers that, in my opinion, are too much like a legal trial and less like a more informal setting for citizens to be heard by their government.

Proponents of this measure have raised some criticisms of state administrative proceedings. These include a perception that hearings officers, if employed by agencies, have a built in bias and can not be fair. I do not believe that this accusation is true across the board or in most circumstances.

However, I have committed to the proponents that I will work with them to achieve reform of administrative hearings.

Consequently, I will appoint an interim study group to examine the current administrative hearings process and suggest changes. The group will be comprised of legislators, hearings officers, agency heads and representatives from the Department of Justice.

I will issue an Executive Order to implement approved reforms. If necessary, the study group may propose legislation for the next session of the Legislature.

Major Legislation

Not Enacted

Senate Bill 500

Relating to local governments.

SB 500 would have modified the types of investments allowed for local deferred compensation plans. The measure would have required investment funds to be licensed, registered, or otherwise qualified by federal or state law, and would have allowed a local government to require the investment fund have insurance, adequate capitalization, or a bond. The measure would have permitted a local government to contract with a qualified investor. SB 500 B included provisions relating to private building code inspectors.

Senate Bill 1199

Relating to corrections.

SB 1199 would have required prison infrastructure improvements be paid for by the state and that the state not impose a disproportional financial burden on taxpayers and ratepayers in the local jurisdiction in which the corrections facility is sited.

Senate Bill 1221

Relating to corrections facility siting.

SB 1221 would have prohibited the Department of Corrections from nominating a site for a corrections

facility in a community if the community did not demonstrate interest.

Senate Joint Resolution 13

The original version of SJR 13 proposed a constitutional amendment to require that initiative laws and constitutional amendments take effect on July 1 in the year following voter approval. The A-engrossed version of SJR 13 proposed a constitutional amendment establishing an education rainy day fund consisting of certain General Fund and lottery revenues. The resolution specified economic circumstances under which the rainy day fund could be expended by a three-fifths vote of the legislature.

House Bill 2007

Relating to finance.

HB 2007 would have served as implementation language for HJR 37, a proposed constitutional amendment that would have established a rainy day reserve fund. In addition to specifying the source of revenue and operation of the fund consistent with HJR 37, HB 2007 specified that expenditures from the fund would be dedicated to public education.

House Bill 2165

Relating to lobbying.

House Bill 2165 would have deleted the requirement that certain uncompensated lobbyists register and file expenditure reports with the Oregon Government Standards and Practices Commission.

House Bill 2363

Relating to rules.

HB 2363 would have eliminated the requirement that state agencies do a complete review of administrative rules every three years to minimize the economic effect on businesses in the state.

House Bill 2854

Relating to the award of public contracts by the Department of Transportation.

HB 2854 would have required the Department of Transportation to consider the past performance of bidders when awarding public contracts. The measure brought together the parties involved in the contract process who developed an administrative method to evaluate past

performance of contractors as part of the pre-qualification process for bidders.

House Bill 3152

Relating to revenue impact statements.

Under House Bill 3152, the content of legislative revenue impact statements would have been expanded to require a statement of both the potential revenue gain and loss anticipated as a result of proposed legislative measures.

House Bill 3566

Relating to vehicle emissions testing.

HB 3566 would have authorized a competitive bidding process between private parties and the Oregon Department of Environmental Quality regarding the provision of motor vehicle pollution control system inspection services.

House Joint Resolution 37

HJR 37 proposed a constitutional amendment that would have established a rainy day reserve fund consisting of General Fund revenue in excess of certain projected amounts and net lottery proceeds revenues in excess of a statutorily established amount. The resolution specified economic circumstances under which the rainy day fund could be expended and also specified return of the excess General Fund revenue to taxpayers if the reserve fund grew to more than 7 percent of General Fund revenues for the biennium.

House Joint Resolution 88

HJR 88 would have been a referral to the people to amend the Oregon Constitution to allow the formation of a county with an area of less than 400 square miles, if the county has a population of more than 100,000. The Oregon Constitution prohibits a county from encompassing an area of less than 400 square miles.

