

E – OUTLOOK

ENVIRONMENTAL HOT TOPICS AND LEGAL UPDATES

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OREGON STATE BAR

Editor's Note: The following is a list of enacted environmental, natural resources, and energy-related bills from the 2016 Oregon Legislative Short Session. For those who prefer to view this article in PDF format, a copy will be posted on the Section's website at: <http://osbenviro.homestead.com/Newsletters.html>.

Summary of Oregon's 2016 Environmental, Natural Resources, and Energy Legislation

The Oregon legislature recently ended the 2016 Short Session passing legislation that may be of interest to environmental and natural resources law practitioners. Legislative Short Sessions occur every-other year and last a total of 35 days. With few days available to introduce, negotiate, and pass legislation, Short Sessions generally result in fewer bills that become law.

Below is a list of environmental, natural resources, and energy bills that passed this session and will become law (*beware, links are subject to change*):

[SB 1517](#): Wetlands Pilot Project: Authorizes Tillamook County to adopt a pilot program, by ordinance, in Tillamook County that applies conditional use review, pursuant to ORS 215.296, for the creation, restoration or enhancement of wetlands on lands zoned for exclusive farm use (EFU) and provides for land use planning designed to incorporate both farming and wetland interests. The ordinance may not establish new or additional standards under ORS 215.296. In addition, the bill provides for an application and permit process for wetlands development on EFU lands. Lastly, the review must incorporate stakeholder engagement in a collaborative process to ensure the protection and enhancement of agricultural land uses and wetlands.

[SB 1529](#): Homeowner Irrigation: Prohibits enforcement of residential irrigation requirements by homeowners associations following: 1) drought declaration by Governor; 2) finding by Water Resources Commission that severe or continuing drought exists or is likely to occur; or 3) governing body of political subdivision within which planned community is located adoption of ordinance that requires conservation or curtailment of water use. The bill also stipulates irrigation requirements are only unenforceable while finding or declaration is in effect.

SB 5701: State Budget:

Air Toxics Language: \$2.5 million General Fund appropriation to expand DEQ's current Air Toxics Program. These funds will be dedicated to hiring additional staff and purchasing capital for increased air toxics monitoring. In addition, the language also requires that "DEQ will also use the funding to develop, through rulemaking, an Oregon specific air toxics program that ensures industrial hot spots are sufficiently controlled." This effort will likely occur through the spring and summer months.

Climate Change Study: Provides \$230,000 in General Fund appropriations to DEQ for the purpose of providing information to the 2017 Legislature on how a market-based carbon reduction system would work in Oregon. The money will be used for employees and to cover costs for an economic consultant to assist with research data and analysis. Public participation on this process is unclear.

Harney County Groundwater Study: The Oregon Legislature approved \$705,288 in funding to the Oregon Water Resources Department to conduct a groundwater study in Harney County. Due to concerns over water availability, the Department stopped issuing permits in the basin earlier this year. The study will enable the Department to gain a better understanding of the basin's groundwater resources.

HB 4007: Rangeland Firefighting: County governments may now authorize rangeland protection associations that are designed to fight rangeland wildfires in eastern Oregon. Prior to this legislation, only the Board of Forestry was authorized to establish these taxing fire districts.

HB 4036/SB 1547: Oregon Clean Electricity Plan – Renewable Portfolio Standard (RPS): the bill requires large utilities to eliminate coal-derived electricity from their electric portfolio and invest in a new renewable energy infrastructure. Specifically, the new renewable energy investments for investor owned utilities (IOUs) must meet at least 27 percent renewable electricity by 2025, 35 percent by 2030, 45 percent by 2035, and 50 percent by 2040. This bill also provides complex ratemaking, hostile takeover, and grid reliability provisions. For more information, please see the staff summary found [here](#).

HB 4040: Wolf delisting: This legislation ratifies a November 9, 2015 Oregon Fish and Wildlife Commission's decision to delist the gray wolf from the Oregon Endangered Species Act.

HB 4084: Brownfields Development; This bill aims to encourage the cleanup of brownfield properties by granting local governments the option to provide certain tax incentives to entice brownfields development. More specifically, the bill authorizes certain local governments to adopt, by ordinance or resolution, a property tax incentive program that grants a special assessment to brownfields or exemption to new and existing improvements and personal property on brownfields for period of up to 10 years, with additional period up to five years

based on locally adopted criteria. The total tax benefits cannot exceed the eligible costs for cleanup and provides for some superfund related exclusions. In addition, at least 75% of the taxing districts affected by the ordinance must approve the ordinance or resolution.

HB 4113: Drought Response; establishes a Task Force on Drought Emergency Response to evaluate potential tools to prepare for problems arising from a drought emergency and report findings to the interim committee related to natural resources by no later than November 1, 2016. Oregon's governor and legislative leaders will appoint up to 15 task force members for purposes of carrying out the goals identified above. Oregon Water Resource Department will help staff the Task Force.

The information above is intended for the purpose of providing a cursory overview of the legislation and is not intended, nor should be taken, as legal advice or a legal opinion.

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If you would like to contribute to E-Outlook or have any comments, please contact the E-Outlook Editor, Sarah Liljefelt, at s.liljefelt@water-law.com or (503) 281-4100.