

E – OUTLOOK

ENVIRONMENTAL HOT TOPICS AND LEGAL UPDATES

Year 2018

Environmental & Natural Resources Law Section

Issue 2

OREGON STATE BAR

Editor's Note: This issue provides a list of environmental, natural resources, and energy related bills from the 2018 Oregon Legislative Short Session. The bill summaries below are general descriptions of legislation only, written by legislative committee staff. As such, attorneys should treat the summaries accordingly. For more information about each bill, including bill history and legislative language, please visit: <https://olis.leg.state.or.us/liz/2018R1>. For those who prefer to view this article in PDF format, a copy will be posted on the Section's website at: <https://enr.osbar.org/newsletters/>.

Summary of Oregon's 2018 Environmental, Natural Resources, and Energy Law Legislation

Passed

[HB 4031 \(Guest Ranches\)](#): Permits and regulates establishment of guest ranches on eastern Oregon exclusive farm use lands. Deems certain existing guest ranches conforming uses. Sunsets guest ranch provisions on April 15, 2020. Provides that coastal county approval of application for small-scale recreation community subject to federal licensure shall constitute acknowledged exception to applicable statewide planning goal with which such use would not otherwise comply. Amends standards for review of small-scale recreation community application. Limits applicability of certain accessory dwelling unit allowances within urban growth boundary. Becomes operative July 1, 2018. Reduces minimum distance from large city of cities eligible to be selected by Land Conservation and Development Commission for economic development pilot program. Corrects erroneous cross-reference in statute.

[HB 4118 \(Good Neighbor Authority\)](#): Expresses state policy regarding pursuit of projects under Good Neighbor Authority Agreement. Instructs signatory state agencies to work with federal land management agencies to prioritize projects. Requires Governor and Federal Forest Working Group to jointly develop recommendations for goals of Good Neighbor Authority Agreement. Establishes deadline for Governor or designee agency to report recommendations for goals to Legislative Assembly. Appropriates moneys to State Forestry Department for supporting development, planning or implementation of priority projects on federal forestland under Good Neighbor Authority Agreement.

[SB 1541 \(Cleaner Air Oregon\)](#): Authorizes Environmental Quality Commission to adopt program and rules to reduce public health risks from emissions of toxic air contaminants from

individual stationary industrial and commercial air contamination sources. In addition, the bill sets cumulative emissions benchmarks for new and existing air contamination sources and authorizes commission to establish by rule a confined area pilot program for evaluating and controlling public health risks from toxic air contaminant emissions from multiple stationary air contamination sources. Lastly, amongst other things, the legislation authorizes commission to establish fee applicable to certain air contamination sources to cover direct and indirect costs of developing and implementing individual air contamination source program and rules or pilot program. Provides that fees first become due and payable no earlier than July 1, 2019.

Failed

HB 4001 / SB 1507 (Cap-and-Trade/Invest): Requires Environmental Quality Commission to adopt by rule program that places cap on greenhouse gas emissions and that provides market-based mechanism for covered entities to demonstrate compliance. Establishes program advisory committee. Declares legislative purposes of program and related investments of moneys received as proceeds under market-based compliance mechanism. Establishes certain statutory funds in State Treasury. Requires certain moneys received as proceeds under market-based compliance mechanism to be deposited in certain funds. Requires certain uses of moneys deposited in funds. Requires program advisory committee to submit biennial report to Governor and Legislative Assembly each even-numbered year. Requires Governor to consider investment and expenditures recommendations in biennial report during preparation of Governor's budget.

Makes all provisions related to program adopted by commission and distribution of proceeds operative January 1, 2021. Authorizes commission and certain other agencies to adopt rules prior to operative date. Repeals greenhouse gas emissions goals and requires commission to adopt by rule statewide greenhouse gas emissions goal for 2025 and limits for years 2035 and 2050.

Defines "greenhouse gas" for air pollution laws. Establishes Joint Legislative Committee on Climate.

Modifies registration and greenhouse gas reporting requirements for certain persons. Makes provisions related to Joint Legislative Committee on Climate, greenhouse gas definition, emissions limits and registration and reporting operative January 1, 2019.

Requires certain persons to pay annual program development fee to Department of Environmental Quality. Becomes operative July 1, 2019. Sunsets January 2, 2021. Provides for expedited review of Act by Supreme Court upon petition by adversely affected party.

HB 4002 / SB 1508 (Air Quality Fee): Requires Environmental Quality Commission to establish fee applicable to certain air contamination sources to cover direct and indirect costs of

Department of Environmental Quality and commission in developing and implementing program and rules to reduce public health risks of emissions of toxic air contaminants from industrial and commercial air contamination sources. Limits total amount of fees collected during biennium beginning July 1, 2017, to \$2,000,000.

HB 4015 (Establishes Oregon Conservation and Recreation Fund): Appropriates fund moneys to State Department of Fish and Wildlife for carrying out activities serving to protect, maintain or enhance fish and wildlife resources in Oregon. Establishes Oregon Conservation and Recreation Advisory Committee to review department policies regarding use of fund moneys and make recommendations regarding use of fund moneys for implementing and administering department activities. Provides for transferring specified amount of moneys from General Fund to Oregon Conservation and Recreation Fund for biennium ending June 30, 2019.

HB 4016 (Klamath Project): Authorizes qualifying district named in specified court filing as claimant of determined claim in Klamath Project to transfer place of use identified in claim to other land within qualifying district.

HB 4029 (Deschutes River Bridge): Prohibits bridge construction on the Deschutes River within certain segments of the Deschutes Scenic Waterway. Directs the Oregon Parks and Recreation Department, in collaboration with the United States Forest Service, Oregon Department of Fish and Wildlife, and the Bend Park and Recreation District, to study and make recommendations to the Legislative Assembly by September 15, 2019, on recreational trail routes connecting Bend and Sunriver. Specifies that the proposed routes must minimize impact to wildlife habitat and migration corridors, incorporate preexisting or planned trail segments, and bypass certain segments of the Deschutes Scenic Waterway.

HB 4106 (Wolves): Requires State Department of Fish and Wildlife to biennially report to Legislative Assembly regarding estimated change in wolf population. Requires Legislative Assembly to identify amount of state funding necessary to provide counties with assistance sufficient for carrying out essential features of county programs regarding wolf depredation and financial assistance. Requires Legislative Assembly to review estimate of change in wolf population prior to making appropriation to fund used for wolf depredation and financial assistance grant program. Requires that Legislative Assembly establish, to extent practicable, fund appropriation amount greater than identified necessary funding amount and reflecting estimated change in wolf population.

HB 4109 (Carbon Sequestration): Directs Department of Environmental Quality and State Forestry Department to study opportunities for state actions to promote carbon sequestration and to include in study consideration of regional approaches for reducing greenhouse gas emissions through carbon sequestration. Requires departments to report to interim committee of Legislative Assembly related to natural resources by September 15, 2019. Sunsets January 2, 2020.

[SB 1509 \(Diesel Idling\)](#): Provides additional exception to prohibition on commercial vehicle idling. Modifies existing commercial vehicle idling exemptions. Permits local governments to regulate idling diesel primary engines in certain circumstances.

[SB 1519 \(Creates Oregon Energy Commission\)](#): Establishes policy and rulemaking body for State Department of Energy. Transfers certain duties of State Department of Energy and Director of State Department of Energy to commission.

Modifies state energy policy. Modifies general duties of department. Requires department to develop statewide strategic energy report plan. Requires commission to adopt the plan no later than January 1, 2021. Requires department to present draft report plan to Legislative Assembly no later than September 15, 2020. Requires commission to periodically review and update report. Provides that plan and any periodic revisions may not go into effect until January 1 following legislative session at which commission submits plan or revision to Legislative Assembly.

Transfers certain State Department of Energy programs to other agencies. Repeals certain State Department of Energy programs.

Reduces, to 0.15 percent, percentage of energy resource supplier's gross operating revenue that annual energy resource supplier assessment may not exceed. Changes calculated share of annual energy resource supplier assessment below which energy resource supplier is exempt from payment of assessment from \$250 to \$2,500. Modifies definition of "gross operating revenue" for purposes of energy resource supplier assessment.

[SB 1558 \(Water\)](#): Identifies water use purposes for which certain processes for transferring or changing water use subject to transfer are applicable, including use for purpose of storage in reservoir. Imposes conditions on certain changes and transfers affecting water use for purpose of storage in reservoir. Specifies time limits for Water Resources Department to process application by holder of water use subject to transfer to change place of use, point of diversion or use made of water. Makes existing prohibition and civil penalty regarding certain district use of temporarily transferred water applicable only to use of irrigation waters. Revises conditions for department approval of request for permanent transfer of place of use or use of water within district.

[SB 1560 \(Fire Suppression\)](#): Allows State Forester to order use of wildfire suppression personnel, equipment and services on any lands within state borders.

E-Outlook April 2018

If you would like to contribute or have comments, please contact the E-Outlook Editor, Tiffany A. Johnson, at Tiffany.Johnson@state.or.us or (503) 229-6258.