



The Oregon Land Title Association

Oregon Legislative Report

2016



Submitted by

CFM Strategic Communications

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SESSION SUMMARY

In some ways, the 2016 Oregon legislative session was the return on investment Democratic campaign leaders have been promising for years in their pitch to Oregon voters. Under the direction of Democratic leadership, the legislature raised the minimum wage, passed a package aimed at increasing affordable and low-income housing and mandated the phase-out of coal power in the state. Beneath the surface, however, the session was rife with partisan conflict and was motivated by impending citizen initiative petitions that will likely show up on the November ballot.

Oregon has prided itself on the absence of partisanship that gridlocks Congress and many state legislatures across the country. For the most part, successful legislation in Oregon typically requires compromise from both Democrats and Republicans. That was never more evident than in the 2011 session where an equal representation of each party in the House of Representatives resulted in a nationally recognized bipartisan assembly. The 2016 short session, however, saw Oregon take several steps closer to the hostility and divisiveness seen in other states.

It was the third even-numbered year, 35-day session since voters approved the idea in 2010. Prior to that, barring the occasional “special session,” legislators were restricted to meeting at the Capitol every odd-numbered year.

Short sessions were originally intended for legislators to make budget fixes and technical changes to existing policy. Republicans were vocal about their opposition when Democrats, with large majorities in both chambers, revealed over the interim that their agenda for the 35-day session was full of major policy proposals.

Republican leadership utilized procedural tactics to stall the legislative process in an attempt to prevent as many Democratic policy proposals as possible from passing. In the end, as part of the go-home negotiations, Republican efforts prevented the passage of several bills that were on track to pass. The most notable were proposals aimed at closing background check loopholes for firearm purchases, updating and improving Oregon’s outdated advance care directive rules and increasing payouts in wrongful death cases.



Much of the higher profile legislation was an attempt to prevent a number of controversial initiatives from appearing on November's ballot. The initiatives looming over the heads of legislators, stakeholders and advocates included ballot measures that would raise the minimum wage, cut carbon emissions and significantly raise taxes on companies with sales over \$25 million per year.

Ultimately, the Democrat-controlled legislature successfully pushed through compromised proposals that were able to stall ballot measures raising the minimum wage to \$15 across the state and cutting carbon emissions. However, the session proved too short to tackle an alternative legislative option to the corporate tax measure, Initiative Petition (IP) 28.

While they didn't garner as much attention as the aforementioned policies, the legislature also reinforced the legality of same-sex marriages, raised the state's transient lodging tax to help fund the hosting of the 2021 World Track and Field Championship in Eugene and provided additional oversight of the state's child welfare system.

In the final days of session, the legislature passed a budget rebalance that included vital gap funding for struggling agencies, investments in emergency housing and appropriations for Capitol building upgrades after failing to fund the full Capitol renovation project in 2015. Anticipating a significant budget gap in 2017 due to increasing PERS obligations and unfunded Affordable Care Act expansion costs, the legislature secured an ending fund balance of nearly \$225 million.

As Oregon looks toward the November election, expect many of these same issues to be brought up repeatedly as lawmakers position themselves and their previous votes for maximum effect. IP-28 in particular will be one of the most contentious debates in Oregon's memory as the supporters and opponents will flood the airwaves with competing messages. In addition, Oregon has half of the Senate and the entire House of Representatives up for election. As election day nears, CFM will continue to update you on which races impact your industry and how you can be involved.



OLTA SUMMARY

The session was successful for OLTA as we continued to develop relationships and educate lawmakers on the vital services your members provide to the community. Due to the limited number of legislative vehicles available to each legislator, OLTA was fortunate that issues pertaining to elder abuse, title insurance and the estate proceedings were kept on the back burner.

Senators and House members are restricted to two bills during the short session versus an unlimited number during the long session. Prior to February of 2016, CFM reached out to stakeholders in the legal, banking, housing and insurance industries to discuss potential legislative vehicles that could impact OLTA. In previous short sessions, issues such as document recording, foreclosure process and property tax lien legislation have seen discussion.

Thankfully, this was a session with limited impact to OLTA and legislative leaders were skittish to tackle any issue pertaining to property taxes or the other areas outlined above.

OLTA and CFM continued to develop relationships with key lawmakers and agency staff in preparation for the Elder Abuse Tool Kit. As OLTA finalizes that document, we will want to create communication tools to notify stakeholders on the Elder Abuse Work Group and strategize on proper coordination with the members.

INTERIM ACTIVITIES

Oregon's long session, lasting no more than 160 days, will begin February 6, 2017. As mentioned above, we expect the budget will be the focus of the session, which will likely see legislative attention on the unfunded PERS obligation, addressing budget holes resulting from the increased state responsibility to cover Affordable Care Act health care costs and a state transportation funding package. In addition, there may be corrective bills for legislation that passed this session, such as the minimum wage increase and increased gross receipt taxes on corporations should ballot Initiative Petition (IP) 28 be successful in the November election.

Although the OLTA's priorities are fluid at this time, we suggest monitoring and working on the following issues in the interim:



- OLTA's Elder Abuse Tool kit development,
- OLTA industry civil liability protection in elder abuse cases,
- creation of an OLTA PAC,
- contract fulfillment (Alan Brinkley idea),
- stakeholder engagement, and
- ongoing legislative outreach.

BILLS OF INTEREST

Below is a summary of bills CFM monitored for OLTA during the 2016 session, organized by category.

HB 4013 Elder Abuse Multidisciplinary Teams

Summary: Authorizes county governing body to establish multidisciplinary elderly or vulnerable person fatality review team to assist local organizations and agencies in identifying and reviewing fatalities involving abuse or neglect of elderly or vulnerable persons. Authorizes Department of Human Services to form statewide interdisciplinary team to review elderly or vulnerable person fatality cases, identify trends, make recommendations to multidisciplinary elderly or vulnerable person fatality review teams and conduct reviews in cases involving multiple jurisdictions or when county does not have multidisciplinary elderly or vulnerable person fatality review team.

Outcome: In committee upon adjournment.

Notes: Statewide and local multidisciplinary teams exist for examination of deaths resulting from child abuse and domestic violence. House Bill 4013 allows for the formation of local fatality review teams to examine deaths resulting from abuse or neglect of elders or vulnerable adults. The measure also creates a statewide team to conduct reviews in jurisdictions without a local team and to aggregate statewide information.

HB 4102B Probate Modernization Work Group



Summary: Modernizes laws pertaining to intestacy, wills and estate administration. Corrects technical errors to probate statutes. Declares emergency, effective on passage.

Outcome: Effective March 14, 2016.

Notes: In October 2013, the Oregon Law Commission created the Probate Modernization Work Group. House Bill 4102 A encompasses the work done by the Probate Modernization Work Group in the 2015- 2016 interim. It modernizes Chapter 111, which largely deals with general provisions related to probate law. Additionally, it corrects technical errors contained in other legislation.

HB 4127 Gender Neutral Language

Summary: Makes statutory changes to achieve gender neutral language with respect to individuals who are in marital relationship. Establishes state policy that same privileges, immunities, rights, benefits and responsibilities granted or imposed by law apply on equivalent terms to married individuals of different sex or same sex. Declares emergency, effective on passage.

Outcome: Effective March 14, 2016.

Notes: House Bill 4127 establishes that it is the state policy that any privilege, immunity, right, benefit, or responsibility governed by law given to a person because of marriage to a person of the opposite sex applies with equal force to a person who is or was married to a person of the same sex. It also changes statutes to contain gender neutral language in relation to marriage in order to harmonize Oregon statutes with current law.

HB 4131B Delinquent Debtor

Summary: Requires financial institutions to participate in data match system established by Department of Revenue to identify assets held at financial institutions by delinquent debtors. The purpose of these agreements is to conduct quarterly matches to identify assets held by delinquent debtors. The bill also allows the Department of Revenue to



enter into agreements with the Department of Justice's Division of Child Support to access employer data on newly hired workers. The measure clarifies current law that a writ of garnishment issued to a financial institution operating in Oregon is effective to garnish property held in another state. The bill creates civil and criminal provisions for misuse of matched data.

Outcome: In committee upon adjournment.

Notes: The Secretary of State's Audit Division issued a report on the state's management of its delinquent debt collections. Among the recommendations in the report was the development of data matching agreements with banks and other financial institutions.

SB 1532A Minimum Wage Increase

Summary: Establishes tiered system for determination of minimum wage based on geographical location of employer. Creates base rate for minimum wage through June 30, 2023. Suspends annual inflation adjustment for minimum wage rate until July 1, 2023. Requires employers located within Portland's urban growth boundary to pay rate higher than base rate for minimum wage. Allows employers located within certain counties to pay rate lower than base rate for minimum wage.

Outcome: Governor signed into law – effective July 1, 2016.

Notes: The minimum wage will increase gradually until 2022 from the state's current \$9.25 to \$14.75 in metro Portland, \$13.50 in urban counties (Salem, Eugene, etc.) and \$12.50 in rural communities.

SB 1554A Uniform Fiduciary Access to Digital Assets Act

Summary: Enacts Revised Uniform Fiduciary Access to Digital Assets Act (2015). Authorizes certain fiduciaries or designated recipients to access electronic communications and digital assets of certain persons or decedents. Sets forth procedures for obtaining access and control of digital assets. Sets forth responsibilities of custodian of digital assets.

Outcome: Effective January 1, 2017



Notes: Oregon laws do not specifically address access to digital data after the death of a user, leaving providers of digital services and estates of deceased users grappling with access to digital communications or documents.

SB 1555A Polygraph Test Bill

Summary: Allows polygraph test as a condition of employment for pre-employment screening of law enforcement officers, subject to applicable collective bargaining agreement. Exempts polygraph test from disclosure under public records law.

Outcome: In committee upon adjournment.

Notes: Law enforcement agencies would like the option to use polygraph examinations as an additional tool to screen law enforcement candidates. The Police Executive Research Forum and the International City/County Management Association recommend the use of polygraph examinations to screen law enforcement officer candidates and several states already allow it. The legislature has considered this bill the last couple of sessions, and it will likely return in 2017.

SB 1587B Pay Stub Disclosure

Summary: Modifies information that must be included in itemized statement provided to employee each pay period. Requires employer to maintain time and pay records of terminated employee for not less than period required by federal law and regulations from date of termination and to provide records to employee if requested. Authorizes Commissioner of Bureau of Labor and Industries to expend certain moneys in Wage Security Fund to administer and enforce provisions of wage and hour and minimum wage law. Becomes operative on effective date of Act. Prohibits contractor or subcontractor, or contractor's or subcontractor's agent, from intentionally failing to pay prevailing rate of wage, reducing rate of wage for work that is not subject to prevailing wage in order to recoup prevailing wages that contractor, subcontractor or agent paid, withholding, deducting or diverting employee's wages other than as provided by law, entering into agreement under terms of which employee receives less than prevailing rate of wage for work that is subject to



prevailing rate of wage, or otherwise permanently or indefinitely depriving employee of certain amount of prevailing wages employee is due. Punishes violation by maximum of five years' imprisonment, \$125,000 fine, or both. Authorizes commissioner to adopt rules. Becomes operative January 1, 2017.

Outcome: Speaker and president signed. Awaiting governor's signature. Effective on date governor signs.

SB 1590 Insurer Fiduciary Duty

Summary: Specifies that an insurer that has the duty to defend the insured against a claim has a fiduciary duty toward the insured if the insurer does defend against the claim. Provides that if the insurer defends the claim under reservation of rights, or if the insured has potential liability that exceeds the policy limits, the insurer shall provide independent counsel that represents only the insured. Prevents an insurer from participating in the defense, controlling settlement and contesting coverage if the insurer breaches the duty to defend. Specifies the insurer's liability for damages if the insurer breaches the duty to defend. Specifies that an insurer may not take a position in an action brought on an insurance policy that is inconsistent with any statement or representation made by the insurer to the Director of the Department of Consumer and Business Services while seeking approval for language in the policy. Requires Director to maintain a record of insurers' statements and representations and to make such records available as public records. Includes tractors and equipment designed for and/or ordinarily used on a farm within uninsured motorist coverage unless the equipment is used on a public highway. Directs Department to make information available about complaints against an insurer for unfair claim settlement practices.

Outcome: In committee upon adjournment.

Notes: Both SB 1590 and SB 1591 were sponsored by Sen. Chip Shields (D-Portland), a lawmaker who has had a contentious relationship with insurers throughout his legislative career. SB 1590 was considered dead due to a compromise set of amendments that allowed SB 1591 to continue forward. The final version of that bill was substantially watered



down.

SB 1591 **Insurer Fiduciary Duty**

Summary: Specifies that Director of Department of Consumer and Business Services may provide information to any requester about complaints received against an insurer for unlawful practices under ORS 746.230, after removing personal identifier information. Sunsets provision January 1, 2021

Outcome: Effective July 1, 2016

Notes: Both SB 1590 and SB 1591 were sponsored by Sen. Chip Shields (D-Portland), a lawmaker who has had a contentious relationship with insurers throughout his legislative career. SB 1590 was considered dead due to a compromise set of amendments that allowed SB 1591 to continue forward. The final version of that bill was substantially watered down.