Surplus Line Association

Final Legislative Report

2021 Oregon Legislative Session

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The 2021 Legislature officially adjourned on Saturday, June 26th at 5:40PM and thus concludes what was a session unlike anyone had ever experienced in our state. Ever since the conclusion of the short session last March, life has in many ways changed dramatically. Likewise, the way the legislature has had to conduct its business has also been vastly different. For over a year, all legislative work, except for voting on the House or Senate floor has been done remotely. Further, the Capitol has been closed to everyone except for legislators, and critical staff, with some legislative assistants never actually coming to their respective capitol offices. The new reality of how the legislature operates has forced everyone to adapt, and as your lobby team on the ground we too had to find new ways to advocate your positions on issues. The current make-up of the legislature is controlled by the Democrats who hold a super majority in both chambers, holding an 18-10-2 (two Republicans to switched to Independent Party) advantage in the Senate, and 37-23 in the House. Interestingly in the Senate, there is some talk about setting up an independent party staff, and there are negotiations about getting an allocation to have an independent party caucus office. Going into session, there were many issues that the legislature needed to address. COVID 19, severe wildfires, and economic uncertainty all were on the minds of every legislator. In addition, there were many legislative priorities including a variety of bills dealing with environmental issues, pharmaceutical pricing, concepts on increasing housing availability, and differing ideas on generating new revenue to the state. Prior to the beginning of session, many were worried about what the revenue picture might be as budgets began to be constructed. As session progressed, a combination of positivity around future revenues, and an influx of federal dollars put minds at ease for the short-term and most agency budgets were maintained or increased. Investments made in education in the previous biennium were largely continued, funding the K-12 school system at (a record) $9.3B, and a significant allocation of over $700M was made to go toward a variety of low income, homelessness, and other types of housing needs. There was also appropriated about $450M in new dollars to behavioral health. Another item worth noting, due to the influx of Federal ARPA dollars each legislator was allowed to spend a portion of this money in their respective districts. Each Senator was allocated to spend $4M, and each Representative $2M in their respective districts. While relatively common in Congress at the Federal level, this type of directed spending is rare in our State Legislature.

In the recent past, usually there are a handful of bills set on a “fast track” by legislative leadership to pass through the process early and this can make for an extremely politically charged and quick paced early weeks of session. This year was different- while there were many different priorities which had been outlined, the first weeks seemed to be a much slower pace. Some reasons for this were probably attributable to the virtual nature of committee hearings and meetings, with technical issues still being ironed out. While bill passage was slow, timing on hearings of these priorities were normal. Concepts were heard on the elimination on the mortgage interest deduction, overhaul of the recycling system, and an extension on the eviction moratorium were all conducted early on. One of the first major piece of legislation to pass was HB 2009, which extended the residential foreclosure moratorium until potentially the end of this calendar year (the Governor is allowed to extend it until the end of the calendar year). This came after the legislature passed an eviction moratorium last year during one of the four special sessions in 2020. Along these same lines, SB 282 was also passed which extended the residential rent repayment though the end of February 2022. As session began to wane, and the final days approached several other bills ended up getting pushed through the process after much debate, and concern expressed from the minority party. SB 582 narrowly passed (mentioned briefly previously) is an omnibus recycling overhaul. In short, it creates an extended producer responsibility around how to recycle packaging of products. Legislators agree that some changes needed to be made to the current way recycling system works. However, there was much disagreement on this piece of legislation, and much of that was around the cost of the program and how much it may cost consumers in the future (upward of $83 million). The bill ended up narrowly passing after only receiving the minimum number of votes needed in the house (31-24). Another note was HB 3398 which adjusts the timeline for implementation of the Paid Family Medical Leave Insurance Program which was established in 2019 by way of HB 2005. To summarize, this program is administered though the Oregon Employment Department (OED) to provide employees compensated time off from work to care for a child, a family member, to recover from their own serious health condition or for a reason related to domestic violence. OED was struggling to meet the timelines which were prescribed in the passage of the program two years ago, mostly due to COVID-19 and the massive influx of unemployment claims and other unexpected stressors put on the department. There has been a lot of displeasure coming from the legislative branch toward OED, since the beginning of the pandemic due to their handling of all the unemployment claims and other issues legislators thought should have been taken care years ago. So, while the bill passed, there were a significant number of no votes which may have been a continuation of the frustration with the department. Here are some of the more pertinent adjustments made to this program:

* Moves the date OED must adopt the rules to establish the program from September 1, 2021, to September 1, 2022.
* Moves the operative date for contributions-related provisions from January 1, 2022, to 2023.
* Moves the operative date for benefits from program from January 1, 2023, to September 3, 2023.

SB 762 (also mentioned previously) was an omnibus wildfire prevention bill. After coming out of the Ways and Means Committee on a party line vote, it appeared a bitter floor fight was about to ensue as it had become extremely controversial, especially among some rural legislators. Once it appeared securing enough votes for passage may be in doubt, a special committee was appointed, and the bill was amended to alleviate enough concerns for it to pass the Senate 22-7, and 49-6 in the House. While there was certainly disagreement in the final days, it seemed as though tempers seemed to remain relatively in check, especially compared to the last several sessions. The last day began mid-morning and saw the passage of over 70 bills before both chambers adjourning simultaneously just before the dinner hour.

While the legislature has completed its business for the time being, there will be more work to be done in the months ahead as work plans are released and members take some time off following session. The legislature will convene in September the week of the 20th for a potential special session to deal with redistricting and to hold legislative days and again in November the week of the 15th and the second week of January 22. As a point of clarity, there is no special session planned in November, just the typical legislative informational hearings, etc. At this point, it is unclear if the rest of this year will be virtual, in person or some combination of the two. The reason for the uncertainty is mostly due to building remodeling, not COIVD. It may be the public at large will not be allowed back in the capitol until 2022 when the legislature convenes on February 1st for the short session. In the upcoming 2022 session, legislators and committees will be limited to only introducing 2 measures each. For bills to be introduced, the concepts must be submitted to legislative council by no later than November 19th so should you wish to have something introduced, we will want to talk about it relatively soon just so we can make sure we meet the deadline. On the following pages are a handful of the more pertinent bills we worked on your behalf. If you have any questions or comments, please do not hesitate to ask.

**HB 2043** This bill was introduced by the Oregon Department of Consumer Business Services (DCBS) (the Insurance Division) and would have prohibited insurers from using credit history in determining eligibility, rates, or premiums for motor vehicle insurance. DCBS tried to really sell this legislation as an equity/fairness issue for all minorities. While we have faced these issues over the years in Oregon before, this was the first time that a State Agency was the chief advocate for the bill. In today’s environment a lot of time was spent with the Legislatures BIPOC caucus in trying to show them the data as to why this should not fall into an equity issue like DCBS was trying to make it. We worked very closely with the others in the Insurance industry in fighting back on this legislation. Once it was killed in the House, DCBS and others tried to amend it into a separate bill in the Senate Committee. We were able to fight this attempt back as well and the issue did not move forward this session. It will clearly be back again in future sessions and will be something to monitor.

**HB 2730** sought to establish rules of construction for interpreting business property insurance policies, prohibited certain conduct by insurers with respect to business interruption claims, and would have provided that the insured could bring an action to seek damages for an insurer’s violation of prohibitions. The bill never came up for a hearing but may be a concept we see back in some form in the future.

**HB 3074/ HB 3171/ SB 208** all three bills would have included insurance in the definition of real estate, goods and services that are subject to penalties under the unlawful trade practices act. HB 3074 nor SB 208 ever came up for a hearing, but HB 3171 did. Fortunately, the HB 3171 never made it out of committee. We have seen this bill for as many sessions as I can remember and it is clear that the Trial Lawyers and other advocates are not going to give up on this legislation.

**HB 3272** looked to allow homeowners who are needing to rebuild a burned or destroyed home within a year to request two 6-month extensions and in the case where an emergency was declared all homeowners would be allowed a minimum of two years to rebuild with the ability to request extensions. In addition, the bill requires property insurance policies to allow homeowners the option of rebuilding at the current sight of their former homes. As introduced, we were opposed to HB 3272, however an amendment was adopted which took the private right of action out of the bill, which allowed us to standdown on the bill along with the rest of the insurance industry. This bill passing in this form, likely helped stop the other bills we were opposing.

**SB 762** This legislation along with SB 287 were the key policy bills on how the State needs to deal with our ongoing wildfire risk across the state. After seeing the worst fire season on record last year and seeing fires in locations that are not typically prone to having wildfires, many legislators wanted to act legislatively this session. SB 762 ultimately became the vehicle for an all-encompassing package on wildfire ranging from building codes to how powerlines should be deenergized. Here is a link to text of this comprehensive bill: [SB0762 (oregonlegislature.gov)](https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB762/C-Engrossed)

With a unique legislative environment and a progressive agenda from many within the legislature, we feel we had a good session this year. Working closely with the rest of the insurance industry we were able to stop or amend all that we were opposing this year. Unfortunately, many of the things that died will be back again in future sessions, but this is a trend we are getting used to in Oregon. As always, please let us know if you have any questions or comments.