

Oregon Wheat Growers League Interim Legislative Update – July 20, 2020

Upcoming Dates of Interest

July/August	Likely 2 nd Special Session
Sept. 23 – 25 th	Interim Committee Days
Sept. 24 th	Legislative Concepts Draft Request Deadline (for 2021 Session)
Nov. 3 rd	General Election
Dec. 7 – 9 ^t	Interim Committee Days
Dec. 18 th	Pre-Session Filing Deadline

POLICY UPDATE

OSHA Infectious Disease Rulemaking

Oregon OSHA has released a timeline for Temporary and Permanent rulemaking to adopt an infectious disease standard. Their first step will be to empanel an “Airborne Infectious Disease in the General Workplace” Rulemaking Advisory Committee (Workplace RAC) to work with Oregon OSHA on Temporary and Permanent rule language addressing the general workplace. We’re happy to report that Amanda has been selected to serve as a designated member of the RAC. The first meeting is slated for mid-August. OSHA is also holding a series of industry focused “workshops” over the next two weeks to allow industries to respond to the overall concept of creating an infectious disease standard and share specific issues of concern. The agency intends to release a draft of the Temporary rule on August 3 and accept public comments thru August 17. As a reminder, the ag industry workshop is this **Wednesday, August 22nd 9:00 - 10:30 a.m.**

General COVID Liability Reform

In response to bi-partisan calls for narrow liability protection for businesses, schools and local governments during the 1st Special Session, Speaker Kotek and President Courtney have appointed a bi-partisan group of Legislators to work on the issue. The group of 4 Legislators met for the first time this week and include Rep. Power-D, Rep. Drazan-R, Sen. Prozanski-D and Sen. Findley-R. Stakeholders, likely limited to 2 representatives from trial lawyers and 2 from liability reform/employer representatives. The workgroup will meet over the coming weeks with a goal to propose language for the 2nd Special Session in early August.

And in case you missed the Oregonian Editorial: [Editorial: Businesses need greater support from state, county in COVID-19 fight](#)

Busch v. McInnis – Non-Economic Damage Cap Found Unconstitutional

Thursday, the Oregon Supreme Court struck down the Legislatively established \$500,000 cap on non-economic damages that can be awarded to a plaintiff in a personal injury action. The Court found the cap violates the remedy clause of Article I, section 10 of the Oregon Constitution. Read the opinion [here](#).

In the news: [State Supreme Court overturns \\$500,000 cap on noneconomic damages](#)

Metro Payroll Tax – Transportation Package

Metro has [unanimously approved](#) referring to voters a \$7B transportation package to voters in November. A last minute amendment was adopted that exempts government employees from the payroll tax. The proposed funding mechanism is a .75% payroll tax paid by employers. Business under 25 employees would be exempt. [Business leaders had called](#) on a delay of the proposed new tax, including the Portland Business Alliance who supported the “Metro Homeless Tax” referred and approved by voters in May.

COVID Impact on Lottery Bond Projects

It was announced this month that due to the reduction in state lottery funds due to COVID-19, over \$273M in state bonds to pay for approved projects will be delayed. There were 37 projects authorized by the 2019 Legislature that included overhauling the water system in Warm Springs, rehabilitating the Wallowa Lake Dam, a Deschutes Basin piping project, affordable housing projects, a new YMCA in Eugene and deepening the Coos Bay channel. This month the State Debt Policy Advisory Commission notified the Legislature that there are no longer sufficient funds to issue the lottery backed bonds. The projects will have to be reconsidered and reapproved – they do not automatically roll over to the next budget.

Tri-Chair Budget Framework

Last week the Co-Chairs released their Budget Rebalance Plan ([view here](#)). This is still a working document and additional negotiations are on-going. The plan notes the Tri-Chairs budget principles along with brief summaries of the proposed costs, reductions and savings. Overall, the plan reflects close to \$400M in cuts and \$400M tapped from state reserves, school fund and other vacancy or administrative savings to close a \$1.1B budget gap. Of the proposed \$387M in cuts, Human Services faces the largest reduction at \$180.3M, followed by Education at \$74.9M and then Public Safety at \$48.9M. Public hearings will be held on the cuts this week:

Wednesday, July 22:

Natural Resources: 9 am-12 pm

General Government: 1-4 pm

Thursday, July 23:

Education: 9 am-12 pm

Human Services: 1-4 pm

Friday, July 24:

Public Safety: 9 am-12 pm

Transportation and Economic Development: 1-4 pm

MLAC – Workers Compensation COVID-19 Presumption

As directed by the Governor, the Management-Labor Advisory Committee (MLAC) has spent the last two weeks taking testimony from workers and employers on the “problems and solutions” of the system and COVID-19. On Friday, the Governor’s office directed MLAC to reach a recommendation. Before them were two proposals, one from labor and an alternative from SAIF. Labor proposed that a worker’s death, disability, impairment of health, loss of work time or expenses of medical treatment or services is presumed to be compensable as an occupational injury or disease if:

- The subject worker is an essential worker; and

- The subject workers is exposed at work to a known or suspected source of COVID-19/SARS-CoV-2 and the employer, medical provider or federal, state or local public health authority required the subject worker to remain away from the subject worker’s work site; or
- The subject worker is exposed at work to a known or suspected source of COVID-19/SARS-CoV-2 and becomes symptomatic with COVID-19/ SARS-CoV-2; or
- The subject worker becomes symptomatic and receives a diagnosis of COVID-19/SARS-CoV-2 from a medical provider or a federal, state or local public health authority; or
- The subject worker receives a laboratory-confirmed diagnosis of COVID-19/SARS-CoV-2; or (F) the subject worker receives a presumptive positive test result for COVID-19/SARS-CoV-2.

“Essential worker” is defined to include firefighters, police officers, medical services providers including EMTs, physicians, nurses, physician and nursing assistants, hospital or medical clinic employees, pharmacy technicians, and home health and long term care employees, grocery and retail employees, providers of janitorial or house-keeping services, school employees, child care employees, and agricultural workers. The definition of “essential worker” also includes any jobsite where 10% or more of the employees have tested positive or presumed positive.

The proposal establishes a presumption for insurers with “clear and convincing evidence” that the conditions do not apply and that with “clear and convincing medical evidence” the conditions “were caused by a known and confirmed source of COVID-19/SARS-CoV-2 unrelated to work as an essential worker.”

SAIF/Management presented a concept that would memorialize the current SAIF claims process and apply it to all insurers – including self-insurers. During the deliberations, Management also proposed making this proposal retroactive for previously reviewed/denied claims.

Upon the conclusion of their 3-hour hearing Friday, MLAC could not reach a decision. The Labor members remained committed to the presumption proposal and Management felt the “SAIF proposal” was sufficient to protect workers while creating a verifiable format and overall protecting the workers compensation system. Both options will now be presented to the Legislature in a report prepared by MLAC – expected to be released early this week.

Labor Presumption proposal:

<https://www.oregon.gov/dcbs/mlac/Documents/2020/071720/071620-Keith-Semple-testimony.pdf>

SAIF/management alternative proposal:

<https://www.oregon.gov/dcbs/mlac/Documents/2020/071720/071720-SAIF-testimony.pdf>

Oregon Environmental Quality Commission

Last week, the Environmental Quality Commission received an informational briefing from the Director of DEQ on work completed to date related to greenhouse gas emissions reduction as described in Executive Order 20-04. The agency has now entered Phase 2 of their implementation of the EO – “Program Scoping.” This phase will run from now through the Fall and includes engaging stakeholders through townhalls and opening the formal rulemaking process – specific dates are TBD. DEQ staff also kicked off what will be series of informational briefings for the commission on agency projects for diesel particulate emissions reduction. Staff provided background information including reviewing the environmental and public health impacts of diesel engine exhaust, sources of emissions and levels of diesel particulate in the air. View meeting slides [here](#).

POLITICS

Signature Gathering for Oregon’s Redistricting Ballot Measure Extended

The coalition in support of IP 57, a ballot measure that would reform Oregon’s redistricting process by creating an independent Citizens Redistricting Commission to draw state legislative and congressional districts, failed to turn in the required number of signatures required July 2nd. However, they filed a lawsuit asking the court to take into consideration the unprecedented circumstances Oregon is in due to COVID-19 and extend the deadline or reduce the number of signatures needed to qualify for the ballot. Late last week, U.S. District Judge Michael McShane agreed, saying the usual rights that the measure’s backers have to engage in political action have been “compromised by the necessary steps the governor had to take to keep people home.” However, Oregon’s Attorney General has since asked the Ninth Circuit Court of Appeals to step in and prevent the initiative from being placed on the ballot, stating that the overall interests of the state requires her agency to file the appeal. If the court sides with Judge McShane, the coalition will have until August 17 to turn in a reduced signature threshold of just under 59,000, if not, IP 57 will have failed.

In the News:

[Oregon Redistricting Measure May Go To Voters After Judge's Ruling](#)
[Attorney General Ellen Rosenblum Will Appeal Federal Judge’s Relaxation of Ballot Measure Requirements](#)

Ballot Measures for November

COVID has also had an impact on the number of ballot measures Oregonians will consider on the November ballot. It what is traditionally a full ballot (on presidential years) with citizen-initiated proposals, this year voters will only consider 2 (possibly 3 see above on redistrict). The following issues will be on the ballot. We’ll do a more in-depth review in the coming months:

- [Tobacco/Vape Tax](#) – referred by the 2019 Legislature. Adds \$2-a-pack tax on cigarettes and establishes the state’s first tax on vaping products.
- [Campaign Finance](#) – referred by the 2019 Legislature. Amends the constitution to allow limits on campaign contributions along with new requirements for disclosures and restrictions on spending.

- IP 34 – Legalize Psilocybin Therapy – one of two citizen measures to qualify this month, this proposal would make Oregon the first state to legalize the manufacturing and use of psilocybin, the psychoactive component in hallucinogenic mushrooms, at licensed therapeutic clinics. Supporters spent over \$1M to collect the required signatures.
- IP 44 – Decriminalize Drug Possession – the measure would reduce possession of all drugs (meth, cocaine, heroine, etc.) from a misdemeanor to a violation. Oregon would also be the first in the nation to adopt this type of policy. Proponents spent over \$2M to qualify for the ballot and raised \$1.6M from Drug Policy Action, a nonprofit to legalize cannabis and “end the drug war.”

Supporters of the Move Oregon’s Border Ballot Measure File Lawsuit

“Move Oregon's Border,” a proposal to move Eastern and Southern Oregon counties out from under the State of Oregon and into Idaho, has filed a lawsuit in the U.S. District Court in Eugene to qualify for a reduced signature requirement before the August 5 deadline. Supporters of the initiative intend to have 17 separate countywide measurers instead of one statewide but are far from reaching the number of signatures needed to qualify. The Chief Petitioner has said if they are unsuccessful this year, they will try again in 2021. Read more [here](#).