



Dalton Advocacy INC

1st Special Session of 2020: End of Session Report

June 24 – 30, 2020

Sine Die! The Oregon Legislature has officially adjourned the 1st Special Session of 2020. After 3-days of long hearings and late nights, technology frustrations, and limited engagement, the Legislature has advanced 24 bills addressing police reform, COVID-19 relief and “other issues” – largely a handful of bills that were discussed, but not advanced, during the 2020 Regular Session.

This Special Session was unique for many reasons, chief among them it was 100% virtual for all lobbyists, staff and members of the public. Our firm relationships proved invaluable as all Legislator contact was done via email, cell phone and text messages – from 6AM to 10PM! Legislators were rarely all in the same room as each other, wearing masks and social distancing.

A few images from the 1st Special Session:



This Special Session marks the first of likely 3 Special Sessions – the next expected as soon as mid-July to tackle the \$2.69 Billion shortfall in the 2019-20 budget. We also anticipate additional policy bills to be added to this Session as well.

Highlights of the bills that advanced (and those that didn't) are below:

Agriculture Fixes to the Corporate Activity Tax Passes!

After nearly two years of relentless advocacy efforts, our agriculture specific fixes to the Corporate Activity Tax (CAT) were adopted with bipartisan support. [HB 4202](#) is an exact replica of [HB 4009](#), which we helped craft during the 2020 Session, and provides the necessary statutory changes and clarification for Oregon farmers, ranchers and agribusinesses to be able to implement and comply with the tax. [View coalition letter in support](#). Specifically, the bill makes the following changes for agriculture:

- Exempts crop insurance policy payments from receipts required to be reported/calculated in your gross receipts
- Fixes the cost of goods calculation and certificate options for bulk commodities where in-state and export sales are co-mingled
- Exempts certain sales by dairy farmers that are not organized as co-ops

FINAL STATUS: Passed Senate 26 to 1. Passed House 56 to 0. Takes effect 91st day after adjournment (September 25, 2020).

New OSHA Infectious Disease Standard - DEAD

This concerning concept was drafted in two separate legislative proposals, including the omnibus bill. After a weekend of advocacy, we were successful in killing the stand-alone bill. Senate Republicans assisted in drafting an amendment stripping the concept out of the omnibus bill and it was adopted by the Joint Committee! As drafted, the proposal reflected a rare legislative move, to bypass OSHA's current expertise and efforts, and directed them to create an Infectious Disease Standard and framework. All without a discussion by state agencies and entities and no stakeholder engagement. The concept sought to create permanent rules instead of a temporary fix and was not all narrow to just to COVID-19.

General Entity Liability Protection from COVID Lawsuits – Workgroup for July

This was a key “take home” priority for our team and we joined over 50 organizations in seeking limited liability protection for schools, cities, counties, healthcare providers and businesses. We worked with House Democrats and saw 10 of them sign a letter calling on the Speaker to allow this concept to move forward. The [-38 amendment](#), drafted at the request of Rep. Caddy McKeown-D, would have provided limited liability protection to negligent causes of action that occurred during the COVID-19 emergency declaration.

While the amendment was not adopted into the omnibus bill House and Senate Leadership have committed to continue the discussion and convene a workgroup to discuss the issue and bring back a recommendation before the 2nd Special Session planned for July.

In the news:

[Top Democrats in Oregon legislature may protect businesses, government agencies from some COVID-19 lawsuits -- but not this session](#)

[Effort to Shield Businesses From COVID-19 Lawsuits Pushed to Next Oregon Special Session There was bipartisan support for the immunity provisions.](#)

[SB 1601A](#) – Transportation “Fix” Bill

This bill is in response to direction from HB 5039 adopted in 2019 directing ODOT to merge the Elderly and Disabled Special Transportation Fund and Statewide Transportation Improvement Fund into a single public transit program. SB 1601 reflects those consolidation recommendations. In addition, the [adopted -2 Amendment](#) prohibits law enforcement officers from issuing citations for traffic offenses based on documents or credentials that expired or a document not submitted between March 1, 2020, and December 31, 2020 for the following offenses: unlawful parking in space reserved for persons with disabilities (if displaying expired permit); operating vehicle without driving privileges; failure to register a vehicle; failure to pay appropriate registration fee; permitting unlawful operation of unregistered vehicle; purchase and use of out-of-state registered vehicle by resident; failure to surrender out-of-state registration; failure to submit declaration of weight; failure to renew vehicle registration; improper display of validation sticker; and failure of person to hold trip permit. The bill specifies that if citation is issued for above, the court shall dismiss the charge.

FINAL STATUS: Passed Senate 27 to 0. Passed House 55 to 2. Effective upon Governor’s Signature.

[SB 1602](#) – Forestry and Environmental MOU

This is the vehicle to carry out the MOU between the timber industry and conservationists signed in February 2020, the bill includes new requirements for pesticide notification, record keeping and reporting for applicators, new and increased buffer zones for forestry pesticide application, and new requirements for the Oregon Department of Forestry (ODF). Specifically, the bill will:

- Establish notice procedures and requirements for ODF to allow certain people who live within 1 mile of the spray location to opt in to receive notices of proposed or scheduled pesticide applications by helicopter to forestland
- Require operators, timber owners, and landowners who want to perform a pesticide application by helicopter to notify those who opted in of the proposed, incomplete, and complete pesticide applications.
- Require the development of a reporting system (contains fiscal) for required notices and establishes graduated penalties for not correctly notifying.
- Prohibit direct application of pesticide by helicopter within specified distances from a school (300 ft), inhabited dwelling (300 ft), water intake (300 ft), or certain streams (75 ft).

View a summary of the MOU [here](#) and read it in its entirety [here](#). Also view a summary of the new restrictions [here](#).

FINAL STATUS: Passed Senate 24 to 2. Passed House 57 to 0. Effective upon Governor’s Signature.

SB 1603 – Broadband/OUSF

The bill advances out of the Joint Committee on a party-line vote (Democrats YES Republicans NO). Republicans expressed frustration with the timing of the discussion and believed the bill places an unnecessary tax on cell phone lines. The 1999 Legislature established the Oregon Universal Service Fund (OUSF) to ensure that regardless of where Oregonians live, they have fair access to robust, reliable, and affordable advanced communications services. Today this includes broadband. SB 1607 represents a negotiated compromise that authorizes the issuance of the OUSF fee in a provider and technology neutral way. [View coalition letter in support.](#) Specifically, the bill will:

- Reduce the current surcharge for landline customers from 8.5% to 6% or less
- Reduce the potential surcharge for voice over internet protocol (VoIP) customers from 8.5% to 6% or less
- Cap the OUSF surcharge at 6%
- Stabilize the OUSF which supports robust, reliable, and affordable advanced communications services in rural Oregon
- Cap the overall size of the OUSF at \$28 million and establish a benchmark for planning
- Allocate \$5 million per year to expand broadband investment, including funding for the Oregon Broadband Office, technical assistance, planning, and infrastructure.
- Ensure that limited ratepayer dollars are spent toward broadband investment in rural areas that have little or no access to broadband, specifically prioritizing grants for: unserved, underserved, schools, public libraries and then residential customers.

FINAL STATUS: Passed Senate 16 to 10. Passed House 38 to 19. Takes effect 91st day after adjournment (September 25, 2020).

In the news:

[Oregon cell phone tax on fast track during Legislature’s special session](#)

SB 1605 - Oregon Promise, Third Party Child Abuse and Family First

Introduced at the request of Senator Gelser, this bill addresses three issues in the child welfare and human services world. View section-by-section summary [here](#). Specifically the bill:

- Ensures that Oregon foster children who are placed out of state and thus graduate from an out of state high school have access to the Oregon Promise program (community college tuition benefits for students who hold a certain GPA).
- Makes necessary changes to Family First language to ensure compliance with federal deadlines
- Requires that foster children placed out of state be placed at facilities that are licensed by Oregon DHS, and meet the same standards applied to our facilities in the State.
- Delays requirement of investigations of third-party child abuse cases. SB 155 created the requirement that DHS no longer “close at screening” cases of third-party child abuse. However, due to COVID-19, the implementation of the new program created in SB 155 was delayed (new deadline of April 2021). In the meantime, DHS will be required to report back to the Legislature on kinds and amounts of third party abuse cases, and any

need for additional resources to fully implement the new program. OCAS submitted [this testimony](#) as it relates to this section of the bill.

FINAL STATUS: Passed Senate 26 to 0. Passed House 57 to 0. Effective on July 1, 2020.

[SB 1606A](#) – Hospital Access Protections for Individuals with Disabilities

Introduced at the request of Sen. Gelser-D, SB 1606 as amended prohibits hospitals from withholding or conditioning treatment unless a patient has physician orders for life-sustaining treatment (POLST) form, advance directive, or other instructions regarding withholding or withdrawing life-sustaining procedures. The bill does not prohibit a hospital or licensed health care professional for engaging in discussion with a patient about advance directives. SB 1606 requires hospitals to inform patients of their rights upon admission, at the time services are scheduled, and post specified policies onsite and on the hospital's website no later than August 1, 2020. The bill also requires hospitals to allow patients to designate three support persons, including one who may be present at all times during the patient's hospital stay and authorizes a hospital to require support persons to wear personal protective equipment, be free of any symptoms of a virus or contagious disease, submit to virus or contagious disease screenings, and limit the total number of support persons during the day. The bill requires a hospital to ensure a designated support person is present for any discussion of hospice care, advance directive, or other withholding or withdrawing of life-sustaining procedures or artificially administered nutrition or hydration unless the patient requests such discussion outside of the presence of a support person and authorizes the Oregon Health Authority to impose civil penalties of up to \$10,000 for violations of any of the requirements under SB 1606.

FINAL STATUS: Passed Senate 27 to 0. Passed House 56 to 0. Effective upon Governor's Signature.

[SB 1607](#) – Small School & Foreign Exchange Grants

This is a very simple sunset extension bill. The sunset for small school districts to receive grants from the Small School District Supplemental Fund and for foreign exchange students residing in school district dormitories to be considered residents of those school districts for funding purposes were both set to expire July 1, 2020. SB 1607 extends that sunset to July 1, 2021.

FINAL STATUS: Passed Senate 26 to 0. Passed House 56 to 0. Effective upon Governor's Signature.

[SB 5711A](#) – Omnibus Budget Bill

SB 5711A is the only budget bill of the 1st Special Session and made several funding allocations to the policies adopted during the Special Session. The allocations included reducing E-Board funding by \$1.4M to redirect those funds to the following: \$175,000 to the Governor's Office for mediation of the Timber MOU; \$190,000 to DHS for new positions to Child Welfare for out-of-state placement; \$237,000 to the Dept. of Ag for the new meat inspection positions; \$844,000 to the Dept. of Forestry to implement the aerial pesticide application notification provisions of SB 1602 (2020 Special Session)/FERNS.

FINAL STATUS: Passed Senate 25 to 1. Passed House 57 to 0. Effective upon Governor's Signature.

HB 4204A – Foreclosure Moratorium

This bill extends the moratorium on foreclosure activities across all lenders for residential and commercial real, land, and personal property during emergency period enacted in response to COVID-19 pandemic through September 30, 2020. During Floor Debate, Republicans expressed concern about the legality of the bill, as well as the impacts it may have on those who carry mortgages as a primary source of income. See opposition from the OR Bankers Association [here](#).

FINAL STATUS: Passed Senate 19 to 8. Passed House 39 to 18. Effective upon Governor’s Signature.

HB 4206 – ODA Meat Inspection Program

This bill authorizes the Oregon Department of Agriculture (ODA) to develop a state inspection program to authorize local facilities to process and sell livestock, except for equine species, within Oregon. The bill was introduced last Session, and proponents reintroduced it on the premise that the coronavirus pandemic further highlighted Oregon’s vulnerability to meat market disruptions and increased consumers interest in buying locally raised and processed meat products.

FINAL STATUS: Passed Senate 27 to 0. Passed House 56 to 0. Takes effect 91st day after adjournment (September 25, 2020).

HB 4209 – Eastern Oregon Border Economic Development Board

This is a clarification and technical fix bill for the implementation of the Eastern Oregon Border Economic Development Board established in 2017 via [HB 2012](#). Speaker Kotek, who testified in support, was the only testimony the Committee heard before passing the bill unanimously. HB 4209 does three things: clarifies that the Board can establish programs to award grants and loans to enhance and expand workforce and economic development in the region, allows the Board to work with a third-party administrator to run the program instead of Business Oregon, and specifies that they cannot have more than 10 active programs. The Board is also requested to report back to the Legislature by June 30 of each year.

FINAL STATUS: Passed Senate 27 to 0. Passed House 56 to 0. Effective upon Governor’s Signature.

HB 4210 – Debt Based Driver’s License Bill

This bill has been discussed in previous sessions and removes the authority of courts to impose personal and commercial driving privilege suspensions for failure to pay traffic-related fines or comply with requirements ordered in lieu of fines. The new prohibition goes into effect October 1, 2020. The bill passed out of the Joint Committee on a party line vote 8 Democrats support and 6 Republicans opposing.

FINAL STATUS: Passed Senate 20 to 7. Passed House 44 to 13. Effective upon Governor’s Signature.

HB 4211 – Student Success Act Timeline Fix

This is a technical fix bill to adjust the timeline for the transfer of funds generated by the Student Success Act of 2019. The change allows fund transfers to occur periodically during a

biennium, instead of on a strict transfer scheduled. The total statutory amounts and percentages that are required to be transferred each biennium does not change.

FINAL STATUS: Passed Senate 27 to 0. Passed House 52 to 5. Effective upon Governor's Signature.

HB 4212A – Omnibus COVID Bill

This bill served as the “omnibus COVID-19” catch all bill. 9 amendments were adopted into the bill and address: Local Government & Special Government Public Meeting Operations, Garnishment Modifications, Local Government Emergency Shelters, Remote Notarization, Individual Development Account Modifications, Race & Ethnicity Data Collection & Reporting and Physician Assistance Scope.

Court Extensions/Appearances

The [-36 Amendment](#) granted the Chief Justice the authority to extend or suspend any time period or time requirement, upon a find of good cause, during the COVID-19 emergency declaration and for 60-days after the declaration. The amendment also allows the Presiding Judge to waive appearances, order an extension of custody and postponement of trial. The bill allows for an extension beyond the 180-day custody limitation for certain violent felonies. The amendment was a negotiated product between OPDS, OCDLA, DOJ, OJD, AFSCME and ODAA.

REAL-D—New Requirements for Certain Providers

The [-30 amendments](#) to HB 4212 add requirements that providers collect REAL-D information (race, ethnicity, preferred spoken language and English proficiency, interpreter needs and disability status), and report the information back to the Oregon Health Authority beginning . Notably, the requirements only apply to patient encounters where the provider is offering healthcare services related to COVID-19 (including ordering or performing a COVID test). These requirements apply to telemedicine and in-person encounters, and patients must offer the information voluntarily (providers are not penalized if patients decline to answer questions). The information collected is confidential and subject to disclosure only in accordance to HIPPA laws. The reporting requirements will begin in December 2020.

During testimony on these amendments, OHA Director Pat Allen noted that currently the authority does not have good REAL D data available for patients who test negative for COVID, making it difficult to get a full understanding of the disease and its impact on different communities. While the current scope of this mandate is limited to COVID encounters, Director Allen did testify that he would like to expand the mandate to other kinds of care in the future, as part of OHA’s mission of health equity.

PA Practice Agreements

The [-33 amendments](#) make temporary changes for requirements for PA’s during a COVID-19 surge by allowing them to practice, under the supervision of a supervising physician and within their scope, without a practice agreement. Notably, these changes

are temporary and will be repealed at the close of the Governor's declared emergency. The Oregon Medical Board has the ability to adopt additional requirements through rulemaking. This concept was discussed during the initial Joint Coronavirus Response Committee in March.

FINAL STATUS: Passed Senate 21 – 4. Passed House 47 to 10. Effective upon Governor's Signature.

HB 4213A – Prohibition on Residential/Commercial Evictions

This bill prohibits certain residential and commercial evictions during an emergency period from April 1 to September 30, 2020. During this period, a landlord also may not assess a late fee for payments a tenant has not made, or report a payment as delinquent to a consumer credit reporting agency. Outstanding rent and other charges remain owed to the landlord, and tenants have until March 31, 2021 to pay the outstanding balance.

FINAL STATUS: Passed Senate 19 to 8. Passed House 43 to 14. Effective upon Governor's Signature.

HB 4214 - Indian Child Welfare Act

Introduced at the request of Rep. Sanchez, this bill codifies the Indian Child Welfare Act in state statute, ensuring that Oregon is in Federal compliance. See Our Children Oregon's testimony [here](#).

FINAL STATUS: Passed Senate 26 to 0. Passed House 57 to 0. Effective upon Governor's Signature.

HCR 212 - Deadlines for 2020-21

This bill establishes deadlines for pre-session filed bills for the 2021 Legislative Session. Those dates include:

Sept. 25 th	Bill Request Deadline
Dec. 7 th	Bills Returned by Legislative Counsel
Dec. 21 st	Bill Filing Deadline – Senate & House

The Committee on Rules and Ways and Means are not subject to these deadlines.

FINAL STATUS: Adopted

Police Reform Bills

A package of 6 Police Reform and Accountability bills were taken up in the Special Session answering the [call](#) by the People of Color Caucus for "specific actions this year to improve police accountability in response to the murder of George Floyd and the subsequent public protests and outrage in response to his death." You can listen to these issues framed by Rep. Bynum and Sen. Manning of the POC [here](#).

SB 1604 – Police Arbitration

This bill, previously discussed and negotiated in the 2019 and 2020 Session, requires disciplinary action ordered as a result of arbitration involving misconduct by a police officer to match the disciplinary action imposed by the agency, pursuant to a discipline guide or matrix. The bill makes the disciplinary guide or matrix the subject of collective bargaining and takes effect upon

the Governor's signature. The bill was supported by the Chiefs and Sheriffs association along with ODAA.

FINAL STATUS: Passed Senate 26 to 0. Passed House 57 to 3. Effective upon Governor's Signature.

HB 4201A – Police Use of Force Investigations

As amended, HB 4201 establishes a "Joint Committee on Transparent Policing & Use of Force Reform." The Legislative Committee will be made up of members of the Senate and House and appointed by the Speaker and Senate President. The Committee is directed to: examine policies that improve transparency in investigations and complaints regarding use of force by officers, examine policies that "reduce the prevalence of serious physical injury or death caused by the use of force by police officers," determine the most appropriate policy for independent review and any other policies that increase transparency in policing and reform the use of force by police officers. The Committee is directed to return with recommendations for legislation by December 31, 2020.

FINAL STATUS: Passed Senate 25 to 1 (Boquist). Passed House 54 to 2 (Nearman, Reschke). Effective upon Governor's Signature.

In the news: [Oregon lawmakers poised to delay key police accountability bill](#)

HB 4203A – Police Chokehold Ban

HB 4203 prohibits an officer from using "physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person." The bill provides an exception if the officer is justified in using physical force as outlined in [ORS 161.239](#). HB 4203 also prohibits the training of these maneuvers, except as a defense maneuver.

FINAL STATUS: Passed Senate 25 to 1 (Boquist). Passed House 52 to 5 (Bonham, Breese-Iverson, Nearman, Reschke, Smith G). Effective upon Governor's Signature.

HB 4205A – Police Duty to Intervene & Report

This bill requires a police officer to intervene to prevent or stop another police officer from engaging in an act the officer knows, or reasonably should have known, is misconduct. The bill provides an exception to intervene if the intervening officer could not do so safely. Misconduct includes: unjustified or excessive force, sexual harassment or misconduct, discrimination against a person, a crime or a violation of the minimum standards established for law enforcement officers. HB 4205 also requires the officer to report this behavior within 72-hours after witnessing the misconduct to a supervisor. Failure to intervene or report is grounds for disciplinary action which could include suspending or revoking the officer's certification. The bill also includes "whistleblower protections" for those reporting officers.

FINAL STATUS: Passed Senate 26 to 0. Passed House 55 to 2 (Nearman, Reschke). Effective upon Governor's Signature.

HB 4207A – Police Database Bill

This bill directs the Dept. of Public Safety and Standards and Training (DPSST) to establish a statewide online database of suspensions and revocations of the certifications of police officers.

The database will be accessible by the public and will include the name of the officer, employing agency, and description of the facts underlying the suspension/revocation. HB 4207 also requires a hiring police agency to request and review the applicant's personnel records from all law enforcement agencies that previously employed the officer. The personnel record must include the entire file of an officer including records of complaints and disciplinary action against the officer. The bill requires the agency to retain records for 10-years after the officer leaves employment. HB 4207 does provide civil liability immunity for any harm that may arise for the hiring agency by relying on the personnel records received and for the agency providing the records. The bill also provides that the DPSST shall deny an application by an officer for training/certification on a finding that the officer has: a felony conviction; a conviction for unlawful use, possession delivery or manufacturing of a controlled substance (except marijuana); a domestic violence conviction; a child abuse conviction; or if the officer is a sex offender, has been discharged for cause from employment as a police officer as a result of certain conduct including: obtaining false confessions; making false arrests; creating or using falsified evidence (including false testimony or destroying evidence to create a false impressions); compelling a person to abstain from doing any act that the person has a legal right to do; depriving another person of their legal rights; or gaining advantage for a public or private safety agency for personal gain.

FINAL STATUS: Passed Senate 26 to 1. Passed House 54 to 3. Effective upon Governor's Signature.

[HB 4208A](#) – Police Tear Gas Limitation

As adopted, HB 4208 prohibits a law enforcement agency from using tear gas for the purposes of crowd control except in circumstances constituting a riot as defined in [ORS 166.015](#). The bill also requires the law enforcement agency to provide notice in advance of using tear gas, to allow for sufficient time for individuals to evacuate the area, and announce for a second time immediately before using the tear gas the intent to use tear gas.

FINAL STATUS: Passed Senate 25 to 2. Passed House 53 to 4 (Nearman, Reschke, Smith G, Wilson). Effective upon Governor's Signature.

Other Policy Discussions:

MLAC – Workers Compensation Presumption Discussion

This week Governor Brown issued this [letter](#) calling on the Management-Labor Advisory Committee (MLAC) to "identify problems or gaps in the worker's compensation system relative to the COVID-19 outbreak – including an analysis of and recommendation for a COVID-19 presumption." The Governor has requested that this review be completed with a recommendation by mid-July. MLAC has scheduled its first meeting for June 30th and will review the current COVID claim data, other state action on workers compensation as it relates to COVID-19 and set a schedule for the analysis/recommendation going forward. It is likely MLAC will undergo an information gathering exercise in the coming weeks. When we receive a framework of that inquiry we will share. Until then, if you are not insured by SAIF it would be helpful to provide us with the following information – how do your COVID-19 workers compensation claim review processes differ from SAIF's:

SAIF COVID Workers Comp Claims Processing

In processing these claims, SAIF is complying with claims processing laws and rules as we would in all other claims at all other times. At the same time, where the laws and rules are silent or permissive, SAIF is making decisions that favor the worker:

- Workers who are exposed to a source patient and stay healthy, SAIF pays timeloss for any provider-ordered quarantine, and will pay for tests billed to us. These claims will generally be accepted for exposure.
- Workers who are exposed to a source patient and become ill, SAIF pays timeloss for any provider-ordered time off work to recover, and for associated treatment. These claims will generally be accepted for COVID-19.
- In the case of workers with no known work exposure to someone sick, SAIF will ask further questions in investigation, and sometimes seek a medical opinion, to learn the cause of any timeloss, testing or treatment.
- Both exposure and illness claims and associated costs are reported to NCCI for ratemaking and, like all other workers' comp claims, negatively impact employers' experience ratings.

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