

TO: SALEM CITY COUNCIL
FROM: COUNCIL LEGISLATIVE COMMITTEE
SUBJECT: LEGISLATIVE REPORT

ISSUE:

Adoption of recommended positions on bills and legislative issues reviewed by the Legislative Committee.

RECOMMENDATION:

The Council Legislative Committee recommends the Council adopt the priority positions on bills and a budget matter contained in the attached Legislative Committee Report.

BACKGROUND:

The Council Legislative Committee is charged with reviewing proposed legislation and legislative issues and making recommendations to the Council. Members of the Committee are Mayor Peterson, and Councilors Bennett, Nanke, Thomas, and Clausen. The positions adopted by the City Council will direct the City's lobbying efforts during the 2011 Oregon Legislature.

FACTS AND FINDINGS:

Attached is the report from the Committee's February 15 and 22, 2011 meetings. The report lists positions on 22 bills and one State budget matter. The report includes the bill number, bill summary, staff comments, and the position recommended by the Committee: S (support), O (oppose), W/A (with amendments), and N (neutral). The priority ranking system is as follows:

1. Very High Priority – Major fiscal or policy impact. Mayor, councilors, and/or staff should testify and work to support or oppose the bill.
2. High Priority – Moderate Impact. Staff should testify and be involved in supporting or opposing the bill.
3. Medium Priority – Watch for changes. Staff may become involved if time/resources permit.
4. Very Little/No Priority – Does not warrant staff effort. (Note: Given the limited resources available, these bills will be set aside and not referred to the Committee or Council unless amendments change their impact.)

The full text of the bills are available in the City Manager's Office or on the Legislature's web page: www.leg.state.or.us/bill_laws/.

ATTACHMENT: Legislative Committee Report

Legislative Committee Report

February 15 and 22, 2011 Meetings

HB 2146 2-S **Summary:** Eliminates culpable mental state requirement for administrative sanctions against liquor licensee selling alcoholic liquor to minors or visibly intoxicated persons.

Sponsor: Governor John A. Kitzhaber for Oregon Liquor Control Commission.

SPD Comments: This bill would eliminate the culpable mental state of "knowingly" for sales of alcoholic beverages to persons under 21 years of age, eliminating potential defenses such as, "I thought he looked like he was 24." This places the responsibility on the seller to ensure they check ID for anyone that even looks close.

HB 2182 3-O **Summary:** Modifies basis for petitioning Land Use Board of Appeals for review of land use decisions or limited land use decisions.

Sponsor: Representative KRIEGER; Representatives ESQUIVEL, SCHAUFLE. Pre-session filed.

Legal: Requires petitioners to LUBA, who do not own property adjacent to property that is subject of a land use action to first post a deposit in an amount determined by LUBA "to cover the cost of expert witnesses and attorney fees required by the applicant to establish that the use or the change to the real property meets the applicable standards." Specifically exempts local governments, special districts and the state. No direct impact on the City, although it would likely limit appeals to LUBA of City decisions. The cost of the deposit would likely be over \$10,000, and would discourage opponents from appealing City decisions. Bill would exempt property owners who live adjacent to a subject property, but not renters.

CD Comments: As stated in the legal department review, passage of the bill would preclude or have a dampening effect on LUBA appeals by parties who do not own, or have ownership interest in, property adjacent to the use or land subject to a land use decision, with several exceptions. Citizens who have standing to receive a notice of the decision under SRC 300 and who live within the notice area, but do not meet the new qualifiers and cannot afford the upfront fees, would only have the option of local appeal. Passage of the measure as written may therefore also preclude LUBA appeals by recognized neighborhood associations.

HB 2321 2-O **Summary:** Requires public body to send notice by electronic mail if public body has person's electronic mail address and person has not made request for mailing of paper copy of notice.

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Sponsor: Representative BARNHART; Representatives NATHANSON, READ, J SMITH, Senator DINGFELDER. Pre-session filed.

CM Comments: HB 2321, if enacted, would require public bodies to provide email notice to residents wherever state law requires notice by regular mail, unless the resident has requested notice be provided by regular mail. Staff recommends opposing this bill for two reasons. First, unlike the regular mail system, there is no centrally maintained reliable registry of electronic mail addresses. Because email addresses are not fixed to a specific geographic location, it would be difficult to track and maintain a reliable database upon which to send legal notices, particularly in land use matters. Second, this bill preempts local decision-making authority. Cities should be allowed to determine their priorities through public process that reflects local choices and priorities.

HB 2364 1-O **Summary:** Requires authorized business firm to submit local procurement plan as condition of enterprise zone exemption from property taxation.

Sponsor: House Interim Committee on Business and Labor.

UD: Comments: House Bill would amend ORS 285C to require a business firm that applies for an enterprise zone property tax exemption to include a "local procurement plan" to purchase goods and services from "qualified" local vendors within the same county. This procurement plan would be effective for the duration of the property tax exemption period and the zone sponsor, or City of Salem, would be required to review the procurement plan to ensure the business firm made a "good faith effort" to identify local producers and service providers. If the business firm is unable to locate local vendors, the City may waive the local procurement plan requirement. The City of Salem Urban Development Department and SEDCOR encourage all companies that benefit from any incentive to consider local businesses and vendors. A statutory requirement may be excessive and may diminish the competitiveness of the enterprise zone program. For example, SEDCOR mentioned that they provided local options to SANYO, however, had it been a requirement for enterprise zone benefits, the company would have elected to locate elsewhere.

HB 2361 2-S **Summary:** Eliminates culpable mental state requirement for administrative sanctions against liquor licensees and service permit holders that sell to, or allow on-premises consumption of alcohol by, minors or visibly intoxicated persons.

Sponsor: House Interim Committee on Business and Labor.

SPD Comments: HB 2361 is very similar to HB 2146. This bill would eliminate the culpable mental state of "knowingly," for sales of alcoholic beverages to persons under 21 years of age or to a visibly intoxicated person. This eliminates the defense that they didn't know when they should have known.

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HB 2370 2-O **Summary:** Requires political subdivision to give Department of Transportation at least 30 days' notice of intent to sell or transfer real property near rail infrastructure.

Sponsor: Representative NATHANSON; Representatives BARKER, DEMBROW, DOHERTY, GELSER, HOYLE, HUNT, KOTEK, J SMITH. Pre-session filed.

PW Comments: The intent of this bill is to allow ODOT or other rail authority the opportunity to acquire publically-owned real property (property or right-of-way) located near existing railroad lines that is proposed to be sold or leased. The bill requires at least a 30 day notice, prior to conveying the property to other entities. This notification requirement reflects ODOT's practice of notifying local governments of when its properties become available. Passage of this bill would provide an opportunity for additional rail rights of way to be acquired in anticipation of double-tracking rail lines or constructing intermodal facilities and passenger/freight terminals.

Committee: The Committee felt that the first right of refusal clause in the bill would negatively impact redevelopment.

HB 2448 2-O **Summary:** Directs Department of Corrections to determine residency status of inmates in custody of department for purposes of legislative and congressional redistricting.

Sponsor: House Interim Committee on Rules.

CD Comments: This measure is very similar to SB 1028 sponsored in the 2010 legislative session. It would require the Department of Corrections to determine whether an inmate is a resident of the State of Oregon. For "resident" inmates, the Department would have to determine their "permanent residence" if such information was available. The Department would then report the available information to the Legislative Assembly or the Secretary of State who would have to use this information when apportioning congressional and legislative districts in the state. As with SB 1028, the provisions of HB 2448 seek to re-define an inmate's place of "permanent residence" as the place where an inmate resided before being placed in the custody of the department of corrections. An exception to this is made for inmates who have been sentenced to death or life in prison. If passed, this bill would reduce the population in and increase the size of legislative districts in the Salem area. All districts with correctional facilities would lose residents based on the bill's definition of permanent residence. Because this bill applies only to congressional and legislative districts, the City's ward boundaries would not be affected. HB 2448 raises the same operational and legal questions that SB 1028 raised. The following issues would need to be resolved: 1. The bill's definition of residence is inconsistent with the Census Bureau's definition. This inconsistency will create different sets of population estimates: One for legislative districts and one for Census tracts that are used for population estimates and for the allocation of state and federal monies to the City. This will create unnecessary confusion and complexity. 2. The bill's definition of permanent residence now includes only the previous, not the prospective residence of an inmate. However, the bill itself recognizes that a previous residence cannot always be ascertained. Therefore, the bill would use only inmates with a known previous residence for the purpose of redistricting. 3. The bill raises legal questions. It is doubtful that the state can divide the inmate population into those with a known previous residence and those with

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an unknown previous residence for the reallocation of congressional and legislative districts. It is further doubtful that the state can adopt a new definition of residence for the reallocation of congressional districts at the federal level. The City should oppose HB 2448.

HB 2481 2-O **Summary:** Requires that moisture sensitive components of one and two family dwellings pass moisture content testing before enclosure in location that prevents normal drying.

Sponsor: House Interim Committee on Consumer Protection and Government Accountability.

CD Comments: HB 2481 requires that moisture sensitive components of one and two family dwellings pass a moisture content testing before enclosure in location that prevents normal drying. This primarily concerns moisture in residential structures. Background: Excessive moisture within concealed spaces made up of wood components has been identified as a main contributor of "Black Mold" within structures. Currently, a builder is required to self-certify to the jurisdiction that wood within a single-family dwelling doesn't exceed the 19 percent maximum prescribed by the building code. This bill requires that the testing of all wood within a structure be done by the jurisdiction's building inspectors or an independent testing agent or agency. The concern is that such an inspection may increase the liability of the local jurisdiction due to the responsibility to assure that all wood members comply. If the jurisdiction does the inspection, testing equipment and training will be required for staff. The testing as prescribed would be very extensive and time consuming. In addition, independent agent inspections would increase the overall cost of the home to the consumer due to the extensive testing and liability insurance. Staff recommends opposing this bill because the scope of testing is too broad.

HB 2610 1-0 **Summary:** Modifies basis for petitioning Land Use Board of Appeals for review of land use decisions or limited land use decisions involving needed housing or industrial development within urban growth boundary or aggregate resources.

Sponsor: Representative SHAUFLER at the request of Oregon HBA. Pre-session filed.

CD Comments: HB 2610 proposes substantial changes to statutes regarding appeals to LUBA and the awarding of attorney fees. Under the proposed amendments, persons wishing to appeal local decisions regarding needed housing, industrial development, or aggregate sites to LUBA would be eligible to do so only if they: 1) own or lease land within 1000 ft of the subject property, or, 2) prove they will be adversely economically affected by at least \$5,000. The bill would also allow LUBA to award attorney fees to prevailing parties. According to legal department comments, allowing LUBA to award attorney fees to prevailing parties could present a substantial fiscal impact to the City. Under current LUBA rules attorney fees are only awarded under exceptional circumstances, such as when a City abuses its discretion in denying an application, or a party files a "bad faith" appeal with no legally reasonable arguments. Allowing attorney fees for any prevailing party would open the City up to liability even if the City's decision is remanded due to procedural error. The provisions of this bill also require LUBA to award attorney fees if one party presents a position without probable cause to believe that it is well founded. As discussed in the legal department's comments, under current practice the City may not participate in LUBA appeals in

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some cases, relying instead on an applicant to intervene and defend a decision. Passage of this bill would also mean that the City would have to appear and fully participate in every LUBA appeal. Under this proposal, the City could be liable for attorney fees if the petitioner prevails in cases such as these, even though the City did not appear. The City has committed significant resources toward fostering and maintaining a robust community involvement program, the influence of which would be marginalized by the proposed legislation. Property owners or advocacy groups, including recognized neighborhood associations, adversely affected by a local land use decision but which cannot meet the proposed prerequisites for being 'adversely affected' will have little option but to accept local decisions regardless of their impact, or to seek a remedy via circuit court. The stated mission of LUBA is to "simplify the appeal process, speed resolution of land use disputes and provide consistent interpretation of state and local land use laws." The proposal runs counter to the stated purpose of LUBA and to established policies fostering citizen involvement in Oregon's land use planning system.

Legal Comments: The provision limiting standing in appeals to those who live within 1000 feet and can prove they are "economically adversely affected" would eliminate a significant number of appeals to LUBA. While this would benefit the City by reducing the number of appeals of City decisions, the proposal runs counter to public policy goal of providing a forum for citizen opposition to land use proposals. Allowing LUBA to award attorney fees to prevailing parties could substantially affect the City. Current rule at LUBA is that attorney fees are only awarded under exceptional circumstances, such as a City abuses its discretion in denying an application, or a party files a "bad faith" appeal with no legally reasonable arguments. Allowing attorney fees for any prevailing party would open the City up to liability even if the City's decision is remanded due to procedural error. Requiring LUBA to award attorney fees where a party does not present a good faith position would benefit the City in those rare cases where it occurs. However, this amendment would have a chilling effect on citizens bringing appeals, and would run counter to the public policy of providing a forum for citizen participation in land use decisions.

HB 2620 2-O Summary: Requires Department of Consumer and Business Services and municipality that assumes responsibility for administering and enforcing building and specialty codes to charge one-third of fee for permit upon issuing permit, one-third when construction of building or installation of equipment begins and one-third when construction or installation is complete. Prohibits municipality from charging amount other than amount of fee specified at time municipality issued permit. Declares emergency, effective on passage.

Sponsor: Representative SCHAUFLER. Pre-session filed.

CD Comments: HB 2620 is likely to increase overall permit fees and reduce the ability for local jurisdictions to deliver service. Deferred Payment Schedule: The bill requires local jurisdictions to phase the collection of fees throughout the building process allowing final payment after completion of the project. Building projects require multiple permits for separate activities such as electrical, plumbing, mechanical and structural work. For large projects this can add up to hundreds of permits. Each phase would require a separate billing for each permit issued. Tracking and collecting these fees would require the establishment of a new billing system. Such a system and would be logistically difficult and significantly increase administrative costs. Furthermore, HB

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2620 does not allow a project to be stopped if fees are not paid when due. This increases the probability of the use of collection agencies or reduced revenue. Delaying final payment of permit fees until after completion of the project creates cash flow problems for local jurisdictions. Permit fees are restricted funds which must be used to support the activities for which they are paid. The boom and bust nature of the building industry makes this particularly difficult. Local jurisdictions establish reserve funds to contend with this problem. Building projects can take years to complete. During recessionary times, such as these, reserve funds are used to support continued permitting activity on a project, sometimes years after original fees were paid. If payments are delayed until after completion of the work, reserve funds could be depleted and local jurisdictions would be left with finding other ways to pay for on-going inspections and other permit related activity. **Limitation on Charging Fees:** The bill would prohibit local jurisdictions from charging any fees other than the amount specified at the time a permit is issued. This includes fees arising from complications associated with the project, fees charged for revisions submitted by applicants and requests for increased customer service. Complications which naturally arise during construction can cause the need for additional review and inspection or revisions to original permits. Currently fees for these services are charged as they arise. A prohibition on this practice will require an increase in base fees, funded by all. Services that are provided at the request of our customers would potentially be eliminated. Currently the City of Salem, Building and Safety Division provides enhanced customer services upon request. This allows applicants to speed up their work with after-hours inspections, early occupancy of buildings and a multitude of other special services. These requests can require overtime, extra administrative support or other costly services. Without the ability to charge for these services they would have to be incorporated into base fees or be discontinued. As an example, the State Hospital project has submitted over 80 revisions in the permit and multiple requests for after hours inspections that HB 2620 would eliminate the ability for which to charge fees. The Emergency Clause Implementing this bill as an emergency would also pose a challenge for jurisdictions. The building permit and cashiering systems would need major updates to accommodate changes in permit and payment processing. For the larger jurisdictions, hiring a new staff person to manage billings and collections would be necessary, as would updating processes, revising forms, editing websites, training staff and educating permit applicants. Some time will be needed to complete these activities while continuing to process incoming permit applications with staffing levels that range from 25 to 50 percent less than two years ago due to economic conditions. Jurisdictions are required to give the State 60 days lead time on fee changes. Local jurisdictions may not be able to move fast enough to mitigate the impacts through an increase in fees.

AS Comments: This bill would create three hardships for the Building and Safety Division. First, it would delay collection of permit revenues by allowing only one third of a fee to be collected at the time a permit is issued. This will likely result in the Building and Safety Fund drawing down its reserves. Second, it would require a more complex (and costly) business process to accommodate the three payment points described in the bill. Third, it would remove the Division's flexibility to provide (and charge for) additional services that a customer may need after issuance of a permit.

HB 2672 2-O Summary: Requires peace officer to obtain and preserve public record relevant to criminal investigation and to disclose to district attorney existence of record.

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Sponsor: House Interim Committee on Judiciary.

SPD Comments: HB 2672 would require a peace officer to obtain and preserve public records that the peace officer "knows or reasonably should know are relevant to an investigation." The bill creates an exception if the district attorney authorizes disposal. This bill would create an unnecessary burden on law enforcement. The bill is overly inclusive and vague, potentially creating major investigations out of minor crimes, such as a Theft III (shoplifting), forcing peace officers to research public records to determine their relevancy.

HB 2680 2-S **Summary:** Adds electronic checks and debit cards to types of payments covered under dishonored payments statute. Increases dishonored check fee from \$25 to \$35.

Sponsor: House Interim Committee on Judiciary for Oregon Collectors Association

AS Comments: The volume of processed paper checks has reduced each year as the use of electronic payment options have expanded through improvements in technology. Presently electronic payment options include electronic checks, debit/credit cards, and gift cards. ORS 30.701 addresses the ability of a paper check payee to recover fees due to the reprocessing (handling and collection) of the original payment. HB 2680 expands a payee's ability to recover reprocessing fees on dishonored electronic checks and debit cards. As the volume of electronic checks and debit card payments increase, the ability to recover the costs of reprocessing has the potential to make the payee whole. If HB 2680 were amended to include dishonored credit payments, a payee would have full legal authority to recover a reprocessing fee when a credit card payment is disputed without reason or cause.

CM Comments: This bill is very similar to the legislative proposal that was included in a staff report to Council dated December 13, 2010, and is consistent with past policy direction.

HB 2860 2-S **Summary:** Creates Rail Advisory Council for purpose of advising Department of Transportation and Oregon Transportation Commission on matters related to state rail system.

Sponsor: Representative NATHANSON; Representatives BARKER, BARNHART, BERGER, DEMBROW, DOHERTY, GELSER, HUNT, KENNEMER, Senator MONROE Pre-session filed.

PW Comments: This bill would create a State Rail Advisory Council for purposes of advising ODOT and the Oregon Transportation Commission on matters related to the state rail system. In particular, this Council would be a next step in the planning and implementation of additional commuter rail and high speed passenger rail in the state. Both of those passenger rail concepts are of interest to the City of Salem and would potentially improve regional transportation options for the Mid-Willamette Valley. Staff recommends support for passage of this bill.

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HB 3056 2-O **Summary:** Requires that, in election proposing annexation, votes from city and territory to be annexed be counted separately to determine separate majorities if acreage to be annexed is 20 acres or more.

Sponsor: Representatives HUNT, HOYLE

CD Comments: This bill would create a significant barrier to city-initiated 'enclave/island' annexations under ORS 222.750. Section 1(7) modifies current statute to require a majority of both the city's votes and of the electors' votes within the territory to be annexed for approval of an enclave annexation of 20 acres or more. The current electoral protocol, by which annexation of enclave territory is approved by a majority of the votes cast in the combined city and territory, is preserved for annexations of less than 20 acres. Passage of HB 3056 will enable a potentially small number of opposition parties to offset the will of the majority of voters within the City of Salem regarding city-initiated enclave annexations of territories of 20 acres or more, and erodes the ability of the city to annex territories surrounded by the corporate municipal boundaries. The bill continues to run counter to the Salem City Charter, by extending voting rights to 'enclave' territories to be annexed; and further expanding that right for voters within the territories 20-acres or more in size, to have the power to stop the annexation. Under ORS 197.752, lands within urban growth boundaries "...shall be available for urban development concurrent with the provision of key urban facilities and services in accordance with locally adopted development standards." Toward that end enclave development is problematic; whereby residents of enclaves readily utilize roads, utilities and adjacent public amenities provided by the City but are not assessed accordingly. The provisions of this bill conflict with the adopted legislative position of the City of Salem regarding annexations, which support legislation that removes the difficulties of achieving land use goals under existing annexation laws, particularly in unincorporated urbanized areas located outside of city limits but within the urban growth boundary. The City should oppose HB 3056.

Legal Comments: Applies to enclave annexations, allows combined majority for annexation territories under 20 acres, but requires separate majorities for annexation territories 20 acres or larger. Bill would further restrict cities' ability to annex enclaves, which, by definition, are completely surrounded by city boundaries.

HB 3192 2-O **Summary:** Provides that fines and costs collected by court for traffic offenses committed on state highways be credited and distributed as monetary obligation payable to state.

Sponsor: Representative KOMP; Representatives GILLIAM, KENNEMER, SCHAUFLEER.

SPD Comments: HB 3192 would mandate that municipal courts pay one half of fines collected from traffic violations occurring on state highways unless there is a previous agreement that the local agency will be the primary enforcement agency for that portion of state highway. It further specifies payments shall be made no later than the 10th of the following month and specifies financial penalties for delinquency. This bill is inequitable as it reduces revenues by one half while the municipality continues to do all the work. It creates further work for the Court and Finance as they would need to track fine payments against whether or not it occurred on certain state highways. In essence, this bill would tax certain enforcement actions by municipalities, usurping lawful jurisdiction.

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AS Comments: This bill changes the current fine distribution for citations issued on a State highway. This may result in a negative impact to the City. Currently, the citing agency receives 50% of all fine revenue collected when citations are filed at justice or circuit court. The City keeps 100% of all fine revenue for tickets cited within the City limits and filed with the Municipal Court. This bill directs all fine monies collected for citations issued on a State highway to be sent to the State, unless the City enters into an agreement with Oregon State Police. If this occurs the City could receive up to 50% of the revenue for citations issued on a State highway.

HB 3305 2-O **Summary:** Directs counties to recover costs of property assessment and tax collection from taxing districts.

Sponsor: Representative ESQUIVEL; Representatives BUCKLEY, FREEMAN, GARRARD.

AS Comments: This bill would allow counties to recover the costs of assessing and collecting property tax by withholding monies from taxing jurisdictions. Beginning in fiscal year 2012-13, counties would be able to withhold up to two percent of that portion of a taxing jurisdiction's distribution that is greater than the distribution in fiscal year 2011-12. Bond levies would be exempt from cost recovery. The fiscal impact would not be felt until fiscal year 2012-13, but it would steadily grow thereafter.

HJR 8 1-O **Summary:** Proposes amendment to Oregon Constitution prohibiting public employer from executing collective bargaining agreement unless agreement is first approved by voters in jurisdiction subject to agreement.

Sponsor: Representative THATCHER. Pre-session filed.

HR Comments: This will require collective bargaining contracts to be ratified by the voters. To take collective bargaining contracts before the voters will be very time-consuming and costly. This resolution would create lengthy delays in regards to successor bargaining agreements. With the potential delay awaiting a successor agreement, this could also create financial/budgeting difficulties as well in the form of setting aside dollars for extended periods of time until a contract is approved, when back pay would then have to be issued. The purpose of the current collective bargaining law is to settle contracts. This will be adversarial and place union against elected officials at election time.

HJR 26 1-S **Summary:** Proposes amendment to Oregon Constitution relating to local option ad valorem property taxes.

Sponsor: COMMITTEE ON REVENUE

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AS Comments: This bill is a referral to voters to amend the property tax limitations in Article XI of the Oregon Constitution. Specifically, this amendment would exempt local option levies from Measure 5 limits (compression) and would allow such levies to be imposed for ten years. While such levies would require approval of the voters in a taxing jurisdiction (as is currently the case), the voters would have greater control than the Constitution currently permits.

SB 455

Summary: Exempts Department of Transportation from need to obtain local permit before removing trees.

Sponsor: Senator Johnson at the request of PUC Right-of-Way Committee. Pre-session filed.

PW Comments: If a tree removal by ODOT occurs outside the exceptions allowed under SRC the city is in fact losing control of certain activities that we have previously controlled.

CD Comments: This measure would allow the Oregon Department of Transportation (ODOT) to remove trees protected by local ordinance from state highway rights-of-way and in some cases on private property without receiving approval or permits from the local jurisdiction. Chapter 68 of the Salem Revised Code (SRC) requires an applicant to obtain a tree and vegetation removal permit (referred to hereafter as 'removal permit') for removal of significant trees and trees or native vegetation located within riparian corridors. SRC 68.080(b) currently provides an exception to removal permit requirements for a public utility (ODOT) to remove regulated trees for the installation or maintenance or repair of roads and other utilities, including water lines, sewer lines, gas lines, electric lines and telecommunication lines. However this exception does not apply to new development or construction in a riparian corridor. The majority of tree removals regulated under SRC Chapter 68 conducted inside City limits by ODOT will fall under this exception. If the measure is implemented a removal permit will no longer be required for ODOT when the removal of trees or vegetation regulated under SRC Chapter 68 occurs in conjunction with new development or construction within a riparian corridor. Passage of this measure as written would permit ODOT to make discretionary decisions on otherwise regulated tree removal activities without input from the City, or in some cases without consideration from a private property owner. While staff anticipates that the incidences of tree removal conducted under this bill that do not fall under the exception provided in SRC 68.080(b) would be few, the measure would limit the regulatory authority of the City regarding regulated tree and vegetation removal activities within City limits. The provisions of Sections 2 and 3 of this bill conflict with the standing principles of the City of Salem's adopted legislative positions, which specify that the City opposes legislation preempting local government authority and local control.

SB 470 2-0 **Summary:** Reduces monthly interest on delinquent property tax payments to lesser of prime rate plus one percent, multiplied by one-twelfth, or two-thirds of one percent.

Sponsor: Senator GEORGE. Pre-session filed.

AS Comments: This bill would reduce annual interest on delinquent property tax payments to the lesser of "prime rate" plus one percent or eight percent. However, the term "prime rate" is deceptive. In Section 1, "prime rate" is defined as "the primary credit rate of the discount window program of the United

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States Federal Reserve System." In other words, the index used in this bill is the discount rate, not the prime rate. The Federal Reserve tracks these and other benchmark rates on a daily basis. As of February 15, the (true) prime rate was 3.25 percent per year. On the same day, the discount rate was 0.75 percent. Under the terms of the bill, this translates to an interest rate of 1.75 percent per year or 0.15 percent per month. Such a low interest rate would provide incentive for delayed payment of property tax.

SB 515 2-O **Summary:** Prohibits city or local service district from entering into employment contract for employment of principal administrator that provides for term of employment that is longer than four years or for automatic renewal of contract.

Sponsor: Senator JOHNSON. Pre-session filed.

CM Comments: SB 515, if enacted, would among other things prohibit local governments from entering into employment contracts with their executive management if those contracts exceed 4 years. Salem's practice has not been to enter into long-term contracts with executive staff. Rather such contracts provide for at will employment. Nonetheless, staff recommends opposing this bill because of its preemptive nature. Cities should be allowed to determine their priorities through public process that reflects local choices and priorities.

HR Comments: Local City Councils should make the determination how long they should or should not keep their City Manager/Chief Administrators and pay relationships, not the State.

SB 536 **Summary:** Prohibits use of single-use checkout bags except in certain cases.

Sponsor: Senators HASS, ATKINSON, Representatives CANNON, GILLIAM. Pre-session filed.

PW Comments: HB 536 restricts the use of plastic bags at retail outlets. Public Works has determined that discarded plastic bags are not an operational problem for street sweeping, stormwater, or wastewater treatment. The only problem is related to roadside trash.

Employment Relations Board

The Governor's recommended budget for FY 2011-2013, calls for removing the Employment Relations Board (ERB) from the State General Fund and instead paying for it with a proportional assessment on local governments, including cities, counties, school districts, and special districts. ERB provides employee/employer relations services, including mediation and assistance in resolving disputes and issues pertaining to collective bargaining law.

Position: The Committee agreed that there is value in maintaining ERB, and recommends a filing fee that would be paid by both employer and employee groups that use ERB services as a fairer funding method.

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