



**2011 Oregon Legislative Session**

**Final Legislative Report**

**October 24, 2011**

## **Overview**

ORPA entered into the 2011 Legislative Session with very few goals. Chief among them was to defend Measure 76, passed in November 2010, from attempts to change the measure via legislative referral to another vote of the people. Other broad goals, as outlined in the 2011 Legislative platform, included promoting active, healthy lifestyles through park and recreation services, supporting initiatives that promote connecting Oregon's citizens to nature and protecting the financial stability of public park and recreation agencies.

The dominant issue of the 2011 legislative session for parks and recreation was the implementation and protection of Measure 76, a measure passed in November 2010 that indefinitely renewed Oregon's dedication of 15% of lottery funds to parks and natural resources. ORPA and other parks and natural resource advocates successfully defeated an attempt to refer a measure to the ballot which would have significantly and negatively changed the measure. ORPA also participated in the formulation and passage of a good bill that implements Measure 76 by conforming statute to the new constitutional language.

Outside the controversy surrounding Measure 76 the session was fairly quiet for parks and recreation issues. A few bills of interest passed (and failed) and those are outlined below. (The full list of bills that ORPA followed is at the end of this report.) Two topics that did not pass in any legislation, but were discussed and may return in subsequent sessions are reforms in the Oregon Watershed Enhancement Board (OWEB) grant program and the consolidation of natural resource agencies and/or their functions. Park and recreation advocates chose to stay out of the effort to reform the OWEB grant program through statutory change and will instead work with the agency to see if reforms can be made on an administrative level. If reforms aren't made, parks and recreation may support an effort to amend OWEB statutes in a future session. The streamlining and coordination of natural resource agencies and their functions is of interest to Governor Kitzhaber and it is likely that reforms will be proposed in future sessions. Depending on the nature of the proposal, parks and recreation may join the effort at that time.

One additional idea supported by parks and recreation that saw discussion but did not pass was a proposal for a taskforce on expanded learning opportunities (such as before and after school programs, summer programs and student leadership programs). There are numerous programs of this sort around the state and many of them are operated by park and recreation agencies. SB 291 proposed a taskforce to study, among other things, funding sources and the possibility of increased coordination between programs. There would have been a parks and recreation representative on the task force. The bill saw movement but was weighed down in Ways and Means during the final discussions on education reform. It is likely that expanded learning advocates will bring the bill back in future sessions.

## **Bill Summaries (in numerical order)**

### **HB 2122 - PROHIBITION ON IMPORTATION OF FIREWOOD FROM OUTSIDE OR, WA OR ID**

*Effective Date: June 21, 2011*

*Chapter: 439 (2011 Laws)*

Prohibits sale of firewood within Oregon unless firewood is harvested from source located in Oregon, Idaho or Washington or firewood is labeled as required by ODA and seller can provide documentation that firewood has been treated as prescribed by ODA. Stipulates person may not transport firewood into

or within Oregon for personal use or sale at, or delivery to, a destination in this state unless it was harvested in Oregon, Idaho or Washington; or the firewood has been treated in a manner prescribed by Oregon Department of Agriculture (ODA). Requires persons who transport or supply firewood for other than personal use harvested from a source outside Oregon, Idaho or Washington must maintain records, certificates or other documents required by ODA. Requires persons who sell firewood harvested from source outside Oregon, Idaho or Washington must maintain records, certificates or other documents required by ODA. Documents must include information regarding source of firewood, any treatment and disposition of firewood.

#### HB 2250 - TRANSFER OF FOREST PARK TO OREGON PARKS AND RECREATION DEPARTMENT

##### *DID NOT PASS*

HB 2250 would have required the State Parks and Recreation Commission to make reasonable efforts to arrive at an agreement with Portland Parks and Recreation to acquire Forest Park. The measure, a repeat of similar measures proposed by Representative Mitch Greenlick in previous sessions, was not supported by either the City of Portland or OPRD. OPRD estimated that the total cost for due diligence work to complete an offer, negotiate with Portland Parks and Recreation and arrive at an agreement would be between \$460,000 and \$1,800,000 and could take up to two years.

#### HB 2809 - CONTRACT SIGNING FOR PARK AND RECREATION SPECIAL DISTRICTS

*Effective Date: January 1, 2012*

*Chapter: 292 (2011 Laws)*

Oregon law provides for the formation of more than 20 different types of special districts. Most special districts have the authority to tax property and/or levy fees to finance service delivery at the direction of an elected governing board. Nearly all types of districts allow the elected board of directors to delegate administrative functions (including signing and countersigning contracts) and tasks to district employees; exceptions include park and recreation districts, radio and data districts, sanitary authorities and sanitary districts. House Bill 2809 allows these types of districts to delegate administrative functions in a manner similar to other special districts.

#### HB 2865 - PORTLAND LIABILITY EXEMPTION FOR TRAILS

*Effective Date: January 1, 2012*

*Chapter: 528 (2011 Laws)*

Provides that a person who is personally injured or whose property is damaged as a result of using a trail that is in a public easement or unimproved right of way and who is on foot, on a horse, on bicycle or on another non-motorized vehicle does not have a negligence claim against a city with a population 500,000 or more, the officers, employees or agents of the city or owners of land abutting the public easement or unimproved right of way. Exempts from liability a nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way. Allows a county or city to opt into the provisions of the bill. Does not grant immunity if the injuries were a result of gross negligence or from reckless, wanton or intentional misconduct, or for activity for which the person is strictly liable. *(Note: ORPA attempted to get the bill amended to include special districts in the "opt-in" provision were denied due to lack of time. If there is enough interest, park and recreation advocates may attempt to amend the statute in a future session - either to include all public entities or to allow special district opt-in.)*

#### HB 2939 - PROHIBITION ON USE OF RESTRAINT IN PUBLIC EDUCATION PROGRAM

*Effective Date: January 1, 2012*

*Chapter: 665 (2011 Laws)*

Prohibits use of mechanical restraint, chemical restraint or prone restraint on student in public education program. Allows reasonable use of physical restraint or seclusion on student in public education program under specific circumstances. Describes procedures to be followed if physical

restraint or seclusion is used. Requires preparation of annual report related to use of physical restraint or seclusion. Directs Department of Education (ODE) to approve training programs in physical restraint and seclusion that meet Department of Human Services standards. Public education program is defined as a program that: (a) Is for students in early childhood education, elementary school or secondary school; (b) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and (c) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education. Sunsets June 30, 2017. *(Note: This bill is included in this report because some park and recreation programming may fall under the definition of public education program. Districts are urged to contact counsel if they feel this bill may apply to any of their programs.)*

#### HB 3121 - AQUATIC INVASIVE SPECIES PERMITS FOR BOATS

*Effective Date: June 16, 2011*

*Chapter: 381 (2011 Laws)*

Changes the fine for violations of ORS 830.565, which requires persons operating boats in Oregon waters to hold aquatic invasive species permit. Fines were reduced from \$90 to \$30 for manually propelled boats and \$50 for motorboats. Prohibits court from imposing specific, additional assessments.

#### HB 3157 - INVASIVE SPECIES REMOVAL IN ADOPT-A-RIVER

*Effective Date: January 1, 2012*

*Chapter: 63 (2011 Laws)*

Extends Oregon Adopt-A-River program to include removal of certain invasive species, which will be identified in list created by State Marine Board. Requires State Marine Board to provide volunteer groups with instructions for removal of invasive species and best management practices regarding disposal and equipment decontamination. The 2009 Legislature passed a bill similar to House Bill 3157 with regard to the Oregon Adopt-A-Highway program.

#### HB 3210 - TASK FORCE ON OREGON HERITAGE VITALITY

*Effective Date: August 2, 2011*

*Chapter: 676 (2011 Laws)*

Creates a 14-member Task Force on Oregon Heritage Vitality. Directs the task force to review public funding systems of state and local organizations, museums, and historical societies related to Oregon's cultural heritage. Directs the task force to assess private funding of local historical fund operations and museums. Directs the task force to evaluate statutes and rules related to local historical funds and museums. Directs the task force to recommend programs and projects to encourage coordinated efforts to improve heritage tourism, history education, historic preservation, and related economic development. Directs the Parks and Recreation Department to provide staff support. Directs the task force to submit a report to the appropriate committee of the Legislative Assembly by October 1, 2012. Sunsets the task force on February 14, 2013.

#### HB 3358 - GRANT PROGRAM FOR COUNTY WEED CONTROL DISTRICTS

*Effective Date: June 16, 2011*

*Chapter: 392 (2011 Laws)*

Declares noxious weeds a threat to Oregon economy. Requires Department of Agriculture (ODA) to establish grant program to assist county weed control districts. Requires county to establish a weed control district and provide matching funds in order to be eligible for grant. Authorizes ODA to establish grant program rules that define reporting requirements or priority uses of funds.

#### HJR 29 - REFERRAL OF CHANGES TO MEASURE 76

*DID NOT PASS*

Measure 76, passed in November 2010 by a large majority, indefinitely renewed the constitutional dedication of 15% of lottery funds to parks and natural resource protection. (The measure passed by

69% overall and passed in every county.) HJR 29 would have referred a measure to the ballot containing significant changes to Measure 76. The bill, sponsored by Representatives Hunt, Cannon and Bailey, was the result of an agreement made during the campaign for Measure 76 by then Speaker Hunt and certain backers of Measure 76 (the Trust for Public Lands (TPL), the Oregon League of Conservation Voters (OLCV) and The Nature Conservancy (TNC)). In exchange for no opposition to the measure from Speaker Hunt and the Oregon Education Association, the signatories agreed to support a referral making certain changes to the measure if it passed. HJR 29 contained those changes: a sunset of 2035, a cap on the parks and natural resources fund, a provision allowing the legislature to access the parks and natural resources fund under certain circumstances and a change to the distribution of natural resource funds between state agencies and other fund recipients.

Two things happened that brought about the death of HJR 29. First, advocates for Measure 76 who had not signed the agreement, including ORPA, raised significant opposition to the measure. This opposition alerted Republican leadership to the fact that they had not been included in discussions on HJR 29 and possible changes to Measure 76. Second, the agreement between Speaker Hunt, TPL, OLCV and TNC fell apart when TNC raised questions about the language of HJR 29 not being consistent with the agreement.

After the initial storm of opposition and controversy, a small task force of legislators was convened to discuss possible changes to Measure 76. Numerous ideas and drafts were floated, but none came to fruition.

For the moment the 15% dedication of lottery funds to parks and natural resources is safe. However, the debate this session made it clear that many legislators dislike dedicated funding and think the voters were wrong to pass Measure 76. It is likely that we will see additional attempts to change the measure and regain control over those dedicated funds.

#### SB 4 - PHYSICAL EDUCATION STANDARDS FOR K-8

##### *DID NOT PASS*

SB 4 would have Required school districts to ensure that physical education or recess time is available each school day for students in kindergarten through grade 8. It would have further required school districts to ensure that the number of students in kindergarten through grade 8 who are engaged in at least 60 minutes of physical education each school day increases each school year. In addition the bill would have encouraged school districts to enter into partnerships with parks and recreation districts and with other community organizations. It also would have directed the Department of Education to establish an annual list that recognized efforts of schools, school districts and child care facilities that implement exemplary policies related to physical activity and nutrition.

#### SB 123 - OREGON PARKS AND RECREATION DEPARTMENT FEES

##### *DID NOT PASS*

Adds certain rules adopted by State Parks and Recreation Commission to list of exemptions from provision requiring fee approval by Legislative Assembly. This bill would have given OPRD flexibility over certain fees charged by the Department allowing them to more effectively keep pace with prices for those services, such as camping, that exist within a marketplace environment. The bill would have also allowed OPRD to increase fees in smaller, more incremental amounts rather than waiting years to pass a fee increase through the legislative process. The bill was not supported by several key legislators that OPRD met with and the department chose to not pursue it any further.

SB 124 - STATE FAIR CONTRACTING REFORMS

DID NOT PASS

SB 124 would have made a handful of changes to the laws governing the Oregon State Fair allowing for smoother operations and a more businesslike approach to running the fair. Chief among those changes was exempting the State Fair from certain contracting provisions - specifically allowing the Fair to more easily procure using single source contracts in situations where there is only one vendor who can provide a specific service. For example, contracting with a specific recording artist. The bill would also have changed the State Fair sponsorship provisions allowing the Fair to more effectively pursue sponsorships.

SB 342 - IMPLEMENTATION OF MEASURE 76*Effective Date: July 21, 2011**Chapter: 643 (2011 Laws)*

Ballot Measure 76 (2010) amended the Oregon Constitution to continue the dedication of 15 percent of lottery fund revenues to the Parks and Natural Resources Fund. Ballot Measure 76 replaces Ballot Measure 66 (1998) which originally authorized the use of lottery funds for similar purposes. SB 342 conforms statute with changes to the constitution made by the passage of Measure 76. Specifically, the bill does the following:

- Establishes a Parks Subaccount. Requires Director of Parks and Recreation Department to report to Joint Ways and Means Committee on measurable biennial and cumulative results of activities and programs financed by Parks Subaccount.
- Establishes Natural Resources Subaccount and purposes for which funds may be used. Directs 65 percent of money in Natural Resources Subaccount to be deposited in Watershed Conservation Grant Fund (Grant Fund) and 35 percent in Watershed Conservation Operating Fund (Operating Fund), except under specific circumstances.
- Establishes purpose of Natural Resources Grant Fund, including implementation of the Oregon Plan, and funding watershed health and native fish recovery costs.
- Directs each state agency receiving money from Natural Resources Subaccount to report to Legislative Assembly on use of funds, including measurable biennial and cumulative results of activities and programs financed by Natural Resources Subaccount.
- Eliminates the Research & Development account with interest on the Grant Fund and the Operating Fund now accruing to those funds.
- Keeps the old BM 66 accounts active until moneys in them can be expended under the rules of BM 66 so that these funds can be accounted for separately from new BM 76 monies as requested by the Secretary of State for audit purposes.

SB 480 - GRANTS FOR AFTERSCHOOL MEAL AND SNACK PROGRAM*Effective Date: August 2, 2011**Chapter: 711 (2011 Laws)*

Senate Bill 480 appropriates \$180,000 General Fund to the Department of Education for administration and grants to school districts, government agencies and community groups to enable participation in the U.S. Department of Agriculture's Afterschool Meal and Snack Program. The Afterschool Meal and Snack Program provides reimbursement to qualifying afterschool enrichment programs that serve free meals or snacks to children. Grants may not exceed \$10,000 each and are limited to \$150,000 while administration is limited to \$30,000. Requires Department of Education (ODE) to provide assistance to school districts, government agencies and community groups to encourage participation in the United States Department of Agriculture (USDA) Afterschool Meal and Snack Program. Authorizes ODE to contract with public or private entity for purposes of providing technical assistance and administration

of the grant program. Allows ODE to contract with public or private entities regarding the grant program.

SB 501 - WILLAMETTE RIVER CHANNEL MAINTENANCE FUNDED BY OREGON PARKS & RECREATION DEPARTMENT DID NOT PASS

SB 501, a repeat of similar bills introduced by Senator Brian Boquist in past sessions, would have allowed OPRD to enter into an agreement with Willamette River Channel Maintenance Group for performance of maintenance needed to improve river navigability and safety, to improve marine access to public parks, landings and other accesses and to encourage tourism and transportation. The bill would have allowed the group to contract with other persons or public bodies to perform maintenance. The bill also would have authorized the department to allocate moneys from State Parks and Recreation Department Fund to the group for the purpose of performing maintenance.

SB 752 - METRO SERVICE DISTRICT DID NOT PASS

SB 752 would have authorized Metro to form a facilities district in same manner allowed for other service districts for purposes of acquisition, construction, maintenance and operation of facilities for publicly owned natural areas, open space, trails and regional parks. The bill provided that the governing body of a metropolitan service district is the governing body of facilities district. It authorized the facilities district to finance acquisition, construction, maintenance and operation of facilities with taxes, assessments, service or user charges or proceeds from bonds.

SB 933 - STATE MARINE BOARD TO OREGON RECREATION AND PARK ASSOCIATION DID NOT PASS

SB 933 would have abolished the State Marine Board and transferred its duties, functions and powers of to OPRD.

SB 5534 - OPRD BUDGET

*Effective Date: July 1, 2011*

*Chapter: 584 (2011 Laws)*

As with all agencies, OPRD saw decreases in their budget this biennium. OPRD is solely funded by lottery dollars, fee dollars and other funds including some federal funding, so cuts were not as deep as many agencies that rely primarily on general fund dollars. Total funds available to OPRD fell by 4.7% (\$9.5 million) from the 2009-2011 Legislatively Approved Budget. Among other cost-cutting measures, the 2011-2013 Legislatively Approved Budget eliminates 6 positions, reduces services and supplies and eliminates inflation.

Despite the decreases in other areas of the budget, the local government grant program (LGGP) will see an increase in funding from \$6.9 million to approximately \$10 million this biennium due to the new constitutional requirement to allocate 12% of the parks lottery fund to local grants. (The 12% requirement was part of Measure 76 passed in November 2010). The exact amount in the LGGP will depend on actual lottery proceeds.