

Oregon Volunteer Firefighters Association



*Genoa Ingram, OVFA Executive Director
August 2011*

2011 Legislative Summary



Photo by Gary Halvorson, Oregon State Archives

Session Overview

The 76th Oregon Legislative Assembly convened on January 10, 2011, and adjourned *sine die* on June 30, 2011.

Measures Introduced in the House:	1,753
Measures Introduced in the Senate:	1,053
House Bills Passed:	427
Senate Bills Passed:	306
Bills signed by Governor:	732
Bills vetoed by Governor:	1

Governor John Kitzhaber, Democrat

OREGON STATE SENATE: 16 Democrats, 14 Republicans.

Senator Peter Courtney (D-Salem), President of the Senate

Senator Diane Rosenbaum (D-Portland), Senate Majority Leader

Senator Ted Ferrioli (R-John Day), Senate Republican Leader

OREGON HOUSE OF REPRESENTATIVES: 30 Democrats, 30 Republicans

Representative Bruce Hanna (R-Roseburg), Co-Speaker of the House

Representative Arnie Roblan (D-Coos Bay), Co-Speaker of the House

Representative Kevin Cameron (R-Salem), House Republican Leader

Representative Dave Hunt (D-Clackamas County), House Democratic Leader

INFORMATION ON 2011 INTERIM – 2012 FEBRUARY SESSION

- **Monday, December 5, 2011** – Measure requests are due to Legislative Counsel
- **Monday, January 9, 2012** – Measure drafts will be returned from Legislative Counsel
- **Monday, January 23, 2012** – Measures must be filed with the Desks by 5 p.m.

The following measure limits have been established for both the House and the Senate for the 2012 Legislative Session. All measures will be subject to the deadlines noted in the calendar.

- **2 measures per member**
- **5 measures per interim committee**
- **5 measures by the Executive Branch** (*at the request of the Governor*)
- **5 measures by the Judicial Branch** (*at the request of the Chief Justice*)

Introduction

The Oregon Legislature convened on February 1, 2011 with an attitude of cooperation and genuine partnership. For the first time in Oregon history, the House was split 30-30 between Democrats and Republicans and presided over by two Co-Speakers.

Democrats and Republicans shared committee chairmanships and the 30-30 split provided the assurance that no legislative proposal would pass out of the legislature unless there is broad based support. The arrangement proved effective in preventing unwanted legislation from passing.

Legislators were also successful in reaching compromise on legislative redistricting. The plan will guarantee some “safe seats” for both Democrats and Republicans. Republican lawmakers agreed to the compromise because they felt it would be more favorable for the Party than if the legislature had not reached agreement and the districts would have been drawn by the Secretary of State. Democrats agreed because, according to some, it was an opportunity to show that the legislature could accomplish its task and not punt to the Secretary of State.

Cooperation proved to be a necessity for the legislature to accomplish its work in the abbreviated time frame allocated. The 2011 timeline adopted by legislative leadership was as follows:

February 1 – Legislative Session Convenes

February 17 – Deadline to drop bills with the Secretary of the Senate or the Chief Clerk

April 8 – Deadline for Chairs to schedule Work Sessions for First Chamber Measures

April 21 – Deadline for Committees to hold Work Sessions on First Chamber Measures

May 23 – Deadline for Chairs to schedule Work Sessions for Second Chamber Measures

June 1 – Deadline for Committees to hold Work Sessions on Second Chamber Measures

June 30 – Sine Die

The legislature met that time frame by adjourning on June 30 and, for the most part, was absent the usual partisanship and acrimony that usually accompanies the Assembly.

This report summarizes the most significant pieces of legislation passed and reviews some of the more significant proposals that were defeated. For a listing of ALL bills monitored by OVFA, see the August 2011 Final Bill Tracking, posted on the OVFA website. The document contains live links to final copies of all legislation.

Summary of Legislation

Public Safety

SB 32 – SOBRIETY CHECKPOINTS

Effective date: Did Not Pass

Chapter: N/A

SB 32 would have allowed law enforcement agencies to establish sobriety checkpoints (roadblocks) in their jurisdictions so long as the checkpoints followed the guidelines issued by the National Highway Traffic Safety Administration in the publication titled “The Use of Sobriety Checkpoints for Impaired Driving Enforcement”.

SB 68 – OREGON STATE POLICE PRACTICES

Effective date: June 28, 2011

Chapter: 547, (2011 Laws)

Following an extensive review of ORS Chapter: 181, SB 68 was introduced to update the language in statutes to conform to current Oregon State Police structure and practice.

SB 69 – FIREWORKS

Effective date: Did Not Pass

Chapter: N/A

The State Fire Marshal introduced SB 69 in response to citizen complaints about illegal fireworks, lack of statutory clarity for enforcement, and an increase in adjudication of cases relating to fireworks. The bill sought to amend and clean up ORS 480 with the primary intent of decreasing illegal fireworks use. The bill also attempted to provide statutory clarity for law enforcement and courts adjudicating fireworks cases and bring clarity for retail display, agricultural fireworks, and the fireworks industry. Key points of the bill were as follows:

- Changes the penalty for less than 50 pounds gross weight of illegal fireworks, will now be a Class A violation; for 50 pounds or more, a Class A misdemeanor;
- Lengthens retail permit application deadlines from 15 days prior to sale to 30 days prior to sale;
- Allows additional businesses, such as golf courses, to use pyrotechnic control devices to protect their property from damage by birds and other animals.

SB 161 AND HB 2273 – SELF SERVE GAS

Effective Date: Did Not Pass

Chapter: N/A

Bills were introduced in both the House and Senate to remove the prohibition against self-service gasoline. SB 161 went a step further and would have allowed drivers to dispense their own fuel provided that the service station also provided the option of attendants to dispense. Neither bill received a hearing.

SB 234 – EMS CONFORMANCE

Effective date: January 1, 2012

Chapter: 703, (2011 Laws)

The final version of SB 234 was replaced with the contents of HB 3667 (derived from portions of SB 106) and directs Oregon Health Authority to establish levels of licensure for emergency medical services providers. The bill was also amended to incorporate provisions of SB 106, which did not pass, to conform Oregon's EMS statutes with federal statutes and language adopted by the Oregon Medical Board, and to enable reciprocity of personnel across state lines by insuring that the various EMT levels match the national standards.

SB 277 – VETERAN PREFERENCE FOR CIVIL SERVICE

Effective Date - May 19, 2011

Chapter: 82, (2011 laws)

The Oregon Department of Veterans' Affairs requested Senate Bill 277 to clarify that **all** public employers are subject to the hiring and promotion preference for veterans and disabled veterans. Oregon Revised Statute 408.230 requires public employers to give a preference to veterans or disabled veterans in hiring and promotion decisions related to civil service positions. The statute provides a framework for giving veterans and disabled veterans additional points in scoring during the hiring and promotion process. The preference does not guarantee that a veteran will be hired or promoted. The 2009 Legislative Assembly amended ORS 408.230, clarifying the definition of civil service and removing a provision limiting the veterans' preference to positions for which application was made within 15 years of discharge or release from service. Some public employers, however, relied on the 2009 amendments to claim they no longer needed to give a hiring or salary promotion preference to veterans or disabled veterans because the law did not apply to them. (See also: HB 3207)

SB 346 – RELEASE OF 9-1-1 CALLS

Effective Date: Did Not Pass

Chapter: N/A

SB 346 would have exempted audio recordings of 9-1-1 calls from disclosure under Oregon's public records law. The intent of the bill was to respond to concerns that the use of such recordings was traumatic to victims and was used primarily to further sensationalize the event.

SB 372 – REIMBURSEMENT FOR AMBULANCE SERVICE UNDER PIP

Effective date: September 1, 2011

Chapter: 707, (2011 Laws)

ORS 724.525 ties reimbursement rates for personal injury protection (PIP) benefits to the workers' compensation fee schedule. SB 372 removes ambulance services from the list of fee schedules used to calculate provider charges for personal injury protection benefits. The new Oregon workers' compensation fee schedule provides an 80 percent reimbursement rate for ambulance service charges. This bill decouples ambulance service billings for PIP benefits from the workers' compensation fee schedule, which means that ambulance service charges for PIP will be paid as billed.

SB 415 – CARELESS DRIVING

Effective date, January 1, 2012

Chapter: 423, (2011 Laws)

SB 415 modifies the penalty for the traffic offense of careless driving if the commission of the offense appears to have contributed to the serious injury or death of a vulnerable user of a public way. The bill requires a police officer to indicate on a citation if the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user. ORS 801.608 defines “vulnerable user of a public way” to include pedestrians (including persons confined to wheelchairs), highway workers, animal riders, bicyclists, skaters, and operators of farm equipment.

SB 424 – PEDESTRIAN CROSSING

Effective date: June 23, 2011

Chapter: 507, (2011 Laws)

SB 424 provides clarification of laws relating to pedestrians in crosswalks. ORS 811.028 states that a driver commits the offense of failure to stop and remain stopped for a pedestrian if the driver does not stop for a pedestrian who is crossing the roadway in a crosswalk and is in the lane or adjacent to the lane in which the driver’s vehicle is traveling. SB 424 modifies the definition of crossing the roadway by clarifying that the term “crossing” includes any part or extension of the pedestrian, including any part of the pedestrian’s body, wheelchair, cane, crutch, or bicycle. SB 424 also extends this definition to cover the offense of failure to stop and remain stopped for a person who is blind. Violation of any of the above provisions is a Class B traffic violation.

Of interest to the fire service is an exemption from the offense of “pedestrian with improper position” on a roadway (which is intended to restrict hitchhikers, panhandlers and others who do not intend to cross a roadway but who may position themselves partially in the roadway for some other purpose.) SB 424 states that pedestrians do not commit the offense of “pedestrian with improper position” if they comply with all of the following conditions:

- Do not impede traffic or create a traffic hazard;
- Post advance warning signs;
- Wear high-visibility safety apparel; and
- Have a fundraising permit.

The exemption was crafted to apply to firefighters engaging in the “Fill the Boot” fundraising efforts to benefit the Muscular Dystrophy Association.

SB 582 – CONCEALED HANDGUN DISCLOSURE

Effective date: Did Not Pass

Chapter: N/A

SB 582 would have prohibited a public body from releasing information identifying the holder or applicant for a concealed handgun license. An attempt to pull the bill from the Senate Judiciary Committee on March 7 failed on the Senate Floor by a 16-14 vote.

SB 640 – DIVISION OF EFU LAND FOR FIRE STATIONS

Effective date: May 24, 2011

Chapter: 135, (2011 Laws)

SB 640 was introduced at the request of Aurora Fire but will apply to all fire districts statewide. The bill allows fire districts to subdivide land zoned for Exclusive Farm Use (EFU), as is allowed for parks, churches and cemeteries, for the purpose of building additional fire stations.

SB 840 and HB 3038 – FIRE SPRINKLERS

Effective Date: Did Not Pass

Chapter: N/A

Identical bills were introduced in both the House and Senate by the Oregon Fire Chiefs Association to cap assessments of “upcharges” or standby charges for a water meter of higher capacity (usually from 5/8 inch to 1 inch) to accommodate fire sprinkler systems in one- or two-family homes. Amendments were prepared reflecting a compromise brokered by SDAO between the proponents of the bill and the water purveyors which included a provision relating to immunity from liability and allowing water purveyors to recoup the discounted amount in the event of a change of use.

However, the entire fire service was not united in support of the bills and they did not receive a recommendation of support from the Joint Fire Legislative Committee. Both bills remained in committee upon adjournment.

SB 5529 AND SB 5530 – OREGON HEALTH AUTHORITY FEES

Effective date, July 1, 2011

Chapter: 581, 2011 Laws

One of the budget bills for the Oregon Health Authority, SB 5530 ratifies fee changes adopted administratively by the Oregon Health Authority and approved by the Department of Administrative Services during the 2009-11 interim. Fees were established or adjusted for the Medical Marijuana program, the Lead Based Paint program, the Radiation Protection program, and the Drinking Water program.

One of the original fee proposals presented to Ways and Means **which was later removed**, represented significant increases in the EMT licensure program as follows:

	Current	Proposed
1st Responder	\$15.00	\$120.00
Basic	\$40.00	\$230.00
Intermediate	\$65.00	\$260.00
Paramedic	\$120.00	\$346.00

SB 5537 – STATE POLICE BUDGET

Effective date, July 6, 2011

Chapter: 635, (2011 Laws)

The budget for the State Fire Marshal resides within the State Police budget. While the State Fire Marshal relies primarily on the fire insurance premium tax (FIPT) for over 50 percent of its budget, there are some programs that are supported through General Fund dollars. The 2011 legislature approved a budget of \$327,303,351 which represents a loss of \$1,387,559, and resulted in the loss of four positions in the OSFM's Community Right to Know (CR2K) unit. Though all programs will continue under the proposed bill, there is a total reduction of 72 positions (including the four OSFM positions).

SB 5541 – DPSST BUDGET

Effective Date: July 1, 2011

Chapter: 586, (2011 Laws)

The fire service relies heavily on the Department of Public Safety Standards and Training for grants for conferences and assistance in training personnel. SB 5541 represents the Department's budget for the 2011-2013 biennium. The DPSST programs funded by dedicated taxes or fees (Fire Training, Traffic Safety, 9-1-1 Training, and Private Security) were not significantly affected by reductions. The legislature also approved the Private Security Program fee increase (Senate Bill 5555). However, the budget includes reductions in programs funded by the Criminal Fines and Assessments Account (CFAA) which some in the legislature consider a "different color" of general fund dollars.

Following is a recap of personnel changes for 2011-2013:

- Loss of 13 positions/12.33 FTE
 - 7 Management/Executive Service positions;
 - 6 Represented positions
- Loss of two Basic Police Courses
 - 15 down to 13 with permission to return if additional classes are needed
- Director's Office:
 - Loss of Deputy Director (currently vacant)
 - Loss of Executive Assistant (currently vacant)
- Human Resources Impact:
 - Loss of HR Analyst 3 (layoff)
 - Loss of one background Investigator 3 (layoff)
- Training Division Impact:
 - Loss of Administrative Supervisor (currently vacant),
 - Student Worker (vacant),
 - 2 PSTS-1 positions (filled with part-time instructors),
 - Range Master/Armorer (layoff),
 - Regional/Adv Supervisor (Layoff),
 - Office Specialist 2 (vacant),
 - Office Specialist 1 (used for custodian),
 - Academy Operations Supervisor (layoff),
 - Two 16-week Basic Police classes.

- Private Security/Private Investigators: No reductions of personnel or services.
- Fire Training & Fire Certification: No reductions of personnel or services.
- 9-1-1 Program: No reductions of personnel or services.
- Note: Four full-time permanent positions are added for custodians. Net loss will be 9 positions/8.33 FTE.

HB 2040 – DEFINITION OF FIREFIGHTER

Effective Date: January 1, 2012

Chapter: 348, (2011 Laws)

HB 2040 provides clarification regarding information to be included in a written notice to employers regarding non-payment of wages to an employee and modifies the time limit that unclaimed wages collected by Bureau of Labor and Industries may be held before wages are forfeited to the State.

Of interest to the public safety community is the incorporation of the intent of HB 3318 to correct an unintended consequence of gender-neutral legislation passed in 1991. Under current statutes, Oregon workers employed in manufacturing must be paid overtime after ten hours in a day and are prohibited from working more than 13 hours in a day (see ORS 652.020). There are several exceptions, including one for “firemen”. In the manufacturing industry, a “fireman” is a boiler operator.

The 1991 attempt at gender neutrality changed the term “fireman” to “firefighter”, drastically changing the intent of the statute. Section 1 of HB 2041 changes the word “firefighters” to “boiler operators” in the wage and hour statutes. (See also HB 3318)

HB 2073 – SUPPRESSION COST RECOVERY

Effective date: January 1, 2012

Chapter: 49, (2011 Laws)

HB 2073 codifies current practice by officially establishing the State Forester as the Governor’s authorized representative for administering Federal Emergency Management Agency Fire Management Assistance Grants. While the department of Forestry has coordinated suppression cost recovery for over ten years, the statutes have not specifically granted the agency authority to do so. HB 2073 corrects that oversight.

HB 2074 – EMERGENCY PREPAREDNESS

Effective date: Did Not Pass

Chapter: N/A

HB 2074 was introduced in response to concerns voiced by FEMA regarding Oregon’s Pre-Disaster Mitigation Fund and the Oregon Disaster Response Fund, both established in 2008 to receive monies from federal grants to be appropriated to the Oregon Military Department. FEMA’s concern was that funds were being co-mingled “in a manner not permitted by FEMA”. HB 2071 would have renamed the funds and removed them from the umbrella of the Oregon State Treasurer.

The Oregon Pre-Disaster Mitigation Fund would have been replaced with the Oregon Emergency Preparedness Account as a separate account within the General Fund.

The Oregon Disaster Response Fund would have become the Oregon Disaster Response Account, also within the General Fund. Finally, the Oregon Local Disaster Assistance Loan Account would have become the Oregon Local Disaster Assistance Loan Subaccount and placed as a subaccount within the Oregon Disaster Response Account.

The bill passed out of the House General Government and Consumer Protection Committee but died in the Ways and Means Public Safety Subcommittee. The Oregon Military Department plans to bring the bill back in February 2012.

HB 2075 – 9-1-1 ASSESSMENT ON PRE-PAID WIRELESS

Effective date: Did Not Pass

Chapter: N/A

A surcharge of 75 cents is assessed on every telephone line in Oregon for the purpose of supporting 9-1-1 service, including Enhanced 9-1-1 service. The exception is pre-paid wireless subscribers who currently are not required to pay the tax, even though 9-1-1 service is accessible to them. In recent years, the consumer trend is gravitating away from land lines and traditional contract-based wireless plans in favor of prepaid cell service. As the use of prepaid cell service grows, so does the negative funding impact on 9-1-1 funding.

HB 2075 would have provided two options for prepaid cell service providers to collect the 9-1-1 tax from their subscribers. The proposal was met with resistance from the wireless providers who argued that assessing the tax would be akin to charging a sales tax and would not be popular with their customers. However, the primary obstacle was a reversal of opinion by Legislative Counsel to the effect that institution of the tax would require approval by a three-fifths majority.

The bill did not pass but legislators have committed to passage of the bill in February 2012. Providers have until then to agree on how to collect the tax. (See also HB 2692)

HB 2076 – MULTI-LINE TELEPHONE SYSTEMS

Effective date: Did Not Pass

Chapter: N/A

HB 2076 would have amended the definition of a “provider” of telecommunication services to include those who utilize multi-line telephone systems (MLTS), enabling 9-1-1 call centers to accurately pinpoint the location of the origination of a distress call. The bill passed the House unanimously but failed in the Senate.

HB 2078 – FIRE ESCAPES

Effective date: January 1, 2012

Chapter: 97, (2011 Laws)

Introduced at the request of the Office of State Fire Marshal, HB 2078 streamlines ORS Chapter: 479, relating to fire escapes and other fire safety requirements, by deleting language that has been established as outdated, redundant or in conflict with state’s current adopted fire and building codes. The bill deletes statutory specifications regarding water supply availability for fire protection for public buildings and requires the

State Fire Marshall to establish fire protection water supply requirements. The bill, which was drafted with input from interested parties representing the fire service and building codes, also expands the types of buildings and structures that are subject to closure for occupancy limit violations.

HB 2079 – SMOKE ALARMS

Effective date: Did Not Pass

Chapter: N/A

There are two types of smoke alarms: ionization and photoelectric. Ionization smoke alarms are quicker at sensing flaming, fast moving fires while photoelectric smoke alarms are quicker at sensing smoldering fires. Both operate either as hardwired (110V), with a battery back-up, or solely battery operated. Language in ORS 479.297 (1) & (2) applies to ionization alarms only and specifies only ionization smoke alarms, that are solely battery powered, must be sold with a ten-year long life battery. HB 2079 would have specified required design features in an ionization smoke alarm when a seller is transferring a dwelling unit or lodging house.

HB 2123 – FIREFIGHTER DEFENSE FUND

Effective date: January 1, 2012

Chapter: 218, (2011 Laws)

HB 2123 authorizes the State Forester to approve payment of costs and reasonable attorney fees of any firefighter alleged to have committed a misdemeanor or felony while engaged in fire suppression activities. The bill authorizes the State Forester to determine whether the firefighter was engaged in fire suppression activities, was acting under the State Forester's direction and whether his actions were reasonable. Under the bill, the firefighter does not have the right to a hearing or an appeal regarding the State Forester's determinations.

HB 2183 – FALSE CHILD ABUSE REPORTS

Effective date: January 1, 2012

Chapter: 606, (2011 Laws)

HB 2183 creates the offense of making a false report of child abuse. The new offense will be classified as a Class A violation and carry a maximum fine of \$720. The bill is limited to those instances where an individual acts with intent to influence custody, parenting time, visitation or child support decision.

HB 2349 – HEPATITUS C PRESUMPTION

Effective date: Did Not Pass

Chapter: N/A

Establishes a presumption that death, disability or impairment of a public safety officer caused by hepatitis C, human immunodeficiency virus or methicillin-resistant *Staphylococcus aureus*, is an "occupational disease" for the purpose of workers' compensation law. The public safety officer must have been on the job for five or more years and the bill would have applied to paid officers only.

HB 2475 – COUNTY PUBLIC SAFETY SERVICES EMERGENCY

Effective date: Did Not Pass

Chapter: N/A

HB 2475 was introduced at the request of the Government Efficiency Task Force, established by the legislature in 2009 under HB 2475, to address a process to declare public safety services emergencies in fiscally distressed counties.

Oregon law provides that the Oregon Criminal Justice Commission must establish public safety service guidelines to identify minimally adequate levels at which public safety services must be delivered. HB 2475 would have authorized the Oregon Criminal Justice Commission to recommend the declaration of a public safety services emergency for a county one year in advance of the anticipated emergency. Proposed recovery plans for such counties would have included a proposed gap funding package based on an estimate of revenue necessary to restore or maintain minimally adequate public safety services.

HB 2506 AND HB 2734 – WEAPONS ON ALL TERRAIN VEHICLES

Effective date: Did Not Pass

Chapter: N/A

HB 2506 would have allowed a person holding a concealed handgun license to operate an all-terrain vehicle (ATV) while carrying a loaded handgun. HB 2734 proposed to define “unloaded” for purposes of operating a snowmobile or all-terrain vehicle while carrying a firearm or bow.

HB 2507 – MOBILE COMMUNICATION IN FRONTIER COUNTIES

Effective date: Did Not Pass

Chapter: N/A

HB 2507 would have permitted a person to use a mobile communication device, including cell phones, while operating motor vehicle in a “frontier county”. The bill would have also required the Department of Transportation to post on its website the names of counties that qualify as “frontier counties”.

HB 2564 – TAX CHECK-OFF FOR VOLUNTEER FIREFIGHTER BENEFITS

Effective date: Did Not Pass

Chapter: N/A

Oregon’s Tax Check-off program allows taxpayers to make contributions to approved charities from their tax refunds. In order to become eligible, charitable organizations must collect 10,000 signatures and show a gross income of at least \$1 million for the year prior to making application. Several entities, including the Oregon Veterans’ Home, the Alzheimer’s Disease Research Fund, and the Oregon Military Emergency Financial Assistance Fund, have been allowed through statute to waive the \$1 million threshold.

HB 2564 would have added the Oregon Volunteer Firefighters Association to the list of charities excused from the \$1 million threshold, allowing the Association to accept donations to pay scholarships, equipment grants, and death and hardship benefits to

volunteer firefighters. The bill received a hearing but was opposed by one of the Co-Chairs of the House Revenue Committee and did not pass.

HB 2679 – FIRE INSURANCE PREMIUM TAX

Effective date: September 1, 2012

Chapter 660 (2011 Laws)

HB 2679 conforms the Oregon surplus lines insurance law to the federal Non-admitted and Reinsurance Reform Act of 2010, adding independently procured insurance policies for property and liability insurance to those policies for which the two percent Fire Insurance Premium Tax (FIPT) may be collected. The FIPT accounts for more than 50 percent of the budget for the Office of State Fire Marshal.

HB 2706 – PUBLIC SAFETY OFFICER UNAUTHORIZED USE OF FIREARM

Effective date: Did Not Pass

Chapter: N/A

HB 2706 would have provided public safety officers employed by a law enforcement unit with an affirmative defense to the crime of unlawful possession of a firearm. The bill received no hearings.

HB 2712 – CRIMINAL FINES AND ASSESSMENTS

Effective date: Effective date July 1, 2011.

Chapter 597 (2011 Laws)

Under SB 5506, which provided the formula for disbursement of the Criminal Fines and Assessment Fund, the Department of Public Safety Standards and Training (DPSST) would have received \$24,531,611 for its Police Standards and Training Account. That bill did not pass and but DPSST received a \$21,424,867 allocation of CFAA funds for the biennium via HB 2712. Also noteworthy is that the Department's budget bill (see SB 5541) reflects the legislature's 6.5 percent reduction in Services and Supplies funded by CFAA revenues, which resulted in \$213,125 in additional CFAA funds being transferred to the General Fund.

HB 2726 – REGULATION OF SMOKE SHOPS

Effective date: June 30, 2011

Chapter 601 (2011 Laws)

Oregon's Indoor Clean Air Act prohibits smoking in almost all public places and indoor workplaces except cigar bars and smoke shops that are certified by the Oregon Tobacco Prevention and Education Program (TPEP). Since passage of the Act, TPEP has received a number of applications for smoke shop exemption, primarily from "hookah" lounges. HB 2726 directs Oregon Health Authority to establish a certification system for smoke shops to be renewed every five years, instead of annually as previously required. The bill modifies the definition of smoke shop in relation to the Oregon Indoor Clean Air Act and specifies regulations on smoke shops with regard to change of ownership and moving locations. The final result will be that the State's 20 hookah lounges and retail smoke shops will be allowed to continue operation, but will have limited growth.

HB 2741 – PROTECTION OF 9-1-1 FUNDS

Effective date: Did Not Pass

Chapter: N/A

HB 2741 would have prevented legislative “raids” on 9-1-1 funds (the Emergency Communications Account) by the legislature and required that the funds, derived by the \$.75 monthly surcharge on telephone lines, be used for their intended purpose. Legislators have diverted the funds several times in recent years in order to balance the State budget resulting in a loss of over \$14 million dollars over the last decade.

HB 2749 – DRIVING WHILE DROWSY

Effective date: Did Not Pass

Chapter: N/A

HB 2749 would have created several offenses related to driving while drowsy:

- Driving while drowsy, punishable by a maximum fine of \$360;
- Driving while drowsy and harming another person, punishable by a maximum fine of \$720; and
- Driving while drowsy and causing serious physical injury of another person, punishable by a maximum of 30 days’ imprisonment, \$1,250 fine, or both.
- Driving while drowsy and causing the death of another person, punishable by a maximum of 20 years’ imprisonment, \$375,000 fine, or both.

HB 2897 – SUBTRACTION OF MILEAGE FOR VOLUNTEERS

Effective date: Did Not Pass

Chapter: N/A

HB 2897 would have allowed volunteers to deduct ten cents per mile for the use of a personal vehicle for the purpose of providing volunteer services. The bill received no hearings.

HB 2930 – PENALTIES FOR TAX EXEMPT ENTITIES

Effective date: Did Not Pass

Chapter: N/A

Several bills were introduced that would have penalized tax exempt and charitable entities if it was determined that the level of charitable activity was inadequate. HB 2930 would have made tax-exempt charitable organizations subject to corporate excise taxes if the organizations’ expenditures on charitable activities did not exceed 30 percent of the sum of charitable contributions received.

Both HB 3216 and SB 40 would have allowed the Attorney General to disqualify charitable organizations from receiving tax deductible contributions if the organizations failed to expend at least 30 percent of their total annual expenses on charitable program services (averaged over the previous three years.)

The bills were introduced in response to the repeal of laws prohibiting charities from soliciting donations if their overhead costs were disproportionate to the funds spent on charitable programs. The repeal followed a 1980 U.S. Supreme Court ruling in *Schaumburg v. Citizens for a Better Environment* that government attempts to restrict a charity’s ability to solicit donations violated the first amendment.

HB 3039 – ROADSIDE MEMORIALS

Effective date: January 1, 2012

Chapter: 668, (2011 Laws)

Oregon currently has no guidelines for roadside memorials, which can often be dangerous and obstruct visibility. HB 3039 is an attempt to diminish personal roadside memorials by requiring the Department of Transportation to erect and maintain roadside memorial signs for police officers killed in line of duty. The measure also creates a Roadside Memorial Fund and continuously appropriates money for purposes of erecting and maintaining the roadside memorial signs.

HB 3072 – HEADLIGHTS

Effective date: Did Not Pass

Chapter: N/A

Each session, legislation is introduced to require the use of vehicle headlights, either at all times or under specified circumstances, such as when precipitation is present. This session was no exception. HB 3071 would have required the use of headlights at all times and would have provided for a maximum fine of \$360 for noncompliance.

HB 3141 – MOTORCYCLE HELMET REPEAL

Effective date: Did Not Pass

Chapter: N/A

HB 3141 would have essentially repealed Oregon's helmet law by requiring only those persons under 21 years of age to wear a helmet while riding on or operating a motorcycle. The bill received one hearing and remained in committee until adjournment.

HB 3186 – USE OF CELL PHONES WHILE DRIVING

Effective date: January 2, 2012

Chapter: 530 (2011 Laws)

Legislation passed in 2009 prohibited the use of cell phones while driving but included exceptions for public safety and for use of a phone in the scope of one's employment. Judges continued to prosecute for use of cell phones in the scope of one's employment, saying that the law was unclear as to the parameters of such use. HB 3186 removes the "scope of employment" exemption altogether. Another bill, HB 2822, would have allowed citations to be issued for cell phone usage only if the driver had been stopped for a separate infraction. That bill did not pass.

HB 3207 – VETERAN PREFERENCE FOR CIVIL SERVICE

Effective date January 1, 2012

Chapter: 484 (2011 Laws)

HB 3207 requires public employers to interview veterans if the interview is part of the selection process and the employer determines the veteran meets minimum and special qualifications for the position and if the employer determines the veteran has transferable skills. The bill was amended to provide an exemption for public employers who conduct interviews of candidates chosen solely from an eligibility list. Another bill, SB 277, clarifies that **all** public employers are subject to the hiring and promotion preference for veterans and disabled veterans.

HB 3318 – DEFINITION OF FIREFIGHTER

Effective date: Did Not Pass

Chapter: N/A

By changing the definition of a “firefighter” as it appears in the statutes relating to wage and hour statutes, HB 3318 was intended to address an unintended consequence of gender-neutral legislation passed in 1991

Under current statutes, Oregon workers employed in manufacturing must be paid overtime after ten hours in a day and are prohibited from working more than 13 hours in a day (see ORS 652.020). There are several exceptions, including one for “firemen”. In the manufacturing industry, a “fireman” is a boiler operator. The 1991 attempt at gender neutrality changed the term “fireman” to “firefighter”, drastically changing the intent of the statute.

Due to a drafting error, HB 3318 would have had to be amended in order to properly address the definition; however, the intent of the bill was accomplished in HB 2040, which becomes effective on January 1, 2012.

HB 3466 – OWIN

Effective date: January 1, 2012

Chapter: 402 (2011 Laws)

In response to the terrorist attacks in September 2011, the 2005 legislature passed HB 2101, creating the Oregon Wireless Interoperability Network (OWIN) to consolidate the state’s four existing major radio networks and create a statewide “system of systems” for mission-critical public safety communications. At the same time, the Federal Communications Commission (FCC) mandated that states abandon wideband and convert all public safety radio systems to narrowband by 2012.

OWIN has received criticism from legislators and others for lack of oversight, both in cost overruns and failure to meet deadlines. In a partial response to that criticism, the 2011 legislature passed HB 3466. The bill declares that the Department of Forestry’s communications infrastructure meets policies and standards mandated by the FCC and is compatible with other federal and state agencies and private departments. Therefore, the immediate conversion of the Department’s communications infrastructure for compatibility with OWIN is not necessary at this time.

HB 3476 – SCHOLARSHIPS FOR CHILDREN OF PUBLIC SAFETY OFFICERS

Effective date: Did Not Pass

Chapter: N/A

HB 3476 would have expanded the scholarship program for children of public safety officers killed or injured in line of duty to include children of reserve police officers and volunteer firefighters killed or injured in line of duty. The bill received no hearings.

HB 3490 – SEARCH AND RESCUE VOLUNTEERS

Effective date: June 17, 2011

Chapter: 403 (2011 Laws)

HB 3490 clarifies that the county in which the search and rescue volunteer is registered is required to provide workers' compensation coverage even if the volunteer serves in another county.

Also related to search and rescue, HB 2844 would have made any violation of ORS 404.250 an unlawful employment practice, allowing employees to file complaints with the Bureau of Labor and Industries or to bring civil suits. (ORS 404.250 sets the guidelines for granting leaves of absence for employees who are search and rescue volunteers.) HB 2844 did not pass.

HB 3628 – ALCOHOL USE BY MINORS

Effective date: Did Not Pass

Chapter: N/A

HB 3628 would have waived fines and suspension of driving privileges for persons under 21 years of age who call 9-1-1 for medical assistance for himself or another individual under 21 years of age following consumption of alcohol. The bill received no hearings.

HB 3672 – TAX CREDIT FOR FIPT TRANSACTIONS

Effective date: September 29, 2011

Chapter: 730 (2011 Laws)

In an effort to reduce costs, the legislature took close scrutiny of approximately twenty tax credits, including a credit to insurers providing fire insurance, among others. Those transactions impact the Fire Insurance Premium Tax (FIPT), which comprises over 50 percent of the funding for the Office of State Fire Marshal. Ultimately, ten of the tax credits under review were allowed to sunset; however, the FIPT tax credit was extended through January 1, 2018. (Note: Provisions from SB 686 and HB 2525 were incorporated into HB 3672.)

HJR 7 – LEGISLATIVE SUCCESSION

Effective Date: Referred to Voters in November 2011

Chapter: N/A

Oregon currently does not have a plan for legislative succession or operation following a catastrophic disaster. HJR 7 refers a constitutional amendment to the voters to provide for a plan of government action in the event of a catastrophic disaster, including redirection of general fund and lottery monies, the ability for the legislature to meet outside of the Capitol building and establishment of a plan for legislative succession.