



Oregon

Kate Brown, Governor

Department of Transportation

Director's Office

355 Capitol St. NE, MS 11

Salem, OR 97301

DATE: May 8, 2019

TO: Joint Committee on Transportation

FROM: Matthew L. Garrett, Director

SUBJECT: HB 2592 (-7) – Transportation Funding Package Technical Corrections

Dear Members of the Joint Committee on Transportation:

During the 2017 session the Legislature passed HB 2017, which represented an historic investment in our state's transportation system. The Oregon Department of Transportation (ODOT), with your partnership, has begun delivering this work and, through the course of the past 18 months of implementation, has identified statutory changes and corrections for your consideration. ODOT appreciates the opportunity to outline the provisions included in ODOT's (-7) technical corrections amendment to HB 2592.

HB 2017 (Transportation Funding Package) clarifications and technical corrections:

- **Section 1: Clarifies role of Continuous Improvement Advisory Committee.** Section 1 of the (-7) amendment clarifies the role of the Continuous Improvement Advisory Committee (CIAC) as advisory and does not usurp the role of the OTC. Current law requires the OTC implement *all* recommendations made by the CIAC; section 1 of the (-7) amendment modifies this provision by requiring OTC implementation of *approved* recommendations.
- **Section 2: Clarifies rules relating to conflicts of interest for Oregon Transportation Commission members.** Current law prohibits appointment of an individual with a "direct or indirect financial or fiduciary interest" in matters before the Oregon Transportation Commission (OTC). This term has no statutory or common law meaning and has therefore been difficult to interpret; it may also have the effect of removing from the candidate pool individuals with experience, expertise, and skills necessary to make decisions for Oregon's transportation system. Section 2 of the (-7) amendment modifies this provision to more closely align with the conflict of interest statutes in ORS Chapter 244 (governing conflicts of interest for all elected officials, public officials, and advisory and governing board members).
- **Section 3: Per diem compensation for CIAC members.** Section 3 of the (-7) amendment allows CIAC members to receive reimbursement of expenses under ORS 292.495 (compensation and expenses of members of state boards and commissions).

- **Section 1: Conditional Increase Accountability Reporting.** Current law requires satisfaction of a number of conditions in order for subsequent fuels tax increases to take effect (HB 2017, Sec. 45). One condition requires the OTC confirm all public contracting agencies receiving fuel tax revenues are in compliance with least cost contracting provisions. The OTC is not the oversight body with authority to make a compliance determination; additionally, this provision could have the effect of jeopardizing the future of the transportation package. Section 1 of the (-7) amendment modifies the least cost contracting accountability and reporting mechanism to properly align the enforcement of Oregon’s least cost contracting policy and provide an appropriate incentive to contracting agencies without jeopardizing the future of the transportation package. Changes made to the least cost contracting accountability mechanism are mirrored in SB 450 (2019). Section 1 of the (-7) amendment also clarifies which local government bridge and pavement condition reports must be posted online by the OTC.
- **Section 4: Connect Oregon Dedicated Rail Project Name Change.** HB 2017 statutorily dedicated funding for the 2017 Connect Oregon program. It included \$2.6 million toward a “Brooks rail siding” project to improve passenger rail service in Oregon. After further analysis by ODOT, Union Pacific Railroad, and Amtrak Cascades, a project has been identified that would provide greater benefit to passenger rail service in Oregon. Section 4 of the (-7) amendment redirects this funding to a project “...along the Amtrak Cascade line in Oregon south of the City of Portland.”
- **Sections 6, 7: I-5 Rose Quarter funding/bonding.** HB 2017 provided \$30 million per year, beginning in 2022, to fund the I-5/Rose Quarter project. Sections 6 and 7 of the (-7) amendment allow funds dedicated to the I-5/Rose Quarter project to be used for *both* current project costs (ongoing cash flow basis) and debt service on bonds issued to fund the project.
- **Section 8: DMV use tax.** HB 2017 established a privilege tax on vehicle dealers selling vehicles within the state of Oregon, and a use tax on consumers purchasing a vehicle outside the state of Oregon for use in the state of Oregon. To demonstrate compliance/payment of use tax owed, purchasers must pay use tax to Department of Revenue (DOR) and provide certain documentation to ODOT-DMV before title or registration can be issued by ODOT-DMV. For certain high volume purchasers (*e.g.* rental car companies purchasing several thousand vehicles at a time out of state), this led to a burdensome and inefficient administrative process. Section 8 of the (-7) amendment provides an alternative method of compliance verification for these high volume purchasers.
- **Sections 15, 16: Permanent Registration.** HB 2017 increased registration and other fees across ODOT programs. Sections 15 and 16 of the (-7) amendment correct an erroneous omission by adding state-owned vehicles and undercover vehicles to the

permanent vehicle registration fee classification schedule.

- **Section 10: Bicycle tax definition clarification.** HB 2017 established an excise tax on certain bicycles, including non-electric and electric bicycles. Section 10 of the (-7) amendment clarifies this intent by providing taxable bicycles are “propelled exclusively by human power” *or* “[are] electric bicycles.”
- **Sections 17 – 19: Bicycle tax scope clarification.** During the 2018 session, HB 4059 clarified the “retail sales price” of bicycles subject to the excise tax. This clarification excluded certain types of modifications. Sections 17 – 19 of the (-7) amendment clarify these exclusions are not tax expenditures subject to the six-year tax expenditure review/sunset cycle and do not require legislative reauthorization.

Clarifications and technical corrections proposed by other agencies:

- **Section 14: Bonding.** HB 2017 provides dedicated project funding and assumes ODOT will use a portion of those funds for both current project costs (ongoing cash flow basis) and debt service on bonds issued by the Department for those projects. Oregon State Treasury proposed clarification around the ability to secure and pay debt bond service on Highway User Tax Bonds under ORS 367.615. Section 14 of the (-7) amendment mirrors the language proposed by Oregon State Treasury.
- **Section 11: DOR confidentiality provision.** HB 2017 established several new tax requirements that require collaboration and information sharing between ODOT and DOR. Section 11 of the (-7) amendment allows more efficient information sharing between these agencies by exempting ODOT employees from required confidentiality disclosures for purposes of implementation of these programs.

Miscellaneous clarifications and technical corrections:

- **Sections 5, 22: Semiannual Revenue and Expenditure Report.** Sections 5 and 22 of the (-7) amendment repeal reporting requirements from the 2009 Jobs and Transportation Act, because the Act has been fully implemented. Section 5 also clarifies the content of the HB 2017 (Section 71L) revenue and expenditure report. Section 22 also repeals a statutory provision invalidated by the U.S. Federal District Court in 2018.
- **Section 9: CNG-powered trucks, weight exemption.** In order to accommodate changing technology, previous legislation allowed Compressed Natural Gas-powered trucks a small exemption in maximum weight for continuous operation variance permits; the amendment increases the maximum weight from 400 pounds to 550 pounds. Section 9 of the (-7) amendment corrects an omission to give full effect to that provision.

May 8, 2019
Joint Committee on Transportation
4

ODOT appreciates the Committee's consideration of the items above and looks forward to continued work and conversation. Please reach out to me with additional questions.

Encl: Attachment A (HB 2592 (-7) Provision Matrix)