



Oregon

Tina Kotek, Governor

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TO: Joint Committee on Transportation

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SUBJECT: Senate Bill 1202 – Creates the Oregon Rail and Transit Department

INTRODUCTION

Senate Bill 1202 creates the Oregon Rail and Transit Department (ORTD), to oversee and facilitate the state's rail and transit system, currently administered by the Oregon Department of Transportation (ODOT). The measure relocates rail and transit personnel within ODOT to ORTD and allows the agency to subcontract with ODOT for managerial, administrative, human resource, and information technology support. SB 1202 establishes a new, Governor appointed, seven-member State Rail and Transit Board to oversee ORTD. The measure becomes effective 91 days from adjournment sine die.

BACKGROUND

In 1995, regulatory authority for motor carriers and rail safety oversight moved from the Public Utilities Commission to ODOT. Today, ODOT oversees a multimodal transportation system, including 155 miles of ODOT-owned railroad right of way and 2,308 miles of privately-owned freight railroad statewide. ODOT monitors 2,400 rail crossings, 26 rail operations, and conducts 1,555 average rail safety inspections per year. In the 2023-25 biennium, ODOT managed more than \$400 million in public transit funding on behalf of transit agencies across the state and supported the Amtrak Cascades passenger rail service.

Today, rail programs are administered through four Divisions within ODOT:

- Commerce and Compliance Division (CCD)
- Delivery and Operations Division (D&O)
- Public Transportation Division (PTD)
- Policy, Data and Analysis Division (PDAD)

Across these four divisions, ODOT manages the Federal Railroad Administration (FRA) inspection program, State Safety Oversight Program (SSOP), Connect Oregon program, rail crossing safety and clearance and walkway safety programs, state utility and rail liaison work, the Oregon State Rail Plan

(OSRP) implementation and updates, and co-sponsors the Amtrak Cascades intercity passenger rail program and services.

ODOT Rail Programs

ODOT, in partnership with Washington State DOT, jointly operate the Amtrak Cascades Passenger rail service via bi-state contract with Amtrak. This passenger rail service, serving communities from Vancouver BC to Eugene, OR, is funded in Oregon through Transportation Operating Funds (TOF) (~\$23.5M) and DMV Custom License Plate fees (~\$7M) each biennium. The TOF funds primarily pay for passenger rail services, including operation of the Amtrak Cascades service, maintenance of trains, planning necessary for proposed infrastructure improvement projects, and match for grant applications to complete improvements.

In addition to the Amtrak Cascades passenger rail service, ODOT administers several rail safety-related programs through federal authority delegated from the Federal Rail Administration (FRA). ODOT implements these federal safety regulations and works closely with the rail industry to improve privately-owned rail infrastructure across Oregon.

Rail safety programs are funded through both state and federal dollars. For the three biennia spanning 2021 through 2027, ODOT received and administered:

- The Federal Transit Administration (FTA) provided \$6M in grant funds for SSOP fixed rail safety oversight
- The Federal Rail Administration through the Railroad Safety State Participation Grant provided approximately \$150,000, supporting FRA certification, education, and computer expenses.
- State funds from the Grade Crossing Protection Account (GCPA) provided approximately \$7.9M, investing in railroad highway crossings safety.
- The Federal Highway Administration (FHWA) provided approximately \$19.2M for working towards the elimination of hazards at railroad-highway crossings.
- State funds from the Gross Revenue Fee provided approximately \$21M for rail safety and rail crossing safety.

ODOT Transit Programs

ODOT manages federal transit funds such as Section 5311 formula grants for rural areas, 5310 formula for elderly and disabled transportation, and 5339 bus and bus facilities; Oregon Statewide Transportation Improvement Funds (STIF), and TOF; as well as multimodal programs, such as the Transportation Options program that support transit. Transit is funded by both federal and state funds. PTD is comprised of three modal transportation programs: passenger rail, public transit, and active transportation which allows for functional efficiency and modal coordination.

TOF is funded by the non-highway gas tax and is a source of funding for Statewide Transportation Improvement Fund (STIF) population-based formula funds (previously the Special Transportation Fund), which is dedicated to serving older adults and people with disabilities.

Additionally, the FHWA Surface Transportation Block Grant (STBG) funds provides flexible funding

that may be used by States and localities for projects to preserve and improve the conditions and performance on any Federal-aid highway, bridge, and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects, including intercity bus terminals. The Oregon Transportation Commission (OTC) allocates STBG funding for transportation projects. For the 2025-27 biennium, thirty-five local agencies will receive STBG subgrants, totaling \$25M in funding for services for older adults and people with disabilities. STBG monies also fund PTD's Vehicle Replacement Program, a discretionary grant program that helps to replace transit vehicles that have reached the end of their life cycle. From 2024-2026, ODOT received \$9M of STBG funds for this program.

DISCUSSION

As written, SB 1202 would transition up to 68 FTE from ODOT to ORTD whose positions are primarily dedicated to rail and transit programs (~46 from PTD and 22 from CCD). Additional FTE positions support rail or transit work, in addition to other functions in the agency (planning, engineering, project delivery, management, etc.). It is unclear whether these positions will remain within ODOT or be transferred to ORTD. SB 1202 allows ODOT to provide central business operating services to ORTD at a fee. ODOT anticipates an increased administrative burden for these services, including adding and creating administrative forms, policies, processes and procedures. The functions of these duties are currently streamlined within ODOT and will require reconstruction to separate between ODOT and ORTD.

Today, some key funding for rail and transit is transportation funds directed by federal and state law to ODOT and allocated by the OTC. As written, the TOF (dedicated to ODOT in statute), federal STBG, and federal Highway Safety Improvement Program funding, would remain under the purview of the OTC. All road authorities in Oregon, including ODOT, would need to obtain a crossing-order from ORTD prior to commencing construction at any rail crossing, whereas today ODOT coordinates its highway rail crossing work internally. SB 1202 amends statute to transfer the Gross Revenue Fee and GCPA funds from ODOT to ORTD, however, TOF funds will continue to be allocated to ODOT, per statute.

SB 1202 authorizes and directs ORTD to enter into operating agreements with rail agencies for the provision of services. The measure also grants ORTD the authority to establish transit authorities, which may conflict with federal standards if all rail and transit programs are relocated to ORTD – per FTA regulations ([49 CFR 674.13\(a\)](#)), an agency that coordinates the SSOP must be “financially and legally independent from” any transit agency they oversee, along with other provisions. Per federal regulation, the State of Oregon is required to have SSOP and administratively, the program function and grant administration are directed per federal regulation to be staffed independently ([49 CFR 674.13\(a\)](#)).

ODOT is responsible for long-range transportation planning in the state and does so through the Oregon Transportation Plan (OTP). The OTP establishes a vision and policy foundation to guide transportation system development and investment. Separating rail and transit from ODOT could result in fragmentation of the Oregon State Rail Plan, the Oregon Public Transportation Plan, and other related modal and topic plans from the OTP.

The nature of administering multimodal transportation services in the state is complex and heavily intertwined across ODOT. Separating some key functions, programs, and funding may result in

significant complications, fiscal implications, and delays to ODOT, and the larger transportation system in Oregon.

Standing up a new agency, removing rail and transit functions from ODOT, as well as restructuring and increasing central business functions within the agency, raises questions on expectations, feasibility, implementation and the roles and responsibilities around ODOT's functions, including:

- How will ORTD coordinate and deliver federally-required modal planning?
- Who will conduct project scoping and delivery for ORTD infrastructure projects?
- How will private rail infrastructure investments be expedited because of this new structure? Will new funds and methods be deployed? How and over what time frame?
- How will transit funding, operations, and oversight be strengthened by moving functions to a new agency? How and over what time frame?
- Who will be responsible for staffing the State Rail and Transit Board?
- Will transit funds be used to support ORTD's operating agreements with rail agencies for the provision of services?
- Will granting ORTD authority to establish transit authorities, and relocating rail and transit programs into ORTD, violate FTA regulations ([49 CFR 674.13\(a\)](#))?
- What is the funding source for ORTD to pay for contracted Central Business Services from ODOT?
- Will ODOT Information Services be responsible for maintaining systems and devices for ORTD? How will the fee structure be determined?
- Where will ORTD headquarters be located?
- Who will be responsible for providing administrative services during the transfer of work from ODOT to ORTD?
- Will ODOT staff be expected to take on additional responsibilities during the transfer of work from ODOT to ORTD? Tasks to consider include restructuring units, hiring and training staff, replacing individuals who stay at ODOT, transferring data, documents and files, replicating business processes, building out websites, and updating advisory committees.

CONCLUSION

SB 1202 creates the Oregon Rail and Transit Department, transferring the management of Oregon's rail and transit system from Oregon Department of Transportation to the new agency. The measure relocates rail and transit personnel within ODOT to ORTD; allows the agency to subcontract central business from ODOT; and establishes the State Rail and Transit Board. The measure becomes effective 91 days from adjournment sine die.

The nature of administering multimodal transportation services across the state is complex and heavily integrated across ODOT. Removing key transit and rail work may lead to fragmentation in how Oregon's multimodal transportation system is managed, leading to potential complications, fiscal impacts, and delays. ODOT raises outstanding questions regarding some of the administrative and fiscal nuances of creating a new agency and removing sections of ODOT that are not addressed in the measure, and the potential federal compliance issues that may arise.