

# 2017 Legislative Report on the 79<sup>th</sup> Oregon Legislative Assembly



Building Owners & Managers Association

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## **The Session of Missed Opportunities**

The 79<sup>th</sup> Oregon State Legislature ended as it began: divided.<sup>1</sup> In February, the 2017 Legislative Session began in the shadow of a \$1.8 billion deficit. Democrats, who controlled the House, Senate and Governor's office, pined over the loss of Measure 97 last November, which was estimated to raise \$3 billion annually through a corporate gross receipts tax. Republicans on the other hand saw things differently. Oregon's economy is booming; the state received more revenue through taxes than ever before actually resulting in a surplus of revenue. The dichotomy arose because the \$1.8 billion deficit is based on standard biennial increases, which meant Oregon was in a shortfall. As budget discussions began, it became clear that compromise between the two conflicting perspectives was unlikely. Republicans pushed for reigned in spending to balance the budget, while the Democrats pushed for increased spending by passing new taxes.

Within the first few weeks of Session, Senate President Peter Courtney warned that a special session to balance the budget would likely be necessary, as compromise appeared impossible.

As budget discussions continued, many of the controversial issues were on the back burner to be addressed later. The budget crisis highlighted the need to address PERS and Medicaid and how to prevent continued unsustainable increases. Yet, before the legislature gaveled in on February 1, Governor Brown made a statement that a PERS fix would not be addressed this legislative session.

The three main issues this legislative session sought to address were revenue (some sort of gross receipts tax), a comprehensive transportation package to deal with congestion and our crumbling infrastructure and a plan for the state's long term budget health. After a little over 5 months, the legislature negotiated one of its three goals. Sort of. The original transportation package sought \$8.2 billion and would have addressed the three bottlenecks: I-205, I-217 and the Rose Quarter. Ultimately, that package was deemed too expensive, and in an effort to gain bipartisan support, I-205 was stripped out of the bill and a more modest package of \$5.3 billion passed. Some legislators believe this package will go down in history as one of the greatest compromises. Others believe it was the sole excuse to say the legislature accomplished something this session.

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<sup>1</sup> For those of you who know me, I tend to be as accurate as possible about what is going on in Salem. I apologize if some of my cynicism shines through in this analysis, but I believe this legislature was geared up to be one of the most productive sessions. It had so much potential and there were great opportunities for accomplishing things desperately needed in this state. However, instead of working together (within the same party) and reaching across the aisle on important issues, this legislature accomplished little and missed out on many opportunities.

House Speaker Tina Kotek's made the gross receipts tax proposal a main priority. Yet, as compromise fizzled, Speaker Kotek gave up her push by May.

Finally, the long-term plan for the state's overall budget health was postponed because the \$1.8 billion projected state budget hole was closed through new health care provider taxes worth \$550 million and revenue from the state's strong economy that gave lawmakers an extra \$400 million to spend.

Since the legislature did not raise taxes or pass major personnel cost-curbing measures, many lawmakers believe they simply patched up their budget in the short term, while ignoring the state's structural budget challenges. Medicaid and pension costs will grow substantially again in 2019 and an economic downturn could dampen the state's increased tax revenues quickly.

Once budget gap closed, negotiations among parties and houses became unnecessary and the bills that had been held on the backburner passed with rapid speed during the last days of the session. These policies included a women's reproductive health plan bill that will require most insurers to cover abortions and other services with no co-pays; a bill allowing 15,000 unauthorized immigrant minors to get government-funded health insurance through the Oregon Health Plan; a gun control bill allowing firearms to be taken away from people deemed at risk of suicide or harming others; an increase in the legal age to buy tobacco to 21 from 18; bills requiring grand jury proceedings to be audio recorded and all police departments to track data from traffic and pedestrians to identify potential racial bias and a rewrite of election rules for a potential voter referral on the health care provider tax.

Finally, on July 7, the legislature adjourned. Tensions between a progressive house and a more moderate Senate were strong at the beginning, but only grew stronger as the months drug on. For the first time since 2003, the Senate concluded its business three hours prior to the House and adjourned, foregoing the traditional joint "sine die" ceremony.

Regardless of what side of the aisle or the primary interests before the Legislature, many left the Capitol building disappointed, dismayed and even disaffected. Business interests felt that progressives had run roughshod over their needs, while unions and social justice groups gasped at what little they believe they were handed, and the environmentalists felt completely ignored in favor of using their issues to compromise with other priorities. With nobody satisfied - and you can wager no legislative office left un-lobbied - some may say this was a dismal session. Some go so far as to say this was the most miserable session in recent memory. Some would call that true compromise. Regardless of your opinion, it is deeply discouraging to see the diminishing sense of bipartisanship.

Senate President Peter Courtney, the longest serving legislator in Oregon, put it best, "At best, our successes are tempered by disappointment."

## **BUILDING OWNERS & MANAGERS ASSOCIATION PRIORITIES**

Despite the rather unproductive session, for the Building Owners & Managers Association, it was a fairly productive session. *Success in the legislative arena comes in many shapes and sizes whether it is passing a bill, stopping a bill or amending one.*

BOMA tracked over 130 bills that affected our industry this session. A summary of all the bills monitored by BOMA and their history can be viewed on BOMA's website.

In addition, BOMA worked closely with a number of other business organizations to add leverage on many bills. BOMA would like to thank the Legislative Committee members, staff and advocacy team whose collective efforts helped to enhance the BOMA's credibility and effectiveness in the Legislative arena.

Some of the more significant legislation that BOMA played an active role in during the 2017 Legislative Session included:

### ***Non-Profit Lease Language Fix***

#### ***HB 3453 - Passed***

BOMA introduced HB 3453, which clarifies ORS 307.112 and 307.162 to make them easier for non-profit lessees and their lessors to take advantage of the available property tax exemptions that these statutes facilitate. The primary purpose of the existing statute is to create an exemption to property taxes on properties leased to tax-exempt organizations. Since these statutes were adopted, the legislature has required that any property tax savings to the leased property arising from any property tax exemption inure solely to the benefit of the tax-exempt lessee.

**Problem:** In 1993, these statutes were amended to provide that in order to qualify for a property tax exemption under these statutes, the applicable lease *must* contain language that states the rent under the lease is set "below market rent." The Department of Revenue characterized the change as a housekeeping measure to confirm the existing interpretation of the law. While the intent of these amendments was to ensure that the lessee, and not the lessor, would benefit from any property tax exemption granted based on the lessee's tax exempt status, the "below market rent" language requirement has created unintended obstacles that prevent lessees and lessors from using these statutes to accomplish what the legislature intended. There are at least 3 primary problems that the "below market rent" language requirement causes, and that would be easily cured by the adoption of the proposed bill.

**First, the problematic language assumes the exemption has been granted.** The current statutes assume that the property tax exemption has already been granted to the lessee and the property at the time the lease is signed. In fact, the parties cooperate to apply for the exemption after the applicable lease is executed. Accordingly, the rent cannot be set "below market" at the time the lease is signed, since the "rent" will be reduced only if the exemption is granted.

**Second, in a triple net Lease, rent is set at an agreed amount and the lessee pays property tax, maintenance, and insurance on top of the rent.** In this scenario, if the property tax exemption is granted, the non-profit lessee simply would not pay the property tax that would

otherwise be assessed, resulting in a tax savings. Rent is not affected, yet the lessee still receives the tax savings.

**Third, the “below market rent” language is often objectionable to both lessors and lessees.** Generally neither party believes at the time of lease execution that the rent has been set “below market rent,” and in fact, the rent is generally not initially established “below market rent” for the reasons discussed above. Moreover, the entirety of the applicable language currently required under these statutes is confusing and unclear, and BOMA members (both lessors and lessees) have consistently voiced their objections to these statutes as confusing, not workable, and in need of change.

For the above reasons, the “below market rent” language simply does not work. In fact, we believe this language often results in parties’ inability to use the statutes for their intended purposes. Moreover, this language wastes time and adds an unnecessary level of complication when drafting leases for tax-exempt lessees.

HB 3453 provides a technical tweak to the existing statutes that makes them consistent with their intended purpose, while making them much easier to apply. The language in the proposed amendment simply states the intent of the statute, ***“any tax savings resulting from the exemption granted under this section shall inure solely to the benefit of the institution, organization or public body”*** lessee. This law will go into effect 91 days upon adjournment of 2017 Regular Legislative Session, July 7, 2017.

### ***Construction Excise Tax Cap***

#### ***HB 2939 – Failed***

BOMA along with the National Association for Industrial and Office Parks (NAIOP) introduced HB 2939, which would have limited rate of tax that the local jurisdiction may impose on commercial construction to 1% of construction cost.

In 2016, during the inclusionary zoning negotiations, the League of Oregon Cities and Associated Oregon Counties, among others, brokered a deal to have the statewide preemption on local jurisdictions’ ability to levy a construction excise tax lifted early. The preemption was originally set to sunset in 2018. The agreement reached among the interested parties was that the preemption would be lifted early in return for the requirement that 50% of all funds levied by the tax be used for affordable housing. The remaining funds go to the general fund of the local jurisdiction with no further requirements. BOMA and NAIOP were not a part of the negotiations in 2016.

Unfortunately, with the legislative make up, and the deal already complete, there was little interest in pursuing this issue. After the bill’s public hearing, BOMA participated in a workgroup led by Rep. Johnson (R-Hood River) and Rep. Hernandez (D-Portland). The League of Oregon Cities, Associated Oregon Counties, City of Portland, Associated General Contractors, Portland Business Alliance & NAIOP also participated in the workgroup. The group discussed two potential options. First, placing a two-year effective date on the implementation of any new tax, giving developers the certainty they need to invest and determine if the numbers pencil out. The second parameter discussed was requiring any

construction excise tax revenues raised above one percent be earmarked solely for affordable housing.

Our conversations proved fruitless. At this point in time, the cities and counties believe they negotiated their deal in 2016 Legislative Session. Had they not agreed that 50% of any revenues raised from the CET be used for affordable housing, in 2018, the CET preemption would have been lifted and no parameters would have been placed on their ability to levy the tax. With that approach and no support from legislative leadership to amend that agreement, it was difficult to gain much traction on this issue.

As we look to the future of the construction excise tax, BOMA's best opportunity to limit the CET, will be by providing legislators with concrete examples of decreased development resulting from the uncertainty of the tax.

### ***Protection of Janitors in the Workplace***

#### ***HB 3279 – Passed***

BOMA amended and supported HB 3279, which requires property services contractors to register with the Commissioner of Bureau of Labor and Industries. The bill also requires the commissioner and Department of Consumer and Business Services to adopt rules for property services contractors and farmworker camp operators to provide training to employees with respect to sexual harassment, discrimination and whistleblower protection.

HB 3279 requires companies that hire janitorial contractors or subcontractors to use a registered contractor that follows the requirements below:

- All janitorial or security firms must register through BOLI on an annual basis.
- Contractors disclose information pertaining to compliance with Wage and Hour violations (including sick time and FMLA), OR-OSHA violations, Civil Rights violations, USERRA violations, and NLRA violations.
- The registry will be made available by request or through a public website through BOLI.
- BOLI will be empowered to deny the registration to companies whose compliance record demonstrates repeated or willful failure to comply with workplace laws.

BOMA participated in a workgroup with SEIU, Associated Oregon Industries (AOI), NW Justice Project, Relay Resources (a QRF), Oregon Law Center, Oregon Rehabilitation Association (ORA), and PCUN agreed to an amendment in the House of Representatives. The amendment ensured that the financial impact would be under \$250 and that training options (which may occur through corporate offices or in-house) would be geared toward union and non-union employees.

In the Senate, there was an attempt to add an amendment that would have exempted janitorial firms from the bond obligation in the bill to secure any unpaid wages if the janitorial business had the ability to:

- Show proof of general insurance liability coverage AND
- Has not committed wage and labor violation in the preceding two years.

BOMA opposed the amendment and supported a level playing field when it comes to hiring janitorial workers and competing for janitorial work. The exemption was not adopted.

### ***Electric Vehicle Charging Stations***

#### ***HB 2510 – Passed***

BOMA opposed the original bill, which authorizes commercial tenants to install and use electric vehicle charging station on premises. BOMA worked with the bill's sponsor and chairman of the House Finance committee, Rep. Phil Barnhart (D-Eugene), on amendments that provide the following protections:

- In cases where the tenant leases multiple parking spaces, the landlord may choose the parking space the electric vehicle charging station is to be installed.
- If the lease requires the tenant to remove the electrical charging station upon termination of the lease or if the tenant wishes to remove the electrical charging station, the tenant must “*cap all exposed wires and conduit*, leave the area in a clean and safe condition, and restore the premises to the condition before installation of the charging station upon termination of the rental agreement.”
- The tenant is responsible for damages.
- The amendments clarify that the lease may specify insurance and/or bonding requirements (equal to at least 125 percent of the anticipated cost of work).

Note: The landlord may require renter's liability insurance policy in an amount not less than \$1 million that includes coverage of the charging station; and name the landlord as a named additional insured under the policy with a right to prior notice of cancellation of or material change to the policy; or if the owner is unable to obtain an insurance policy described in subparagraph (A)(i) of this paragraph, reimburse the landlord for the cost of maintaining a liability insurance policy that includes coverage of the charging station.

- The tenant must use a certified electrical product.
- The landlord has the authority to require the tenant to be solely responsible for compliance with all local review and permitting requirements.
- The landlord may require a tenant to obtain the landlord's written approval of a person the tenant employs to install and remove the charging station.
- The landlord may also require a charging station installed by a tenant to meet the architectural standards of the premises.

The bill that passed provides significant opportunities to restrict these stations within the lease language.

### ***Release from Liability for Hazardous Waste Clean Up***

#### ***HB 2968 - Passed***

The new law requires the Environmental Quality Commission to adopt by rule a pilot program for single, coordinated process for parties to meet certain federal and state requirements for, and to obtain certain releases from liability for, cleanup of hazardous waste. HB 2968 requires the Department of Environmental Quality to report on the pilot program to interim committees of Legislative Assembly and requires the DEQ to carry out a study and propose recommendations for a single, coordinated process for parties to meet certain federal and state requirements for,



and to obtain certain releases from liability for, cleanup of hazardous waste. The law was effective on passage.

### ***Mismanagement or Dishonest Landlord Conduct***

#### ***SB 933— Failed***

BOMA opposed SB 933, which would have required the Real Estate Commissioner to adopt a program to relieve pecuniary loss of landlord liable to tenant due to mismanagement by or dishonest conduct of real estate property manager. The bill would have unnecessarily interfered with the property owner-property manager relationship while doing nothing to help tenants and making real estate more expensive for all.

SB 933 would have put the state in between property owners and property managers by imposing a duplicative and vague new standard of liability on managers for “mismanagement” and “dishonest conduct,” both of which are undefined in the bill. Not only would this expose a property manager to expansive new liability, but it would also reduce flexibility to property owners and managers to negotiate management agreements that allocate rights and responsibilities most effectively. Property owners and managers currently have the ability to craft management agreements that meet the needs of each respective situation, but SB 933 would replace case-by-case bargaining with a one-size-fits-all mandate.

In addition to imposing new liability on property managers, the bill would have charged fees to every property manager—regardless of risk—to establish a new insurance fund. Ultimately, this would drive up costs for all property managers and penalize those who play by the rules and present the least risk. Instead of being rewarded for their diligence, property managers with their own insurance policies and demonstrated records of compliance would foot the bill for losses that they did nothing to cause. The bill died in committee.

### ***Security Deposit Account with Interest***

#### ***HB 3366 - Failed***

BOMA opposed the bill would have required a landlord to deposit and maintain security deposit in separate account from all other funds and inform tenant of financial institution in which security deposit is held. The bill required landlord to pay tenant accrued interest with return of security deposit. This bill died in committee.

### ***System Development Charges for Resiliency***

#### ***HB 3394 - Failed***

BOMA opposed a bill that authorized local governments to assess system development charges (SDCs) for disaster resilience and mitigation. The bill would have required 10 percent of system development charges for disaster resilience and mitigation to be spent on state disaster resilience and mitigation priorities and 90 percent to be spent on local and regional disaster resilience and mitigation priorities.

The proposed bill raised constitutional issues because there is no connection between new construction and the objective of the SDC. The stated purpose of the SDC is to “reduce risk to property and health resulting from disasters,” but new construction to current codes and engineering standards does not increase the risk to property and health resulting from



disasters. And more particularly, private new construction does not increase disaster risk to public infrastructure for which SDC funds can be spent. This bill died in committee.

### ***Allows Liens on Personal Employer Property***

#### ***HB 2180 - Failed***

HB 2180 would have established a civil right of action for certain wage claims for unpaid wages, for violations of certain wage statutes and specified a formula to calculate civil penalties. It would have prohibited discrimination by an employer against an employee for certain actions taken by the employee related to wage claims. Most troubling, the bill would have created a dangerous and unfair precedent in the wage-and-hour arena by allowing employees to file liens on an employer's real or personal property based upon alleged, yet unproven, wage claims. BOMA joined with other business and industry advocates to successfully defeat this legislation.

### ***Tax Exemption for Seismic Retrofits***

#### ***HB 2932 - Failed***

HB 2932 would have authorized a city or county to adopt an ordinance or resolution providing a property tax exemption to commercial, industrial and multifamily buildings that have been seismically retrofitted, for period of up to 10 years, with additional period up to five years based on locally adopted criteria.

### ***Establish an Oregon Right to Rest Act***

#### ***HB 2215- Failed***

The bill would have established the Oregon Right to Rest Act. It enumerated rights of homeless persons in public spaces: to use, move freely, rest, take shelter, give/receive and eat food, meditate, engage in religious practice, and occupy vehicles, without harassment by law enforcement, security personnel or local government. HB 2215 also would have created a private right of action and unlawful practice enforceable via Bureau of Labor and Industries. BOMA successfully opposed the bill this session.

### ***Emergency Preparedness***

#### ***HB 2886 – Failed***

This bill would have directed the Office of Emergency Management to develop and implement a strategy to construct infrastructure in appropriate public places to serve as staging areas for response to and recovery from large-scale emergency. The bill established the Oregon Public Places Are Safe Places Investment Fund, which would continuously appropriate moneys in fund to Office of Emergency Management for purposes of strategy. The bill also created an advisory committee within office to provide recommendations and advice regarding expenditures from fund.

### ***Contractors and Ballot Measures***

#### ***HB 2914 – Failed***

The bill would have required prospective contractors to list in a bid or proposal submitted in response to solicitation for public contract five individuals or entities to which prospective contractor contributed most money in connection with a ballot measure or an election to public office.

### ***Marijuana Disclosure of Real Property Sale***

#### ***HB 2924 – Failed***

If passed, this bill would have required the seller of real property to disclose if the property was used as site for manufacture, processing, storage, distribution or retail sale of medical or recreational marijuana items.

## **OTHER BILLS OF INTEREST**

### ***Rent Control and Evictions***

#### ***HB 2004 - Failed***

The Speaker of the House began the 2017 Legislative Session declaring rent control as one of her main priorities this session. HB 2004 started out as a move to lift the state ban on rent control and eliminate the practice of no-cause evictions. This bill was amendmended multiple times and watered down to almost nothing. The final version never made it to a vote. Proponents will likely make this a priority in future sessions to come.

### ***Predictive Scheduling Mandate***

#### ***SB 828- Passed***

During the 2015 legislative session, the Oregon Legislative Assembly's House Committee on Business and Labor heard House Bill 2010 and House Bill 3377 related to predictive work scheduling. Although neither measure passed out of committee, a work group was subsequently formed which held meetings throughout the 2016 interim to discuss proposed policies regarding predictive scheduling and to receive input from San Francisco and Seattle city officials and an academic researcher.

As a result of this workgroup, Oregon lawmakers passed the nation's first statewide law predictable scheduling for employees. Starting in July 2018, the state will require large employers in the hospitality industry to give hourly workers at least seven days advance notice of which shifts they're working. In three years, that lead time increases to two full weeks. The bill applies to businesses with more than 500 employees at all worldwide locations, and only those in the retail, restaurant and hotel sectors.

SB 828A allows an employee to decline work hours not included in schedule, and requires employer to compensate employees for schedule changes with less than 14-days advanced notice, unless exceptions apply. Further, the bill establishes a right to rest between work shifts, including hours following end of on-call shift, and requires employer to provide extra compensation for hours worked when fewer than 10 hours separate shifts. The bill prohibits employer from engaging in systemic pattern or practice of significant under-scheduling.

SB 828A establishes notice and rulemaking requirements, including requirement that employer retain records documenting delivery of original and modified work schedules to each employee. Establishes unlawful employment practice to interfere with, restrain, deny, or attempt to deny exercise of rights protected by Act, or to retaliate or discriminate against individual inquiring about Act. Provides private right of action and administrative remedies for violations. Clarifies that measure is not intended to provide employees with additional wages or a cause of action for

voluntarily trading shifts, or a cause of action for work schedule changes necessary for employee accommodation under certain state or federal laws. Establishes operative date of Act is July 1, 2018. Extends sunset date of existing preemption on local scheduling laws until July 2, 2022.

SB 828A has the following exemptions:

Senate Bill 828-A provides the following exceptions to requirements for predictability pay:

- Employee mutually agrees with another employee to employee-initiated work shift swaps or coverage;
- Employer requests an employee to work additional hours because another employee failed to provide timely notice of unavailability;
- Employee consents to work additional hours consecutive to the employee's current work shift to address present and unanticipated customer needs;
- Employee requests changes to his or her work schedule, and the employer documents the request in writing;
- Employer subtracts hours from an employee's work schedule for disciplinary reasons for just cause;
- Employee's work shift or on-call shift cannot continue due to threats to employees or property or due to recommendation of a public official;
- Operations cannot begin or continue due to problems with public utilities or sewer system; and
- Operations cannot begin or continue due to natural disaster or similar cause not within employer's control.

The bill also contains the following provisions:

- Provides criteria for use of standby list. Permits employee to request additional work shifts.
- Exempts requested additional shifts from work schedule notice requirements.
- Requires employer to compensate employee at one and one-half times the regular rate of pay if employee works during prescribed rest period.
- Permits employee to request not to be scheduled during specific times or at certain locations, and allows employer to request reasonable verification of need for such a request.
- Establishes penalties for violations of work scheduling requirements.

The bill is awaiting the Governor's signature and will become law as soon as she signs it.

### ***Gross Receipts Tax***

#### ***HB 2274 - Failed***

HB 2274 would have replaced "sales" factor with "receipts" factor and changes the apportionment method for services/intangibles from cost-of-performance to market-based. These changes align with recommendations from the Multistate Tax Commission (MTC), which promotes tax uniformity among states.

HB 2274 defined "receipts" to mean gross receipts received from transactions and activity occurring in taxpayer's regular course of business, with certain exclusions. In the determination of receipts factor, the bill provides that sales other than sales of tangible personal property are in

state if taxpayer's market for sales is in state. The bill would apply to tax years beginning on or after January 1, 2018.

Sales is currently defined in ORS 314.610 as all gross receipts of the taxpayer not allocated under ORS 314.615 to 314.645. HB 2274 adopts the uniform proposal to place a transactional test limitation on the definition of sales that excludes functional test income. The transactional test limitation includes only those items of income arising from transactions and activity in the regular course of the taxpayer's trade or business in the definition of sales. The uniform proposal would exclude all functional test income from the definition of sales.

HB 2274 had two main uniform proposals. First, the bill contained a technical amendment clarifying the definition of "sales." The term "sales" carries a different meaning in different provisions of the Uniform Division of Income for Tax Purposes Act (UDITPA). In some provisions it refers to a type of transaction distinct from other types of transactions like leases, licenses, or rentals. For example, the reference to "sales of tangible personal property" does not include leases of tangible personal property; it's a specific reference to the transaction of a sale. In other provisions, "sale(s)" refers to receipts rather than transactions, and is intended broadly to include receipts from leases, licenses, and other transactions, in addition to receipts from sales transactions. Therefore, the bill amends UDITPA provisions to clarify the use in the broader sense by replacing sales with receipts.

The second uniform proposal HB 2274 would have adopted is a change to the approach for calculating the sales factor numerator for all sales other than sales of tangible personal property (e.g., services and intangibles). The proposal replaces the income-producing activity/costs of performance sourcing method with a market-based approach for assigning sales other than the sales of tangible personal property (e.g., services and intangibles) to the sales factor numerator. This bill died in committee.

### ***Transportation Package***

#### ***SB 2017 – Passed***

After the legislature failed to pass a transportation package during the 2015 Legislative Session, a year of on-the-road transportation studies, on the second to last day of the 2017 Session, the legislature passed a bipartisan package. This original package was supposed to be \$8.2 billion, but it faced opposition from the truckers and AAA (among others). In an effort to gain some Republican support, the package stripped out funding for I-205 and watered the package down to \$5.3 billion. Oregon became the first state in the nation to have a bicycle specific tax of \$15 on any bicycle purchased over \$200 and 27 in in diameter wheels. The bill includes a 4-cent gas tax hike, \$16 vehicle registration fee increase and 0.1 percent payroll tax and 0.5 percent tax on new car sales that will kick in next year.

### ***Pay Equity***

#### ***HB 2005 – Passed***

BOMA worked with the business coalition to draft and adopt amendments to HB 2005 that provided the following changes to the original bill:

- Includes veterans in the protected classes

- Clarifies when a pay differential is allowed, based on any of the following, or a combination of the following:
  - Seniority system;
  - Merit system;
  - Piece Rate or Production Rate;
  - Location of Workplace;
  - Travel;
  - Education;
  - Training;
  - Experience
- Requires notice in all establishments
- Prohibits an employer from asking prior salary history (effective 91-days upon adjournment) with access to a court of law but delay of jury trial and punitive damages until Jan. 1, 2024
- Includes additional back-pay due if an employee pursues the claim in the BOLI process, rather than a civil/court path
- Limits punitive damages to an employer that engages in fraud or “willful and wanton misconduct” or is a repeat offender.
- Provides an employer (the defendant) an opportunity to file a motion to limit damages (bar to compensatory beyond 2-years of back pay and punitive damages) if the employer completes the “Equal Pay Analysis”
  - Within 3-years prior to the complaint;
  - Is reasonable in detail and scope given size of employer;
  - Related to the protected class alleged;
  - Shows the employer has made “reasonable and substantial progress towards eliminating wage differentials”
- Delays effective date for increased penalties and civil action to Jan. 1, 2019 allowing employers to review practices and being to proactively cure if necessary.

### ***Oregon Energy and Climate Board***

*HB 2020B – Failed*

BOMA opposed HB 2020B, which would have established the Oregon Energy and Climate Board as oversight and advisory body for Oregon Department of Energy and Climate. The bill would have established the Energy Industry Advisory Committee and the Interagency Climate Coordinating Committee to provide certain information and recommendations to board.

### ***Clarifying Real Estate Licenses***

*SB 67 – Passed*

Defines "business day," "commingle" and "main office" for purposes of certain real estate statutes. The bill clarifies the system for registration and renewal of business names. The bill exempts certain checks from the requirement to deposit funds into clients' trust accounts. The bill requires real estate licensees to notify Real Estate Agency of certain activities regarding clients' trust accounts. Finally, the bill prohibits certain individuals from sharing the compensation of real estate licensee.

### ***Submittal of Subdivision or Partition Plats Notice to Special Districts***

*SB 865 – Passed*

This bill requires a county or city governing body to submit subdivision or partition plats notice of tentative plan to certain special districts for district approval prior to approval by governing body. The bill also requires certain special districts to submit a report detailing district boundaries, district facilities and easements and rights of way held by a special district to each city and county in which any part of district is located. Finally, the bill requires a district to notify the city or county within 90 days of change to information in report.

### ***Tax Increases Only Approved by 3/5ths Vote***

*SB 876 – Failed*

This bill would have provided that, unless otherwise provided in charter of city, county or metropolitan service district, local government or special government body measure proposing an increase in taxes may be approved only by three-fifths majority of voters casting votes on measure. This bill died in committee.

### ***Affordable Homeownership Grants***

*HB 2570 - Failed*

This bill would have allocated \$25 million for a grant program that would have helped low-income citizens become homeowners. Unfortunately, with the budget uncertainty, this bill didn't gain much traction past April.

### ***Guaranteed Rent***

*HB 2724 - Failed*

This bill would have given landlords who rent to low-income tenants a form of guaranteed payments from tenants who didn't pay rent or got evicted. This bill ultimately ran out of time in early July.

*This report has been prepared by BOMA's Government Affairs advocate Nellie deVries*