



2016 Legislative Session

End of Session Report

Oregon Coalition of Local Health Officials, Inc

CLHO LEGISLATIVE COMMITTEE

The End of Session Report summarizes the legislation that was tracked, and reviewed by the CLHO Legislative Committee during the 2016 legislative session.

Introduction

Each year the Coalition of Local Health Officials (CLHO) dedicates significant time and resources to the legislative process in Oregon. The CLHO does this work out of an attempt to educate legislators on the importance of public health and to move forward a public health agenda that improves the health of all Oregonians.

The CLHO could not do this work without the leadership in our Legislative Committee, who digs in and provides the ongoing technical expertise to drive our work. The CLHO Board and Executive Committee review and ratify the Legislative Committee recommendations and provide leadership and guidance to CLHO staff.

Many thanks to the CLHO Board (who are too many to mention here) and the CLHO Legislative Committee:

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The following report is a summary of the work of the organization during the 2016 legislative session in Oregon.

Table of Contents

CLHO LEGISLATIVE PRIORITIES	4
1. E-CIGARETTE TAX – HB 4062 – DID NOT PASS	4
2. TOBACCO RETAIL LICENSURE – SB 1559 – DID NOT PASS	4
3. TOBACCO 21 – NOT A BILL – DID NOT PASS	5
4. PUBLIC HEALTH MODERNIZATION – NOT A BILL – DID NOT PASS	5
BUDGET BILLS	5
1. SB 5701 – OMNIBUS BUDGET BILL – PASSED	5
2. SB 1597 – BUDGET PROGRAM CHANGE BILL – PASSED	7
HOUSING BILLS	7
1. HB 4143 – TENANT PROTECTIONS – PASSED	7
2. SB 1533 – INCLUSIONARY ZONING – PASSED	7
3. SB 1573 – ALLOW ANNEXATION WITH PROPERTY OWNER APPROVAL – PASSED	8
4. HB 4079 – 2 PILOT UGB EXPANSION – PASSED	8
COORDINATED CARE ORGANIZATION BILLS	8
1. HB 4100 – RESTRUCTURES CCO REQUIREMENTS – DID NOT PASS	8
2. HB 4107 – PROHIBITS RETRO CONTRACT CHANGES FOR CCOs - PASSED	9
3. HB 4141 – GEOGRAPHIC AREA CHANGES FOR CCOs - PASSED	9
4. SB 1531 – RESTRUCTURES CCO REQUIREMENTS – DID NOT PASS	9
MARIJUANA BILLS	9
1. HB 4014 – MARIJUANA HOUSEKEEPING – PASSED	9
2. SB 1511 – EXPAND ACCESS / EARLY START – PASSED	10
3. SB 1598 – LAND USE REQUIREMENTS / FBI FINGERPRINTING – PASSED	10
ENVIRONMENTAL HEALTH BILLS	11
1. HB 4125 – SAFE WELL WATER – DID NOT PASS	11
2. SB 1574 – HEALTHY CLIMATE BILLS – PASSED IN AN AMENDED SB 1547	12
OTHER BILLS	12
1. HB 4124 – NALOXONE/ PDMP – PASSED	12
2. SB 1532 – MINIMUM WAGE INCREASE – PASSED	12

CLHO Legislative Priorities

Prior to the 2016 legislative session the CLHO Board prioritized several issues for CLHO staff to educate and advocate on during the session: e-cigarette tax, tobacco retail licensing, raising the age of tobacco to 21, and public health modernization. In this short, 35-day session each of these issues had it's own challenges, and opportunities. However, at the end of the session none of these bills passed.

1. E-Cigarette Tax – HB 4062 – Did not pass

House Bill 4062 would have established a 50 percent point of sale tax on electronic inhalant delivery systems and dedicated the revenues into the general fund with 10 percent dedicated to the Tobacco Use Reduction Account.

Advocacy - CLHO and the Oregon Nurses Association worked together to draft a one-pager and work with other health and children's advocacy organizations to sign-on to the tax. The bill received a hearing in the House Health Care Committee, however, the vape community turned out in mass and advocates were unable to move the bill to the House Revenue Committee for further work and refinement of the policy. In follow-up the CLHO staff worked with the Chairs of the House Health and Revenue Committees and recruited advocates to have a successful informational hearing near the end of session on the "Health and Revenue Policy Implications of taxing Inhalant Delivery Systems."

2. Tobacco Retail Licensure – SB 1559 – Did not pass

This measure would have required persons selling tobacco products or inhalant delivery systems in Oregon to be licensed by the Department of Revenue beginning January 1, 2017. The measure included preemptions specifying that cities and counties may not adopt ordinances that:

- require additional license to sell tobacco products or inhalant delivery systems;
- prohibits a retailer from being located in a pharmacy; and
- prohibits a premises that makes retail sales of tobacco products or inhalant delivery systems, and that occupies 5,000 or more square feet, from being located within a certain distance of a school or any real property owned by the city or county

While CLHO has been very supportive of the idea of tobacco retail licensing, during this session CLHO's position on SB 1559 was one of opposition to the bill due primarily to the preemptions. During the course of the debate small concessions were made to the location preemption so that local jurisdictions could still enact ordinances that could restrict new, small retailers from being located near schools and city and county buildings.

Advocacy – CLHO Executive Director testified in opposition to the bill in the Senate Health Care Committee and worked with the Senators and Senate caucus office to gauge opportunities to further amend the bill. CLHO staff worked with tobacco control partners and County lobbyists.

3. Tobacco 21 – Not a bill – Did not pass

This concept would raise the age of sale of tobacco from 18 to 21. This concept will be introduced as a bill during the 2017 legislative session.

4. Public Health Modernization – Not a bill – Did not pass

Due to the rapid pace of session and other issues needing immediate attention CLHO staff was not able to bring attention to the interim work on Public Health Modernization.

Budget Bills

1. SB 5701 – Omnibus Budget Bill – Passed

CLHO Position – No position on budget bill – support safe routes to schools funding.

Senate Bill 5701 is the omnibus budget reconciliation bill for the 2016 legislative session, implementing the statewide rebalance plan that addresses changes in projected revenues and expenditures since the close of the 2015 session. Here are a couple of items from the budget report that are of interest to public health:

- Eliminates the \$17,540,357 General Fund special purpose appropriation to the Emergency Board for the mixed delivery preschool program established in House Bill 3380 (2015), with a corresponding appropriation to the Oregon Department of Education for the same purpose. [These funds were set aside as a special purpose appropriation so to allocate the funds they have to eliminate the special purpose appropriate first and then appropriate the funds.]
- The Subcommittee approved an Other Funds expenditure limitation in the amount of \$1,117,762 for the Oregon Liquor Control Commission to implement the provisions of House Bill 4014, Senate Bill 1511, and Senate Bill 1598. Three permanent regulatory specialist positions and four permanent administrative specialist positions are anticipated to be needed due to an increase in the assumed number of licensees as medical marijuana producers are authorized to transfer excess marijuana to recreational retail outlets, and to cover costs associated with the additional number of people working in the marijuana industry that will be required to have work permits and training. Services and supplies

expenditures include \$350,000 for updates to the agency's "What's Legal" public information platform and associated outreach. Of the total amount, \$350,665 Other Funds expenditure limitation is for costs associated with Senate Bill 1598; if that bill is not enacted, this expenditure limitation is to be unscheduled by the Department of Administrative Services Chief Financial Office.

- Also included is a one-time General Fund appropriation in the amount of \$10 million to the Housing and Community Services Department to be utilized as follows: \$8 million is for homelessness assistance and prevention services through the Emergency Housing Assistance (EHA) program and \$2 million is to the State Housing Assistance program (SHAP) for operational support for emergency shelters and supportive services to shelter residents. Funding for the EHA program is spent as Other Funds by the Department, and is reflected in an additional \$8 million in Other Funds expenditure limitation.
- The Subcommittee included \$900,000 of one-time General Fund for planning and start-up costs related to providing medical assistance for additional children in Oregon. The following budget note was approved. Budget Note:
 - The Oregon Health Authority is directed to develop a plan and recommendations for extending medical assistance to children not eligible under ORS 414.231 (3) including: eligibility criteria, coverage options, enrollment estimates, issues of equity and inclusion, integration with other programs, outreach, administrative and staffing changes, phasing options, and cost estimates. In developing the recommendations, the agency is expected to engage stakeholders and legislators, and utilize information on experiences in other states. The agency will report back to the appropriate committees during the 2017 legislative session on their plan and recommendations.
- The agency expects to include the necessary adjustments to expenditure limitation, as well as adjustments to numbers and classifications of positions needed, in the rebalance they will submit during the fall of 2016. In their rebalance report, the agency will also report on the estimated revenue loss and its program impact. A number of on-going core public health programs are funded with fee revenue generated through the medical marijuana program. If revenues are inadequate to fund these programs, General Fund could be required to continue these programs, or the programs would need to be reduced or discontinued. These programs include state support for local public health departments, the Safe Drinking Water Program, Emergency Medical Services, and others.
- The Subcommittee approved an Other Funds expenditure limitation of \$4.0 million and two permanent positions (1.00 FTE) for a youth

marijuana-use prevention pilot project as required in House Bill 4014. The one-time funding for this program will be transferred from the Oregon Liquor Control Commission Account, to be repaid out of marijuana tax revenues. This evidence-based pilot project will serve as a basis for establishing a statewide program during the 2017-19 biennium. The distribution of marijuana taxes during the 2017-19 biennium may be adequate to fund the statewide program, but if not, the agency will need to request additional funding to operate an ongoing program.

2. SB 1597 – Budget Program Change Bill – Passed

CLHO Position – No Position

Senate Bill 1597 includes the statutory changes necessary to continue the budget recommendations in SB 5701 for a balanced budget in 2015-17. The only change of interest to local public health is - Administration Program Area: Transfers Liquor Fund revenue to the Oregon Health Authority to fund a youth marijuana-use prevention pilot program. Specifies that the money is to be repaid with 2% interest by September 30, 2017.

Housing Bills

Housing was one of the major issues of the short 2016 Legislative Session. In the end due to the rapid pace of the session many affordable housing advocates believed that the final outcome was watered down to the point of not providing much relief. Due to the speed of the legislative session the CLHO Legislative Committee provided a principle to guide our work on housing this session. We did not take specific positions on each of these bills.

1. HB 4143 – Tenant Protections – Passed

CLHO Position – Support safe, stable, affordable housing

House Bill 4143 prohibits landlords from increasing rent during the first year of occupancy and requires landlords to notify occupants at least 90 days prior to increase in rent for month-to-month agreements. The measure also increases the fee charged to tenants for second violations of smoking prohibition in leases.

2. SB 1533 – Inclusionary Zoning – Passed

CLHO Position – Support safe, stable, affordable housing

Senate Bill 1533 lifts the preemption on inclusionary zoning and allows cities or counties to adopt land use regulations or impose as a condition of approving permit, requirements that multifamily structures to be designated for sale or rent as affordable housing. However, the measure does limit adopted city or county regulations by requiring no more than 20 percent of housing units within multifamily structure are sold or rented as affordable housing and applies only to multifamily structures containing at least 20 housing units. The measure requires

cities or counties to provide developers with the options to pay an in-lieu fee or offer developers that do not elect to pay in-lieu fee incentives to establish the required percentage of affordable housing units.

3. SB 1573 – Allow Annexation with Property Owner Approval – Passed

CLHO Position – No Position

Senate Bill 1573 requires cities to annex territory without vote upon receipt of petition for annexation submitted by all owners of land in the territory provided the territory is:

- 1) included within urban growth boundary of city or Metro;
- 2) is, or will be, subject to acknowledged comprehensive plan of city;
- 3) at least one plot or parcel in territory is contiguous to city limits or is separated by only public right of way or body of water; and
- 4) proposal conforms to all other requirements of city's ordinances.

This measure provides that territory to be annexed includes additional territory necessary to provide infrastructure and services for development of annexed territory at density equal to average residential density.

4. HB 4079 – 2 Pilot UGB Expansion – Passed

CLHO Position – No Position

House Bill 4079 requires the Land Conservation and Development Commission (LCDC), working with other state agencies and local governments to establish and implement affordable housing pilot program. The measure requires that LCDC establish a site selection process to select two pilot projects nominated by local governments, one from a city with less than 25,000 and one from a city of more than 25,000 by July 1, 2017. This measure excludes Clackamas, Multnomah and Washington counties and cities within from nomination or selection under pilot program. The measure limits the total acreage of all lots and parcels included in each pilot site to no greater than 50 acres. The measure also requires local governments of the selected pilot projects to ensure housing developed continues to be used to provide affordable housing for at least 50 years.

Coordinated Care Organization Bills

There were several housekeeping and major reform bills introduced to address Coordinated Care Organizations. The bills addressing major reform were postponed until the 2017 legislative session. The smaller, more housekeeping bills passed.

1. HB 4100 – Restructures CCO requirements – Did not pass

CLHO Position – No Position

Representative Greenlick proposed changing some of the basic requirements for Coordinated Care Organizations in 2018 and 2023.

2. HB 4107 – Prohibits retro contract changes for CCOs - Passed

CLHO Position – No Position

Prohibits the Oregon Health Authority from retroactively changing terms of contract with coordinated care organization unless specified conditions are met.

3. HB 4141 – Geographic area changes for CCOs - Passed

Authorizes the Oregon Health Authority to change size of geographic areas served by coordinated care organization under specified conditions.

4. SB 1531 – Restructures CCO requirements – Did not pass

Senator Bates proposed changing some of the contractual requirements for Coordinated Care Organizations for establishing global budgets and required services.

Marijuana Bills

This session was probably the last of the Joint Committee on Marijuana Legalization. In future legislative sessions these issues will be dealt with in one of several potential committees depending on the issue.

1. HB 4014 – Marijuana Housekeeping – Passed

CLHO Position – No Position

House Bill 4014 makes changes to laws regulating production, processing, sale, use and governance of cannabis. This measure repeals the requirement that Oregon Liquor Control Commission (OLCC) and Oregon Health Authority (OHA) licensed marijuana producers (growers), marijuana wholesalers (wholesalers), marijuana processors (processors), and marijuana retailers (retailers) are residents of Oregon for two years. The measure also directs OLCC to adopt rules allowing OHA OMMP registrants who apply for and receive OLCC licenses to transfer inventory into the OLCC system. The measure prohibits retailers from discounting marijuana items or offering marijuana items for free if sale of item is made in conjunction with retail sale of other item.

The measure directs OHA to establish youth marijuana-use prevention pilot project (project). The measure allows Oregon Medical Marijuana Program (OMMP) growers to enter into personal agreements to provide marijuana to multiple OMMP cardholders with their existing plant counts. The measure requires OHA to convene work group to develop recommendations on clinical guidelines for physicians who prescribe marijuana, and requires OHA to report work group recommendations to specified Legislative committees by January 1, 2017. The measure also requires OHA to report to specified Legislative committees on rules adopted or steps taken relating to recalling contaminated

or unfit marijuana or marijuana derived products by January 1, 2017. The measure amends Oregon consumption of marijuana in a vehicle while on the highway as a Class B violation (fine of \$260). Lastly, the measure allows governing board of city or county to repeal ordinances prohibiting establishment of one or more types of licensed or registered marijuana establishments.

2. SB 1511 – Expand Access / Early Start – Passed

CLHO Position – No Position on Bill – Past positions prevent children from accidental overdose/ concerns with exceptions to the Indoor Clean Air Act. Senate Bill 1511 requires recreational marijuana producers (producers), processors, wholesalers, and retailers licensed by the Oregon Liquor Control Commission (OLCC) to register with the OLCC to produce, process, transfer, or sell marijuana for medical purposes. The measure allows specified license types to produce, process, transfer, or sell marijuana or marijuana products for medical purposes under certain conditions. The measure requires Oregon Health Authority (OHA) to adopt rules establishing tetrahydrocannabinol (THC) single serving limits for recreational and medical consumers, and directs OHA to adopt rules prescribing differing concentration levels of THC allowable in a single serving for both medical and recreational. The measure allows medical marijuana dispensaries to sell cannabinoid edibles and cannabinoid extracts to persons without an OMMP registration card, and sets a limit on number and type of cannabinoid edibles and extracts that may be purchased per day. The measure allows local governments to adopt ordinances allowing medical marijuana dispensaries or marijuana retailers to be located within 500 feet of schools if the local government determines a physical or geographic barrier separates them, and also requires that the local government adopting specified ordinance notifies OHA or OLCC.

3. SB 1598 – Land Use Requirements / FBI Fingerprinting – Passed

CLHO Position – No Position on Bill – Past positions prevent children from accidental overdose/ concerns with exceptions to the Indoor Clean Air Act. Senate Bills 1598 removes requirement to obtain land use compatibility statement imposed upon person responsible for marijuana grow site that is applying for a license from the Oregon Liquor Control Commission (OLCC) for a grow outside city limits with a canopy of up to 1,250 square feet indoors or 5,000 square feet outdoors, if at least one person responsible for the grow registered with the Oregon Health Authority (OHA) prior to January 1, 2015. Deems marijuana a farm crop for OLCC-licensed marijuana growers, research certificate holders, and those persons responsible for a grow site registered with OHA prior to January 1, 2015. Allows marijuana processors to transfer medical cannabinoid product, concentrate, or extract to Oregon Medical Marijuana

Program (OMMP) cardholders or designated primary caregivers if OMMP cardholder or designated caregiver provided marijuana processor with marijuana to be processed into medical cannabinoid product, concentrate, or extract.

Environmental Health Bills

1. HB 4125 – Safe Well Water – Did Not Pass

CLHO Position – Support

House Bill 4125, the Safe Well Water bill, directs the Oregon Health Authority (OHA) to do several things:

- analyze the results of tests of groundwater for arsenic, nitrates and total coliform from wells that supply water for domestic purposes
- identify areas with groundwater contaminant problems;
- and provide groundwater contaminant education in such areas.
- provide test results and related information to Department of Environmental Quality (DEQ).

The measure also authorizes OHA to collaborate with DEQ and other state agencies to provide education or to notify a local public health authority that such education is needed. The measure establishes a Safe Ground Water Fund and authorizes OHA to make grants and loans to assist low-income and rental property owners with installation or replacement of treatment systems for groundwater that has contaminant problems. The measure Appropriates \$15,000 to OHA for deposit in Safe Ground Water Fund, and authorizes OHA to make grants from Safe Ground Water Fund to assist local public health authorities, non-profit organizations, soil and water conservation districts, and Oregon State University Extension Service to provide education in groundwater contaminant and conducting free or low-cost well tests.

The measure requires landlords to collect and test drinking water samples for arsenic, total coliform bacteria and nitrates according to specified schedule, and extends time period between tests if results confirm that drinking water contains no total coliform bacteria or nitrates. The measure requires landlords to notify tenants of testing and establishes landlords that a dwelling is uninhabitable if a violation of the landlord testing provisions is made. The measure allows tenants renting a dwelling from a landlord who fails to test or disclose test results to recover actual damages. The measure also establishes an operative date for landlord testing requirements of March 1, 2017, and requires initial testing within 60 days of operative date and landlords to provide tenants with test results within 90 days.

2. SB 1574 – Healthy Climate Bills – Passed in an amended SB 1547

Senate Bill 1574, the Healthy Climate Bill, repeals greenhouse gas emissions reduction goals and defines “statewide greenhouse gas emissions” and directs the Environmental Quality Commission (EQC) to adopt a goal to limit emissions, in a staged approach, by at least 75 percent below 1990 levels in 2050. This measure also directs EQC to adopt a carbon pollution market to become operative January 1, 2020, requiring greenhouse gas emissions reductions achieved through the market to be real, permanent, quantifiable, verifiable and enforceable. The measure directs EQC to adopt rules necessary for the Department of Environmental Quality (DEQ) to administer allowance auctions. And the measure establishes the Climate Investments Account in State Highway Fund and directs 20 percent of money to be used to support projects geographically located in disadvantaged communities and 20 percent of money to support projects that otherwise benefit disadvantaged communities. Lastly, the measure directs EQC to develop and implement Climate Investments Grant Program and specifies fund distribution and preferences.

Other Bills

1. HB 4124 – Naloxone/ PDMP – Passed

CLHO Position – Support

House Bill 4124 requires the Oregon Health Authority (OHA) to disclose prescription monitoring information to practitioners or pharmacists for use in certain health information technology systems. The measure also requires OHA to periodically check compliance of privacy and security standards, to include HIPAA compliance. The measure also permits pharmacists and certain health care professionals to prescribe and distribute naloxone and permits certain employees of social service agencies to administer naloxone under specified conditions. Lastly the measure allows employees who have gone through training to administer naloxone to someone experiencing an overdose even if they are not a patron or on the premises of the organization. Declares an emergency, effective on passage.

2. SB 1532 – Minimum Wage Increase – Passed

CLHO Position - Support

Senate Bill 1532 raises the statewide base minimum wage to \$13.50 per hour by July 1, 2022, and establishes a higher minimum wage, \$14.75 by 2022, for employees working within urban growth boundary of Portland metropolitan area and lower minimum wage, \$12.50 by 2022, for those working in 18 nonurban counties. The measure adjusts base minimum wage annually for inflation starting in July 1, 2023.