

The 2011 Legislature – In Retrospect

OTA and the trucking industry had a very successful session in 2011 particularly when compared to 2009. So, why the big difference? You may recall that in 2009 the Democrats had an 18 to 12 majority in the Senate and a 36 to 24 majority in the House. They could and did raise taxes on corporations and high wage earners without much help from the Republicans. They also passed new environmental regulations in the form of a Low Carbon Fuel Standard that, if implemented, will adversely impact the trucking industry.

To address this issue during the 2010 election cycle, OTA joined with others in the business community forming what has become known as the Oregon Committee to bring greater balance to the Legislature. Between the efforts of the Oregon Committee and the Republican tide that swept the nation, we were successful. In 2011, the Democrats held a 16 to 14 majority and in the House there were 30 Democrats and 30 Republicans.

The 2011 session was the first time in history that neither party held a majority in the House. At the beginning of session, there was concern about how the House would organize to share the power. A few years ago, the Washington House found themselves in the same position. They decided to elect two Speakers and have each committee chaired by a member of each party. This arrangement did not work well resulting in extreme gridlock. There was hope that the Oregon House would not adopt the Washington model. However, they did. The good news is the result was very different.

Yes, it was more difficult to get legislation through the Oregon House as both committee chairs had to agree before a bill was scheduled for work session. In 2009, 30% of the bills OTA was tracking passed into law. In 2011, this number dropped to 20%. However, as you might expect, the bills that were passed in 2011 were better legislation. Much of the credit for the success of the 2011 session goes to Co-Speakers Bruce Hanna and Arnie Roblan and to Governor Kitzhaber. These three leaders worked well together and produced significant bi-partisan legislation. Governor Kitzhaber was particularly remarkable in that he only vetoed one bill during the entire session. As you may remember, the first time he was Governor he earned the nickname, Dr. No, for the many vetoes he issued.

The following are some highlights from the session by topical area. This does not include all of the bills of interest to the industry. A complete list of bills that you should know about can be found on OTA's website at www.ortrucking.org.

Transportation Funding

The good news is that there were no increases in transportation taxes or fees during the 2011 session. However, transportation funding was a major topic. Before the session even began, Governor Kitzhaber announced that he wanted to bust the Highway Trust Fund and transfer nearly \$100 million dollars to State Police. In total, there were four bills that would have asked voters to change the constitution to allow transportation dollars to be used for various purposes ranging from transit to policing.

Shortly after the session began, OTA joined with AAA and the Associated General Contractors to preserve Oregon's Highway Trust Fund. We hired a publicist and had articles and editorials placed in all of the major newspapers around the state. We also did a number of interviews with major radio stations. In March, when the Legislature announced its draft budget, busting the trust fund was no longer a consideration. During their press conference, all three of the budget writing Co-Chairs of Ways and Means Committee specifically stated that they would not attempt to bust the Highway Trust Fund for any purpose.

Another major transportation funding bill was Senate Bill 128. This bill, developed by the Senate Transportation Committee was an omnibus transportation measure that contained a provision that continues the Legislature's prerogative of selecting highway construction projects. In 2009, House Bill 2001 contained a list of nearly \$1 billion in projects to be built around the state. Because of the economy, bids for these projects have been coming in way under budget. Senate Bill 128 provides that the Legislature will select projects in the future to be funded with the savings. This continues the major shift from the Oregon Transportation Commission selecting highway construction projects to the Legislature determining what will be built. This has been a very positive development for the trucking industry as the projects selected by the Legislature have been, for the most part, freight mobility projects.

Environmental Legislation

Environmental legislation was a hard sell during the 2011 session. From banning plastic bags to prohibiting copper in car and truck brake shoes, most environmental legislation failed. From a global perspective the expansion of Oregon's bottle bill was the most significant piece of environmental legislation that passed. However, from the industry's perspective, the passage of House Bill 2081 was the most important to us.

House Bill 2081, in its original form would have given the Department of Environmental Quality authority to adopt rules to regulate truck idling and require aerodynamic devices on heavy trucks. In the House Transportation Committee, the original bill was replaced by a truck idling regulation developed by OTA members. This regulation takes into consideration the needs of all of the various industry segments while, at the same time, reducing the industry's fuel consumption. The bill also prohibits state agencies, cities and counties from developing their own truck idling regulation. A very important feature of the bill is that the regulations are enforceable by any law enforcement officer through issuance of a uniform traffic citation.

Yes, this bill is important to the industry because our drivers will become our partners in reducing idling and thereby reduce our fuel costs. However, it is also important to us because it keeps the Department of Environmental Quality from having regulatory control over the industry. The Department's plan was to develop the regulations and then return to the Legislature to ask for authority to levy fees on the industry to pay for administration and enforcement. To put this in perspective, the Department currently has regulatory control over less than 1,000 entities in the state. Authority over the trucking industry would have added an additional 23,000 entities. The regulatory costs to the industry would have more than offset any reduction in fuel costs by a huge factor.

Although not a bill, the other environmental development during the session was the testimony of the Department of Environmental Quality Director, Dick Pederson, before the House Environment Committee concerning the Low Carbon Fuel Standard. In 2009, the Legislature passed House Bill 2186 which gave the Department authority to develop rules to implement a California style Low Carbon Fuel Standard. As this bill made its way through the process, it was amended to include a sunset clause of December

31, 2015, which if allowed to go into effect, would repeal the Department's authority to implement a Low Carbon Fuel Standard. Director Pederson testified that he was delaying the Low Carbon Fuel Standard and that the Department would introduce legislation in 2013 that would repeal the sunset and request additional staff to implement the program. He went on to say that if the legislation does not pass, the Department will abandon the Low Carbon Fuel Standard. This puts us back to square one. The Legislature must pass a bill before the Department can implement. This issue alone makes the 2012 election critical to the trucking industry. To ensure that the Low Carbon Fuel Standard never goes into effect, it is imperative that the Republicans gain additional seats in the Oregon Legislature.

Truck Driver Shortage

Senate Bill 5508 contained an appropriation that provides \$400,000 for a revolving loan fund to help pay tuition to attend truck driving school and \$100,000 for the administration of the Trucking Solutions Consortium. As many of you are aware, the Trucking Solutions Consortium is a program supported by OTA to develop new truck drivers. Given the budget issues faced by the Legislature, passage of this bill was a major accomplishment.

The key to our success was offering to exchange the New Engine Tax Credit for the appropriation. The New Engine Tax Credit has been in effect since 2003. Since then, the industry has not really used these tax credits to any significant degree. However, we used it enough to offset the cost of the appropriation. Clearly, new truck drivers are more valuable to us than tax credits.

Budgets

Projections before the Legislature arrived in Salem indicated that revenues would be \$3.5 billion below the projected budget. The projected budget is also known as the Current Service Level and is always significantly higher than the previous budget. The Current Service Level budget for the 2011/13 biennium was a little over 17% higher than the 2009/11 budget. The reason for the increase is that the Current Service Level includes raises for state employees, an inflation factor for non-personnel costs and the Legislature's customary delays of program increases to the end of a budget cycle. This practice reduces costs during the current budget cycle but increases them in the next budget. For example, in 2009, the Legislature authorized State

Police to hire an additional 200 troopers. However, they were not allowed to hire these folks until the second year of the budget cycle. So' in the 2009/11 budget they only had to pay for half the cost. However, the full cost became due in 2011/13. This is commonly referred to as "mortgaging the future" or "kicking the can down the road." You get the idea.

The Legislature did not have the option of adopting the Current Service Level budget for the 2011/13 biennium because there was simply not enough revenue. They some hard choices to make and, in fact, they made them without raising taxes.

ODOT's budget was actually reduced by \$378,357,368 or 9% compared to the 2009/11 budget. Much of the decrease was due to the federal stimulus money received during 2009/11 that will not be coming their way in 2011/13. In addition, ODOT lost 31 positions.

The State Police lost \$1,387,559 or .4% compared to 2009/11. They lost 81 trooper positions that were part of the 200 increase authorized in 2009 but not yet hired.

The Department of Environmental Quality took one of the largest budget hits in state government. Their 2011/13 budget is \$74,122,476 or 18.5% lower than their budget for 2009/11. In addition, they lost 89 positions that will require actual layoffs.

I hope that this gives you a flavor of what the 2011 Legislature was like for the industry. In retrospect it was indeed a very good session for us. A complete listing of bills important to you can be found on OTA's website at www.ortrucking.org. If you have any questions or comments about OTA's government affairs program, please let me know at russell@ortrucking.org or contact OTA President, Debra Dunn at dunn@ortrucking.org.