

Oregon State Parks and Recreation Commission

April 24, 2024

Agenda Item: 3a

Action

Public Comment Allowed: **Yes**

Topic: **2025 Legislative Concepts**

Presented by: **Katie Gauthier, Government Relations and Policy Manager**

Background:

In January, OPRD submitted five legislative concept proposals to the Governor's office for feedback on the general direction. After initial review, the agency was approved to move forward cautiously with development of all five concepts.

From the initial five legislative concepts, staff are recommending three for your approval to submit for formal consideration. This recommendation includes combining two of the initial proposed concepts into one and removing one concept that can be accomplished via interagency rulemaking. Information below outlines the need for a statute change and proposed solutions for each legislative concept.

With your approval, the proposed concepts will be further refined and submitted to the Governor's office by April 30. The Governor's office will then approve concepts to move to the next step of drafting by Legislative Counsel over the summer and a final review in the fall before filing as a bill for the 2025 session.

Employee Address Disclosure

When OPRD enforcement officers report a crime, often it is their home address entered into the law enforcement system instead of their work address. Even when officers explicitly request work addresses be listed, their home address is provided in court records. This allows for criminal defendants to know personal information about our employees and routes important information about cases to individual employee homes instead of through the agency.

It is recognized that certain public employees by the nature of their public-facing positions need an option to have their home addresses withheld from DMV records. ORS 802.250 allows eligible public employees to request any driver or vehicle record kept by DMV to substitute their agency address with their home address. Current eligible employees are from agencies including Department of Corrections, Department of Agriculture, Department of Justice, Department of Human Services, Oregon Youth Authority, and Oregon Liquor and Cannabis Commission. This concept would propose adding Oregon Parks and Recreation Department employees to this list. Individual employees would then have an opportunity to select to have their work address substituted for their home address in DMV records.

Agency Efficiency

OPRD is unlike any other state agency given its role as a statewide recreation and heritage agency with significant frontline public service responsibilities. As an agency, we are taking a hard look at all our financials and businesses practices to improve efficiencies. Addressing needed changes in statute are critical to service we provide visitors and necessary for the stability of the agency. This concept will address needed statutory changes to continue momentum for the agency in addressing purchasing and printing limitations.

- **Purchasing:** Changes in state procurement systems have exacerbated problems with purchasing across the agency. Department staff have worked diligently with the Department of Administrative Services to seek exemptions from many of these requirements. Recognizing our unique role and well-developed internal systems, OPRD has been granted an exception to many of the most onerous requirements.
 - This legislative concept would seek to enshrine current purchasing and procurement exceptions into statute, as we simultaneously explore legislative avenues for the creation of a permanent exemption from state purchasing procedures. The former of these efforts would provide stability and assurances for agency staff which have expended considerable time and effort learning and developing proficiency in these new methods and would allow them to deliver the expected service levels to internal and external customers. This strategy would also build trust between OPRD and DAS as we work to develop a longer-term solution that is right-sized for our department.
- **Printing:** OPRD has a range of printing needs which are used to communicate with visitors and recreation enthusiasts across the state and beyond. These printed materials include, though are not limited to, die-cast stickers to denote infrastructure the agency has funded through grant programs, gift shop souvenirs, promotion of Oregon Main Street locations, and park trail maps, all of which enable OPRD to provide and protect outstanding natural, scenic, cultural, historic, and recreational sites for the enjoyment and education of present and future generations. State agencies are required to depend on the Oregon Department of Administrative Services Printing & Distribution Division (DAS P&D) to provide most printing services. It has been the experience of OPRD staff that DAS P&D regularly struggles to meet the varied needs of the agency and does not provide an effective value for the cost of services.
 - OPRD staff have identified several potential solutions to ensure that the agency is able to maintain and hopefully exceed current service levels with respect to printing services. If needed, this legislative concept would provide OPRD the authority to seek the product quality and service level it needs to continue to provide world class recreational experiences to park visitors outside of the DAS P&D process.

Ocean Shore Permitting

In 1999, the Oregon Legislature expanded the Ocean Shore Program within OPRD to include areas previously under the jurisdiction of the Department of State Lands (DSL). While the merger resulted in a simpler regulatory environment in many areas, it also resulted in unanticipated issues that have not yet been addressed. This concept proposes to address three of the outstanding difficulties within this program: a one-size fits all permit; unworkable timelines, and an inflexible fee structure.

- **One-size fits all Permit:** Requests received by OPRD range from large, complicated, and controversial projects with potential for significant impacts to simple projects that may be inherently beneficial to ocean shore resources or that may have minimal or predictable impacts. The current statutory construct does not provide OPRD the tools to establish,

through rulemaking, review processes that are commensurate with potential impacts to the ocean shore.

- Creation of a General Authorization permit would address many of these concerns. For simpler and smaller projects on the ocean shore, this concept would create the authority for OPRD to establish, in rule, new simpler review processes that are commensurate with potential impacts to the ocean shore. This would allow OPRD to authorize simple maintenance and repairs in a timely and consistent manner and establishes permit opportunities within OPRD that are comparable to other agency regulatory programs.
- **Unworkable Timelines:** With the vast range in complexity of permit requests, the current timelines for reviewing permit applications do not set applicants, the public, or OPRD up for success. As directed by statute, agency staff only have 60 days to make a decision, which includes a 30-day review period, and no authority to extend the review time, when any unresolved issue remains OPRD is effectively forced to deny a permit when the clock runs out.
 - For the standard ocean shore alteration permit process covering the more complex and controversial project types, this concept proposes changing our process to mimic the process adopted by DSL for removal fill permits. Historically, OPRD and DSL had similar permit review processes and timelines, however legislative changes in 2003 helped DSL address many of the issues OPRD is now facing. This new application review process could take up to 120 days, including a 30-day completeness review period followed by a permit decision within 90 days from the date it is determined complete. While this allows up to 120 days, in many cases it is likely permits will be issued well before that maximum period. However, in cases where additional coordination and verifications are necessary there would be an opportunity for the agency and applicant to negotiate an extension of the decision date.
- **Inflexible Fee Structure:** The ocean shore alteration permit fee structure is effectively a one size fits all approach that is not based on the range of project or application types on the ocean shore. The current fee was added to the program in 1999, under SB 11, and has not been reviewed since that time. In many cases, the existing \$400 base fee does not cover the costs of “carrying out the ocean shore program” as directed in statute. Additionally, a provision in the current statute adds a 3% fee to all projects over \$2,500. This has resulted in most applications being subject to both the base fee and 3% of construction value, which in turn complicates and increases the fee for smaller and simpler projects.
 - To provide flexibility to adjust fees over time, address inconsistencies or process changes more readily and ensure program costs are aligned with fees, the proposed concept would direct the department to establish the ocean shore alteration permit fee structure in administrative rule. This solution is modeled after HB 2238 (2023) which directed DSL to adopt rules establishing removal-fill program fees, as well as outlining criteria that will be considered in developing the structure and amount of fees.

ATV Noise Levels

Staff originally recommended requesting statutory authority to set off-road vehicle noise emission limits in rule, but now are dropping this request. The Department of Environmental Quality has authority to set limits in rule. They have not been adjusted since 2017. Land managers across the state have different sound level requirements for OHV riding areas and have

updated those levels more recently than the state. The ATV Advisory Committee recommended establishing a rulemaking process to develop more consistent sound levels across public lands that would be collaborative between land managers, law enforcement and recreationists.

Since DEQ no longer has noise program staff, the initial concept was for rulemaking authority in statute to change from DEQ to OPRD. In conversations with DEQ staff, though, the agency learned about new options to contract with DEQ for rulemaking. OPRD will provide the expertise and conduct the outreach efforts through an interagency agreement with DEQ while they maintain the rulemaking authority. This proposal will not require a statutory change. Staff recommend pursuing this interagency rulemaking process to accomplish the original goal of the legislative concept without needing legislative action.

Prior Action by Commission: The Commission approved 2023 Legislative Concepts in April 2022.

Action Requested: Approve moving forward with development of three potential legislative concepts around employee address disclosure; agency efficiency and ocean shore permitting changes.

Attachments: none

Prepared by: Katie Gauthier