



Oregon
Department
of Transportation



Legislative Summary

2018

2018 Regular Session of the Oregon Legislative Assembly



Oregon’s annual legislative session came to a close on March 3, 2018. There were 260 bills, memorials and resolutions introduced during the 2018 session and of those, the legislature passed 142.

While transportation issues were not the focus of the 2018 session, legislators advanced several bills, memorials and resolutions that directly or indirectly affect ODOT. If you have questions about transportation-related 2018 legislation, please contact Government Relations staff.

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Copies of 2018 enrolled bills (the copy that the Governor signs) may be found on the legislative web site: <https://olis.leg.state.or.us/liz/2018R1/Measures/list/>.

Measures, once signed into law are known as “session laws” and will be available May/June on the legislative web site under Oregon Laws. Permanent laws passed during the 2018 Legislative Session will not be codified until the 2019 edition of the Oregon Revised Statutes is released. The 2019 ORS will be distributed and made available online in January or February 2020.

Cover photos:
OR 138
Spring at Oregon’s State Capitol



Table of Contents

Preface		2
Legislation Passed		5
House Measures		
HB 4023	Broadband Reporting	5
HB 4052	Small Business Rules Advisory Committee	5
HB 4054	Removal of Personal Property	6
HB 4055	Vehicular Hit and Run	6
HB 4059	Transportation Funding Package Technical Amendments	7
HB 4062	DMV Fee Streamlining and License Plate Transfers	8
HB 4063	Autonomous Vehicle Program Task Force	8
HB 4087	Possessory Liens on Motor Vehicles	9
HB 4111	Real ID Fee; Limited Term Credentials	9
HB 4116	Distracted Driving Law Clarifications	10
HB 5201	Budget and Bonding Bills (and SB 5702)	10
Senate Measures		
SB 1506	Oregon Wounded Warrior Parking Permits	11
SB 1532	Motor Assisted Scooters	12
SB 1538	Suspensions and Hardship Permits	12
SB 1542	Session Start Date	13
SB 1551	Reporting Breach of Security	13
SB 1559	Whistleblower — Anonymous Reporting Process	13
SB 1565	Reverse Auction Pilot	14



Memorial Signs

Fallen Officers

HCR 203	Deputy Thomas Robert Farrell	15
HCR 204	Deputy Gil Catalino Datan	15
HCR 207	Oregon State Trooper Ralph D. Bates	15
HCR 210	Firefighter Ryan Grimaldi	15

Fallen Heroes

HCR 202	First Lieutenant Frederick E. Pokerney, Jr.	15
HCR 205	Private First Class Brice M. Scott	15
HCR 209	Lance Corporal Bryan Pahl Bertrand	15
SCR 204	Sergeant Sean Patrick Fennerty	15
	Chief Warrant Officer III Jonathan Shelby Gibson	

Reports to the Legislative Assembly

Autonomous Vehicle Program Task Force (HB 4063)	16
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Legislation Considered (Not Passed)

Greenhouse Gas Emissions Cap (HB 4001 and SB 1507)	17
Short Line Railroad (HB 4083)	17
Exceptions to Qualifications-Based Selection Procurement (HB 4127)	17

House Measures

Broadband Reporting

House Bill 4023

Effective date: Upon signature by the Governor

House Bill 4023 requires the State Chief Information Officer (CIO) to provide broadband and communications services for state agencies by providing the services directly, entering an agreement with another agency to provide services, or contracting with a telecommunications company. The CIO may provide broadband and communications in under served areas to any public body, Indian tribe, or nonprofit. If that activity would directly compete with an existing provider, the CIO may provide the services only pursuant to rules the CIO adopts. The CIO must appoint an advisory committee to assist in rule-writing, and must present the draft rule to the interim committee on Information Management and Technology.

House Bill 4023 also directs the Oregon Broadband Advisory Council to conduct a study to identify options for a “local broadband champion” program. A local broadband champion is an organization or person that advocates for local broadband infrastructure improvements in their community. The council will report by December 2018 to the interim legislative committees with a proposed program structure, potential public or private partnerships and anticipated funding needs and sources.

The bill establishes the Connecting Oregon Schools Fund and appropriates money to the Department of Education for matching funds for federal moneys received by school districts for providing broadband access to K-12 schools.

Small Business Rules Advisory Committee

House Bill 4052

Effective date: June 2, 2018 (91st day after *sine die*)

House Bill 4052 establishes a nine-member Small Business Rules Advisory Committee made up of seven small business representatives, one state agency representative, and an expert in the rulemaking process. An agency may request the committee to serve as the rule advisory committee or fiscal impact advisory committee for reviewing the agency’s rulemaking action. An agency may request the committee to perform the statutorily required five-year review of existing administrative rules and the required report to the Secretary of State. The bill adds to the list of criteria for each five year review: impacts the rule has on small businesses. Finally, the bill requires the Secretary of State to compile the five-year rule review reports and report to the Legislature each year.

Removal of Personal Property

House Bill 4054

Effective date: January 1, 2019

House Bill 4054 authorizes the Department of Transportation to enter into intergovernmental agreements to remove personal property from locations for cities with a population of 500,000 or more. The removal of personal property and the associated cleanup process is designed to restore property to public use.

The bill establishes the requirements for the intergovernmental agreement to include adequate notice to owners, defined as a minimum of 48 hours. The notice must be written in English and Spanish. The intergovernmental agreement must also specify that the city is required to inform local agencies that deliver social services to the homeless where a notice is posted. Unclaimed property is to be retained by law enforcement officials. An exception to the notice requirement is allowed when illegal activities, emergencies, or when immediate danger to human life or safety occur. This bill will sunset on January 2, 2023.

Vehicular Hit and Run

House Bill 4055

Effective date: January 1, 2019

House Bill 4055 makes small changes to the various offenses of Failure to Perform Duties of a Driver, also known as hit and run. Current law requires a driver to stop and take particular action (e.g. exchange information, call for help) after being involved in a collision with another vehicle or person, a domestic animal, or that causes property damage.

A recent Oregon Court of Appeals ruling overturned the conviction of a person who accidentally ran over two children in a leaf pile, but didn't realize anyone or anything had been harmed until shortly after she had left the scene. Although the driver learned soon afterward what had happened, the Court of Appeals ruled the statute did not require a driver to return to the scene or take any action in such a case.

House Bill 4055 specifies that if a driver has reason to believe their vehicle may have struck something, they must stop and investigate what (if anything) was struck, and then take appropriate action if in fact something was struck. Also, if a driver discovers they may have been involved in a collision, at some point after that collision happened, the driver must take appropriate action. If there is reason to believe a person was injured or killed, the driver must call 911 and provide relevant information. If there is reason to believe only property was damaged, the driver must provide insurance and contact information to the property owner. If there is reason to believe a domestic animal was injured or killed, the driver must assess and provide attention to the animal and contact its owner.



Transportation Funding Package Technical Amendments

House Bill 4059

Effective date: June 2, 2018 (91 days after *sine die*)

House Bill 4059 is the omnibus bill containing technical fixes and policy changes relating to the implementation of Keep Oregon Moving (House Bill 2017), the multimodal transportation investment package passed by the 2017 Oregon Legislature.

The bill made numerous small, technical changes. In addition, it made several substantive changes related to HB 2017. The bill added three bridges on Territorial Highway that ODOT must replace before completing the jurisdictional transfer specified in House Bill 2017. The bill allows bond proceeds to be spent on Newberg Dundee Bypass for shovel ready preparations rather than design only. House Bill 4059 makes several changes to the excise and privilege taxes on bicycles and motor vehicles. The bill removes the requirement to study the feasibility of a separate highway cost allocation study focused on local governments. The bill rolls back several heavy vehicle permit fee increases.

The bill made several small changes to the Statewide Transit Improvement Fund. House Bill 4059 clarifies funds may not be used for light rail capital acquisitions. The bill allows TriMet to begin implementation of a low-income fare program, and encourages each qualified transit provider to spend at least 1% of transit services for high schoolers.

House Bill 4059 also made some changes unrelated to House Bill 2017. It removed the statutory limit on the number of Pacific Wonderland license plates previously capped at 80,000. It amends the offense of following too closely, which facilitates continued tests of truck platooning.

It also changed the way the state must compensate billboard owners when a sign is impacted by a construction project.



DMV Fee Streamlining and License Plate Transfers

House Bill 4062

Effective date: January 2, 2018 (91 days after *sine die*)

House Bill 4062 makes several changes to DMV statutes. The bill reorganizes several fee statutes for the sake of clarity, and changes two types of fees. Nine driver licensing fees that end in \$0.50 are rounded down for ease of administration. Six fees were either added or changed to make them consistent with fees for other, similar products.

The bill also changes the requirements and benefits from exercising the statutory authority to effect a license plate transfer. Current law allows a person to transfer a set of license plates onto their vehicle for the nominal fee of \$6. The law provides no authority for DMV to condition transfer on receiving permission from the current owner, and there is no accessible database for DMV to determine if the license plates are stolen. In addition, the current law and practice is to transfer the registration period represented by the tags on the plates to the vehicle receiving those plates. This type of transfer does not trigger the requirement for the vehicle to prove compliance with the DEQ vehicle inspection program in those areas of the state subject to it. The bill does not change the allowance for plate transfers. However, the bill specifies that the registration period does not transfer along with the plate except when the plates are transferred between vehicles owned by the same person. Also, the bill makes clear that in a vehicle inspection area of the state, a vehicle receiving a transferred plate must comply with DEQ emissions testing or qualify for an existing exemption.

Autonomous Vehicle Program Task Force

House Bill 4063

Effective date: Upon signature by the Governor

House Bill 4063 designates the Department of Transportation as the lead agency responsible for coordinating Oregon's programs and policies regarding autonomous vehicles, and creates a task force, staffed by ODOT, to recommend legislation for the 2019 session.

The task force is to develop potential legislation for the 2019 session that could address issues such as licensing and registration, law enforcement, crash reporting, liability, insurance, and cybersecurity. The task force may study the longer-term impacts of AVs that might be the topic of legislation, including road and infrastructure design, public transit, land use, cybersecurity / privacy, and workforce impacts.

Possessory Liens on Motor Vehicles

House Bill 4087

Effective date: January 1, 2019

House Bill 4087 limits the ability of mechanics and others to foreclose a lien on the vehicle they were hired to work on. Current law creates a lien on the vehicle a mechanic services, and if the bill is not paid the lien may be foreclosed through a DMV process. An interim work group addressed issues of mechanics who perform shoddy or unnecessary work. Because the vehicles are often of moderate or low value, and attorney fees cannot be assessed, vehicle owners are often unable to challenge the validity of the lien in court.

HB 4087 requires that to validly attach a lien, a mechanic must have a \$20,000 bond, which would be available to an aggrieved vehicle owner for damages and attorney fees if they were successful challenging the lien in court. The bill provides exceptions to the bond requirement for franchise vehicle dealers, towers, and those who attach a lien against an abandoned vehicle.

Real ID Fee; Limited Term Credentials

House Bill 4111

Effective date: January 1, 2019 for fee; July 1, 2018 for Limited Term Credentials

House Bill 4111 specifies that when DMV begins issuing REAL ID driver licenses and identification cards in July, 2020, the transaction will be treated as a replacement, unless the existing card is up for renewal. After Senate Bill 374 passed in the 2017 session directing DMV to begin issuing both standard cards and REAL ID compliant cards, legislators became concerned that the treatment of the REAL ID as a brand new, eight-year card, with the full fee required, would be a hardship on customers. A replacement fee is less than a renewal fee. HB 4111 specifies that if a person has sufficient time remaining on their existing license or ID card, changing to a REAL ID version of that card will be treated as a replacement and therefore be less expensive.

The bill also allows DMV to issue a Limited Term driver license or ID card to people renewing their credential, in very narrow circumstances, when their proof of legal presence document has expired. The applicant must have a prior valid credential with Oregon DMV, their employment authorization document from USCIS expired no earlier than August 1, 2014, and the document must have a code representing it was issued under DACA or Temporary Protected Status. DMV may not verify the document with a federal database, since the database would simply report back the document is expired. The credential lasts no more than two years and the provisions sunset on December 31, 2021.

Distracted Driving Law Clarifications

House Bill 4116

Effective date: Upon signature by the Governor

House Bill 4116 updates the law prohibiting distracted driving. Prior laws had prohibited driving while texting or using a cell phone, with several exceptions. House Bill 2597, passed in 2017, prohibited the use of any mobile electronic device, eliminated most exceptions, and increased penalties up to a misdemeanor if the driver incurs three convictions in 10 years. It also authorized the discharge of sentence in first offenses if the driver takes a distracted driving class. Over the interim several questions and problems arose that required clarification.

House Bill 4116 clarifies that the use of a single tap or swipe to activate or deactivate the device is an exception to the violation. It allows use of a two-way radio to facilitate safety when transporting livestock, operating an oversize vehicle, operating a slow-moving vehicle, or operating a pilot vehicle accompanying any of these. It clarifies that operators of all vehicles required by federal law to use an electronic logging device are exempt while using that device. The bill also makes clear that the sentence of discharge in exchange for passing a safety course means the entire fine must be waived. Finally, the bill specifies the prior convictions that can lead to an elevated punishment become effective July 1, 2018. For anyone who had an elevated punishment prior to July 1, the person may petition the court to have it reduced.

Budget and Bonding Bills

House Bill 5201 and Senate Bill 5702

Effective date: Upon signature by the Governor

House Bill 5201 is an omnibus budget reconciliation bill that rebalances the state budget for the 2017-2019 biennium and addresses changes in projected revenues and expenditures since the close of the 2017 session. The bill also changes the agency budget to support projects created in House Bill 2017 (2017), the intermodal transportation investment bill.

House Bill 5201 includes a salary pot increase of \$21,564,749 and a limitation increase of \$117,530,106 to support House Bill 2017 projects. House Bill 5201 also includes 179 positions to implement the work required by House Bill 2017.

Senate Bill 5702 includes an authorization of lottery bonds producing \$10 million in net proceeds and interest of which \$7 million is to be distributed to the Oregon International Port of Coos Bay in order to improve the Coos Bay rail link, and \$3 million to acquire the Coos Bay rail link rolling stock.

Senate Measures

Oregon Wounded Warrior Parking Permits

Senate Bill 1506

Effective date: Upon signature by the Governor

Operative date: January 1, 2019

Senate Bill 1506 creates the Wounded Warrior parking permit, a subset of disabled person parking placards.

A person qualifies for a disabled person parking permit if a physician certifies the person has an injury or condition causing particular levels of mobility loss, vision loss, or other listed condition types that cause a need for close-in parking. Depending on the person's situation, they may qualify for the standard permit or for one recognizing the person's need to use a wheelchair. One parking benefit for either permit is the use of designated close-in parking spots, but only those with a "wheelchair user" placard may park in a "wheelchair user only" spot. Another benefit is the use of metered parking spots without payment, and the use of time-limited parking spots for longer than the specified time. However, those allowances may be overridden by the local jurisdiction for those with a standard placard. They cannot be overridden for those with the "wheelchair user" placard.

A person who qualifies for a disabled person parking permit, who also demonstrates at least 50% service connected disability and was discharged from the military in other than dishonorable conditions, may receive the Wounded Warrior benefit. DMV will issue a Wounded Warrior sticker to be added to the placard the applicant qualifies for: standard or wheelchair user. The benefit associated with the Wounded Warrior placard is free parking in metered spots and the ability to overstay the posted time on a time-limited parking spot, and a local ordinance cannot override those benefits. The Wounded Warrior may only park in a wheelchair user spot if they have the wheelchair placard.

Motor Assisted Scooters

Senate Bill 1532

Effective date: January 1, 2019

Senate Bill 1532 expands the definition of “motor assisted scooter,” which generally are used by people with limited mobility. Under current law, a motor assisted scooter is defined as having no more than three wheels, has handlebars, and has a specific maximum (low) level of power. The bill changes the definition to remove the requirement that it have handlebars and to allow up to four wheels. While formerly motorized scooters were quite small and usually had three wheels, many now have four wheels for added stability.

Motor assisted scooters are subject to several laws describing where and how they may, and may not, be operated. For example, they may only be operated on roads with a speed limit of 25 miles per hour or less unless being operated in a bike lane, they may operate no faster than 15 MPH, passengers are not allowed, and the operator must wear a bicycle helmet and use hand signals for turning or stopping.

Suspensions and Hardship Permits

Senate Bill 1538

Effective date: January 1, 2019

Senate Bill 1538 repeals or amends several statutes regarding driver license suspensions for offenses unrelated to driving. It also streamlines the process for obtaining limited driving privileges while under suspension or revocation.

The bill eliminates certain license suspensions that are unrelated to driving, such as littering, theft of gasoline, and some drug offenses. The bill modifies the authority of courts to suspend driver licenses for youth offenses involving alcohol or cannabis (Minor in Possession and Misrepresentation of Age) by making the suspensions permissive rather than mandatory, and only when particular factors are present.

The bill eliminates Probationary Permits for people whose licenses are revoked, and substitutes Hardship Permits. Both types of permits provide limited driving privileges for some people (depending on the offense) whose driving privileges have been taken away. The bill eliminates the ability to obtain a Hardship Permit for a second conviction of DUII. The bill also standardizes the issuance of, and driving privileges allowed by, a Hardship Permit. Qualifications will include a wait time before issuance and SR-22 proof of insurance. In the case of a DUII offense, the person must also prove installation of an ignition interlock device.

Session Start Date

Senate Bill 1542

Effective date: June 2, 2018 (91st day after *sine die*)

Senate Bill 1542 establishes a new start date for odd-numbered year sessions. Beginning in 2019, long sessions will begin on the Tuesday following the Martin Luther King, Jr. holiday. Since the change to annual sessions, each session has begun on or about February 1. The change in SB 1542 will begin odd-year sessions approximately two weeks earlier than has been recent practice, and will end session before the Independence Day (July 4th) holiday.

Reporting Breach of Security

Senate Bill 1551

Effective date: June 2, 2018 (91 days after *sine die*)

Senate Bill 1551 requires entities that possess personal information, which is subject to a breach of security, to notify the person whose information was compromised within 45 days. If in the notice, the entity offers credit monitoring services, the entity may not charge a fee for these services.

Whistleblower — Anonymous Reporting Process

Senate Bill 1559

Effective date: January 1, 2019

Senate Bill 1559 directs the Department of Transportation, the Oregon Health Authority, the Department of Human Services, and the Department of Environmental Quality to cooperate to develop a pilot program to protect whistleblowers. Each agency will establish an optional procedure for an employee to anonymously report allegations of the agency's violation of law, mismanagement, waste, abuse of authority, and similar allegations.

The bill also directs Bureau of Labor and Industries (BOLI) to adopt a uniform standards and procedure manual with guidelines for employees to understand the procedures for anonymous reporting and rights and remedies provided to these employees. Finally, the bill directs BOLI to collect information and data from the named agencies including the total number of employee disclosures and the total number of all reports of violations. BOLI must report this information to the Governor and to any appropriate Legislative committees on January 1 of each odd-numbered year.

This bill will sunset on January 2, 2021.

Reverse Auction Pilot

Senate Bill 1565

Effective date: June 2, 2018 (91st day after *sine die*)

Operative date: January 1, 2019

Senate Bill 1565 requires the Department of Administrative Services (DAS) to develop a pilot program for using a reverse auction method for goods and services procurements. A reverse auction method is an electronic procurement process where bidders are aware that there are other bidders, but do not know the identity of the other bidders.

At a minimum, the pilot must use a reverse auction method to conduct at least 10 procurements with a contract price of \$150,000 or more. Each agency that participates in the pilot program must provide information to DAS about the extent and amount of cost savings (if any), identify any other nonmonetary benefits or detriments, and relay any reactions from bidders to the reverse auction method. The bill directs DAS to compile this information and report regularly to the Governor and to the Joint Legislative Committee on Information Management and Technology regarding implementation of the pilot program.

Senate Bill 1565 also changes the weighting of factors for award of a contract for goods or services. The bill requires agencies to consider contract price as not less than 30 percent of the total weight of all factors in the evaluation. Prior to the bill ODOT weighted price at 25 percent of the total weight of all factors. The agency's director may waive this weighting requirement if determined to be in the best interest of the agency. The agency must provide written notice of a waiver to the Director of the Department of Administrative Services.

The reverse auction and contract price factoring provisions become operative January 1, 2019. The provisions of this bill will sunset on January 2, 2020.

Memorial Signs

ORS 366.930 directs the Department of Transportation to install and maintain Fallen Officer roadside memorial signs to commemorate public safety officers (corrections officers, State Police, police chiefs and other police officers, sheriffs and deputies) killed in the line of duty. ORS 366.931 outlines a parallel process for Fallen Hero roadside memorial signs to commemorate members of United States Armed Forces who were killed in action or died of wounds sustained in action.

For a roadside memorial sign to be installed, the Legislative Assembly must pass a concurrent resolution recognizing the officer or member of the Armed Forces. ORS 366.930 and 366.931 also specify that ODOT must receive payment of a fee not to exceed the direct and indirect costs to cover installation, maintenance and removal of the sign. Public bodies may not expend funds to pay the fee.

The 2018 Legislative Assembly adopted the following concurrent resolutions that recognize law enforcement officers killed in the line of duty, meeting the first condition for placement of Fallen Officer memorial signs:

- HCR 203 – Deputy Thomas Robert Farrell
- HCR 204 – Deputy Gil Catalino Datan
- HCR 207 – Oregon State Police Trooper Ralph D. Bates
- HCR 210 – Firefighter Ryan Grimaldi

The 2018 Legislative Assembly adopted the following concurrent resolutions that recognize members of the United State Armed Forces who died in the line of duty, for placement of Fallen Hero memorial signs:

- HCR 202 – First Lieutenant Frederick E. Pokorney, Jr.
- HCR 205 – Private First Class Brice M. Scott
- HCR 209 – Lance Corporal Bryan Pahl Bertrand
- SCR 204 – Sergeant Sean Patrick Fennerty
Chief Warrant Officer III Jonathan Shelby Gibson



Reports to the Legislative Assembly

Some legislation enacted by the 2018 Legislative Assembly requires agencies to report to the Assembly or its committees. Only one bill included a reporting requirement that affects ODOT.

Autonomous Vehicle Program Task Force (House Bill 4063)

House Bill 4063 designates the Department of Transportation as the lead agency responsible for coordinating Oregon's programs and policies regarding autonomous vehicles, and creates a task force, staffed by ODOT, to recommend legislation for the 2019 session.

The duty of the task force is to develop legislation for the 2019 session that addresses licensing and registration, law enforcement, crash reporting, liability, insurance, and cybersecurity. The task force may study the longer-term impacts of AVs that might be the topic of legislation, including road and infrastructure design, public transit, land use, cybersecurity/privacy, and workforce impacts. The Task Force must report to an interim Transportation committee on the mandatory part of the bill by September 15, 2018, and may report on the non-mandatory part of the bill by September 15, 2019.

Legislation Considered (Not Passed)

This section reviews a few of the bills that were introduced during the 2018 session, but were not adopted.

Greenhouse Gas Emissions Cap (House Bill 4001 and Senate Bill 1507)

House Bill 4001 and Senate Bill 1507 would have established a cap and investment program on electricity, natural gas, and fuel. Greenhouse Gas (GHG) limits would be set and auctions held to buy more (trade) allowances. Proceeds from the auctions would be deposited in the Climate Investment Fund, except for taxes on fuel, which would go into the Transportation Decarbonization Investments Fund. Both funds would have been managed by the Department of Administrative Services. Funds would have been used to reduce GHG emissions consistent with limits set in the bill, to promote carbon sequestration, and for adaptation and resilience related to climate change.

Short Line Railroad (House Bill 4083)

House Bill 4083 would have allowed short line railroads to claim a tax deduction for rehabilitation projects that have gone through a certification process. The Department of Transportation (ODOT) would have been responsible for certification of these projects. This would have required ODOT staff to establish OARs, policies, procedures, and forms to administer the certification program. ODOT would have also been responsible for developing standards that define a short line railroad rehabilitation project and establish fees to be charged to recover the costs of the certification process. The bill called for ODOT to assist the Department of Revenue to establish procedures for the transfer of tax credits.

Exemptions to Qualifications- Based Selection Procurement (House Bill 4127)

Qualifications-Based Selection (QBS) is a procurement process for the selection of professional services for public construction projects. QBS was originally established by Congress in 1972 in the Brooks Act and many states, including Oregon, have adopted their own versions. The Brooks Act requires the U.S. Federal Government to select engineering and architecture firms based on qualifications rather than by price.

House Bill 4127 would have allowed contracting agencies to consider pricing information after qualifications have been screened when conducting procurements for architectural, engineering, photogrammetric mapping, transportation planning, and land surveying services. The bill would allow a contracting agency to determine as many as three prospective consultants are qualified, may request pricing information from each of them, and then may choose one or more and begin negotiations. Had the bill passed, ODOT procurements that include federal funds would not be impacted, as the Brooks Act does not allow for evaluation of price during the procurement process.