CONNECT OREGON RULES ADVISORY COMMITTEE

Meeting 1 Summary
September 17th, 2018 – 1:00-4:00PM
Chemeketa Center for Business and Industry
626 High St NE, Salem, Oregon 97301

ATTENDEES
Dave Anderson, City of The Dalles
Jerri Bohard, ODOT
Rob Eaton, Amtrak
Senator Betsy Johnson, District 16 – Scappoose
James LaBar, State of Oregon
Mark Landauer, Special Districts Association of Oregon
Paul Langner, Teevin Bros. Land and Timber Company
Martha Meeker, Oregon Aviation Board
Deena Platman, International Trade Systems
Toby Van Altvorst, Goose Lake Railway LLC
John Vial, Jackson County

STAFF
John Boren, ODOT
Erik Havig, ODOT
Jeanne Lawson, JLA Public Involvement
Hannah Mills, JLA Public Involvement

WELCOME AND AGENDA
Erik Havig, ODOT, welcomed the committee and gave a brief overview of the Rules Advisory Committee’s (RAC) charge – to ensure the Connect Oregon rules act in accordance with the statute, and to identify and recommend ways to streamline the Connect Oregon program. Jeanne Lawson, facilitator with JLA Public Involvement, asked the group to introduce themselves. Following introductions, Jeanne reviewed the agenda. The agenda was as follows:

1. Background
2. RAC Protocols
3. Issues Work Session
4. Program Criteria
5. Next Steps and Close
BACKGROUND

Erik explained that the Committee will have to work within the statute for the Connect Oregon Program, and that any recommendations identified throughout this RAC process that fall outside of the statute will be tabled for later discussion.

John Boren, ODOT, used a PowerPoint to provide the pertinent background on the Connect Oregon program. Below is a summary of the content he reviewed.

*The primary changes to the Connect Oregon and statewide significance is defined within the statute and include:*

- **Creating a Part 1 and Part 2**
  - Part 1 and 2 will fund aviation, marine, and rail
  - Part 1 is similar to the existing program
  - Part 2 requires projects to have statewide significance
- **Removing transit from the program and funding transit through the payroll tax**
- **Creating a separate carve-out of funding for bike and pedestrian projects**
  - Bike/pedestrian projects will receive 7% of the funding
  - New rules for the bike/pedestrian portion of the program will be drafted by a separate RAC
- **Funding through a new privilege tax in addition to the existing lottery-backed bonds**
  - State Supreme Court upheld the privilege tax
  - Four dedicated projects that will be funded prior to any future competitive process

*Part 2 will only come into play if there is more than $75 million in funding on an odd year and allows for enhancement and maintenance projects for marine and Class I/Class II/Class III railroads, as well as funding for aviation projects.*

*Key statutory parameters for projects include:*

- A minimum of 10% of the lottery bond funding for each region
- Mandatory review by the Freight Advisory Committee, State Aviation Board, Rail Advisory Committee, and the applicable Area Commission on Transportation (ACT)

DISCUSSION AND QUESTIONS

- **What happens if one of the four dedicated projects is not fully funded for construction? Who is responsible for confirming the projects are ready?**
  - Connect Oregon will fund up to $25 million. If a project does not have sufficient funding it is not a viable project.
RAC PROTOCOLS

Jeanne asked the Committee to review the draft protocols in their handout and explained that the protocols can be revised depending on the Committee’s recommendations. The draft protocols prior to Committee revisions were as follows:

In addressing the legislature’s changes to the Connect Oregon program, as well as to consider overall efficiency and effectiveness of the program, this committee agrees to seek balanced recommendations that address the needs of the broader constituent group they have been asked to represent, while first and foremost serving the needs of the state as a whole.

As members of the RAC, we choose the following protocols for working together.

MEETING PREPARATION AND PARTICIPATION
We agree to:

- Attend all meetings
- Prepare for meetings by reading materials in advance and arriving on time
- Participate by phone if we cannot be present
- Notify staff if we have an unavoidable conflict that requires us to be late or absent, and following the absence, read materials and get briefed on the information presented, deliberations and outcomes of the meeting.

MEETING DELIBERATIONS
During meetings, we agree to:

- Listen carefully and respectfully, seeking to understand each other;
- “Share the air” -- letting others speak once before speaking again oneself;
- Focus on the subject at hand and help the group stick to the agenda;

MAKING COMMITTEE RECOMMENDATIONS TO DECISION-MAKERS

- We will strive to make decisions by consensus, understanding that our recommendations to the Agency and the OTC are strengthened by high levels of agreement. Consensus is achieved when all members can accept and will support the decision. Committee decisions will be understood as the most viable choice for Oregon and the purpose of Connect Oregon Rules Advisory Committee even if it may not be each individual member’s personal preference.
- If it is clear consensus cannot be reached, then a two-thirds majority of the voting members present will be required for an outcome to be represented as a recommendation of our committee. If a two-thirds majority cannot be reached, then there will be no recommendation from the committee and all perspectives will be forwarded for consideration by the decision makers.
A majority of members attending each meeting, either in person or electronically, will constitute a quorum for any decisions made at that meeting.

Although we will not use proxies, we will consider written comments from our fellow members when they are unable to attend.

Decisions will be respected as final to avoid backtracking, unless the committee as a whole agrees there is sufficient new information or deems it necessary to reconsider a previous decision.

ACCESSIBILITY TO THE PUBLIC

Meetings will be open to the public for observation. Up to 10 minutes will be set aside at each meeting to allow for brief public comments and share any written comments.

EXTERNAL COMMUNICATIONS

Outside of committee meetings members agree to:

- Support the group process in communications with others and with each other;
- All official communications regarding the process will be conducted through ODOT
- Communicate with our respective constituents to ensure that they are well-informed of the group’s discussions and progress and to ensure that issues are identified that need to be communicated to the rest of the committee;
- Contact staff regarding suggestions to help future meetings and activities work more effectively.

Jeanne noted the definition of consensus for this process – to find recommendations that all members can be comfortable with, with the understanding that the decision may not be everyone’s first choice. She explained that the intent is to find a balanced outcome and to put forward recommendations that the decision-makers will feel confident in adopting.

RAC PROTOCOL REVISIONS AND RECOMMENDATIONS

- The Committee will seek a high level of agreement before finalizing a recommendation – 3/4ths majority.
- All perspectives will be captured and provided to the OTC when the Committee cannot come to consensus on a recommendation.
- The Committee will not allow alternates when a member cannot attend a meeting.
- Ten minutes at the end of each meeting will be reserved for public comment.

 ISSUES WORK SESSION

Jeanne asked the Committee to write down the issues they felt needed to be addressed, one issue per sheet. Each member submitted their issues for discussion and project staff arranged them on a comment wall based on similarity and key themes. Once the comments were arranged the committee
members we given a set of seven dots and asked to assign their dots to the issues they felt were highest priority. No more than two dots could be assigned to an issue.

**ISSUE IDENTIFICATION AND PRIORITIZATION EXERCISE RESULTS**

Below is a table of the issues submitted by the Committee with the corresponding votes, listed from highest to lowest priority:

<table>
<thead>
<tr>
<th>Overarching theme</th>
<th>Submitted issue/need/opportunity</th>
<th>Point distribution</th>
<th>Total points</th>
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</thead>
<tbody>
<tr>
<td>Review process</td>
<td>Address issues within the review process</td>
<td>3</td>
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<tr>
<td></td>
<td>Clarify the role of ACTs, modal committees, super ACTs, and final review committee – what is the order of authority?</td>
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<td>12</td>
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<td></td>
<td>Increase the efficiency of the decision-making process while maintaining/enhancing quality</td>
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<td></td>
<td>Clarify and provide direction about the review process criteria – tailor the process to avoid making it a “creative writing exercise”</td>
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<td>Definition of “statewide significance”</td>
<td>Provide clarity on the definition of “statewide significance” using tailored and precise language</td>
<td>11</td>
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<td>Selection process</td>
<td>Address issues within the review process</td>
<td>6</td>
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<td></td>
<td>Consider the past project performance of agencies/departments/cities/etc. when selecting projects</td>
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<td>Reevaluate and improve the selection process to ensure equity – smaller regions are often given lower priority despite the viability and necessity of projects</td>
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<td>Create a program discipline system that evaluates project readiness and local consensus, disqualifies bad actors, and discourages queue jumping</td>
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<td>Conduct follow-up evaluations: - Did the taxpayers see benefit? - Did the project accomplish its projections?</td>
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<td>Clarify what disqualifies a project</td>
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<td>Ensure projects are not seeking Connect Oregon funding when they have access to and qualify for other funding options</td>
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<tr>
<td>Regional allocation</td>
<td>Address issues regarding regional allocation of Connect Oregon funds</td>
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<td>Ensure funds are spent only on viable projects</td>
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<td>Is the 10% allocation broken out by region? Clarify the urban vs. rural distribution</td>
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<tr>
<td>Overarching theme</td>
<td>Submitted issue/need/opportunity</td>
<td>Point distribution</td>
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<tr>
<td>Funding match</td>
<td>Clarify match requirements and address issues in the funding match system</td>
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<td>Quantify the source of match funding</td>
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<td>Create a balance between competitive projects and bought projects, and develop a process for determining overmatch weight</td>
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<td>Consider a 30% or less match for smaller projects</td>
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<td>Readiness</td>
<td>Define and clarify what qualifies a project’s readiness</td>
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<td>Require proof of local consensus</td>
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<td>Create a system that examines whether a project has acquired the right permits, and if not, whether it would be able to acquire the right permits</td>
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<td>Require a timeline to ensure a project is performing and meeting development expectations</td>
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<td>Economic benefit measures</td>
<td>Refine the definition of economic benefit in regards to local, regional, and state business and economic drivers</td>
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<td>Create a standard metric for evaluating the economic impacts of a project</td>
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<td>Clarify and establish the consequences of not meeting the economic benefit projections</td>
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<td>Model the process for evaluating economic benefit from successful programs at other agencies</td>
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<td>Provide a better definition of economic benefit and the duration of benefit</td>
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<td>What to fund?</td>
<td>Clarify and refine the priorities for allocation of Connect Oregon funds</td>
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<td>Provide clarity on and create a balance between preservation of infrastructure and deferred maintenance</td>
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<td>Eliminate rolling stock</td>
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<td>Clarify the definition of “critical link” and what it means to connect</td>
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<td>Grant administration</td>
<td>Establish a minimum project size with grants awarded on July 1st of odd years</td>
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<td>4</td>
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<td>Address issues within the grant administration process</td>
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<td>Establish a system for reclaiming grants from projects that have not used them within a specific amount of time</td>
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<td>Clarify the application of funds for failed projects</td>
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</table>
### Overarching theme

<table>
<thead>
<tr>
<th>Submitted issue/need/opportunity</th>
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</table>
| **Jobs**  
Consider factors and impacts on the job market – job creation vs. job retention, number of jobs vs. quality of jobs, etc. | 1                  | 1            |
| **Expertise**  
There is a lack of marine experts reviewing marine related projects | 0                  | 0            |

### ISSUE IDENTIFICATION AND PRIORITIZATION DISCUSSION

Below is a summary of the Committee’s extended discussion in regards to the submitted issues, needs, and opportunities:

- **Review process:**
  - Under the current review process, applications that have employed highly skilled writers receive more points than more viable project applications written by a knowledgeable and experienced public employee. Tailor the review process to ensure projects are not deemed viable based on the creative writing talent exhibited.
  - Aviation projects will often be rejected because the modal committees decide the projects are not fully prepared. This can become a “self-fulfilling prophecy.”

- **Definition of “statewide significance”:**
  - The law provides a definition of “statewide significance,” but there is still need for clarity.

- **Selection process:**
  - The process for applying for Connect Oregon funds is less rigorous than the federal application process. What happens if a project has applied for federal funding, but their application is rejected? Consider eliminating applications from projects that have had their application for federal funding rejected.
  - Address issues regarding projects that are selected based on relationships. Projects that can’t get funded by going through the traditional application process are sometimes selected because a champion or advocate for the project has a personal relationship with someone in the legislature. It’s important to strike a balance between ensuring the process is not too onerous that people avoid applying, and preventing non-viable projects from jumping the line by utilizing relationships with those in authority. Consider using the State Rail Plan system as a prototype for filtering projects.
  - Currently there is nothing in the rule that ensures a post mortem evaluation of success to ensure accountability and identify “bad actors.”
  - Beyond securing a land permit, it’s important to ensure there is local consensus and support for a project. Projects need to provide proof of local consensus beyond a few advocating “insiders.”
  - Provide clarity on the project development expectations – what level of project development is necessary to be considered for funding?
Experts are needed in a variety of industries to evaluate applications appropriately – economists, engineers, etc.

**Funding match:**
- There needs to be a balance between funding and quality. Projects can be bought, but that doesn’t guarantee quality.

**Economic benefit measures:**
- A project may meet the needs for a private business, but it’s important to consider how the project will benefit the region.
- Consider using standardized metric for determining the economic benefit of a project. Currently, bike and pedestrian projects have a different economic benefit scoring metric.
- Perform evaluations of the economic performance of projects.
- Economic benefit will have a different definition based on the project and location – the creation of three jobs will have a lot more impact on a town like Dufur than it would in Portland. This needs to be considered when selecting projects.
- Confirm projects are using the same measures for economic benefit they committed to in their application, and use the results of evaluating success to determine eligibility for future funding.
- Provide more clarity on the role the State plays in determining the economic viability of a project.

**Jobs:**
- Job retention needs to be given more weight when scoring projects.

**PROGRAM CRITERIA**

Jeanne asked the group to review the basic criteria for allocating Connect Oregon funds explaining that at this time they would just be providing high level input rather than focusing on wordsmithing. She posed the question to the Committee: “Are the basic values reflected in the statute?”

Below is a summary of the Committee’s discussion and input on the program criteria:

- **Section (8)(b):**
  - Consider adding language that addresses the importance of moving people for the sake of productivity, which directly impacts economic benefit. People are a commodity and need to be able to move to city centers efficiently. This applies to Section (8)(a) and Section (8)(c) as well.

- **Section (8)(c):**
  - Much of the criteria need further clarification, such as “critical link.”
  - It’s important to emphasize the intermodal connectivity – rail to marine port, marine port to airport, etc. The current definitions are too ambiguous.
  - While bike and pedestrian projects do not fall within the Committee’s charge, considering the benefits of bike and pedestrian infrastructure needs to be a part of the conversation. Intermodal connections have relevant impacts that directly relate to this
effort. The Committee’s goal is to assess Connect Oregon’s ability to fund projects that support the community – a trail to a bus station has a higher importance than a recreational trail. Consider striking a balance and connecting benefits, such as addressing issues of “first mile/last mile.”

- Section (8)(e):
  - Consider adding language about local vetting. If this is not appropriate as a part of this section, consider giving local vetting its own section.

- Section (8)(g):
  - There needs to be language that explicitly notes the importance of project durability and planning for the future.

**Next Steps and Close**

Jeanne encouraged the Committee to respond to the Doodle poll to help the project staff begin scheduling and planning for the upcoming RAC meetings. She explained that in the next meetings the Committee will be working through the rules and draft language, and at the final meeting they will be working to develop the recommendation language.

Erik thanked the Committee for their participation and closed the meeting.