METRO
2019 LEGISLATIVE ISSUE IDENTIFICATION

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ISSUE: 2019 Climate legislation

BACKGROUND: The 2018 Legislature developed ambitious legislation to reduce greenhouse gas emissions in Oregon through a so-called "cap and invest" program. While the legislation did not pass in the short 2018 session, legislative leaders have signaled their commitment to passing it in 2019 by establishing a Joint Committee on Carbon Reduction chaired by the Senate President and the Speaker of the House during the legislative interim.

It is anticipated that a 2019 climate bill will closely resemble "Clean Energy Jobs" legislation introduced in 2018, which would have updated the climate goals the Legislature established in 2007 and converted them to actual "limits." The 2007 goals call for reductions of greenhouse gas emissions below 1990 levels of 10% by 2020 and 75% by 2050. The 2018 legislation established a "goal" of 20% reduction below 1990 emission levels by 2025 and "limits" on emissions of 45% below 1990 levels by 2035 and 80% by 2050.

The primary mechanism of this legislation would be a hard cap on emissions that would decline over time to comply with the limits above, combined with "allowances" for each ton of carbon dioxide emissions (or equivalent) allowed under the cap. Most of these allowances would be sold in a state-run auction, while others would be given away to help industries that compete with unregulated businesses outside Oregon to transition to clean energy. Regulated businesses would have to periodically verify that they held enough allowances to cover their emissions.

The intended outcomes of this system would be that businesses would have an incentive to reduce their emissions in order to reduce the number of allowances they need to buy, and would therefore seek the lowest-cost ways of reducing their emissions. Businesses that reduce their emissions would be able to sell surplus allowances on the open market. The cost of the allowances, which would rise over time as the number of allowances declined, would make clean energy more competitive; drive increased investment in energy efficiency, zero-emission vehicles and clean energy sources; and spur investments in clean-tech businesses.

The proposed legislation would cover emissions from transportation, residential and commercial use of electricity and natural gas, solid waste, and large industrial processes. Auction proceeds would be used to invest in projects that further reduce emissions and support the transition to a clean energy economy; to support investments to help communities adapt to climate change; to provide assistance to low-income households, rural communities and small businesses; to support job transitions for affected workers; to prevent price volatility and minimize impacts on utility rates; and for other related purposes.

RECOMMENDATION: The region's six desired outcomes for successful communities, which have been adopted into the Metro Council's legislative principles, include regional leadership on climate change. While the details of this legislation are still being developed, staff offers the provisional recommendation that Metro should support this concept while continuing to monitor its substance and progress. Staff has two more specific recommendations:

<u>Transportation</u>: Like gas taxes and vehicle registration fees, proceeds from allowances purchased by suppliers of transportation fuels are likely to be constitutionally dedicated to expenditures within the road right-of-way.[1] However, they must still be spent in ways that carry out the primary objectives of the bill: reducing greenhouse gas emissions and promoting adaptation and resilience in Oregon communities in response to climate change. Other language in the 2018 bill required that preference be given to transportation investments that result in the greatest reductions in GHG emissions.

The 2009 Jobs and Transportation Act directed Metro to develop and implement a plan to reduce GHG emissions from transportation consistent with the state's climate goals. In collaboration with regional partners, Metro developed and adopted the Climate Smart Strategy to meet this requirement; this strategy has been approved by the Land Conservation and Development Commission. However, even considering the road, transit, bicycle and pedestrian improvements that will be supported by the 2017 transportation package, the region still needs significant funding to fully implement the Climate Smart Strategy. An appropriate portion of auction proceeds from a cap and invest bill should be allocated to the region for this purpose. (Any other MPO with a state-approved GHG reduction plan should be similarly eligible.)

<u>Waste</u>: While including GHG emissions from waste in a cap and invest program will impose additional costs on the solid waste system, internalizing environmental costs is generally good practice, especially when the costs are linked to behaviors that can be modified or avoided. If the solid waste industry is required to obtain allowances to account for its GHG emissions, the costs of those allowances could be included in rate setting and would provide an incentive for reducing waste generation or otherwise reducing emissions, similar to the other sectors covered by the legislation. Staff recommends that Metro support this climate legislation irrespective of whether waste is subject to its requirements.

However, a list of large emitters of GHGs developed by the Oregon Department of Environmental Quality (DEQ) includes the closed St. Johns Landfill. Requiring a closed landfill to purchase allowances to account for its GHG emissions is problematic since emissions cannot be further reduced through waste reduction. Staff investigation suggests that the DEQ's assessment of emissions from St. Johns is based on generic information and fails to take into account the extensive measures taken to capture and eliminate those emissions; actual

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[1] While some legal questions have been raised as to whether auction proceeds are actually subject to this requirement, legislators are operating under the assumption that the constitutional dedication applies and exploring a range of uses that would be eligible for investment under that assumption.

emissions seem to fall well below the threshold in the legislation that would require Metro to purchase allowances for the landfill. However, in 2018, staff secured amendment language exempting closed landfills operating in compliance with their DEQ closure permits from having to purchase allowances. Metro should support including similar language in a 2019 bill.

LEGISLATIVE HISTORY: As noted above, the Legislature created greenhouse gas emissions reduction targets in HB 3543 (2007). "Cap and invest" legislation was introduced in 2016 but was set aside at the time in favor of the so-called "coal to clean" bill that phased out electricity derived from coal. Late in the 2017 session, over 30 co-sponsors introduced SB 1070, a "marker bill" that represented the starting point for discussion of 2018 legislation. Four working groups met in the fall of 2017 to flesh out that legislation, which was then introduced as HB 4001 and SB 1507 in the short 2018 session. Metro staff successfully advocated for language to be included in these bills to address the transportation- and landfill-related issues described above. However, leadership decided at the end of the session to create a joint committee to continue working on climate legislation over the interim and bring back a bill in the longer 2019 session.

OTHER INTERESTED PARTIES: Because this legislation will have impacts across the entire state economy, it is being watched closely by a very broad range of interests.

IMPACT IF PROPOSED ACTION OCCURS: Impacts of such legislation are likely to be wide-ranging and hard to predict with precision. However, based on related programs in other areas, it is anticipated that this legislation will stimulate investments in energy efficiency and accelerate the transition to cleaner sources of energy. It could provide critical funds for regional investments that support implementation of the Climate Smart Strategy by reducing greenhouse gas emissions from the transportation system. Depending on specifics, this legislation could also create opportunities to support other Metro activities that reduce climate impacts.