

# Water for Life

## 2011 Legislative Report

[www.waterforlife.net](http://www.waterforlife.net)

The 2011 Oregon Legislative Session adjourned on June 30, 2011. The session was historically significant in that it represented the first session following voter approval of a constitutional amendment in November of 2010 requiring annual sessions in Oregon.

The 2011 session was also historically significant in that Oregon's House of Representatives was equally split between Republicans and Democrats for the first time in state history. The 30-30 divide in the House resulted in a unique power sharing arrangement between the parties. Instead of one member of the House being elected to serve as Speaker, the House elected a member of each party to serve as co-speaker. As there was no majority party in the House, each House committee was co-chaired by a representative of each party. The power sharing arrangement lessened the ability of either party to effectively pursue a partisan agenda and largely ensured that only legislation having bipartisan support advanced through the body. As a result, the 2011 legislative session was notable more for the legislation that did not advance, rather than for groundbreaking proposals that became law.

Due to the constitutional amendment requiring annual legislative sessions, the legislature is scheduled to reconvene February 1, 2012. The February 2012 session will represent the first real test for the new system of annual legislative sessions. While lawmakers theoretically approved a balanced 2011-2013 budget during the 2011 legislative session, most observers believe the legislatively approved budget is based on overly optimistic revenue projections. To the extent these projections prove to be correct, lawmakers will need to engage in a significant degree of budget rebalancing in February 2012, a few short months before the May 2012 primary election. The ability of lawmakers to achieve agreement on spending reductions or tax increases in order to balance the budget in the face of a looming primary election will put representatives of both parties, and the legislative body as a whole, to the test.

Although Water for Life faced a number of significant challenges, the organization did remarkably well in advancing its policy objectives during the session. For example, on the first day of the session, lawmakers scheduled a hearing on Senate Bill 127, which would have granted the Oregon Water Resources Department exceedingly broad authority to enter into contracts with public and private parties without adequate oversight from the legislature. The legislation also appeared designed to provide the Water Resources Department with authority to implement the Klamath Basin Restoration Agreement, without seeking direct legislative approval. Water for Life immediately took action to oppose Senate Bill 127 and the bill was tabled after a perfunctory public hearing.

In addition, despite all odds, Water for Life was successful in retaining the Fish Screening Tax Credit. The Fish Screening Tax Credit was originally established in 1991 as a part of pilot cost-share program for the construction, installation, and maintenance of fish screening devices at eligible diversion points. The program became permanent in 1995. In addition to direct cost sharing, the program afforded eligible water users a tax credit for 50 percent of their net costs of construction. Water for Life was instrumental in the original creation of the program and has continued to ensure its ongoing viability over the years. During the 2011 session, however, lawmakers made a serious attempt to end the program, along with many other tax credit programs, in an effort to obtain additional tax revenue for the state. Through intensive lobbying efforts, Water for Life was able to persuade lawmakers to retain the Fish Screening Tax Credit, even as many other tax credit programs were eliminated.

Water for Life was also successful in helping secure passage of legislation to continue the Deschutes Water Mitigation Program. The program enables new ground water uses to be developed in the Deschutes Basin while providing protections to scenic waterway and instream water right flows. The program was scheduled to expire in 2014. However, as a result of the 2011 legislation, the program will be continued until January 2, 2029. Water for Life's efforts to develop a workable compromise with representatives of the environmental community were pivotal to the success of the legislation.

One disappointing aspect of the 2011 Legislative Session was the inability of the agricultural community to secure legislation protecting agricultural producers from onerous new administrative water quality rules adopted by the Department of Environmental Quality and the Environmental Quality Commission. Substantial effort was made to clarify issues relating to the new water quality rules; however, ultimately, it was not possible to navigate legislation providing adequate protection to agricultural producers through the Democrat-controlled Oregon Senate.

While the 2011 Legislative Session presented Water for Life with a significant number of issues, Water for Life continues to address the ramifications of the 2009 Legislative Session. In 2009, Democrats controlled the Governor's Office and also maintained control of both the Oregon House and Senate with super-majorities. In this single-party environment, the Legislature approved HB 3369 (2009), which provided benefits for a particular water storage project in the Umatilla Basin, but also contained an array of other provisions that were detrimental to agriculture, including provisions directing the Water Resources Department to develop an "Integrated Water Resource Strategy."

In 2009, Water for Life was the only organization to unequivocally oppose HB 3369. The reason Water for Life opposed the legislation, while other agricultural groups did not, is that Water for Life was concerned the long-term negative consequences of the bill outweighed the particular benefits for the Umatilla Basin. Unfortunately, these concerns are now appearing to be well founded.

In 2010, the Oregon Water Resources Department conducted a number of workshops and policy advisory committee meetings to assist the department in developing the Integrated Water Resource Strategy called for in HB 3369. The outgrowth of these meetings is a document entitled Draft Recommended Actions, which was released by the Department on June 23, 2011. While the 67-page document is not susceptible to being summarized in a short newsletter article, all members are encouraged to review the document, which is available at:

[http://www.oregon.gov/OWRD/LAW/Integrated\\_Water\\_Supply\\_Strategy.shtml](http://www.oregon.gov/OWRD/LAW/Integrated_Water_Supply_Strategy.shtml)

In reviewing the document, it is evident the water resources strategy being developed calls for moving away from a system whereby water resources management decisions are predominately the responsibility of the Oregon Water Resources Department. Instead, the document calls for various state agencies to have diffuse responsibilities over water resource issues. Coupled with the foregoing, the strategy being developed strikes a questionable balance between instream and out-of-stream uses. From Water for Life's perspective, the document appears to place much greater emphasis on instream, as compared to out-of-stream needs. Additionally, the document serves to blur the lines between water quality and water quantity regulation, places significance on the amorphous concepts of peak and ecological flows, and advocates for increased conjunctive management of surface and ground water, along with more water measurement. Similarly, the document focuses on tying water use and land use decision-making processes in a fashion that has been of significant concern to agricultural water users in the past.

The Oregon Water Resources Department is currently accepting comments on the Draft Recommended Actions associated with the Integrated Water Resources Strategy. Water for Life members are encouraged to review the Draft Recommendations available at the Department's website and submit comments. The deadline for comments is August 31, 2011 and the address for submitting comments is:

By email: [waterstrategy@wrd.state.or.us](mailto:waterstrategy@wrd.state.or.us)

By Mail:           Attn: Water Strategy  
                      c/o Oregon Water Resources Department  
                      725 Summer Street N.E., Suite A  
                      Salem, OR 97301