

# *Cultural Advocacy Coalition*

## LEGISLATIVE REPORT 2009

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### REPORT OF OREGON'S 75TH LEGISLATIVE ASSEMBLY REGULAR SESSION 2009

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#### *In summary*

In spite of the most severe recession in Oregon's recent history, and a one-time, emergency funds transfer from the Cultural Trust to help rebalance the state budget, Oregon's cultural community emerged from the 75th Legislative Assembly with additional funding at levels over and above base budgets – exceeding \$5 million. From both a funding and policy perspective, the 2009 Session can only be viewed as a resounding success.

Thanks to Governor Ted Kulongoski and legislative leadership, particularly Senator Betsy Johnson, D-Scappoose, the assembly supported its second round of creative reinvestment in Oregon through the CHAMP Initiative: funding for Culture, Heritage, Arts, Movies, Preservation and public broadcasting.

CHAMP, first created by the Governor in 2007 as a vehicle for cultural reinvestment, has become a successful, branded and unified effort to draw attention to Oregon's public-private efforts at building the cultural and creative economy of the state.

The 2009 CHAMP II reinvestment package reaffirmed the important role of statewide cultural funding by investing new funds in the Oregon Arts Commission, Oregon Historical Society, Portland Art Museum, Oregon Main Street and Oregon Public Broadcasting as well as authorizing the issuance of bonds to support facility improvements at the Pendleton Round-Up.

Ultimately, the real advantage of CHAMP is its ability to articulate the important interconnections between Oregon's history, movie making, arts and public broadcasting. The collaboration underway between the Historical Society and OPB has resulted in production of the popular Emmy Award-winning history series, "The Oregon Experience." Downtowns targeted by the new Main Street program frequently house the studios of artists and creative small businesses and are the locations for movies and commercials filmed in Oregon. And Oregon's 1,200 cultural organizations provide important outreach programs for Oregon's students and youth.

#### *The Policy Legislation*

### *The Cultural Trust*

#### **HB 2740**

HB 2740 expands the Cultural Trust Board of Directors from 7 to 11 members in order to actively involve more people on the ground, raising money

for Oregon's arts, heritage and humanities. It clarifies a requirement that each county cultural coalition and federally recognized tribe must have an approved

cultural plan in place prior to receiving grant funds from the Trust. Additionally, it continues an existing authorization for the use of cultural license plate revenues for the marketing and promotion of the Trust.

HB 2740 was introduced by the Cultural Advocacy Coalition at the request of the Cultural Trust Board. In a strong show of support for the Cultural Trust, the bill passed almost unanimously in both the House of Representatives and the Senate and has been signed in to law.

### **HB 2067**

In an effort to streamline the state's responsibility to review and manage all of its tax incentive programs to ensure they meet their policy purpose, the House Revenue Committee worked weeks on a bill that identifies Oregon's tax credit programs – including the credit for Cultural Trust contributions. Each program was assigned one of three “sunset” dates: January 2012, January 2014 or January 2016. A sunset is an automatic program expiration date, subject to legislative review and renewal.

About half of Oregon's existing tax credit programs already had sunset dates, including the Cultural Trust. Through the luck of the draw, the Cultural Trust tax credit was actually extended in HB 2067 to January 1, 2014. Good news!

### **HB 2661**

HB 2661 proposed to modify the distribution of the proceeds from any sale of the Mill Creek property from the current 50-50 split between the Cultural Trust and the Department of Corrections by significantly reducing the amount allocated for the Trust to 10 percent.

The bill received a cursory hearing in mid-March with no testimony provided by its sponsors. The Cultural Advocacy Coalition lobbied committee members to keep the bill in committee and take no further action. This bill officially died in committee upon adjournment.

### **SB 961**

Each session brings a slew of “license plate” bills, and SB 961 is one of several introduced in 2009. SB 961 directs ODOT to establish a “Pacific Wonderland”

specialty plate program. Net proceeds are shared between the Oregon Historical Society, and the Oregon State Capitol Foundation for the purpose of funding an Oregon History Center on the Capitol grounds. The new program is in addition to the existing three specialty plates, and is limited to 25,000 plates. The plates will be designed based on those issued in 1959, Oregon's centennial year, and will include recognition of Oregon's Sesquicentennial.

## *Heritage/ Historic Properties*

### **HB 3099**

As originally drafted, HB 3099 removed a number of statutory provisions that provide exemptions, both outright and conditional, for uses of land exclusively zoned for farm use. One of the exemptions proposed for elimination related to the siting of living history museums.

This bill received several hearings in the House Committee on Land Use. The Cultural Advocacy Coalition participated in a work group to negotiate amendments that reinstate current land use law as it relates to living history museums. Eventually, satisfactory amendments were adopted into the bill, and another similar bill was abandoned.

*(A special thank you to Kyle Jansson and Katherine Huit with the Oregon Museums Association for providing timely, detailed information for use in committee and negotiation sessions about Oregon's living history museums.)*

### **SB 192**

Oregon's landmark Historic Properties Special Assessment program was set to expire in 2010. During the 2007 session, the Cultural Advocacy Coalition was involved in structuring a task force to review the program and make recommendations for extending the program. SB 192 is the modified work product of that task force.

SB 192 continues and simplifies the Historic Properties Special Assessment program. It becomes easier to administer for local governments, provides a higher level of accountability, and resolves the condo issue related to beneficiaries.

Unresolved, however, is any relief for a handful of property owners caught in the Ballot Measure 50 snare, whereupon property taxes are actually higher upon exiting the program than they would have otherwise been if the special assessment program had not been utilized at all.

*(Tremendous credit is due John Tess, a CAC Board Member and chairman of the task force. Mr. Tess was joined by Oregon's First Lady, Mary Oberst, and Senator Vicki Walker, D-Eugene, who also served on the task force and collectively dedicated many hours to see successful passage of this legislation.)*

### **SB 440**

How quickly deals are left behind... just a couple sessions ago a bill passed that required 70% of any increased increment or new revenue from local transient lodging taxes be used to fund tourism promotion and tourism-related facilities. The 70% guarantee was the deal that brought support from industry. SB 440 would have eliminated the 70% guarantee, allowing the revenues to be used for other purposes. SB 440 died in committee after one public hearing.

## *Government Ethics*

### **SB 30**

In 2007, the Legislature passed two major ethics reform bills (SB 10 and HB 2595). Since then, local elected officials in communities across Oregon have resigned from their positions rather than comply with the confusing, restrictive and overly intrusive laws. SB 30 makes significant changes to the ethics laws, including several listed below of particular concern to cultural interests:

Changes definition of "public official," "candidate" and "administrative interest";

Clarifies that "legislative or administrative interest" lies in a "decision or vote" of the public official;

Clarifies that gift limits do not apply to gifts from private employment or volunteer work of the public official or relative when given as part of usual and customary practice, and bearing no relationship to the officials' holding of public office;

Clarifies that officials may attend receptions

or meetings when they are representing a government entity;

Eliminates requirement to list relative and members of household on Statement of Economic Impact; and

Removes ban on entertainment gifts and makes entertainment gifts subject to gift limits.

SB 30 was worked hard and carefully, although it was on a fast track. The bill passed out of the Senate on April 1, and passed out of the House on April 14. It was signed by the Governor and became effective on April 15, 2009.

*(Special thanks to Paul Winberg, Eugene Symphony; Greg Phillips, Portland Center Stage; and Jeff Hawthorne, Regional Arts and Culture Council for providing outstanding panel testimony clearly demonstrating a legitimate need to repeal the outright ban on entertainment gifts.)*

## *Movies*

### **SB 621**

SB 621 increases the maximum reimbursement from the Oregon Production Investment Fund from \$5 to \$7.5 million for reimbursement to a bona fide television or film production company for a portion of the actual Oregon expenses of that company. SB 621 was caught on the rock of political deal-making until the very last minute of session, but ultimately was included in end-of-session negotiations between legislative leadership in the House and Senate, and the Governor's Office.

### **SB 863**

SB 863 directs the Economic and Community Development Department to reimburse local filmmakers for all or a portion of actual expenses paid in Oregon to produce smaller films using Oregon residents for production. These new provisions are funded using a 5% appropriation of moneys from the Oregon Production Investment Fund.

## *Arts*

### **HB 2540**

HB 2540 was requested by Mississippi Studios and repeals ORS 657.506, the statute that the Attorney

General and the Employment Department solely apply to anyone who “engages the services of a musician.” The statute designates any person or organization that engages the services of a musician is to be considered the employer of that musician, for the purposes of paying unemployment insurance compensation taxes.

Repeal of ORS 675.506 through the passage of SB 2540 now means the application of ORS 657.040 prevails, allowing musicians to be considered independent contractors, if they meet the independent contractor criteria.

HB 2540 was signed by the Governor with an effective date of April 28, 2009.

### **HB 2673**

HB 2673 prohibits the use of computer software designed to circumvent measures used by legitimate ticket sellers and resellers to ensure equitable distribution of admission tickets for entertainment events.

The so-called “Hannah Montana” bill was introduced by Representative Gelser after her experience with ticket scalpers when trying to purchase event tickets to see Miley Cyrus in concert. The original bill received broad opposition based on its onerous reporting requirements but was amended to specifically target secondary resellers and “BOT” software designed to thwart a seller’s effort to limit the number of tickets a consumer may acquire. This software scoops up hundreds of tickets and can even redirect consumers to the reseller’s web site where tickets are available at highly inflated prices. The amended bill received broad support and will become effective in January, 2010.

### **HB 3219**

HB 3219 is all about the relating clause: Relating to smoking. The goal was to “gut” the bill of its original language and “stuff” it with new language in an amendment to allow the use of “smoking instruments” for bona fide theatrical performances

where the use of such instruments is specified by the playwright or is determined to be an integral part of the personality of a particular character.

Under the expansion of the Oregon Indoor Clean Air Act in 2007, the prohibitions against smoking were expanded to a wider range of venues. Although theatres are not specifically included, the broad definition of “places of public gathering” sweeps them in.

HB 3219 died in committee upon adjournment. The Cultural Advocacy Coalition will be revisiting this issue in subsequent sessions.

### **SB 556**

SB 556 requires that owners of a place of public assembly have at least one automated external defibrillator. The bill defines “place of public assembly” as a facility that has 50,000 square feet or more of floor space and where the public congregates for purposes such as deliberation, shopping, entertainment, amusement or awaiting transportation, or where business activities are conducted and at least 25 individuals congregate on a normal day.

SB 556 was amended to include a “Good Samaritan” clause which prevents a cause of action against the owner of a place of public assembly for injury, death or loss that results from acts or omissions involving the use, attempted use or nonuse of an AED. School district and worship facilities are exempted from all provisions of the bill.

### **HB 3146**

HB 3146, or some version like it, appears to be a perennial bill. HB 3146 imposes a new tax on the purchase price of luxury items and directs that tax to be dedicated to education. The list of “luxury items” is long and includes artwork with a purchase price of \$5,000 or more.

The bill was assigned to the House Revenue Committee but received no action and died in committee.

# *2009 Legislative Report*