**<u>Joint Interim Committee on Interstate 5 Bridge Replacement</u>**
**Tuesday, January 14, 2014**
**State Capitol, Salem, Oregon Legislative Administration**

**Members Present: Sen. Lee Beyer, Rep. Tobias Read, Co-Chairs; Rep. Cliff Bentz, Rep. Chris Gorsek, Sen. Bruce Starr Co-Vice Chairs; Rep. Vicki Berger, Rep. Kevin Cameron, Rep. John Davis, Rep. Margaret Doherty, Sen. Chris Edwards, Sen. Fred Girod, Sen. Betsy Johnson, Sen. Tim Knopp, Rep. John Lively, Rep. Caddy McKeown, Sen. Rod Monroe, Rep. Nancy Nathanson, Rep. Julie Parrish, Sen. Chip Shields, Rep. Greg Smith, Sen. Elizabeth Steiner-Hayward, Sen. Chuck Thomsen, Sen. Jackie Winters.**

**Members Excused: Sen. Bill Hansell.**

The Joint Interim Committee on Interstate 5 Bridge Replacement held its first meeting of the 2013-14 Interim in Hearing Room F of the Oregon State Capitol. The Committee adopted its proposed rules in an organizational hearing.

<u>Review of Features and Timelines for an Oregon-Led Project</u>
Matthew Garrett, Director of the Oregon Department of Transportation (ODOT), provided an overview of the presenters who would be providing information to the Committee during the meeting.

Kris Strickler, Columbia River Crossing (CRC) Project Director for ODOT, provided an outline and a slide presentation regarding the current status of the project. The project originally was formulated as a bi-state effort; however, while the Oregon Legislative Assembly did take required action in 2013 with the passage of House Bill 2800, the Washington Legislature failed to enact legislation to authorize or fund the project. At the urging of Governor Kitzhaber, who also submitted a letter for the record to the Committee, the project was reassessed to determine whether it could proceed as an Oregon-led project. Mr. Strickler emphasized the state, regional, and national importance of maintaining and improving the Interstate 5 corridor. He reviewed the changes to the project’s scope with the transition, specifically the elimination of improvements to the State Route 500 and Mill Plain interchanges in Washington and the provision of funding for improvements to the State Route 14 interchange through toll revenues.

Mr. Strickler reviewed the legal agreements that would need to be in place for an Oregon-led project to proceed. Some of the agreements are already in place, including an agreement between Tri-Met in Portland and C-TRAN in Vancouver and a general bridge permit issued by the United States Coast Guard. Others have been outlined in documents issued by Washington’s Attorney General(viewable here and here) and by Oregon‘s Attorney General(viewable here, here and here ). Oregon would be solely responsible for construction and administration of tolling for the bridge.

Committee questions and comments for this panel included: whether Oregon would be solely responsible for covering cost overruns; a request for a ‘sources and uses’ worksheet for moneys expected to be expended on the project; whether separate agreements would be required for construction and for tolling; whether toll financing and Oregon equity financing will be separated; the expected extent of use of toll-backed revenue bonds; whether an 'ironclad' agreement can be negotiated with Washington on toll rate setting; the expected duration of tolling on a new bridge, and the effect of paying for the State Route 14 interchange on toll duration; how Oregon might cover theoretical cost overruns; whether a third party has been identified for toll collection; the level of confidence in the availability of $850 million in federal funding for the project; the impact of the project on the ability to address other state transportation needs; whether federal funding is dependent on light rail being part of the project; and whether toll revenues could be swept for other uses.

Review of Investment-Grade Analysis for Project

Eugene Ryan of CDM Smith, the firm that conducted the investment grade analysis (IGA) for the project, offered a slide presentation that reviewed the study and discussed the process used in its development. He emphasized that while the accuracy of such forecasts varies, actual revenues tend to exceed estimates, particularly for projects on existing corridors such as the CRC. The IGA is typically used for the actual development of funding plans and to help rating agencies set bond rates. He outlined the proposed toll rates, set to increase slowly between 2015 and 2022, after which the rates would be static; a higher rate would be charged during peak travel hours, and vehicles utilizing a transponder would pay lower rates than those that do not. He then reviewed projected changes in traffic patterns, both for the Interstate 5 Bridge and the Interstate 205 Bridge, following imposition of tolls on the former.

Committee questions and comments for this panel included: whether the additional cost paid by vehicles without transponders represents the additional cost of collection; what recourse the state has for drivers who fail to pay the toll; the methodology used to calculate travel time; toll rate calculations for heavy vehicles; adjustments in maintenance cost for the two bridges related to changing traffic patterns; the impact of traffic diversion on the Interstate 205 corridor; the reasons for the difference in traffic projections between the IGA and the final environmental impact statement (EIS); whether CDM Smith's previous work was analyzed for accuracy; potential corridor impacts as far south as Wilsonville; whether the value for time model considers fuel costs from idling; and the proportion of drivers on the bridge from Oregon and Washington.

Brent Baker, Parsons Brinckerhoff, offered a slide presentation reviewing net toll revenue projections. The analysis predicts that about two- thirds of bridge crossings will be in vehicles that utilize transponders that allow automatic payment of the toll; other vehicles will have a photo taken of the license plate and the bill will be sent to the address of the vehicle owner. Failure to pay would be subject to civil penalty, and cost for administering the system would be paid prior to bond repayment. The study's net revenue forecast is based on an 86 percent collection rate.

Committee questions and comments for this panel included: how many users of the Interstate 5 Bridge are from Washington; how many companies in the United States are involved in toll collection; how ODOT could collect payment for persons refusing to pay by mail; examples of similar systems in other states and Canada; and whether the toll could be continued following bond repayment so as to cover the cost of operation and maintenance.

Jo Mortensen of the Public Resources Advisory Group (PRAG) offered a slideshow to review the funding capacity analysis performed for the project. The analysis was designed to determine how much could be collected by tolling, the level of bonding available from the toll revenue, and the total project cost that could be achieved from that revenue. She noted that bonds backed by state revenue are looked at more favorably by bond agencies and receive better rates.

Committee questions and comments for this panel included: whether Washington's withdrawal limits the total amount of Transportation Infrastructure Finance and Innovation Act (TIFIA) loans the project can qualify for; how the bonds will be repaid if toll revenues are insufficient to do so; the potential impact of interest rate increases before bonds are issued on the project; and whether all bonds for the project would be issued simultaneously.

Review of Legal Authority for Proceeding with Oregon-Led Project

Ethan Hasenstein from the Oregon Department of Justice (DOJ) provided a slide presentation reviewing the legal issues related to an Oregon-led bridge replacement project. He emphasized that the key attributes to a toll collection agreement with Washington State would be to discourage nonpayment and to recover revenue owed to the state. He noted that the IGA estimates between seven and nine percent of crossings will require enforcement. Potential remedies include a $25 civil penalty (ORS 383.035), holds on vehicle registration, potential for punishment for theft of services under ORS 164.125, garnishment of wages and liens. Existing powers (absent an intergovernmental agreement with Washington) would be solely at the discretion and under the existing authority of the State of Oregon.

Committee questions and comments for this panel included: lack of a 'magic bullet' through civil remedies; whether Oregon could simply send a bill to the State of Washington for unpaid tolls by Washington drivers and place the onus for recovery on that state; whether any states suspend driver licenses for nonpayment of tolls; the differences between intergovernmental agreements on a two-state project versus a one-state project; whether the crossings requiring enforcement would be for vehicles for which a license plate could not be traced; potential impact to the court system of enforcement; whether similar intergovernmental agreements already exist; the impact of not being able to use State Highway Fund moneys for light rail facilities; ability to condemn property in Washington for an Oregon-led project; and a request for a comprehensive list of all agreements necessary to commence with construction.

Wrap-Up/Summary

Mr. Strickler concluded by noting that the IGA demonstrates a feasible financing plan for an Oregon-led project. He also noted four critical areas to consider going into the February session:

- reaffirming Oregon's $450 million commitment;
- enacting stronger toll enforcement tools in Oregon;
- authorizing a revenue source to cover mitigation cost for upriver users; and
- execute an intergovernmental agreement with Washington.

Oregon State Treasurer's Office

Tom Rinehart, Chief of Staff for Treasurer Ted Wheeler, and Laura Lockwood-McCall, bond counsel for the Office of the Treasury, addressed the need for additional assurances of the ability to collect tolls from out-of-state drivers.

Committee questions and comments for this panel included: whether the state has the bonding capacity to issue the bonds necessary for the project; what type of bonds might be issued to cover the state's $450 million contribution; why Oregon should enter into an agreement where it takes all the risk but receives only one third of the benefit; the potential impact of legal challenges to the project on bond sales; the impact of possible political changes in Washington on intergovernmental agreements on issues such as eminent domain; and whether there are examples of other bi-state projects carried out by one state in the past.