



The

SUMMER 2019  
A Publication of the Oregon Fire District Directors Association

# COMMUNIQUÉ

**The Latest Legislative News**

*Seismic Upgrades and Other Signs*

**Fire Service Museum Update**

*FREE Public Safety EAP for Professional Firefighters*



# The COMMUNIQUE

A Publication of the  
Oregon Fire District  
Directors Association

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## MISSION

To serve and strengthen through the provision  
and coordination of timely information,  
education, and legislation.

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# LEGISLATIVE UPDATE

By Genoa Ingram

*By the time the Communique reaches our members, the stalemate that has played out in the Capitol regarding the issue of Cap and Trade will have been resolved. As everyone has heard by now, the Senate Republicans exited the Capitol on June 20 in an effort to prevent a vote on the controversial Cap and Trade legislation, HB 2020. While there were enough votes to pass the bill in the Senate, two Republican Senators were needed to provide a quorum and allow the Senate to conduct business.*

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## PRESIDENT'S MESSAGE

OFDDA has significantly impacted Oregon statutes in a variety of areas. Sometimes our work is about supporting new legislation, and sometimes it is about adding amendments that help our members. This legislative session has proven to have its own challenges in fire service-related issues.

OFDDA's slogan is education, coordination and legislation. So, what does this mean? To me it is like having a three-legged stool where each leg supports the others. One of the most prominent legs of that stool is legislative involvement—getting behind programs that attract and retain volunteer firefighters and support our district directors and departments.



John Dunn  
OFDDA President

Recently OFDDA joined with the Oregon Volunteer Firefighters Association (OVFA) to pass legislation that would add the OVFA to a list of non-profit 501(c)(3) organizations eligible for individual income tax return check-off contributions.

When the required 10,000 signatures are gathered, the OVFA will have the opportunity to generate much-needed funding to help train firefighters or for hardship contributions for injured firefighters or the families of those killed in the line of duty.

Firefighters will now have access to funds set aside to help their children with college tuition if they lose their life in the line of duty. These funds come from the Oregon Forfeiture Law where 10-percent of the money gained from property seized from criminal activity is put into a fund for first responders.

OFDDA fought long and hard and eventually got an exemption for board members of rural fire protection districts and most other special districts from the requirement to file SEIs (Statement of Economic Interest) and disclosures of personal financial information.

Throughout our state OFDDA has also worked with lawmakers to address workers' compensation and incentive issues for firefighters.

We are very vigilant to keep costs down, particularly for small fire protection districts. When a \$5 fee was proposed by the legislature to support the Oregon Government Ethics Commission, to be paid by rural fire districts for all employees and public officials, including volunteers; OFDDA made sure legislators understood the impact this would have on these districts and was able to defeat this legislation.

Working with our partners, OFDDA has also testified in favor of countless pieces of legislation impacting the fire service, such as HB 2138, which proposes to extend the sunset for tax credit for provision of volunteer emergency medical services in rural areas. Currently, the tax, which is authorized under ORS315.622, applies to tax credit certifications issued by the Office of Rural Health until January 1, 2020. HB 2138 would extend the sunset date to January 21, 2026.

This is just a very small example of the overall legislative portfolio over the last few years. I would encourage anyone not signed up for our weekly legislative update to call or email OFDDA to request this worthwhile information be sent to you. All we need is your email address.

We always appreciate member input on issues that are important to you.

# LEGISLATIVE UPDATE

By Genoa Ingram

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If the Senate is unable to conduct further business, any bill that has not yet passed the Senate (including the budget for the State Police/Office of State Fire Marshal and the 911 tax increase) will not pass. In that case, the Governor has indicated that she will call a Special Session, possibly as early as July 1 or 2. Should that happen, the legislature will not simply be able to pick up where it left off; rather, every bill not yet passed by both Chambers will have to be re-introduced and go through the hearings process from the beginning. Please note that the legislature has already passed legislation funding state agencies through September.

As of this writing, Senate President Peter Courtney has indicated that there are not enough votes to pass Cap and Trade and the bill will die. Rumors are circulating that the Senate Republicans are coming back to finish the session; however, we do not know the terms of any compromise that may have been reached. Also unknown is whether Cap and Trade will resurface during a Special Session or be re-introduced during the February Session.

*If you would like to subscribe to OFDDA's weekly email Legislative Updates during the Session, please contact OFDDA staff at 503-378-0896.*



## It's Award Season!

*Just a few opportunities for those in the fire service to receive well-deserved recognition:*

### **OREGON FIRE DISTRICT DIRECTORS ASSOCIATION**

### **FIRE DIRECTOR 20-30-40-50 YEAR SERVICE AWARD**

To ensure recognition at this year's conference, please submit your service award application to the OFDDA office by **October 21, 2019**.

### **OREGON FIRE DISTRICT DIRECTORS ASSOCIATION DISTRICT OF THE YEAR**

Please return completed nomination form and supporting documentation to the OFDDA office by **October 21, 2019**.



# Public Safety EAP: A Free Resource Available to Career Professional Firefighters

Are your career professional firefighters taking advantage of the new employee assistance program available to them through Public Safety EAP? Are they aware that it is available to them at no charge? Your district's career professional firefighters and their dependents have **immediate access** to these program services and benefits. There is no waiting period. All it takes is a simple phone call to **1-888-327-1060** or visit online at [PublicSafetyEAP.com](http://PublicSafetyEAP.com).

Special Districts Insurance Services is offering this employee assistance program (EAP) to all career professional firefighters in the state of Oregon at no cost to them or their district. This EAP is offered through Public Safety EAP A

division of ESI and is specifically **designed for emergency responders and fire professionals**. The program offers up to six in person counseling sessions per year and uses mental health professionals that specialize in fire and EMS issues.

In April, we sent out enrollment forms for districts to ensure their firefighters continue receiving these benefits. These forms also offered districts the opportunity to enroll their volunteers and administrative staff for a nominal charge. These forms are due



July 1. If you miss this deadline, please let us know if you are interested in taking advantage of our open enrollment period later this year.



We encourage districts to print out and display this poster (<http://ref.sdao.com/general/eap-poster.pdf>) to ensure that all eligible individuals are aware of the benefits available to them. At the end of this article we have listed several valuable resources for you to review, including flyers explaining the benefits offered and how to access

services. We encourage you to use these to communicate with your career professional firefighters about this opportunity.

If you have any questions about the program, please contact Scott Neufeld, Director of Risk and Claims Management, at [sneufeld@sdao.com](mailto:sneufeld@sdao.com).

## Valuable Resources:

Public Safety EAP Poster (<http://ref.sdao.com/general/eap-poster.pdf>)

Public Safety EAP Member Card (<http://ref.sdao.com/general/eap-card.pdf>)

Program flyer explaining the benefits (<http://ref.sdao.com/general/public-safety-eap.pdf>)

Flyer with information about how to access these benefits

(<http://ref.sdao.com/general/public-safety-eap2.pdf>)

*Interested in submitting an article or advertising in The Communiqué?*  
Contact the OFDDA office at [info@ofdda.com](mailto:info@ofdda.com) or **800-223-9708**.



# Seismic Upgrades and Other Signs of the Season

By Carolyn H. Connelly,  
Local Government Law Group, PC



It's building season and many of you are scrambling to accept and spend grant funds and get other district projects underway. This article outlines basic steps for your construction projects and highlights some little-known hurdles for those districts who rarely, if ever, actually tackle projects during building season.

Public Contracting Rules: Check when your district's public contracting rules were last updated. With the legislature meeting every year now, Oregon's Public Contracting Code is amended with even more frequency. Amendments may or may not require rule updates, but (as discussed below) this year it seems guaranteed that amendments will be required.

Once updated, be sure to provide those rules to your design professional who will draft your bid documents. An architect's or engineer's "form" bid packet will likely need some changes to accommodate your specific rules. You will shorten the amount of time needed for bid document drafting and review by providing your district's public contracting rules to your consultant at the get-go.

Design Consultant: If you are undertaking construction this building season, you have likely already secured a design professional. During that process, your Board was likely troubled that it could not consider cost in its evaluation and ranking process. For those of you who have yet to procure a design professional, consider waiting, if possible. After January 1, 2020, HB 2769 (signed into law on May 2<sup>nd</sup>) will provide districts with an optional, alternative qualification-based selection (QBS) process for procuring architects and engineers.

As noted above, price information currently cannot be considered until you enter into negotiations with the intended awardee. If fees quoted at that late date don't fit within your district's budget, your only option is to terminate negotiations and begin talks with the next-ranked firm. As a slight improvement, the optional process outlined in HB 2769 will allow your district to request pricing information from up to three of the top ranked proposers. Pricing information may then be added into your evaluation scores – but may only receive up to 15-percent as weighted criteria. Evidencing further that the architect/engineer lobby remains strong in Oregon, the bill clarifies that a prospective consultant does have the right to protest solicitations and awards.

### Bureau of Labor and Industries (BOLI):

Be sure to report your anticipated summer projects to BOLI. State law requires your district to submit a "WH-118" form to BOLI, at least 30 days prior to budget adoption. The form should list each public improvement your district plans to fund in the upcoming budget period, and is available on BOLI's website at: <http://www.oregon.gov/boli/WH/PWR/docs/wh118.pdf>. In order to add or remove an improvement planned for the 2019-2020 budget years, simply file a revised list with BOLI before starting that project.

As a cost savings measure, some districts choose to undertake construction with their own equipment or personnel. Despite a 2018 increase in the threshold (to \$200,000 for most projects and \$125,000 for street projects), you won't escape BOLI oversight that easily. For projects over these amounts, your district is still required to show BOLI that the decision to self-perform the work results in the least cost to your district. ORS 279C.305(2). This requires submittal of a capital improvement project cost comparison (WH-119) (See, <http://www.oregon.gov/boli/WH/PWR/docs/wh119.pdf>.)

As such projects progress, make sure to maintain and preserve “a full, true and accurate account of the cost of performing the work, including all engineering and administrative expenses and the cost, including investment costs, of any equipment used.” This final accounting is a public record, subject to disclosure upon request. ORS 279C.305(4).

Finally, if you do contract with a private construction company, upon award, be sure to submit the required Notice of Awarded Public Works Projects to BOLI on the form WH-81. (See, <http://www.oregon.gov/boli/WH/PWR/docs/wh81.pdf>.)

To CM/GC or not to CM/GC. Particularly in the context of seismic upgrades, design professionals are regularly recommending that districts undertake a construction manager/general contractor (CM/GC) alternative method of contracting. While a CM/GC approach makes sense for some projects (especially for ongoing operational stations), alternative contracting methods are complex. Don't go this route without comparing expected CM/GC benefits to a standard design/bid/build approach. Small entities often forge ahead on the advice of consultants, only to find themselves without the proper expertise to manage unnecessarily costly and time-consuming projects.

If your Board does choose to pursue a CM/GC contracting method, before proceeding, make sure that your district has the proper exemption in place. Since 2013, ORS 279C.337 mandates certain procedures and findings for CM/GC contracts. Be aware that CM/GC's require public notice, at least one hearing, and the adoption of specific findings addressing statutory and rule requirements. After exemption adoption, your district will issue its solicitation (likely a request for proposals), advertise statewide, and evaluate and rank proposers before finally awarding a contract.

Award. As a way to save both time and money in your design professional and construction contractor awards, always include your intended contract form with the solicitation.

Require that bid or proposal submission evidences a

contractor's intent to be bound to the enclosed contract and agreement terms. Districts are regularly (and unpleasantly) surprised when contract award is followed by protracted negotiations, rather than design or construction.

As always, please be sure to work closely with your legal counsel to ensure that the above issues are handled properly ahead of time. No one wants to spend time and money cleaning up problems that arise after solicitation documents have been issued and contracts awarded.



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***Note:** This update is informational only and is not intended as legal advice. If you have questions about any of the information in this update, please contact your legal counsel.*



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## OREGON FIRE SERVICE MUSEUM *UPDATE*

Construction continues on the Oregon Fire Service Museum, Memorial & Learning Center building at Powerland Heritage Park near Salem. The building exterior is nearly complete and work on the interior is progressing.

A grant was recently received to partially fund the building electrical system. Additional funds are still needed to complete the system, which is next on the schedule but on hold awaiting sufficient finances. We have raised over 75-percent of our overall construction fund goal, but additional funds are still needed for exhibit construction, fixtures, furniture, and office equipment.

The museum received a second grant that will partially fund the construction of the memorial courtyard. This will be the location of the memorial bricks that have been sold over the years as well as the cast iron columns salvaged following the 1935 Oregon State Capitol fire. Please consider purchasing an engraved brick to help fund the completion of the courtyard.



Bricks may recognize a fire department, an individual member, LOD deaths, fire service organizations, and related individuals or businesses. Brick order forms are available at <https://www.oregonfiremuseum.org/get-involved>.

We are also still soliciting donated surplus apparatus and equipment for resale, which continues to be a great funding source for the construction. Also, please consider becoming a member of the museum.

Visit our website at [oregonfiremuseum.org](http://oregonfiremuseum.org) or follow us on Facebook for more information.