

## “Legislative Assembly Works With Tribes To Protect Rights and Health”

*Michael D. Mason*

The biggest news of the 74<sup>th</sup> Oregon Legislative Assembly may be that they adjourned *sine die* in June for the first time in 15 years. The unreported story is how much legislators listened to Tribes and how many bills they passed or significantly amended to address Tribal concerns or killed to prevent harm to Tribes. My count is nine bills, two resolutions and one joint memorial passed/amended and two bills killed. As only about ½ of the Tribes have lobbyists in the Capitol Building on a regular basis, this reflects the commitment of Legislative Leadership to do right by Oregon Tribes.

Senate Majority Leader Kate Brown (D-SE Portland), a longtime member of the Commission on Indian Services, continued her leading role in sponsoring and moving Indian legislation. House Speaker Jeff Merkley (D-E. Portland) and Speaker Pro Tem Diane Rosenbaum (D-SE Portland) were instrumental in the movement of good bills and the freezing of bad ones. Representative Jackie Dingfelder (D-NE Portland) and Senator Brad Avakian (D-Aloha) led on energy, environmental health, and water bills from their positions as chairs of the House Energy & the Environment Committee and the Senate Environment & Natural Resources Committee. Judiciary Committee Chairs Greg MacPherson (D-Lake Oswego) and Ginny Burdick (D-SW Portland) were instrumental in attempting to protect Tribes from the vicissitudes of the federal Pension Protection Act of 2006 and other strange ideas.

The first pro-Tribe bill passed, House Bill 2364, was initiated by the Indian Law Section. A modest piece of law reform, HB 2364 simply authorized courts to give judicial notice to Tribal laws, acts, court orders, and judgments. It passed both houses unanimously.

The first anti-Indian bill killed this Session, House Bill 2450, would have prohibited land exchanges between local governments and Tribes where the land of the local government lay outside of its boundaries. Concerned about the danger of any precedent preventing Tribal land acquisition, the Tribes quickly united against the bill and convinced sponsor Representative Dillum (R-The Dalles) to ask the House Judiciary Committee to table the bill. Chair MacPherson had already made it clear that he would not move the bill and Speaker Merkley likewise that it would not come to a vote.

Tribes made large gains in the environmental health area with passage of Senate Bills 704 and 737 and House Bill 2626, the e-waste recycling bill. These bills to reduce toxins from entering streams and contaminating salmon and other revered fish had the support of Affiliated Tribes of NW Indians, Confederated Tribes of the Umatilla Indian Reservation, and Confederated Tribes of the Warm Springs Reservation. SB 704 requires all dental offices to have mercury amalgam separators to prevent mercury contamination from dental filling removal. SB 737 requires DEQ to study persistent pollutants being discharged into waters of the state and consider means of reducing the discharges. It further requires all industries using toxic mixing zones to develop plans for reducing

release of bioaccumulative toxins into rivers. HB 2626 is the mandatory computer and TV recycling bill, which will reduce mercury, lead, and cadmium contamination of the environment.

The Oregon Health Fund Act, Senate Bill 329, gave Tribes great concern as introduced because it did not acknowledge the existence of Tribes and had confusing language about taxing and penalizing health care providers and standardizing capitation plans throughout the state. The bill establishes a board to make the plan for full health coverage for all Oregonians. Tribes convinced health leaders Senators Westlund and Bates (D-Central Point) to amend the bill to make it possible for Tribal health officials to serve on the Health Trust Board, to clarify that there can be no consideration of taxing or penalizing Tribal health facilities, and to abandon uniform statewide capitation plans.

Alternative energy bills were another major item on several Tribes' agenda and this Session saw more of these bills pass than ever. Senate Bill 838, the Oregon Renewable Energy Act, and House Bill 3201, Omnibus Tax Credit Act, were both critical to energy development for timber tribes. SB 838 requires major electrical utilities to have 25% of their energy produced from new renewable sources by 2025. In the meantime, the percentages are to ramp up to 15% by 2015 and 20% by 2020. HB 3201 contained the Business Energy Tax Credit increase needed to promote biomass energy development. These two bills will help Tribes develop biomass, solar, wind, and geothermal projects for self-sufficiency and revenues.

Protective measures for Tribal Courts and casinos were found in House Bill 2913 and Senate Bill 1042. House Judiciary Chair MacPherson introduced HB 2913 to preserve Tribal courts' authority to divide tribal enterprise employee pensions as part of divorce proceedings. The landmark bill made it clear that any Tribal court domestic relations order or decree on pensions is to be given the same respect as a state court order under ERISA. This is intended to keep the federal Pension Protection Act of 2006 from reducing Tribal court authority over domestic relations.

Senator Laurie Monnes Anderson (D-Gresham), a strong supporter of tribal economic development, introduced SB 1042 to make it harder to site a private casino within a city. The bill requires a positive vote of the electors of a city before a city commission may make any siting decision. Many legislators were concerned that plans to develop a private casino in East Multnomah County would harm Tribal gaming. SB 1042 became a priority for the Confederated Tribes of the Grand Ronde and they helped ensure its overwhelming passage.

One Columbia River water bill died after a major battle, led by the Confederated Tribes of the Umatilla. House Bill 3525 would have appropriated another 500,000 acre-feet of water from the Columbia about Bonneville Dam, mostly for irrigation. The House passed it, the Senate sat on it, and Governor Kulongoski's veto threat killed it.

There were defeats on health care and Treaty protection bills. Senate Bill 184 would have committed 2% of gross liquor sales revenue to alcohol/drug treatment

programs, guaranteeing state funding for Tribes and the Native American Rehabilitation Association. The bill died in the Ways & Means committee. Senate Bill 30 would have protected the Wild & Scenic Metolius River—one of the boundaries of the Warm Springs Reservation—from destination resorts being considered by Jefferson County. After hard fought Senate passage led by Senators Westlund and Brown, the Governor killed the bill with a veto threat. He expects state agencies to enact regulations that will protect water flows and quality, bull trout and the salmon the Tribes and ODFW plan to return to the river next year from the massive development contemplated by the county.

Of several resolutions and memorials related to Indian affairs, two stand out. Senate Concurrent Resolution 10 mourned the flooding and silencing of Celilo Falls 50 years ago and Senate Joint Memorial 7 urged the Congress to fully fund the Celilo Village Housing Restoration Project. While these were ceremonial measures, chief sponsor Senator Avel Gordly (I-NE Portland) understood the power of their statements. In committee and floor statements, several legislators in both houses and in both parties spoke of their memories of the awesome feeling of the Falls and wanted Indian people of the Columbia River to know that such an act would be unthinkable today. The Legislative Assembly's unanimous support for Celilo Village in SJM 7 shows a new understanding among Oregon leaders of the importance to Indian presence on the Great River of the West.

The Tribes' successes are attributable to careful work and strong, steady friends in the Assembly. Many of these allies will not be returning in 2009. Senators Brown, Deckert (D-Beaverton) Gordly, Westlund, Speaker Merkley, and Representatives Butler (R-Ontario), and Minnis (R-Wood Village) are seeking higher office or retiring from politics. It will be important to work with pro-Tribal candidates to make sure support for the Tribes does not diminish with these departures.

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