77th OREGON LEGISLATIVE ASSEMBLY – 2013 Regular Session **MEASURE: HB 2710 A**
STAFF MEASURE SUMMARY **CARRIER: Sen. Kruse**
Senate Committee on Judiciary

REVENUE: No revenue impact
FISCAL: Fiscal statement issued

Action:		Do Pass as Amended and Be Printed Engrossed
Vote:		5 - 0 - 0
	Yeas:	Close, Dingfelder, Kruse, Roblan, Prozanski
	Nays:	0
	Exc.:	0
Prepared By:		Bill Taylor, Counsel
Meeting Dates:		5/8, 5/30

WHAT THE MEASURE DOES: Prohibits law enforcement from using a drone to a acquire information unless specifically authorized to do so by statute. Requires a search warrant unless there are exigent circumstances. Allows drone to be used for emergencies or tracking individuals fleeing a crime. Allows drone to be used for reconstructing a crime scene or training purposes. Requires public bodies to register drones with the Oregon Aviation Board and report annually on its use. Preempts local government from regulating drones. Makes it a crime to use a drone to attack an airplane. Makes it a crime to interfere with the use of an Unmanned Aerial Vehicle. Prohibits public bodies from arming drones. Grants attorney fees to a property owner who has given notice to a drone operator that the person's drone has been trespassing in the airspace under 400 feet above the property owner's property attorney for the trespass if the property owner has informed the drone operator not only that the person's drone is trespassing but that the property owner will seek attorney fees. Limits the use of information that a public body obtains from a drone. Makes the reporting requirements applicable after January 1, 2016.

ISSUES DISCUSSED:
- Right of privacy
- Advancements in technology
- Limitation on government use
- Right of property owners

EFFECT OF COMMITTEE AMENDMENT: Replaces the measure.

BACKGROUND: A "drone" is basically an airplane or helicopter without a pilot on board that is operated by someone who may be many thousands of miles away, or a few hundred feet away. A 'drone may be an "unmanned aerial vehicle" licensed by the Federal Aviation Authority (FAA), or a hobby craft purchased at the local store. The former probably is very technologically sophisticated; the latter less so. The former must be registered with the FAA, the latter need not be. Both are capable of carrying cameras and other electronic devices.

The Federal Aviation Authority Reauthorization Act passed by Congress in February 2012 provides funds so that the FAA can speed up the regulatory process for opening up American airspace to drones by 2015. The FAA has estimates that 10,000 drones will be operating in US by 2015 and 30,000 within 20 years. (*Dayton Daily News*, June 23, 2012.) This rapid expansion of the use of "drones" in the US is based on economics. "Drones" are 1/20th the cost of manned aircraft and can stay airborne considerably longer. (*Drones and the Boundaries of the Battlefield*, 47 Texas International Law Journal, p.293 at 297 92011-2012).

The United States has complete exclusive national sovereignty of airspace of this country. (49 U.S.C. 40103; *U.S v. Causby*; *City of Burbank v. Lockhead Air Terminal* 411 U.S. 624 (1973). However, this does not mean that a landowner does not have rights to the airspace above his or her property. *Pallisades Citizens Ass'n v. C.A.B.,* 420 F.sd (9th circuit) (1969).

A citizen of the United States has a right of freedom of transit in air commerce through the navigable air space of the United States (49 U.S.C. section 40103). "Navigable airspace"means airspace above the minimum altitudes of flight prescribed by regulations of the Department of Transportation including airspace needed to ensure safety in the takeoff and landing of aircraft (49 U.S.C. 40102(a)(32). Generally speaking, this is the airspace 400 feet and above but can be considerably less particularly as it relates to airport flight paths. (See *Florida v. Riley*, concurring opinion Justice O'Connor, 488 U.S. 445 (1989). However, this does not mean that Oregon cannot regulate the use of drones by Oregon public bodies including law enforcement and cannot prohibit the use of evidence obtained by a drone.