



# CAPITOL INSIDER

OSB Public Affairs Newsletter for Bar Leaders

June 2000

## Election Status

The primary election is over and, although the Republicans currently have a majority in both the Oregon House and Senate, the numbers will likely be closer after the general election in November 2000. Below is a list of lawyer-legislative candidates to watch in the general election in November.

### General Election –Legislative Candidates with Legal Training

Lawyer Candidate	Opponent	Location
Kate Brown D-SD 7	None	Portland
Vern Cook D-SD 28	Ted Ferrioli	Baker City
David Nelson R-SD29	Bill Duncan	Pendleton
*Elizabeth Johnson D-HD1	None	Astoria
Charlie Ringo D-HD 6	John Scruggs	Beaverton
*Bill Witt R-HD 7	Mitch Greenlick	Beaverton
Max Williams R-HD 9	Raman Veiji	Tigard
Kathy Lowe D-HD 26	Almon Ritter	Gladstone
Dan Doyle R-HD 30	Colby McCormick	Stayton
*Lloyd Kumley D-HD 31	Jackie Winters	Salem
Lane Shetterly R-HD 34	Marilyn Slizeski	Dallas
Bob L. Ackerman D-HD 39	Chris Bevans	Eugene
Phil Barnhart D-HD40	None	Eugene
Charles Lee D-HD45	Jeff Kruse	Roseburg
Rob Patridge R-HD50	Barbara Davidson	Medford

- *Please note: \* designates candidates who earned law degrees but are not active members of the Oregon State Bar*

It is a nonelection year for two lawyer legislators:

Sen. Randy Miller (R) – Senate District 13; Lake Oswego, Wilsonville

Sen. Peter Courtney (D)– Senate District 17; Salem, Keizer

The Public Affairs Department strongly encourages you to become acquainted with your local legislator or legislative candidate. Cultivating a relationship opens doors and allows your voice to be heard on issues most important to you. This wisdom applies not only to lawyer-legislator candidates but also to nonlawyer candidates who may be positively disposed toward the judicial system. (Remember, practicing lawyers comprise less than 10% of the legislative assembly.)

In addition to numerous ballot measures that have the potential (once again) to dramatically restructure the way the State of Oregon operates, important legislative and judicial races should be of interest to voters. Most interesting to lawyers is the race for the Oregon Supreme Court, which places sitting Court of Appeals Judge Paul DeMuniz in a contest with Greg Byrne.

Unfortunately, this race is likely to turn into one of the more expensive appellate court races in Oregon history. The good news is that this race is likely to engender public debate regarding the composition of the court and whether the initiative process, the legislature or the Supreme Court should have the final say on the state of the law in Oregon.

This contest could present the legal community with an opportunity to educate the public about the importance of the justice system and why an independent judiciary should be preserved.

### Supreme Court – Unofficial vote

Paul J. De Muniz	172,601	29%
Greg Byrne	137,875	24%
Charley Merten	115,243	20%
Phillip D. Hatfield	104,555	18%
Randall H. Niven	55,300	9%

Because no one candidate received more than 50% of the total votes cast, the top two vote-getters will face each other in the general election on November 7<sup>th</sup>.

## SJR 7 Judicial Selection

Two recent meetings of the OSB Judicial Administration Committee were dedicated to discussing different perspectives on the current version of SJR 7, which is a proposal to establish a commission to recommend judicial appointees to the Governor.

State Representatives Lane Shetterly and Max Williams joined Judiciary Counsel Bill Taylor in the April 21 discussion with the committee involving the status and evolution of the draft measure being developed for the 2001 legislative session. Besides noting that the draft closely resembles the current ABA model, Rep. Shetterly also indicated that he is leading a renewed effort to create an optimal process for judicial appointments in Oregon. One major issue is whether the commission would have the final say if the Governor did not accept any of the commission recommendations.

According to Representative Williams, the current draft measure would allow the state to standardize and institutionalize a good process for appointments. The appointments usually end up being permanent because so few judicial elections are contested. The measure will probably include a mechanism to be used at the county level for trial court appointments. It was suggested that a better

connection between the public to the appointment process would improve the perception of how justice is dispensed in our state.

## 2000 Citizens Conference

The 2000 Citizens Conference was advertised as an opportunity for ordinary citizens of the Portland Metro community to gather together and build trust and confidence in the justice system through their citizen involvement. Registration began at 8:00 a.m. on Saturday morning, May 6<sup>th</sup>, at the Sylvania Portland Community College campus. Many groups worked together to make this unique event a success: The Oregon Supreme Court, The League of Women Voters, Portland Community College, the Oregon State Bar, and lawyers and judges from the tri-county area.

The conference was created to be interactive and action-oriented, and to address issues of families and children, public safety, and business, individuals, and property. The day began with key speakers discussing issues. Then participants formed small groups to identify and prioritize public trust and confidence issues. The day ended with groups developing and reporting on strategies to improve the court and the justice system. A report on the outcome of the day is expected late summer.

## Indigent Defense Commission

The Indigent Defense Services Commission meet June 14 in Bend to take invited testimony from panels of public defender contractors. The commission invited testimony from contractors for law firms, public defender firms, consortia and investigators, as well as public testimony.

Witnesses appearing before the commission were asked to address specific questions regarding the structure of Oregon's indigent defense system; service delivery systems in

Oregon; methods of ensuring quality of services and effective representation; compensation and overhead; workload and staffing levels; methods of containing the costs of public defense; and judicial and administrative review of attorney requests for the preauthorization of extraordinary expenses.

The commission was created by the passage of HB 3598 during the 1999 legislative session. The bill created a public defense services commission (PDSC), which must conduct studies and make recommendations regarding Oregon's public defense system to the 71<sup>st</sup> (2001) Legislative Assembly and interim judiciary committees. The measure provides that the PDSC sunsets September 1, 2001. Barnes Ellis chairs the commission. The vice chair is Ross Shepard. Other members include Judge David Brewer, Bradley Berry, Bryan Johnston, Erica Robinson, John Potter and Mary McCauley Burrows. The next meeting will be held July 26 in Salem.

Also noteworthy is that the OSB Task Force on Indigent Defense is in the process of preparing recommendations on how to improve the delivery of indigent defense services in Salem. That Task Force, chaired by Kris Winemiller, has provided testimony to the statewide commission and will forward its final report and recommendations to the commission.

## OSB Legislation

Bar section and committee bills are moving through the legislative process at a rapid speed. The following is a list of bills introduced this session by the bar and its sections and committees:

<b>1999-2000 Section and Committee Proposals</b>
<b>Summary</b>
<b>OSB COMMITTEES</b>
Procedure and Practice
Simultaneous testimony
Prevailing party attorney fees (SB 539/688/43)

Nonparty depositions, <u>Brix</u>
<b>OSB SECTIONS</b>
Appellate Law
Stip. Judgments w/o waiving appeal rts, <u>Rauda v. Roses</u>
Business Law
Task Force on Close Corporation and Shareholder Rights
Clarifications to Limited Liability Company Act (SB 51)
Clarification to multi-entity merger statute (SB 145)
Shareholder notice (opt-in non-unanimous consent)
<b>Civil Rights</b>
Resolution to eliminate discrimination against women
<b>Consumer Law</b>
Unlawful Trade Practices Act (HB 2286/2288)
<b>Elder Law</b>
Notice in adult protective proc's in guard./conservator.)
Medicaid payment for guardianship fees and costs
Continued validity of power of attorney
Medicaid trusts and protective proceedings
Notice in post-guard'ship resid'l placement of prot'd person
Review of advanced directive in protective proceedings
<b>Estate Planning</b>
Notice to cred's after death of settlor of revocable trust
After-acquired probate property
Uniform Transfers to Minors Act
Uniform Disclaimer of Property Interest Act
Will and trust law alignment
Uniform Principle and Income Act (UPIA)
<b>Family</b>
Divorce judgments by affidavit on parties' stipulation
<b>Adoption</b>
Counseling for consenting birth parent
<b>Government Law</b>
Clarify conflict-of-interest provisions for public officials
<b>Land Use</b>
Tech. clean-up of ORS Chs. 197 and 215 (ORS Reorg.)
Clarify recording statute
Clarify def. of de novo review following admin. hearing

## New MCLE Requirement

As a result of legislation passed during the 1999 session, lawyers (as of July 1, 2000) must complete training regarding an attorney's duty to report child abuse under ORS 419B.010. ORS 9.114 requires every lawyer to complete one hour of training every reporting

period on recognizing and reporting child abuse. December 2000 is the first reporting period to which this new requirement applies. The training (one hour every three years) will be credited as an ethics credit under the MCLE rules.

Attorneys have long been on the list of professionals who have an obligation to report child abuse under ORS 419B.010. An attorney who has cause to believe that any child with whom he or she comes in contact has suffered abuse, or that any person has abused a child, must immediately report that abuse to responsible authorities. The duty to report does not apply to communications considered privileged under ORS 40.225–40.295. If you have problems with or ideas on this new legislation, please contact us.

## **Public Affairs Mission**

The Public Affairs Department works to apply the knowledge and experience of the legal profession to the public good by advising governmental bodies, proposing legislation for law improvement, and advocating on matters that affect the legal profession. The Public Affairs Committee (“PAC”) oversees these activities and makes recommendations on major policy issues. Co-chairs are Portland attorney Edwin Harnden and Medford attorney David Orf. Other members include Malcolm Scott, Eugene; Charles Williamson, Portland; Mary McCauley Burrows, public member, Eugene; and Joyce Cohen, public member, Portland.

## **The Web**

You can access legislative information, the text of bills, and background information from staff measure summaries to bill history through the archive on the Internet at [www.leg.state.or.us](http://www.leg.state.or.us). In addition, please visit the OSB homepage at [www.osbar.org](http://www.osbar.org). The Public Affairs Department has useful legislative information and links at your fingertips. Please let us know your

suggestions for ways to make the site more useful.

## **Contacts**

If you have questions or comments, contact the Public Affairs Committee co-chairs Edwin Harnden at (503) 276-2101 or David Orf at (541) 772-8494, or the Public Affairs staff at the bar office at (503) 620-0222 or toll-free in Oregon at (800) 452-8260. You can reach Bob Oleson at ext 317 or by e-mail at [boleson@osbar.org](mailto:boleson@osbar.org); Susan Grabe at ext 380 or by e-mail at [sgrabe@osbar.org](mailto:sgrabe@osbar.org); or Anastasia Meisner at ext. 358 or by e-mail at [ameisner@osbar.org](mailto:ameisner@osbar.org).