



CAPITOL INSIDER

OSB Public Affairs Newsletter for Bar Leaders

DECEMBER 20, 2002

Court Budget Reductions

On October 28, 2002, Oregon Supreme Court Chief Justice Wallace Carson, Jr., announced his preliminary plan for implementing significant budget reductions to Oregon's court system. As a result of the fifth special legislative session, the court budget was reduced an additional \$13.6 million, including \$8 million in court operations alone.

As the September 20, 2002, issue of the *Capitol Insider* stated, the potential \$8 million reduction to the operations budget, if taken over the five months remaining in the biennium (if Ballot Measure 28, the three-year tax increase, fails on January 28, 2003) results in a 25% cut to funds available for reduction. Because the majority of the operations budget funds people, a corresponding reduction in staff support for the operation of the court would be required.

Elements of the plan include:

Court closures. All appellate, tax, and circuit courts statewide will close to the public on Fridays between March 1 and June 30, 2003.

Staff reductions and layoffs. Each court will reduce staff work hours by 10 percent, reduce expenditures, and implement layoffs to meet targeted cut levels. Each local court is working on a plan to submit to the State Court Administrator for review. Local layoff numbers will be available thereafter.

Delayed and/or "no action" processing of cases. All circuit courts statewide will stop processing small claims and non-person misdemeanor cases.* Cases can be filed, but no action will be taken on them between March 1 and June 30, 2003. The processing of all other case types will be pared back and all processing slowed considerably due to the loss of staff.

* In December 2001, the courts established a list of priority case types. Violent felonies are at the top of the priority list (i.e., the last to be cut); small claims and non-person misdemeanors are at the bottom of the list. The priority list is:

- 1 Person-to-person felonies – adult and juvenile (Measure 11 crimes, e.g., murder)
- 2 Juvenile permanency matters (termination of parental rights; dependency)
- 3 Family Abuse Protection Act/Elder Abuse Protection Act orders; juvenile restraining orders
- 4 Person-to-person misdemeanors – adult and juvenile (e.g., Driving Under the Influence of Intoxicants (DUII))
- 5 Integrated family/drug court docket
- 6 Child-connected domestic relations and adoptions
- 7 Civil commitment and guardianship
- 8 Other specialized docket programs (e.g., domestic violence, DUII, mental health "courts")
- 9 Non-person felonies (e.g., burglary, theft)
- 10 ADR program coordination (mediation and arbitration)
- 11 Civil (all levels)
- 12 Pro se assistance programs
- 13 Property-only domestic relations
- 14 Forcible entry and detainer (landlord/tenant cases)
- 15 Probate, with contested cases as the priority
- 16 Violations (urban/neighborhood speeding and other high-safety violations are priorities)
- 17 Non-person misdemeanors – adult and juvenile (e.g., shoplifting, animal abuse)
- 18 Small claims (citizens with disputes up to \$5,000)

For more information, see the Oregon Judicial Department web site at www.ojd.state.or.us

December Revenue Forecast

The State's Office of Economic Analysis released its December 2002 State General Fund revenue forecast in late November. It reflects the sixth straight quarterly decline in revenue projections for the 2001-2003 biennium. General fund revenue is \$133 million less than was estimated in September 2002. These expected losses were partially offset by increased lottery revenues of \$7 million. As a result, the state is looking at an additional budget shortfall of about \$126 million. State government revenue has dropped more than \$1.8 billion since the legislature adopted the 2001-2003 budget in July 2001.

If voters reject the three-year income tax increase (Ballot Measure 28) in the January 28, 2003 special election, legislators must tackle a budget shortfall for the remaining five months of the 2001-2003 biennium of about \$436 million when the 2003 legislative session begins on January 13, 2003.

Legislative Tips Workshop

The Oregon State Bar Public Affairs Department is sponsoring a **free** Legislative Tips Workshop* in connection with the Oregon State Bar Leaders Conference on Friday, January 17, 2003, at the Wilsonville Holiday Inn, 25425 S.W. 95th Avenue, Wilsonville, Oregon.

* The program has been submitted for 2.0 general MCLE credits and .5 Ethics credits.

Registration will begin at 8:30 a.m. The agenda is:

9:00 – 9:15 a.m. – Welcome and Introduction (William Carter, *Oregon State Bar President-Elect*)

9:15 – 9:45 a.m. – Ethics (George Riemer, *Oregon State Bar General Counsel*)

9:45 – 10:15 a.m. – How to Give Testimony (Paul Cosgrove, *Of Counsel, Lindsay Hart Neil & Weigler*)

10:15 – 10:30 a.m. – Break

10:30 – 11:00 a.m. – Panel of Bar Experts (Moderator: Former State Senator Richard Springer, *Executive Director, Fair Contracting Foundation*) (Panelists: Mark Comstock, *Garrett Hemann et al*, and Jacqueline Koch, *Koch & Deering*)

11:00 – 11:45 a.m. – Oregon State Bar Public Affairs Department

11:45 a.m. – Noon – Question and answer session

This is a “nuts and bolts” workshop to provide you with the information your bar group needs to be more effective in the legislative process. Please plan to attend.

For more information, call Beth Richley, Administrative Assistant, at (503) 431-6376 or 1 (800) 452-8260, ext. 376 (inside Oregon), or via email at brichley@osbar.org.

2002 Legislative Race Results

Congratulations to all the candidates for taking time out of their busy lives to pursue public service. We are pleased to report that the 2003 Legislature will include 16 legislators who are lawyers or have legal training. There were even a couple of legislative races that pitted two candidates with legal training against each other. Senate District 17 offered voters a choice between Democratic Representative Charlie Ringo and Republican Representative Bill Witt, with Representative Ringo claiming victory after a gracious concession from Representative Witt. The race for House District 38 came down to the wire, offering a choice between Republican Jim Zupancic and Democrat Greg Macpherson, with Macpherson edging out Zupancic.

The OSB is grateful to have many friends in the legislature, but it is also important to our profession to have law-trained legislators. These legislators understand the needs of the judicial system, and how proposed legislation affects our profession and the clients we serve.

<u>Legislators</u>	<u>Party</u>	<u>Dist. #</u>	<u>Region</u>
Peter Courtney	D	SD 11	Salem
Charlie Ringo	D	SD 17	Beaverton
Kate Brown	D	SD 21	SE Ptld, not up
*Dave Nelson	R	SD 29	Pndltn, not up
Dennis Richardson	R	HD 4	Medford
Rob Patridge	R	HD 6	Medford
Floyd Prozanski	D	HD 8	Eugene
Phil Barnhart	D	HD 11	Eugene
Robert Ackerman	D	HD 13	Eugene
Dan Doyle	R	HD 19	Salem
Lane Shetterly	R	HD 23	Dallas
*Betsy Johnson	D	HD 31	Astoria
Brad Avakian	D	HD 34	Beaverton
Max Williams	R	HD 35	Tigard
**Randy Miller	R	HD 37	Lake Oswego
Greg Macpherson	D	HD 38	SW Ptld, L.O.

* Not admitted to Oregon State Bar

** Inactive OSB Member

House speaker-elect Karen Minnis announced the committees and chairs for the 2003 session in the House today. Rep. Max Williams, a strong supporter of the bar justice system issues, has been named House Judiciary Committee Chair.

Gubernatorial Race Results

The race between Democrat Ted Kulongoski and Republican Kevin Mannix was close. Both candidates are experienced lawyers, and strong supporters of the OSB, with an appreciation of the issues facing the judicial system. Ultimately, Governor-elect Kulongoski will take the helm in January. However, Kevin Mannix assured the voters that he intends to remain engaged in public af-

fairs.

Meanwhile, Governor-elect Kulongoski is busy putting together his staff. Peter Bragdon, a Portland lawyer, will be his chief of staff. And Governor-elect Kulongoski announced five new staff appointments on December 12, including three Oregon lawyers. Pat Egan, Governor Kitzhaber's chief legislative liaison, will hold a similar job in Governor-elect Kulongoski's administration. MardiLyn Saathoff is a lawyer with Tektronix and will become Governor-elect Kulongoski's legal counsel. Stephen Schneider will become deputy chief of staff.

Gleaves Committee Report

The Joint Committee on Trial Court Judicial Resources, chaired by Eugene lawyer Vernon D. Gleaves, submitted its Report of the 2002-2003 Joint Committee on Oregon Trial Court Judicial Resources to the Honorable Wallace P. Carson, Jr., Chief Justice of the Oregon Supreme Court, and Angel Lopez, President of the Oregon State Bar, on November 15, 2002.

The Committee considered requests for 13 judicial positions plus funding for 5.8 full-time equivalent pro tem judges and 6.3 referees. The principal factor considered in evaluating the requests was a weighted caseload study of the Oregon trial courts conducted by the National Center for State Courts dated July 22, 2000, and updated based upon 2001 case filings.

The Committee recommended that elected full-time judges or pro tem funding for judges and adequate staff for 14.8 full-time equivalent positions (9 full-time judicial positions and 5.8 full-time equivalent pro tem judges) plus funding for 6.3 referees be approved and provided for by the 2003 Legislature. The priority ranking for the recommended 9 full-time judicial positions is as follows:

<u>Priority No.</u>	<u>Judicial Dist.</u>	<u># Judges</u>
1	Sixth (Morrow/Umatilla)	1
2	First (Jackson)	1
3	Fourth (Multnomah)	1
4	Third (Marion)	1
5	Twentieth (Washington)	1
6	Fourth (Multnomah)	4

For more information, go to the Oregon Judicial Department web site at www.ojd.state.or.us

Interim Judiciary Committee

The Joint Interim Judiciary Committee met on December 4, 2002. The pre-session filing of legislative proposals from the OSB and other interest groups filled the morning agenda. The Committee approved for pre-session filing and introduction in the 2003 Legislature 30 law improvement proposals presented by the OSB.

At press time, Senate and House bill numbers are being assigned to the OSB proposals.

The 2003 Legislature is scheduled to convene on January 13, 2003. The opportunity to pre-session file the OSB law improvement proposals is provided courtesy of the Joint Interim Judiciary Committee. It allows the OSB proposals to be set for hearings early in the upcoming session. Given the gravity of the budget issues that the legislature will be tackling this session, it is important for the legislature to consider our proposals as early as possible during the session.

Following is the list of OSB section and committee legislative proposals that have been pre-session filed. We have included the House and Senate Bill numbers if assigned.

2003 Legislative Proposals

For more information, contact Patsy Wood at (503) 986-1474.

Bill or LC#	Summary
	OSB BOG
HB 2057	Omnibus Bar Act bill
HB 2088	Legal aid filing fees
	OSB SECTIONS
	Administrative Law
HB 2058	Repeals sunset of HOP, procedural rules, prohibits ex parte
	Alternative Dispute Resolution
LC 436	Revises the Uniform Arbitration Act
	Business Law
LC 437	Amends Oregon Business Corporations Act
	Consumer Law
SB 25	Increases automobile exemption
SB 26	Anti-deficiency judgment statute
SB 27	UTPA amendments (Section 1 of HB 2362—2001 Session)
	Debtor/Creditor
HB 2059	Posting bond on possessory chattel liens (storage fees)
HB 2060	Trustee notice before foreclosure sale
HB 2061	Modifies personal injury exemption for spouse/co-debtor
	Elder Law
SB 32	Repeals sunset provisions to court visitor pilot project
SB 33	Amend ORS 708A.470 to allow court to consider third-party evidence re: joint ownership on bank accounts
SB 34	Impact of real estate licensing laws on durable power of attorney (SB 446—2001 Session)

SB 35	Amends professional fiduciary statute to require court supervision of fees
SB 36	Protective proceedings—professional fiduciaries
SB 37	Restraining orders under Elder Abuse Prevention Act
	Estate Planning
LC 464	Will/trust harmonization
HB 2063	Uniform Principal and Income Act (UPIA)
LC 466	Termination of beneficiary designation on divorce
LC 467	Uniform Durable Power of Attorney Act
	Family Law Adoption Subcommittee
SB 38	Modifies UCCJEA jurisdictional provisions re: adoption
	Government
SB 39	Clarifies “voluntary disclosure” under evidence code
	Taxation
SB 40	Clarifies independent contractor statute
	Workers’ Compensation
LC 471	Amends multiple-employer hearing process
	OSB COMMITTEES
	Procedure and Practice
SB 41	Contractual attorney fee awards under void/unenforceable contract
SB 42	Statute of limitations in leap year
HB 2064	Use of declarations as alternatives to affidavits
HB 2087	2001 bill modifying procedures for Council on Court Procedures (HB 3251 – 2001 Session)
	Unlawful Practice of Law
SB 43	Modifies UPL definition to exclude certain title company activities

OSB Public Affairs Department

The OSB Public Affairs Committee (“PAC”) oversees legislative activities and makes recommendations on major policy issues. Chaired by Hillsboro attorney John Tyner, other members include: James Brown, Salem; William Carter, Medford; Nena Cook, Portland, David Hytowitz, Portland; and Charles Williamson, Portland. Angel Lopez, OSB President, is also an ex-officio member of the PAC.

The Public Affairs Department works to apply the knowledge and experience of the legal profession to the public good by advising governmental bodies, proposing and responding to legislation for law improvement, and advocating on matters that affect the legal profession.

If you have questions about this newsletter or legislative issues, contact the Public Affairs Committee chair John Tyner at (503) 648-5591 or the Public Affairs staff at (503) 620-0222 or in Oregon at (800) 452-8260. You can reach Bob Oleson, Public Affairs Director, at ext. 317 or by email at boleson@osbar.org; contact Susan Grabe, Public Affairs Manager, at ext. 380 or by email at sgrabe@osbar.org; or contact Joyce Patton, Public Affairs Attorney, at ext. 358 or by email at jpatton@osbar.org.



Season's
Greetings!!!

