



# CAPITOL INSIDER

*OSB Public Affairs Newsletter for Bar Leaders*

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FEBRUARY 27, 2004

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**Oregon celebrates 145  
years of statehood.  
Oregon became the 33rd  
state on February 14,  
1859.**

- President of Grange Mutual Insurance and resident of Tigard, **Philip Yount** replaces Max Williams in House District 35. Max Williams resigned from the House of Representatives in January to oversee Oregon's Department of Corrections.

## **Where Are We Now?**

Ballot Measure 30 Defeated; 59 % to 41 % statewide. With the failure of Measure 30 comes debate over the \$545 million in planned budget cuts. Gov. Kulongoski announced February 4, he has no plans to call the legislature into a special session and will implement the budget reductions specified by the legislature. Legislators are also hesitant about meeting for a special session to balance the budget prior to the tentative June session. That special session was scheduled during the 2003 legislative session to contemplate tax reform proposals.

The governor established a list of state funding priorities and is focused on preserving programs for children, seniors, and people with disabilities. He has promised Oregonians he would try to minimize cuts to some human services, including Children's Health Insurance program and prescription drug coverage for low income seniors. The governor also prioritized public safety including state crime labs which he will request the Emergency Board to allocate funds to protect the labs from planned budget cuts.

## **Legislative Updates**

- Special Session to rebalance the budget does not seem likely.
- June special session mandated by HJR 42 to deal with Tax Reform Committee recommendations is expected.
- Representative Lane Shetterly has been appointed Director of the Department of Land Conservation and Development. Shetterly, Rep. Shetterly has announced he will resign from his house seat February 22.
- Emergency Board scheduled to meet April 8-9, 2004.
- Former Oregon State Police officer Rep. **Wayne Krieger** appointed to co-chair the Joint Interim Judiciary Committee.
- **Paul Holvey** replaces Floyd Prozanski in House District 8. Rep. Holvey works in Eugene for Pacific Northwest Regional Council of Carpenters.
- Former state senator **John Lim** chosen by Multnomah County Commissioners to replace John Minnis in Senate District 25.

## Oregon's Tax System

Oregon's budget is based on a revenue forecast from the State Economist, issued in May during odd numbered years when the legislature is in session. Using the best available information, the Economist predicts the state's revenue from the income tax and lottery for the two year period beginning July 1 – the next biennium. During the 1990's, the Economist's projections were consistently low, and the excess revenue was returned to taxpayers in "kicker" refunds. In 2001, the projection was much higher than the revenue received, resulting in five special sessions and precipitous budget cuts to state services, including the justice system.

Oregon's tax system produces wide fluctuations in revenue chiefly due to a high reliance on income taxes, which vary directly with the fluctuations in the state's economy. Income taxes – personal and corporate - account for over 75% of all state taxes collected in Oregon, and for over 90% of General Fund revenue. No other state relies on one single revenue source to this degree. New York, which has the next highest reliance on income tax, receives 59% of its state revenue from personal income tax, and three other states receive more than half their revenue from income taxes. This structure has been the source of much discussion in the last legislative session in light of the economic downturn.

### The Joint Committee on Tax Reform

Despite some rank and file interest in addressing Oregon's tax issues in 2003, all the legislature could manage was passage of HJR 42, which created the Joint Interim Committee on Tax Reform. The Committee is to study and make recommendations on improvements in the state's tax system and develop legislation for recommendation to a special session in June, 2004.

The Committee of twelve Representatives and eight Senators met for the first time on December 15, 2003. Membership is well balanced between the parties, ideologies, and regions of the state. The Committee will be weakened by the resignations of Co-Chair Rep. Lane Shetterly (R, Dallas) and Rep. Max Williams (R, Tigard), who have accepted positions of Director of the Department of Land Conservation and Development and Director of the Department of Corrections, respectively.

The Committee's work starts against the backdrop of failure of Measure 30, the referendum on the tax package that enabled the legislature to

balance the budget and end the 2003 session. Although there is no direct relationship between Measure 30 and the Committee's work, the debate the Measure stimulated and its defeat will provide the Committee with an indication of the public's attitude toward tax increases, if not tax reform.

Co-Chairs Rep. Tom Butler (R, Ontario) and Sen. Ryan Deckert (D, Beaverton) have laid out a three phase process for the Committee's work:

- Orientation. (December – February) Committee members will familiarize themselves with background information and tools for evaluating tax policy. The goal is to gain an understanding of how Oregon's tax system evolved and how it compares with the systems of other states.
- Interaction with the public. (February - March) In meetings around the state, committee members will engage the public in an evaluation of the current tax system and an assessment of tax reform options. The local meetings will consist of roundtable discussions with community leaders and town hall type meetings designed to encourage persons other than the "usual suspects" to participate.
- Development of legislative proposals. (April – May) The Committee will review the information gathered in public meetings, try to identify solutions that are acceptable to the public that would deal with the problems identified, and then attempt to reach consensus on a workable proposal to place before the legislature in June.

The Co-Chairs assured the Committee that there was no pre-judged outcome to the Committee's work. The Committee will focus on tax reform, not on revenue enhancement. The point of the process is to ascertain whether voters will approve any tax reform package, and to propose the one with the best chance of passage.

Since the first meeting in mid-December, the Co-Chairs have signaled a somewhat modest agenda aimed at relatively small reforms. More likely than far reaching reforms that would scrap the current system altogether and replace it with something new are proposals to amend the kicker and create a "rainy day" fund.

### Meeting Dates

Feb. 24	Newport
Feb. 25	Eugene
March 2	Beaverton
March 3	Portland
March 10	Medford
March 15	Baker City
March 16	Pendleton
March 17	Redmond

\*All meetings are scheduled for 4:00 p.m., but specific locations have not been announced.

## **Task Force on Independent Contractors**

Over the next few months a legislatively created "Task Force on Independent Contractors" is meeting to examine Oregon statutes that identify which workers constitute independent contractors. This task force was created as a compromise between the Oregon State Bar's Taxation Section, the governor's office and various business and labor groups who had expressed differing opinions on the appropriate breadth of the definition of independent contractor.

The task force consists of legislators, lawyers, and representatives of business and labor organizations from around Oregon. It is charged with drafting legislation to be introduced during the 2005 session. If the 2005 legislature does not pass any changes to the independent contractor law, preliminary changes that were made by the 2003 legislature will go into effect in January 2006.

There are several perceived problems with the current definition of independent contractors. These include the fact that many businesses erroneously base their determinations on federal tax law, and later find themselves subject to significant financial penalties for treating their Oregon employees as independent contractors. Furthermore, it is argued by some that the model of the workplace upon which current Oregon statutes are based is outdated. Today working from the home is a much more common phenomenon than it was 20 or 30 years ago, and current law may not adequately take this change into account.

## **May 1 Deadline for 2005 Legislative Proposals**

Even though the legislative session does not begin until next January, the Bar's deadline

for sections and committees to submit proposals to the Public Affairs Committee for the 2005 session is May 1, 2004 – less than four months from now. This deadline allows the Bar to file its bills through the Judiciary Committee before the session begins. Pre-session filing will place its bills among the first the legislature could consider in 2005.

The Public Affairs Department can assist your group in developing legislative concepts and language. We would welcome the opportunity to attend your executive or legislative committee meetings to assist you and to learn about your legislative plans. Please feel free to contact the Public Affairs Department with questions, requests for assistance, or information on the Bar's public affairs process.

Now is a good time to establish relationships with your legislators, since many welcome the opportunity to get to know issues and interest groups at this stage of the legislative cycle. To find out who your legislators are (and much more) visit the Oregon State Bar's Public Affairs website: [www.osbar.org/govrelation/publicaffairs.html](http://www.osbar.org/govrelation/publicaffairs.html)

## **OSB Public Affairs Department**

The OSB Public Affairs Committee ("PAC") oversees legislative activities and makes recommendations on major policy issues. Chaired by Gerry Gaydos of Eugene, other members include: Mark Comstock, Salem; Nena Cook, Portland; Lauren Paulson, Aloha; and Linda Eyerman, Portland. William Carter, OSB President, is also an ex-officio member of the PAC.

Please visit our Web site for other legislative information and updates on bar legislation at [www.osbar.org/govrelation/publicaffairs.html](http://www.osbar.org/govrelation/publicaffairs.html)

If you have questions about this newsletter or legislative issues, contact the Public Affairs Committee chair Gerry Gaydos at (541) 343-8060 or the Public Affairs staff at (503) 620-0222 or in Oregon at (800) 452-8260. You can reach staff, Susan Grabe at ext. 380 or by e-mail at [sgrabe@osbar.org](mailto:sgrabe@osbar.org); David Nebel at ext. 317 or by e-mail at [dnebel@osbar.org](mailto:dnebel@osbar.org); or Jill Mallery at ext. 358 or by e-mail [jmallery@osbar.org](mailto:jmallery@osbar.org).