



Capitol Insider

OSB Public Affairs Newsletter for Bar Leaders

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Martha Lee Walters Appointed to the Supreme Court

Gov. Ted Kulongoski has appointed Eugene attorney Martha Lee Walters to the Oregon Supreme Court seat that Judge William Riggs will vacate at the end of September. A trial lawyer with an employment law practice, Ms. Walters will be the first woman justice on the Oregon Supreme Court since the resignation of Susan Leeson in 2003. In addition carrying on an active practice, Walters is the chair of the executive committee of the National Conference of Commissioners on Uniform State Laws and serves on the American Law Institute.

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House of Delegates Opposes Constitutional Amendments 40 & 48

At its meeting in Eugene on September 16, the Oregon State Bar House of Delegates (HOD), among other things, continued the bar's Affirmative Action Program, affirmed the bar's current policy of refusing military advertisements in the *Bulletin*, and adopted resolutions directing the bar to establish a plan for achieving fair compensation for public defense services and supporting adequate funding for legal services for low income Oregonians.

Among those other things were overwhelming passage of resolutions opposing two constitutional amendments on the November ballot: amendments 40 (appellate court districting) and 48 (the state spending limit).

Constitutional Amendment 40 would require candidates for the Oregon Supreme Court and Court of Appeals to live in specific geographic districts for at least one year before election, and to continue to live in the district during their terms. While there are many good reasons to oppose this measure, perhaps the most compelling is it that further weakens the principle of the rule of law. Judges are accountable to the Constitution and the laws of the state, not to any particular interest group or geographic area.

Constitutional Amendment 48 would limit state spending based on a simple formula: the budget from the previous budget cycle, plus percentage increases equal to increases in population and inflation. The amendment applies to nearly all state funds. While the population plus inflation formula sounds good, over time it will result in a state budget inadequate to meet the basic functions of government – including an adequate justice system. The costs of services the state purchases, like health care for the poor, are increasing faster than inflation; the population the state serves, like baby boomers reaching old age, is increasing faster than the population in general.

Each of the HOD resolutions encourages OSB members to urge their fellow citizens to oppose both constitutional amendments.

Court Facilities Task Force Update

As those who use Oregon's courts are all too aware, many of the

state’s court facilities are in need of repair, renovation or outright replacement. Since the state’s assumption of the responsibility for the operation of the courts and for payment for indigent defense in the early 1980s, counties have been responsible to provide “suitable and sufficient” facilities for the courts to use. A number of factors – including the property tax limitation measures and the decline in timber revenues in the 90s – have made it difficult for many counties to make the large investments that some court facilities require. Given the other demands on their budgets, counties have been wary of legislative measures that might force them to spend resources on court facilities at the expense of popular county programs.

During this legislative interim, the Association of Oregon Counties, the Oregon Judicial Department and the bar have organized a Court Facilities Task Force to address the need for court facility improvements. Chief Justice Paul De Muniz, Lane County Commissioner Bobby Green and OSB Board of Governor Gerry Gaydos co-chair the task force, which is composed of an equal number of representatives from the respective groups. The task force has formed three sub-committees, one to examine financing options, another to look at alternative ownership options, and a third to develop a set of court facility guidelines.

The task force sub-committees have been gathering information during the spring and summer, and in the fall the task force will be issuing a report that may contain one or more legislative concepts.

2006 Ballot Measure List

The ten ballot measures that will appear on the general election ballot in November are listed below by number and ballot title caption. The financial impact information is taken from financial estimate statements of the Financial Estimate Committee, comprised of the Secretary of State, the State Treasurer, the Director of the Department of Revenue, the Director of the Department of Administrative Services, and a representative of local government.

Note that the judicial districting measure (#40), legislative term limits (#45), one of the campaign finance measures (#46), and the spending limit (#48) are all *constitutional amendments* which if enacted require a vote of the people to amend or repeal.

Measure #39	<p>Prohibits public body from condemning private real property it intends to convey to private party.</p> <p>Financial impact: Could require state budget expenditures of approximately \$8 to \$17 million per year; could require local government expenditures of \$8 to \$13 million per year.</p>
Measure #40	<p>Amends Constitution: Requires Oregon Supreme Court Judges and Court of Appeals Judges to be elected by district.</p> <p>Financial impact: Financial effect of measure on state government expenditures cannot be determined. Cost to implement could range from none to \$1.5 million per two year budget period.</p>
Measure #41	<p>Allows income tax deduction equal to federal exemptions deduction to substitute for state exemption credit.</p> <p>Financial impact: Measure will reduce state budget revenues from personal income taxes by approximately \$151 million for 2006-07, \$385 million for 2007-08. Will reduce the 2007 personal income tax kicker by \$151 million. The annual impact will increase over time due to population growth and increases in the amount of the federal income tax personal exemption, which is indexed</p>

	to inflation. Implementation cost: \$114,750.
Measure #42	Prohibits insurance companies from using credit score or “credit worthiness” in calculating rates or premiums. Financial impact: None.
Measure #43	Requires 48-hour notice to unemancipated minor’s parent before providing abortion; authorizes lawsuits, physician discipline. Financial impact: Will require annual state budget expenditure of \$112,238.
Measure #44	Allows any Oregon resident without prescription drug coverage to participate in Oregon prescription drug program. Financial impact: None.
Measure #45	Amends Constitution: Limits state legislative terms to six years as representative, eight years as senator, and fourteen years in legislature. Financial impact: None.
Measure #46	Amends Constitution: Allows laws regulating election contributions, expenditures adopted by initiative or by ¾ of both legislative houses. Financial impact: None.
Measure #47	Revises campaign finance laws: Limits or prohibits contributions and expenditures; adds disclosure, new reporting requirements. Financial impact: Requires \$1,012,020 of state expenditures in first year; less than \$100,000 of state expenditures each year thereafter.
Measure #48	Amends Constitution: Limits biennial percentage increase in state spending to percentage increase in state population, plus inflation. Financial impact: Depends whether the measure affects the current 2005-07 biennial budget. If so, spending must be reduced by \$2.5 billion by July, 2007, and expected spending for 2007-09 must be reduced by \$4.9 billion. If it first applies to the 2007-09 budget, it would reduce the money available to fund state services by \$2.2 billion. The measure would limit state bond programs and have a negative effect on the state’s credit rating.

Revenue Forecast

Picking up where he left off in May, State Economist Tom Potiowsky issued his September revenue forecast predicting further growth in Oregon’s economy through June 2007, when the current state budget cycle ends. This growth will be channeled mostly into personal and corporate income tax refunds and credits, which become operative when personal or corporate tax revenues exceed the amounts budgeted by 2 percent. The projections issued on August 31 showed that a record \$1.04 billion could be rebated to individual Oregonians in the fall of 2007, plus \$238 million to corporations. The median personal kicker check would be around \$263; the corporate kicker could result in a tax credit of over 61 percent for corporations.

Juxtaposed with this good news was a bit more gloomy prediction for the next biennium. Mr. Potiowsky warned of an economic slowdown in 2007, resulting in mild declines in employment over the next two years in general manufacturing, wood products, and the electronics sector. These declines may result in slower tax revenue growth for the July 2007 to June 2009 biennium.