



# Capitol Insider

OREGON TOUR EDITION

OSB Public Affairs Newsletter for Bar Leaders

## 2007 Public Affairs Committee

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### OSB Bills Make Their Way Through the Process.

There are a total of 28 bar-sponsored bills this session. Of those bills, 13 have been signed by the Governor, 3 are scheduled for hearings in their second chamber, 1 is in Ways and Means and 3 are dead or have been withdrawn. To obtain a report of the status of bills sponsored by sections or committees, click here: <http://www.osbar.org/pubaffairs/legislation.html>.

### Oregon Teens May Have to Hang Up and Drive.

Oregon may join 14 other states banning or restricting teen drivers' cell phone usage. The House passed HB 2872A 54-3, and is now must clear the Senate. Click here to read the bill: <http://www.leg.state.or.us/07reg/measpdf/hb2800.dir/hb2872.a.pdf>

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## Revenue Forecast Increases by \$152 Million

The May 15 Budget Forecast surprised many with a \$152 million increase available to spend in the 2007-09 budget – which starts July 1. This brings the total budget for 2007-2009 to \$15.5 billion.

The Ways and Means Co-Chairs immediately issued an announcement that the top priority in finalizing the budget will be to increase the funding for higher education. The primary goals are to increase class offerings so that students can finish within 4 or 2 years, to provide more technical classes for health care, technology and electronics, new classroom buildings, scholarships, and compensation for faculty.

The total increase to the existing proposed budget for the Oregon University System is \$15 million, and for Higher Education Capital Construction it is \$25 million. Community colleges will get \$37 million and Headstart funding is increased by \$10 million.

The Oregon Judicial Department was allocated an additional \$6 million, and the Public Defense Services Commission another \$4 million. This brings the judicial department to approximately \$19 million less than requested in the Governor's proposed budget (\$329 million) and the PDSC \$16.3 million below its requested funding (\$232.4 million). Funding for public defenders, the court system, and judicial salaries are bar priorities this session.

## Debate Continues Over Destination Resorts

Heated public debate continues over Oregon's destination resorts. In 2006, three resorts in Deschutes County asked the county to relax its land-use laws to allow more full-time residential units. The request cannot be met without a change in state law under ORS 197.445. According to ORS 197.445, a destination resort is a "self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities." As it reads now, ORS 197.445 has numerous requirements for these resorts, including that only two residential units (home, townhouse, or condo) be sold for every single unit of temporary lodging (timeshare or rental). Before the law went into effect, a legislative subcommittee emphasized that resorts are not meant to evolve into residential communities but instead be visitor-oriented.

Land-use groups like Central Oregon Landwatch and 1,000 Friends of Oregon are concerned about the impact resorts have on traffic, wildlife, and water. With the number of new resorts already on the rise, Central Oregon Landwatch is especially worried that a change in state law, which has yet to be formally proposed, would permit too much development outside of urban-growth boundaries.

However, these resorts stimulate rural economies: they create thousands of jobs and pay millions in taxes to the counties. Residents of the resorts also pay millions in property taxes. Resort developers argue that the intent of ORS 197.445 will not change with relaxed overnight unit requirements, but instead will give flexibility in a changing real estate market.

**SB 30**, currently before the Oregon Legislative Assembly, addresses some of the above issues on a smaller scale. The bill would prohibit destination resorts in the Metolius River Basin, located in Jefferson County. The Metolius is designated by the federal government as a Wild and Scenic River. In order for the county to allow a resort in the basin, it would first have to meet SB 30's requirements which include, finding a resort would not significantly adversely impact fish and wildlife areas, natural areas, scenic views, wetlands, watersheds, ground water resources, historic sites, cultural areas, or rivers and waterways. The bill is moving, with a work session held on May 11. To view the bill's full text, see <http://www.leg.state.or.us/07reg/measpdf/sb0001.dir/sb0030.a.pdf>.

## ConnectOregon II May Be on Its Way

In 2005, the Oregon Legislature passed Governor Kulongoski's *ConnectOregon I* program, providing \$100 million in lottery-bond-based funds to invest in the state's air, rail, marine, and transit infrastructure. It was Oregon's first major initiative targeting multi-modal or non-highway transportation. It was, in particular, an attempt to spur economic development in rural places by improving various channels for commerce. In July 2006, the Oregon Transportation Commission approved 43 projects worth a total of \$99.5 million. *ConnectOregon I* requires at least fifteen percent of the bonded proceeds be allocated to each of five regions made up of counties located geographically near each other, ensuring that funds are spread throughout the state. For the project list and a map of the five regions, see <http://www.oregon.gov/ODOT/COMM/CO/connectoregon1.shtml>.

In *The Governor's Hope and Opportunity Budget 2007-2009*, Governor Kulongoski announced his intention to launch a second phase of investments "to continue the success of the ConnectOregon program in upgrading and expanding seaports, airports, railroads, and transit facilities." *ConnectOregon II*, summarized in **HB 2278**, would dedicate another \$100 million lottery dollars to the program. The bill requires at least 10% of bonded proceeds to be allocated to each of the five regions rather than the original 15%. In addition, HB 2278 modifies elements the Oregon Transportation Commission must consider when selecting projects, including whether a proposed project improves access to jobs, and whether a project results in economic benefit to the state. According to the Bicycle Transportation Alliance, a nonprofit organization that promotes cycling, *ConnectOregon II* also creates funds for non-motorized transportation. To see the bill's full text, go to <http://www.leg.state.or.us/07reg/measpdf/hb2200.dir/hb2278.a.pdf>.

A public hearing was held on May 8th, 2007, regarding HB 2278. The bill remains in the Joint Transportation and Economic Development Subcommittee.

## Assistance for Funding and Establishment of Rural Airports – SB 807

Oregon’s airport network has 97 public-use airports, 15 of which are privately owned. Many of the rural airports have the potential to provide economic development and job growth, but lack the funds to pay for infrastructure upgrades which might attract business or industry.

Senator Betsy Johnson (D-Scappoose) sponsored **SB 807** at the request of the Oregon Aviation Business Association. SB 807 would allow rural airports, with the approval of cities, counties, and local taxing districts, to form tax increment financing districts. A portion of the tax would be returned to the airport taxing district for improvements to the airport infrastructure.

The bill was referred to the Senate Committee on Business, Transportation, and Workplace Development. The committee made no recommendation as to passage and referred the bill to Revenue and Finance on May 1. It scheduled for a hearing on May 17.

A related bill, **SB 139**, would help communities prepare for airport closures by providing more notice of the closure. SB 139 requires operators of public use airports in Oregon to notify the Oregon Department of Aviation 180 days prior to permanent closure of the airport. (Currently, only 120 days are required.) SB 139 B-Engrossed passed the Senate 27-3 and is on the House Consent calendar for May 16.

To read SB 807 click here: [www.leg.state.or.us/07reg/measpdf/sb0800.dir/sb0807.intro.pdf](http://www.leg.state.or.us/07reg/measpdf/sb0800.dir/sb0807.intro.pdf)

To read SB 139 click here: [www.leg.state.or.us/07reg/measpdf/sb0100.dir/sb0139.b.pdf](http://www.leg.state.or.us/07reg/measpdf/sb0100.dir/sb0139.b.pdf)

## Alternative Fuels

Renewable fuel legislation is on the move as gas prices continue to rise. Most notable: **HB 2210**, which passed the House and sits before the Senate Finance and Revenue Committee, requires that all diesel fuel sold in Oregon must contain a minimum of 2% biodiesel (with some conditions). **HB 2210** also creates a tax credit for biofuel production and for consumer use of it. **HB 2211** is a companion bill, also before the Senate, that increases the annual cap on the business-energy tax credit, expanding the credit to include facilities that produce or distribute biofuels. Finally, **SB 949** authorizes issuance of lottery bonds to fund feasibility studies regarding the construction of cellulosic ethanol demonstration plants. SB 949 sits with the Ways and Means Committee now.

## Bills of Interest

### Health & Consumer

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|-----------------|--|--|
| <b>HB 3077</b>  | Creating a Health Insurance Rate Review Board  | Failed in the House; possible reconsideration pending.   |
| <b>HB 2213A</b> | Requiring health care insurers to provide consumers with an estimate of out-of-pocket costs for certain medical procedures             | Passed House 3/21. Public hearing in Senate Health Policy and Public Affairs scheduled for 5/21. |
| <b>HB 3321</b>  | Establishing an Insurance Rate Review Board to review large group health insurance rates, effective July 1, 2007                       | Public hearing and work session in House Elections, Ethics and Rules scheduled for 5/18.         |
| <b>SB 988</b>   | Prohibiting hospitals from charging uninsured or underinsured patients for hospital services at rates exceeding Medicare payment rates | <b>Dead.</b>   |

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| <b>SB 59</b>                   | Providing parity of coverage for acupuncture   | Passed Senate 3/29. Work session in House Health Care 5/15.   |
| <b>HB 2687 &amp; SB 452</b>    | Requiring health insurance coverage for family or marital counseling   | HB 2687 Passed House 4/24. Work session in Senate Health and Human Services 5/14.                   |
| <b>HB 2312A &amp; HB 2313A</b> | Requiring that information on advocacy be provided and guaranteeing mentally ill patients at a state mental hospital the right of daily access to fresh air  | Signed by Governor.   |
| <b>SB 484 &amp; SB 485</b>     | Changing ability to include arbitration clauses in contracts and revocability by consumers   | SB 484 passed Senate 5/8. Public hearing in House Consumer Protection 5/16. SB 485 is <b>dead</b> . |
| <b>HB 2918</b>                 | Health insurers would be required to cover treatment of pervasive developmental disorders, including some aspects of autism, Rett’s disorder, Asperger’s syndrome, and childhood disintegrative disorder.        | Passed House 53-0, referred to Senate Committee on Health Policy and Public Affairs on 5/15.        |
| <b>HB 2448</b>                 | Providing statute of limitations four years for injury and six years for death resulting from the use of medication, intended to inhibit an enzyme known as cyclooxygenase-2, called “COX-2 inhibitors.” [Vioxx] | Passed House 5/15.  |

**Employment & Business**

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| <b>SB 400</b>   | Allowing public safety unions to collectively bargain for safety and staffing   | Signed by Governor.   |
| <b>HB 2575</b>  | Creating a tax-funded payroll insurance program to provide partial pay to workers for time off for newborn or ill family member   | Referred to House Ways and Means 5/3.                                   |
| <b>HB 2891</b>  | Allowing public employee bargaining groups to be formed when a majority sign cards authorizing union representation   | Passed House 4/18. Work session in Senate Commerce scheduled for 5/21.  |
| <b>HB 2372A</b> | Requiring that businesses employing 25+ persons offer ½ hour timeouts for nursing women   | Signed by Governor.   |
| <b>SB 571</b>   | Banning smoking in bars, but allowing outdoor smoking, if 10+ feet away from nearest doorway of bar, restaurant, or hospital  | Public hearing and work session in Senate Finance and Revenue held 5/7. |
| <b>HB 2892</b>  | Prohibiting use of state funds to deter or assist labor organizing  | Passed House 4/24. Work session in Senate Commerce scheduled for 5/21.  |
| <b>HB 2893</b>  | Barring employers in public and private sectors from holding mandatory employee meetings to discuss organizing drives or political or religious topics  | Passed House 4/18. Work session in Senate Commerce scheduled for 5/21.  |
| <b>HB 3339</b>  | Making eligible for unemployment those workers in multi-employer contractual collective bargaining situations that are locked out and barred from working.  | Passed House 5/16. Referred to Senate President’s desk 5/16.            |
| <b>HB 3252</b>  | Requiring the state to produce a report in March 2009 listing the 40 employers with the most people who receive food stamps or are on the Oregon Health Plan. Aggregate numbers will be listed, not individual workers. | Passed House 5/16. Referred to Senate President’s desk 5/16.            |

**Legal Profession General**

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| <b>HB 2921</b>              | Changing exception to prohibition of practicing law without license for lay representation in land use planning procedures  | <b>Dead.</b>   |
| <b>HB 2189A</b>             | Requiring mandatory child abuse reporters to report actual and likely child abuse   | <b>Dead.</b>   |
| <b>SB 444 &amp; HB 2909</b> | Providing that civil-product liability actions are not subject to statutes of ultimate repose   | HB 2909 referred to House Elections, Ethics and Rules 5/3. Public hearing and work session scheduled for 5/18. |
| <b>SB 280</b>               | Increasing damages available under Oregon's tort claims act. Current caps have not been increased since 1987.   | Work session held in Senate Judiciary 4/26.  |
| <b>HB 2909</b>              | Introducing a new concept into the statute of repose for product liability actions: the "useful safe life" of the product. The bill retains the two-year statute of limitations after discovery, but provides that a business is not liable if the business proves by preponderance that the damage was caused after the useful safe life of the product expired. | House Judiciary recommended due pass on 5/3, hearing scheduled in House Rules Elections & Ethics on 5/18.      |
| <b>HB 2408</b>              | Providing credit against personal income taxes for repayment of law school loans if employed as D.A., public defense, or non-profit legal aid program services  | <b>Dead.</b>   |
| <b>SB 267A</b>              | Providing that a justice or municipal court may commence or cease operation as court of record only after governing body of city or county files declaration with Oregon Supreme Court  | Passed Senate on 3/27. Public hearing and work session in House Judiciary held 5/9. Recommended do-pass 5/10.  |
| <b>SB 292</b>               | Clarifying that in circuit court proceedings in which audio reporting is used, any party to proceedings may arrange for stenographic reporting of proceedings   | Passed Senate on 4/4. Second hearing in House Judiciary held 5/15.   |
| <b>SB 411</b>               | Appropriating money from General Fund to Public Defense Services commission for improving legal representation of parents and children in dependency cases, effective July 1, 2007  | Passed out of Committee 3/12. Referred to Senate Ways and Means 4/2. Multiple hearings held.                   |
| <b>SB 671</b>               | Modifying Public Records Laws relating to disclosure of facts resulting from investigations of wrongdoing by public body/attorney.  | Passed Senate, House Jud. Recommended do-pass B-Engrossed.   |
| <b>SB 456</b>               | Changing salaries of judges.  | In W & M Committee.  |
| <b>SB 700</b>               | Changing Membership of Public Official Compensation Commission and requiring Commission to make salary recommendations. Directing Governor to include salaries in budget report, and Legislature to consider recommendations in preparing budget.   | Passed Senate 26-1, referred to House Elections Ethics & Rules on 5/16.  |

**For more information on any of these bills, click here:**  
[http://www.leg.state.or.us/bills\\_laws/](http://www.leg.state.or.us/bills_laws/)