



Capitol Insider

OSB Public Affairs Newsletter for Bar Leaders

2007 Public Affairs Committee

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OSB Bills Successful in 2007

There were a total of 25 bar-sponsored bills this session. Of the 25 bar-sponsored bills, 22 have been signed by the Governor, 2 have been voluntarily withdrawn, and 1 died.

To obtain a report of the status of bills sponsored by sections or committees, click here:

<http://www.osbar.org/pubaffairs/legislation.html>

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Legislature Raises Judicial Salaries

After five years without a raise, all of Oregon's state court judges will get a sixteen percent increase in salary on July 1, 2007, and an additional three percent raise on July 1, 2008. The salary increases are shown in the following table:

	Current salary	Salary 7/1/2007	Salary 7/1/2008
Chief Justice	\$107,600	\$124,812	\$128,556
Supreme Court Justice	\$105,200	\$122,028	\$125,688
Court of Appeals Chief Judge	\$105,200	\$122,028	\$125,688
Tax Court Judge	\$98,900	\$114,720	\$118,164
Circuit Court Judge	\$95,800	\$109,212	\$112,488

At least part of the funds for these raises will come from a new filing fee on motions and responses to motions that may be imposed at the discretion of the Chief Justice. The Judicial Department originally requested authority to impose such fees in **SB 279-A**, which was later amended into **HB 2331-B**.

Increasing judicial salaries was a priority for the Chief Justice and for the bar in 2007, and these increases reflect the hard work and advocacy of judges and lawyers throughout the state on this issue. While these increases are not everything the advocates wanted, they will remove Oregon from the absolute bottom of the list of state judicial salary pay levels.

These pay increases, coupled with the Public Official Compensation Commission, will go a long way toward addressing the issue of a regular and systematic review of judicial salaries in the future.

Public Officials Compensation Commission Revived

The legislature revitalized the Public Officials Compensation Commission — a commission which currently exists in statute but whose last members' terms expired in August 2000.

The new commission will recommend salary levels for all elected state officials, including legislators, judges, and statewide officials like the governor and the attorney general. The idea behind the commission is to take the politics out of the salary setting process.

The commission will consist of 11 members — two who have background in compensation management appointed by the governor, one member each appointed by the Chief Justice, the Senate President and the Speaker of the House, and six selected by lot from voter registration rolls by the Secretary of State. The commission is to meet on or before September 1 in each even-numbered year to review and establish salary recommendations. On or before November 10 of the even numbered year, the commission must make salary recommendations, and those must be included in the Governor's budget. The legislature "shall consider" the recommendations in preparing the state budget.

The earliest that any of the commission's recommendations will become effective is July 1, 2009. The bill is **SB 700-B**.

Public Defense Services Commission Achieves Funding Increase

One of the bar's highest legislative priorities for 2007 was to increase salaries for lawyers providing indigent defense services. Indigent defense rates had not been increased since 1991.

In response, the legislature passed **SB 5549-A** and **5535-A**, which will provide increased funding for the Public Defense Services Commission (PDSC).

The base indigent defense rate will increase from \$40 per hour to \$45 per hour, and for capital cases it will increase from \$55 to \$60. Non-profit public defense agencies will be able to close the gap between their salary structure and district attorneys by one-sixth. Currently, public defense attorneys earn on average 31% less than their district attorney counterparts.

There are additional funds remaining after these increases, and it is up to the PDSC to decide exactly how to allocate the remaining resources.

SB 5549-A also provided an increase in funding for the Department of Justice to allocate to juvenile dependency appeals.

Legislature Creates Interim Committee on Court Facilities

An ad hoc task force on court facilities made up of the counties, the courts, and the bar advocated for the creation of a two-year commission to assess court facilities around the state and to recommend action to the 2009 session of the legislature. Although the legislature did not create this commission, it did act to address court facility problems.

Instead of the commission, the legislature in HB 2331-B created an Interim Committee on Court Facilities, consisting of members appointed by the Senate President and the Speaker of the House. The Chief Justice, the Association of Oregon Counties, and the bar will designate liaisons to the committee.

The interim committee is to evaluate the status of court facilities, make recommendations to the 2009 legislature on court facility standards and the cost of meeting them, and develop a proposal for ensuring that needed improvements in court facilities are made.

The legislature appropriated \$600,000 to pay for the evaluation of the facilities, and appropriated an additional \$600,000 to the emergency fund for this purpose if needed.

While this bill will provide no direct support for improving court facilities, it does constitute legislative recognition that court facilities are a matter of increasing concern.

Consumer Protections Big in 2007

The 74th Oregon Legislative Assembly passed scores of bills enhancing consumers' rights in a variety of fields. With passage of **HB 2871**, **2202**, **2203**, and **2204**, the House capped interest rates for conventional consumer-finance loans, limited check-cashing fees, applied restrictive laws to payday loans made in Oregon, and capped interest rates and fees on car-title loans.

Attorney General Hardy Meyers also sponsored a number of successful consumer bills this term. **SB 116** curbs predatory towing practices and requires disclosure of cost, location, and hours of operation by towing companies, while **SB 117** restores Meyers' authority to enforce the National Do Not Call Registry. **SB 118** protects citizens from paying excessively high prices during an emergency or natural disaster, and **SB 122** prohibits the use of activation-checks for marketing products or services in most circumstances.

Other bills of interest include **HB 2513**, prohibiting businesses from selling gift cards with expiration dates, and **SB 583**, establishing the Oregon Consumer Identity Theft Protection Act and setting standards for safeguarding personal information.

SB 965, meant to protect home-loan borrowers from "predatory lending," remains in the House Elections, Ethics and Rules Committee, where it was referred on June 14th. The bill would bar negative-amortization loans and require clear notices about terms of the loans.

Healthcare a Top Priority

Access to healthcare continues to be a major concern for Oregonians and their legislators, as demonstrated by recent reform. Most notably, **SB 329**, or the Healthy Oregon Act, creates the Oregon Health Fund Board to design a universal healthcare system. The board will draw on numerous state agencies to administer the program and provide healthcare to Oregonians not covered by employer, other state, or federal programs. **SB 329** incorporates some elements of **SB 27**, Kitzhaber's Oregon Better Health Act, but does not include Medicare and Medicaid patients, as the former governor had recommended.

Bills relating to insurance abound. **HB 2700** requires that prescription drug programs cover contraceptives, **SB 59** mandates services performed by a licensed acupuncturist be covered like those by a physician, and **SB 8** requires plans covering intravenous chemotherapy to also cover oral anti-cancer medications. To address the needs of 116,000 uninsured children under 19 years of age, **HB 2967** sends the Oregon Healthy Kids Program and a hiked tobacco tax to voters in November. The tobacco tax would come in the form of a constitutional amendment.

Several bills address insurance cost transparency. **HB 2002** requires that health insurance companies submit proposed rate increases for small employers (2-50 employees) to the state insurance division for approval. Without this leverage, small businesses often cannot afford raised rates and lose coverage for their employees. Likewise, **HB 2213** requires that insurers establish procedures to provide enrollees with estimates of procedure costs in advance of services.

Legislature Passes Restrictions on Non-Competition Agreements

Responding to concerns raised by Commissioner of the Bureau of Labor and Industries Dan Gardner, the legislature passed a bill that will substantially restrict the enforceability of non-competition agreements against former employees. The bill is the result of extensive negotiations among interested parties. Designed to prevent professional employees from going to work for competitors, these agreements have found their way into wide use in general employment contracts.

SB 248 provides that non-competition agreements are voidable under certain conditions. Except when an employee is being promoted, the employer must inform the employee in a written employment offer at least two weeks before the employee starts work that a non-competition agreement will be required. Non-competition agreements are enforceable against relatively well paid professional employees with access to competitively sensitive information. A non-competition agreement is enforceable for up to two years if the employer pays the employee the half his or her annual salary for the period the employee is restricted from working. The bill applies only to contracts entered on or after the effective date, January 1, 2008.

New Restrictions to Out-of-State Dispute Resolution In Consumer Contracts

A bill that began as a broad attack on mandatory arbitration has been narrowed substantially on its passage through the legislative process. In its final form, **SB 484** applies only to consumer contracts of less than \$15,000, and allows a consumer to revoke a provision that requires the consumer to assert or respond to a claim in a forum outside the state. The revocation must be in writing and within a reasonable time after the dispute arises, and the revoking consumer must have been a resident of Oregon when he or she entered the contract.

For more information or to read the text of the bills, click here:
http://www.leg.state.or.us/bills_laws/