



Capitol Insider

OSB Public Affairs Newsletter for Bar Leaders

2007 Public Affairs Committee

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Legislation Highlights CLE in Portland on October 11

Mark your calendars – on October 11 the bar will sponsor a half-day CLE to be held at the Governor Hotel with highlights of the 2007 Legislative Session. More information will be available in September.

2007 Legislation Highlights Publication Coming Soon

Find out what the legislature has accomplished in 2007 with *2007 Oregon Legislation Highlights*. A CD version of this publication will be included in the cost of the Legislation Highlights CLE seminar on October 11. Additional hard copies will be available for separate purchase at the seminar at a discounted price for seminar attendees.

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Update: 2008 Election Cycle

With the conclusion of the 2007 legislative session, speculation begins about the 2008 election cycle. While the Governor will be in the middle of his second and final term, three statewide offices will be open: Secretary of State, Treasurer, and Attorney General. Both Secretary of State Bill Bradbury and Treasurer Randall Edwards are prohibited from running for a third term, but Attorney General Hardy Myers is not.

Secretary of State is an important position for this term in particular, since he or she is likely to preside over the state legislative redistricting process in 2011. Some speculate that Bradbury will step down before the primary campaign season gets into full swing, allowing the Governor to appoint a person to fill out the term and thereby giving that person an advantage in both the primary in May 2008 and the general election in November 2008. Three state senators have announced their candidacies for this office: Kate Brown (D Portland), Vicki Walker (D Eugene), and Brad Avakian (D Beaverton). No Republican has yet publicly expressed interest in running for Secretary of State.

Democratic Senator Ben Westlund (Bend) has been mentioned as a possible candidate for Treasurer although he has not officially declared his candidacy.

Attorney General Hardy Myers has not discussed his plans publicly, but he has served three terms, and it seems unlikely he will run again. Many speculate that Democratic Representative Greg Macpherson (D Lake Oswego) is considering a run for this position if Myers does not. Yet again, there is no Republican who appears to be poised to enter this race.

As for the legislature, several Senators have announced their intention not to run again: Kate Brown, Avel Gordly (D Portland), and Ryan Deckert (D Beaverton) who will be the next president of the Oregon Business Association. These open seats may induce some current representatives to run for these vacancies. In the House, Reps. Brian Boquist (R Dallas) and Karen Minnis (R Wood Village) have definitely

decided not to run for re-election, and Reps. Donna Nelson (R McMinnville) and Carolyn Tomei (D Milwaukie) are undecided. House Speaker Jeff Merkley (D East Portland) has announced he will challenge U.S. Senator Gordon Smith (R) in his bid for re-election.

The 2008 election cycle is at its earliest stage and many more retirements seem likely. Of special concern to lawyers is the loss of Sen. Brown and Rep. Macpherson, two attorneys and stalwart supporters of the justice system who have brought their expertise to bear on a wide range of legal issues in the legislative arena. There are currently just ten lawyer-legislators, and the loss of Sen. Brown and Rep. Macpherson will leave only eight lawyers serving in our legislature. If you know of someone who is interested in being a legislator, please have them contact the OSB Public Affairs Department.

2008 Initiatives

As usual, voters can expect to see a slew of initiatives in the November 2008 election. Many are predictable, with a repeat of the same issues and the same cast of characters.

For example, Bill Sizemore is a chief petitioner on just under half of the initiatives (45 of the 118 filed for the 2008 election). Former gubernatorial candidate Kevin Mannix is a chief petitioner on 15 initiatives, ranging from regulation of strip clubs to anti-crime measures, initiative procedures, and increased state police patrols. And Lon Mabon has resurfaced as a petitioner on Initiatives 22 and 23, the Public Decency Act and the Student Protection Act.

The majority of initiatives filed so far relate to education expense tax credits, revisions to the initiative process, union dues and elections, public safety, campaign finance reform, abortion, property taxes and land use.

Initiatives that have been approved to circulate and will certainly be of interest to the legal community are the following:

- **Initiative 2:** Prevents appointed judges from being labeled incumbent on the ballot for the first election following appointment. The chief petitioner is Bill Sizemore.
- **Initiative 44:** Limits the sentencing powers of the juvenile court of Oregon. Currently juvenile offenders may be committed for an indefinite period of time, but not past their 25th birthday. The initiative limits “incarceration” of juveniles past their 18th birthday, and limits the maximum “sentence” to two years. The chief petitioners are Gerald Rogers, Ashley Gray, and Steven Kugler.
- **Initiative 51:** Limits contingent fees that plaintiffs’ lawyers may charge in civil cases to: 25% of the first \$25,000 recovered by client, and 10% of any recovery above \$25,000. The measure defines “contingent fee,” which is not currently defined in statute. The chief petitioners for 51 and 55 (below) are Michael Reeder, Glenn Pelikan, and R. Russell Walker.
- **Initiative 53:** Requires a court to sanction an attorney who files a frivolous “legal claim, motion or defense” by awarding the opposing party sanctions of all attorney fees associated with the frivolous filing. It would require 15 days notice to withdraw the filing or withdraw from representation.

“Frivolous” is defined as unsupported by substantial evidence or substantial reason. The chief petitioners are Glenn Pelikan and R. Russell Walker.

- **Initiative 55:** Limits the total fee that plaintiffs’ law firms may charge clients under a contingent fee contract in a civil case. Plaintiffs’ law firms could charge the lesser of an attorney’s hourly rate or \$500 per hour, and the lesser of twice a paralegal’s hourly rate or \$200 per hour.
- **Initiative 78:** Requires a legislative super-majority (3/4 vote) to pass legislation with an emergency clause. Currently, unless otherwise designated, bills are effective January 1 of the year after the session. Chief petitioners are Senator Larry George and Bill Sizemore.

Additional initiatives of possible interest are #35-38 (to change the state constitution to allow non tribal casinos, and to allow a single private casino at Multnomah Greyhound Park in Wood Village), #86 (authorizing labor commissioner to adopt rules regulating overtime for hours worked in a single day), #109 (allowing open primary elections), and #110 (limiting prices that hospitals may charge to uninsured patients).

To learn more about any of these initiatives, click here:
http://egov.sos.state.or.us/elec/web_irr_search.main_search

Planning for Annual Sessions is Underway

In February 2008, the Oregon Legislature will have a trial run of Oregon’s first-ever annual session. The February session will be just twenty-six days, beginning February 4 and ending February 29.

The February session is intended to be limited to only the more pressing fiscal and policy issues. Some examples of issues which could be under consideration are: paid family leave, budget issues, changes to the treatment of medical marijuana card holders in the workplace, a statewide wireless emergency network, and increases to the current limits on governmental liability. If the legislature’s rewrite of Measure 37 fails on November 6, the legislature may again attempt to resolve this issue in the February session.

Oregon is one of just six states in the nation that do not have annual sessions. The resolution, passed by the legislature early in 2007, called for a single annual session in 2008. If this experiment is successful, the state’s constitution will have to be amended to make annual sessions permanent.

Capitol Renovation in Progress

Among the recommendations of the Public Commission on the Oregon Legislature was the complete renovation of the Capitol wings: the parts of the Capitol added in 1977 that house legislators’ offices and the offices of Legislative Counsel, Legislative Fiscal, and Legislative Revenue staff. The wiring and plumbing are inadequate, dangerous and out-of-date, and the décor and configuration is frozen in the late 70s. Among its final acts, the 2007 legislature authorized this \$35 million project, to be completed by the beginning of the 2009 session.

Demolition is to begin on the House side in August and on the Senate side in September. Legislative Counsel, Legislative Fiscal, and Legislative Revenue staff will be relocated to an annex 1.2 miles from the Capitol at 1115 Commercial St. NE. The House and Senate caucus offices and the office of the Senate President will be relocated to space in the old part of the Capitol. Individual legislators will not have offices until the project is completed, but will have access to a desk, phone, and computer as needed.

The project will essentially gut the wings – including removal and replacement of all plumbing, wiring, and interior walls. Gone will be the familiar bright orange and green carpeting and the purple sofas, to be replaced with furnishings more in harmony with the décor of the old part of the Capitol.

The renovation will be in full swing during the Special Session planned for February 4 through February 29, 2008.

Deadline for HOD Resolutions August 15, 2007

This year the Annual Meeting of the OSB House of Delegates will be held at Salishan Lodge in Gleneden Beach, September 29 at 10:00 a.m. The deadline to submit resolutions is August 15 at 5:00 p.m.

If you need assistance with resolutions you can also contact either: Sylvia Stevens, at (503) 431-6359 or sstevens@osbar.org, or Teresa Wenzel, at (503) 431-6386 or twenzel@osbar.org

If you have questions about the process, please come to the Regional House of Delegates meetings. They will be held the week of August 20 in Vale, Eugene, Portland and Salem. Teleconferencing is available for all meetings.

For the regional meetings schedule, click here:
http://www.osbar.org/_docs/leadership/hod/2007/07RegionalMeetings.pdf

For more information about the House of Delegates, click here:
<http://www.osbar.org/leadership/hod/meeting.html>

OSB Awards Deadline August 24

The OSB Board of Governors and the Oregon Bench and Bar Commission on Professionalism are seeking nominations for their annual awards. The bar presents the Award of Merit, President's Awards and the Wallace P. Carson, Jr., Award for Judicial Excellence. The professionalism commission presents the Edwin J. Peterson Award. Nominations for outstanding service are encouraged.

The deadline for submissions is **Friday, August 24**. Following are links to additional information and the nomination forms:

http://www.osbar.org/_docs/leadership/presawards.pdf

http://www.osbar.org/_docs/leadership/EJPaward.pdf