



CAPITOL INSIDER

OSB Public Affairs Newsletter for Bar Leaders

November 11, 1997

Oregon Law Commission Meets

The Oregon Law Commission held its organizational meeting on October 31 to begin the process of evaluating and proposing statutory revisions to the 1999 legislature. As its first order of business, the commission elected Representative Lane Shetterly as chair and Senator Kate Brown as vice chair.

At its initial meeting the commission explored the range of activities in which it might become involved. Members discussed how they could work together with existing law improvement programs, including the American Law Institute, the National Commission on Uniform State Laws and the Oregon State Bar's law improvement program. A close working relationship with the three law schools will help further the work of the commission.

Meetings were set and a program committee was established to develop agenda topics. Created to conduct a continuous substantive law revision program, the commission will be one of a handful of committees at work during the interim preparing for the 1999 session. It is hoped that the Oregon Law Commission and the interim judiciary committees will play important roles in the development of sound legislative proposals. During the interim, there is more time to carefully consider the ramifications of legislative proposals or refinement of legal doctrines and rules of law.

The Oregon Law Commission is made up of two Senate appointees, two appointees from the House, the deans of the three law schools, three members appointed by the bar, the chief justice, and one appointee from the governor's office.

For more information on schedules and the commission agenda contact Bill Taylor at (503) 986-1694 or visit the legislative web site at: <http://www.leg.state.or.us>.

Interim Legislative Committees

Legislative committees have been formed and will be meeting during the months ahead. Interim judiciary committees, the Oregon Law Commission, task forces and other legislative committees will continue to identify and work on a limited number of issues in preparation for the 1999 session. It is our intention to use this publication to provide periodic updates on relevant issues and political developments. For more information on committee hearing schedules and agendas, you can also call the legislative information line at (503) 986-1187.

If lawyers want to have a voice on issues they care about, they will have to be involved in the political process through the interim to a greater extent than before. While the legislature meets only every other year, many important issues are decided when the legislature is not in session. It is important that bar members are involved in the process throughout the year.

Legal Services Task Force

On October 31, the OSB Civil Legal Services Task Force, created by the 1997 legislature, met. Co-chairs Steve Walters and Lynn Nagasako led the group through its first organizational meeting. In addition to providing the comprehensive program oversight prescribed by legislative leaders, the Board of Governors has requested the task force to specifically address certain areas.

The task force has been requested to report by March 15 its recommendations to the board on legal services programs that receive filing fee moneys. With respect to these programs, the task force will address the following areas: develop standards and guidelines for legal services programs; document compliance with program standards; develop periodic review mechanisms; assess gaps in Oregon's legal services delivery system; and recommend a structure for ongoing oversight structure for OSB Legal Services Program. Questions or concerns can be addressed to Lynn Nagasako at (503) 378-6060 or Steve Walters at (503) 294-9468.

Judicial Initiatives

To shed more light on the debate regarding proposed judicial election reform initiatives, the bar has as its centerpiece in the November edition of the *Bulletin* an overview of the history of the judicial election process; there are also two opinion pieces addressing the pros and cons of these initiatives. Because they believe judges are imposing their political will on state policy, initiative sponsors crafted measures to subject judges to greater political accountability and to make them more directly responsible to the public. On the other hand, opponents think that abolishing an independent judiciary will seriously undermine the foundation of our democratic system.

To become more involved or to receive additional information on either side of the debate contact:

PRO: Bob Tiernan
(503) 697-7266

CON: Mike Phillips
(541) 465-8898 or
Ross Shepard
(541) 484-2611

Federal Laws Shift to the States

In an attempt to downsize, the federal government has taken to shifting responsibility for rules and regulations from the federal arena to the states. This means passing legislation on the federal level that requires states to comply or adopt some variation of similar laws. The hammer Congress holds often has financial strings

attached so that it is usually in the state's best financial interest to comply. A recent example of this would be the welfare reform/support enforcement legislation, which resulted in the enactment of HB 2324 in Oregon. Other examples, without price tags directly attached, include the Volunteer Protection Act and Product Liability legislation, discussed below:

Volunteer Protection Act

After more than 10 years, Congress finally passed the Volunteer Protection Act to protect volunteers of nonprofit organizations from liability. The act, intended to encourage volunteerism, limits the liability of volunteers for government entities and non-profits for harm caused by acts or omissions carried out in the course of volunteer activities. The law preempts inconsistent state laws and standardizes the protections available from state to state.

Passage of the legislation is an attempt to address a growing problem for organizations that rely on volunteers, namely that individuals are withholding volunteer services for fear of potential liability from lawsuits. It is important to note that the act provides protection for volunteers; it does not provide immunity for voluntary organizations. It is likely that the law will be challenged on constitutional grounds. Also important to note is that this law affects state tort laws and will require states to opt out in order to avoid preemption of its state tort laws.

Product Liability Legislation

Although the president vetoed broad federal product liability legislation in the last Congress, the issue has come up for serious debate again. S. 648, which passed a Senate committee in May, would preempt state product liability laws and establish a broad federal product liability law.

Currently under consideration is a compromise that would drop the proposed cap on punitive damages for large businesses, but retain it for smaller businesses. The potential agreement also would exclude provisions to eliminate joint and several liability for non-economic damages.

In a letter to the president, the American Bar Association stated that it continues to support improvements to the tort liability system, but that

changes should be systematic and should be implemented at the state level and not preempted by broad federal legislation. We will try to keep you informed as this issue develops.

Lawyer-Legislator Candidates

Several lawyers (not incumbents) are considering running for the legislature. If you have or want information about potential candidates who are concerned about the well-being of the justice system, contact Kevin Lafky at (503) 585-2450 or A. Carl Myers at (503) 399-9219. We will be providing further information on this topic after the list of candidates have actually filed to run. Look for another update probably sometime in January.

Interim Committees

Below is a list of interim legislative committees and members.

Senate Interim Judiciary Committee

Senator Shirley Stull, chair
Senator Ken Baker, vice chair
Senator Kate Brown
Senator Avel Gordly
Senator Jeannette Hamby
Senator Randy Miller
Senator Eileen Qutub

Subcommittee on Crime and Corrections

Senator Eileen Qutub, chair
Senator Avel Gordly
Senator Shirley Stull

Subcommittee on Civil Law

Senator Jeannette Hamby, chair
Senator Ken Baker
Senator Kate Brown
Senator Randy Miller

House Interim Judiciary Committee

Representative Lane Shetterly, chair
Representative John Minnis
Representative Larry Wells
Representative Ron Sunseri
Representative Peter Courtney
Representative Judith Uherbelau
Representative Floyd Prozanski

For more information, contact the Legislative Information Line at (503) 986-1187 in Salem.

Oregon Legislature on the Web

Visit the Oregon Legislature on the World Wide Web. The website has: the text of all legislative measures; status of all introduced measures; committee meeting schedules, agenda and membership; legislator and legislative staff contact information; and, text of the Oregon Revised Statutes and the Oregon Constitution. You can access the legislative site at [:http://www.leg.state.or.us](http://www.leg.state.or.us).

OSB Public Affairs Department

The Public Affairs Department works to apply the knowledge and experience of the legal profession to the public good by advising governmental bodies, proposing legislation for law improvement and advocating on those matters that affect the legal profession. The board's public affairs committee is chaired by Salem attorney Kevin Lafky. Other members



include Mark Johnson, Portland; Larry Rew, Pendleton; David Hittle, Salem and public members Joyce Cohen of Lake Oswego and Liliana Olberding of Hillsboro.

Contacts

If you have questions or comments about this newsletter or legislative issues feel free to contact the Public Affairs Committee chair Kevin Lafky at (503) 585-2450 or the Public Affairs staff at the bar office at (503) 620-0222 or toll-free in Oregon at (800) 452-8260. You can reach Susan Grabe at ext. 380 or by e-mail at sgrabe@osbar.org. Karen Garst, the executive director is available at ext. 312 or by e-mail at kgarst@osbar.org.