



# CAPITOL INSIDER

*OSB Public Affairs Newsletter for Bar Leaders*

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APRIL 1, 2003

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## **County Bar Award of the Month**

On Saturday, March 15, the Josephine County Bar cooperated with the Oregon State Bar to hold a lawyers' town hall in Grants Pass with two new influential lawmakers, Representatives Gordon Anderson and Dennis Richardson. Board of Governors leader Bill Carter of Medford was the moderator. The two legislators informed the two dozen lawyer attendees about the dire fiscal and political realities of the 2003 session.

The two hours of questions and answers focused on tax reform and the resource needs of such mandated programs as the court system and indigent defense. There was also discussion about tort reform, legal aid funding, swifter consequences for first-time juvenile offenders, the importance of increased court efficiency, the need to educate the business community about the consequences of court reductions, the inordinate power of narrow special interest groups, etc.

At the end of the meeting one of the local judges offered the following challenge to the two legislators:

"You politicians in Salem need to be more like the people at the state hospital – you need to do more thinking outside of the box."

It is hoped that other county bar associations will host similar events this

Spring. Such events are a great way to communicate with local legislators regarding issues and resource needs involving our state justice system. (It is also very worthwhile for delegations of county bar leaders to visit their legislators at the Capitol.)

## **OCDLA in the political trenches**

In addition to being the anniversary of *Gideon v. Wainwright*, March 18 was criminal defense lawyers day at the legislature. In the opening briefing hosted by Ross Shepard, there was considerable discussion about the need to increase the criminal justice system knowledge level of the average legislature and the importance of effectively describing the societal impact of no longer processing many court cases. There is great concern that the constitutional right to counsel will be trimmed back this session due to the current budget crisis. The outer limits of what could (or could not) be appropriated for indigent defense in the 2003-05 biennium range from \$182 million down to \$132 million. The Public Safety Subcommittee of the Ways and Means Committee is holding hearings on this budget today, April 1, and nobody seems to have a good guess about specific outcomes.

## HIPAA Bills

On February 18, the House Judiciary Committee heard testimony on several bills (HB 2305 through HB 2309) filed at the request of the Joint Interim Committee on the Judiciary for the Advisory Committee on Privacy of Medical Records and Information. This Advisory Committee submitted the proposed legislation to address state policy and requirements as a result of the passage of the federal Health Insurance, Portability, and Accountability Act.

HB 2305 through HB 2307 and HB 2309 passed out of the House and were referred to the Senate Judiciary Committee on March 24. HB 2305 revises state policy and requirements for use and disclosure of certain health information. HB 2306 revises information privacy requirements for certain health insurers. HB 2307 revises requirements for disclosure of or access to certain health information to conform to federal law relating to privacy of health information. HB 2309 allows a physician or psychologist with patient authorization or a court order to provide certain information to a court visitor in a protective proceeding. A public hearing and possible work session is being held today, April 1, on these four bills.

Legal practitioners that work in this area will want to pay particular attention to HB 2309 which impacts Oregon Rules of Civil Procedure 44 and 55. All of these bills include an emergency clause that would result in the legislation taking effect upon its passage.

tors and hospitals, insurance companies, malpractice victims, trial lawyers, defense lawyers, the Oregon State Bar's Procedure and Practice Committee, the Department of Consumer and Business Services (DCBS), and SAIF.

Although the insurers' and medical providers' bills did not attempt to regulate the insurance industry, Corey Streisinger, the newly appointed head of the DCBS, testified that the DCBS was exploring, at the Governor's request, a self-insurance model for doctors, to be operated by SAIF, based on the Professional Liability Fund model used by lawyers in Oregon.

## Judicial Department Budget

The Public Safety Subcommittee of the Joint Ways and Means Committee spent four days last week listening to presentations and testimony regarding the Department's proposed 2003-05 budget. Discussions focused on the impact of funding the Judicial Department at the Chief Justice's maintenance level budget versus the Governor's budget. Funding for the courts under the Governor's budget would result in an inability to process post-conviction relief, small claims, property only domestic relations, probate and one-half of the court's civil docket. Difficult policy questions have been raised and will need to be addressed by the legislature.



## Tort Reform Proposals

The House Judiciary Committee, chaired by Representative Max Williams, dedicated two weeks in March to introductory sessions and hearings on medical malpractice insurance topics. The insurance industry and medical providers presented a package of bills, HB 2492 through HB 2498 and HB 2591, to the Committee. The hearings were centered around the insurers' and medical providers' proposals for tort reform to address the rising malpractice insurance costs for doctors, particularly specialists such as obstetricians and neurologists, and to ensure that rural communities were not left without necessary medical coverage due to a lack of physicians. The Committee heard from the medical community, doc-

## Hearing Officer Panel Legislation

Ongoing support for the Hearing Officer Panel (HOP) established during the 1999 legislative session continues in the form of HB 2526, which is sponsored by Representatives Lane Shetterly and Phil Barnhart, and Senators Roger Beyer and Peter Courtney. This bill repeals the sunset laws on the HOP among other provisions. The bill has moved through the House and, on March 24, was assigned to the Senate Judiciary Committee. A public hearing and possible work session is scheduled for April 3.

## 2003 OSB Legislative Proposals

The following House Bills have moved to the Senate side:

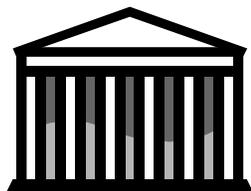
Bill	Summary	Status
HB 2064	Use of declarations as alternatives to affidavits	To SJ on 2/5/03
HB 2075	Amends Oregon Business Corporations Act	To SB&L on 3/24/03
HB 2087	2001 bill modifying procedures for Council on Court Procedures (HB 3251 – 2001)	To SJ on 2/7/03
HB 2269	Will/trust harmonization	To SJ on 2/27/03

The following Senate Bills have moved to the

Bill	Summary	Status
SB 32	Repeals sunset provisions to	To HJ on 3/25/03
SB 34	Impact of real estate licensing laws on durable power of attorney (SB 446—2001 Ses-	To HB&L on 2/21/03
SB 35	Amends professional fiduciary statute to require court	To HJ on 2/3/03
SB 37	Restraining orders under	To HJ on 3/21/03
SB 39	Clarifies “voluntary disclo-	To HJ on 2/3/03
SB 41	Contractual attorney fee awards under void/	To HJ on 2/5/03
SB 42	Statute of limitations in leap	To HJ on 2/5/03

House side:

**Key:** HJ – House Judiciary  
 SJ – Senate Judiciary  
 HB&L – House Business, Labor & Consumer Affairs  
 SB&L – Senate Business & Labor



## Important 2003 Session Dates

April 11,	House committees end
April 25,	Constituent outreach day #2 – No House
May 2, 2003	House committees end consideration of Senate bills. Consideration of bills beyond this date requires approval of the
May 5, 2003	Requirement for 24 hour notice for work sessions is suspended (Hearings will still
May 15,	May revenue forecast
May 16, 2003	All House standing committees closed by this date except: Rules and Public Affairs
May 26,	Constituent outreach day #3 – No House
June 6,	Sine Die

Note: These dates were pulled from House Speaker Karen Minnis' web site. <http://www.leg.state.or.us/house/speaker/home.htm>

## Annual Legislative Sessions

In an effort to add Oregon to the hefty list of states that meet annually to set budgets, Democratic Senator Richard Devlin and Republican Representative Randy Miller co-sponsored Senate Joint Resolution 11. SJR 11 would refer to voters a ballot measure establishing annual legislative sessions, but would also limit sessions in odd-numbered years to 120 days and sessions in even-numbered years to 45 days.

On Wednesday, March 26, the Senate approved SJR 11 by a 20-10 vote. It now moves to the House for consideration.

## Government Relations Web site

There have been some changes and updates to the Government Rela-

tions portion of the Oregon State Bar web site. For example, you will find links to the OSB Board of Governors Policies, the OSB 2003 Legislative Proposals, and links to publications such as our newsletter, the *Capitol Insider*, and both the 2001 and 2003 Legislative Tips Handbooks. We also provide links to other helpful web sites such as the Oregon Legislature, Project Vote Smart, and the United States Congress. The address for the web site is <<http://www.osbar.org/2practice/lawimprovement/legislation.html>>

## Copy of a Bill

You can receive one free copy of a bill from Legislative Publications and Distribution at (503) 986-1186. The full text of a bill can also be found on the Oregon Legislature's hot link web page at <<http://www.leg.state.or.us:8765>>

## OSB Public Affairs Department

The OSB Public Affairs Committee ("PAC") oversees legislative activities and makes recommendations on major policy issues. Chaired by William Carter of Medford, other members include: Gerry Gaydos, Eugene; James Brown, Salem; Mary McCauley Burrows, Eugene; Mark Comstock, Salem; Jonathan Hill, Tillamook; and Lisa LeSage, Portland. Charles Williamson, OSB President, is also an ex-officio member of the PAC.

The Public Affairs Department works to apply the knowledge and experience of the legal profession to the public good by advising governmental bodies, proposing and responding to legislation for law improvement, and advocating on matters that affect the legal profession.

If you have questions about this newsletter or legislative issues, contact the Public Affairs Committee chair William Carter at (541) 773-8471 or the Public Affairs staff at (503) 620-0222 or in

Oregon at (800) 452-8260. You can reach staff, Susan Grabe at ext. 380 or by e-mail at [sgrabe@osbar.org](mailto:sgrabe@osbar.org); Bob Oleson at ext. 317 or by e-mail at [boleson@osbar.org](mailto:boleson@osbar.org); or contact Joyce Patton at ext. 358 or by e-mail at [jpatton@osbar.org](mailto:jpatton@osbar.org).

## Times Are a-Changin'

Here at the OSB we have been updating our database and would like your help. If you would like to unsubscribe from the *Capitol Insider* or would rather receive the *Capitol Insider* in a different format, please send an email indicating your preference to [brichley@osbar.org](mailto:brichley@osbar.org).