Oregon State Bar

2011 *Legislative Tips Handbook*

Public Affairs Department

Legislative Tips Workshop
January 13, 2011

Oregon State Bar and Dave Barrows & Associates

LEGISLATIVE TIPS WORKSHOP

Thursday, January 13, 2011

Oregon State Bar Center • 16037 SW Upper Boones Ferry Road • Tigard, Oregon

Agenda

8:00 – 8:30 a.m. **Registration, coffee and rolls**

8:30 – 8:45 a.m. **Welcome and Introduction**
Derek Johnson, *Oregon State Bar Public Affairs Committee Chair*
Dave Barrows, *Dave Barrows & Associates, Program Moderator*

8:45 – 9:45 a.m. **Panel of Political Experts**
Senator Floyd Prozanski, *Senate Judiciary Committee Chair*
Representative Wayne Krieger, *House Judiciary Committee Co-Chair*
Representative Cliff Bentz, *House Revenue Committee Member*
Representative Chris Garrett, *House Judiciary Committee Co-Vice Chair*

Featuring information on:
- Who's who in the legislative process.
- How to get a legislator's attention.
- Communicating with your legislator – what your legislator likes and doesn't like.
- Making the most of your time with a legislator.

9:45 – 10:00 a.m. **Skit**
- How to lobby and how not to lobby

10:00 – 10:15 a.m. **Break**

10:15 – 11:00 a.m. **Panel of Bar Experts**
Chris Crean, *Beery Elsner Hammond LLP*
Sam Sears, *Larimer & Sears LLC*

Featuring information on:
- Role of the bar
- Legislative guidelines
- Section/committee legislative process
- Overview of 2011 session and bill tracking
- How do you move a bill through the process?
- Internet resources

11:00 – 12:00 p.m. **Panel of Process Experts**
William Taylor, *Judiciary Counsel*
Dexter Johnson, *Legislative Counsel*
Kenneth Rocco, *Legislative Fiscal Office*

Featuring information on:
- Tips for effective and successful lobbying
- Practical aspects of lawyer "lobbying"
- Oregon law on lobbying
- Role of staff
- How to monitor legislation
- Working with Legislative Counsel
- The drafting process

12:00 – 12:30 p.m. **How to Testify Before a Committee**
Jennifer Williamson, *Pyramid Communications*

Sponsored by the OSB Public Affairs Department and Dave Barrows & Associates

Program submitted for 4.0 general MCLE credits

2011 Board of Governors Public Affairs Committee
Derek Johnson, Chair, *Eugene*
Audrey Matsumonji, Vice Chair, *Gresham*
Gina Johnnie, *Salem*
Maureen O'Connor, *Portland*
Ethan Knight, *Portland*
Kenneth Mitchell-Phillips, *Portland*
Hunter Emerick, *Salem*

Oregon State Bar – Public Affairs Department
Susan Grabe, Public Affairs Director
David Nebel, Public Affairs Attorney
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Public Affairs Department Background

Overview

The Oregon State Bar is directed to advance the science of jurisprudence and to improve the administration of justice. As a consequence, it has an obligation to the citizens of Oregon to participate in the law improvement process. The knowledge and expertise of its members is an invaluable resource to our citizen legislators. If the bar ever withdraws from the legislative arena, other organizations representing special interest groups will attempt to step in to fill the void. Unfortunately, those groups do not have the same balanced approach engendered by bar groups. Nor would they achieve the same level of success when it comes to enacting important statutory revisions.

The Oregon State Bar's commitment to improving its relations with the legislature was initiated by the membership at the 1978 annual meeting. The resolution adopted at that time directed the bar to develop a full time public affairs position to coordinate an expanded government relations program. The public affairs committee of the BOG was created at the same time to act on issues and to determine the program's emphasis. Later, support staff was approved to provide legislative assistance during the session. In 1990, due to increasing demands caused by the growing number of lawyers in Oregon, the BOG expanded that temporary position into a law improvement coordinator position. Now the bar's government relations program includes the responsibility for lobbying activities, and a wide variety of special projects involving public policy and law improvement.

Why Lawyers Should be Involved

The bar's law improvement program provides an important service to its members and the public by developing and maintaining a strong and effective presence in the legislature. Contrary to popular belief, most legislators are not lawyers. This means the intricacies of certain complex legal issues and the broad impact of legislative actions are not always understood by non-lawyers.

Moreover, many issues addressed by legislative bodies are of particular interest to lawyers, their clients and the public. Examples of these issues from the past include the legislature's attempt to regulate the legal profession by imposing mandatory pro bono requirements, eliminating the bar exam and imposing a surcharge tax on professional services.

There are many reasons for lawyers to be involved in the legislative process: 1) lawyers have the legal training, education, experience and expertise to provide valuable assistance to legislative bodies; 2) lawyers can provide objective, well-reasoned and analytical responses to difficult and complex questions; and 3) lawyers can play the role of technical advisor rather than advocate, and can provide "white papers" on topics of interest to the legislature. Sections and committees frequently provide the best, and sometimes only, structure for delivery of these important services and a balanced perspective to the legislature.

Keller v. State Bar of California

In light of the U.S. Supreme Court opinion in *Keller v. State Bar of California*, (June 4, 1990), the Oregon State Bar BOG reevaluated its program planning and operations to ensure that the bar is operating within the broad guidelines set forth in that case. During this process the bar, as a member service organization, emphasized volunteer hours. The bar's success with its law improvement program and its growing influence as a valuable resource in the legislative community was recognized as a vital part of the bar's mission to further the administration of justice, ensure the provision of legal services and monitor the practice of law. The board was careful not to overreact to Keller and unduly restrict the range of activities in which it is involved. Sections and committees continue to have authority to act on relevant issues. On occasion, you may be asked to provide the board's Public Affairs Committee with the detailed reasons your group believes a particular request is within the scope of *Keller*.

During the past few years the public affairs program has drawn the line between 1) law improvement information and 2) aggressively pursued public affairs positions. Law improvement information services can be categorized as non-lobbying activities and the Public Affairs Committee minimizes interference with that process. The regulation and oversight of bar lobbying on public affairs positions (state bar positions), because it is where any major public policy influence would be exerted, should continue to be the focus of the Public Affairs Committee.

Although infrequent, section and committee activity that has a major political or policy impact must be endorsed by the Public Affairs Committee.

In the past, sections and committees have been cooperative and stayed within their prescribed jurisdictions. It is important that sections and committees represent the interests of their membership and are well balanced in their approach to issues in each substantive area of law.

In *Keller*, a member of the California bar contested the bar's use of compulsory bar dues to support and/or advocate "political or ideological" views in violation of his first Amendment rights. The U.S. Supreme Court held that the petitioner's rights were not violated if "the challenged expenditures are necessarily or reasonably incurred for the purpose of regulating the legal profession or improving the quality of legal service available to the people of the state."

The court did not specifically elaborate on what constitutes permissible or impermissible dues-financed activities. However, it stated that the extreme ends of the spectrum were: endorsing or advancing gun control or a nuclear weapons freeze as unacceptable, on the one hand; and disciplining bar members or proposing the profession's ethics code as acceptable, on the other hand. The broad middle area of law improvement is appropriate if it is germane to the OSB's role in improving the quality of legal services to the people of the state of Oregon or relates to the regulation of the legal profession. As an example, we believe judicial administration issues constitute an appropriate activity under *Keller*.

Contrary to a few other integrated bars, the Oregon State Bar has operated in a reasonable, thoughtful manner in its program planning and operations, including its legislative program. The bar's track record during recent years suggests that it has been in compliance with the *Keller* principles. Moreover, the *Keller* case has improved the bar's ability to maintain an aggressive, effective law improvement program.

OSB Public Affairs Program

The law improvement program is responsible for improving the bar's liaison role with all levels of government on a year-round basis. This is intended to enhance the organization's credibility on issues of public policy that concern the practice of law, the administration of justice and quality of legal services. Staff duties include representing official bar positions; keeping abreast of legislation of interest to the bar; facilitating the exchange of information between governmental bodies and bar members involved in sections, committees or other related bar organizations; and responding to inquiries from lawyers, the public, and legislators and their staff.

Due to the joint effort of bar volunteers and bar staff, law improvement legislation sent to the legislature during recent sessions has fared well. The bar works for more law improvement legislation with more success than any other group.

The effectiveness of the law improvement program can be attributed to its organization. The Public Affairs Committee of the Board of Governors commits many hours to issue review and to direct interaction with decision-makers. In 1979, a bar ad hoc committee headed by now Chief Justice Wallace P. Carson, Jr. reviewed the structure and operations of the bar's legislative program. The ad hoc committee was formed as a result of controversy surrounding the bar's involvement in several high profile public policy issues in the 1979 session. The current public affairs program and the provisions of the *Bar Bylaws on Legislation and Public Policy, Article 12* are the product of that commission's findings and recommendations.

Section/Committee Legislative Process

Bar sections and committees are encouraged to have a legislative subcommittee that is involved in the legislative process. Some groups will be more active in the process than others, e.g., some will initiate legislation, and all sections and committees are requested to monitor legislative activity in their respective area of expertise and to provide objective technical assistance. For more information, see, *BOG Policies on Legislation and Public Policy, Article 12*.

Sections and committees should be prepared to provide technical analysis on key bills relating to their particular area of expertise. This type of assistance amounts to what the bar calls "law improvement." This includes reviewing proposed legislation or amendments for internal consistency and consistency with existing law, suggesting technical changes to better address the intent of the drafters, and preparing summaries and commentaries. Assistance from bar groups is invaluable because it is often more objective than the comments of the proponents who testify on the merits of a proposal.

When a section or committee provides input or feedback on a request, either from the bar or from someone at the legislature, it is important that program staff is notified. This is particularly important if your section or committee wants to take a position for or against a bill. Also, if your group is interested in particular issues within your area of expertise, let us know so we can help you during the session.

If a section or committee decides to take a position on a bill, it must make a written request to the Public Affairs Committee setting forth its position and how it is appropriate under the legislative guidelines established by the Board of Governors. See, *BOG Policies Section Article 12, Section 12.4*. The section or committee is then responsible for monitoring and presenting its position and testimony on that bill.

Department staff lobbies only on positions that are designated as bar priorities by the Public Affairs Committee. Bar priorities include major public policy and political issues and must receive the BOG's Public Affairs Committee approval.

The public affairs program is available to assist with fine-tuning section proposals. We appreciate being informed of executive committee or legislative subcommittee meetings dealing with legislative issues. This allows us to stay current on the status of individual projects. It also allows us to share information with you and various interest groups affected by the legislation.

Most of the legislation from bar groups go through the judiciary committees of the legislature. Please encourage members of your group to maintain contact with their own legislators and any lawyer legislators with whom they are acquainted.

The 2011 Legislative Session

The 2011 legislative session will be unique in several respects.

New schedule.

- In the past, the legislature has convened on the second Monday in January in odd numbered years, met for as long as necessary to resolve a biennial budget, and adjourned until the next odd-numbered year with special sessions as needed.
- Measure 71 passed in November, and mandates annual sessions. The session in the odd-numbered year is limited to 160 days, the session in the even-numbered year to 35.
- Pursuant to Measure 71 implementing legislation, the 2011 session began with an organizational session on January 10-12, then recessed until February 1, when committees will begin to consider bills. The 160 day time limit begins to run on February 1.
- Despite the annual sessions, the legislature will continue to adopt a biennial budget that it can adjust as the biennium progresses.
- Leadership has adopted timelines for legislative action: bills that have not moved in accordance with these requirements are dead. Leadership has agreed to aim for adjournment by June 30, 10 days prior to the expiration of the 160 day limit.

Political parity.

- In 2009 Democrats found themselves with 60 percent majorities in both chambers. In 2011, Democrats control the Senate by one vote, 16-14. For the first time in state history, the House is tied, 30 Republicans and 30 Democrats.
- This parity will require the parties to work with one another and to meet in the political center to pass significant legislation.
- The House leadership is equally divided: there will be co-speakers, committee co-chairs (and Ways and Means Co-Co-Chairs), and equal numbers of Republicans and Democrats on all House committees.

Budget crisis.

- While most legislative sessions have had to deal with big expectations and limited resources, the 2011 legislature must deal with a stunning budget gap equal to 20 percent of the General Fund Budget – a $3.5 million shortfall between the level of service that the legislature funded at the end of the 2009 session and current available resources. Given political parity, revenue raising measures seem unlikely.
- Governor Kitzhaber has talked about approaching the budget problem in a new way. Instead of adjusting service levels to the amount of revenues, he suggests identifying the functions that the state should perform and fashioning the budget around those functions.
- What does all this portend for the legal community? Despite its status as a separate branch of government, the judicial department can expect to share the pain from the state's revenue shortfall. New judgeships, judicial salary improvements and state investment in courthouse infrastructure seem not possible for the foreseeable future. The court budget will likely be bare bones. Budget pressures may result in re-examination of sentencing guidelines and incarceration policy.

The number of legally trained legislators will increase by two as a result of the election: there will be five in the Senate and 10 in the House.

The Public Affairs Committee of the Board of Governors looks forward to working with bar members and legislators in this challenging environment to improve the law and the justice system in 2011.

OSB Bylaws (Effective Nov. 20 2004)
Article 12 Legislation and Public Policy

Section 12.1 Guidelines

Bar legislative or policy activities must be reasonably related to any of the following subjects: Regulating and disciplining lawyers; improving the functioning of the courts including issues of judicial independence, fairness, efficacy and efficiency; making legal services available to society; regulating lawyer trust accounts; the education, ethics, competence, integrity and regulation of the legal profession; providing law improvement assistance to elected and appointed government officials; issues involving the structure and organization of federal, state and local courts in or affecting Oregon; issues involving the rules of practice, procedure and evidence in federal, state or local courts in or affecting Oregon; or issues involving the duties and functions of judges and lawyers in federal, state and local courts in or affecting Oregon.

Section 12.2 Initiation of Legislation

Subsection 12.200 House of Delegates and Membership

The Bar must sponsor legislative proposals approved by the House of Delegates or through a membership initiative to the Legislative Assembly directly following the House or membership action. Legislation not enacted may not be sponsored in the following session unless resubmitted by one of the methods set forth above or by action of the Board.

Subsection 12.201 Board of Governors

The Board may sponsor legislative proposals to the Legislative Assembly on its own initiative. The Board and its Public Affairs Committee has the authority between meetings of the House of Delegates to act on legislative and public policy matters pursuant to the guidelines established.

Section 12.3 Legislative Process

Because of the nature of the legislative process, the Board or its Public Affairs Committee retains the right to set priorities regarding the enactment of legislation, to propose amendments or consent to amendments to legislation and to sponsor or take positions on appropriate legislation. In so doing, the Board will make a reasonable effort to do the following:

Encourage as wide a participation of the membership as possible in formulating positions on legislative issues; inform members, especially sections and committees, of the Bar's legislative positions; respect divergent opinions of subgroups within the legal profession; provide assistance to bar sections and committees; avoid committing bar funds to issues that are divisive or result in creating factions within the profession; present major issues to the House of Delegates for approval; ensure that the Public Affairs Committee encompasses a balance of interest within the Bar and ensure that the Public Affairs Committee consults frequently with the Board.

Section 12.4 Committees and Sections

Any committee or section wishing to sponsor legislation or take a position on any rule or public policy issue will inform the Public Affairs Program, and through that office, the Board, of the exact nature of the legislation proposed. A copy of the bill, proposed rule or policy will be presented for consideration and approval of the Board. A committee or section of the Bar may not represent to the legislature or any individual, committee or agency thereof, a position or proposal or any bill or act, as the position of that committee or section of the Bar without the majority approval of the members of that committee or, in the case of a section, the executive committee and the prior approval of the Board, except as follows. During a legislative session or during the interim, a bar committee or the executive committee of any section must contact the Bar's Public Affairs Program before taking any position on a bill, rule or public policy issue within its general subject area. The chair of the Board's Public Affairs Committee will determine, within 72 hours of notice of the issue, whether it is appropriate for the Bar to take an official position or to allow the section or committee to take a position as requested. The full Public Affairs Committee or the full Board may be consulted before a final decision is made. Bar staff and the Public Affairs Committee of the Board will make every effort to accommodate committees and sections that wish to express positions on relevant issues. The Public Affairs Program shall be kept informed about the status of such positions and related activities.

Section 12.5 Professional Liability Fund Legislation

The Professional Liability Fund ("PLF") may not present to the legislature or any individual, committee or agency thereof, a position or proposal or any bill or act, as the position of the PLF without the majority approval of the Board of Directors of the PLF and the prior approval of

the Board of Governors, except as is provided in Section 12.4 of the Bar's Bylaws.

Section 12.6 Objections to Use of Bar Dues

Subsection 12.600 Submission

A member of the Bar who objects to the use of any portion of the member's bar dues for activities he or she considers promotes or opposes political or ideological causes may request the Board to review the member's concerns to determine if the Board agrees with the member's objections. Member objections must be in writing and filed with the Executive Director of the Bar. The Board will review each written objection received by the Executive Director at its next scheduled board meeting following receipt of the objection. The Board will respond through the Executive Director in writing to each objection. The Board's response will include an explanation of the Board's reasoning in agreeing or disagreeing with each objection.

Subsection 12.601 Refund

If the Board agrees with the member's objection, it will immediately refund the portion of the member's dues that are attributable to the activity, with interest paid on that sum of money from the date that the member's fees were received to the date of the Bar's refund. The statutory rate of interest will be used. If the Board disagrees with the member's objection, it will immediately offer the member the opportunity to submit the matter to binding arbitration between the Bar and the objecting member. The Executive Director and the member must sign an arbitration agreement approved as to form by the Board.

Subsection 12.602 Arbitration

If an objecting member agrees to binding arbitration, the matter will be submitted to the Oregon Senior Judges Association ("OSJA") for the designation of three active-status retired judges who have previously indicated a willingness to serve as volunteer arbitrators in these matters. The Bar and the objecting member will have one peremptory challenge to the list of arbitrators. The Bar and the objecting member must notify one another of a peremptory challenge within seven days after receiving the list of proposed arbitrators. If there are no challenges or only one challenge, the OSJA will designate the arbitrator. The arbitrator will promptly arrange for an informal hearing on the objection, which may be held at the Oregon State Bar Center or at another location in Oregon that is acceptable to the parties and the arbitrator. The hearing will be limited to the presentation of written information and oral argument by the Bar and the objecting member. The arbitrator will not be bound by rules of evidence. The presentation of witnesses will not be a part of the hearing process, although the arbitrator may ask the state bar representative and the objecting member and his or her lawyer, if any, questions. The hearing may be reported, but the expense of reporting must be borne by the party requesting it. The Bar and the objecting member may submit written material and a legal memorandum to the arbitrator no later than seven days before the hearing date. The arbitrator may request additional written material or memoranda from the parties. The arbitrator will promptly decide the matter, applying the standard set forth in *Keller v. State Bar of California*, 496 U.S. 1, 110 S. Ct. 2228, 110 L. Ed. 2d 1 (1990), to the expenditures to which the member objected. The scope of the arbitrator's review must solely be to determine whether the matters at issue are acceptable activities for which compulsory fees may be used under applicable constitutional law. In making his or her decision, the arbitrator must apply the substantive law of Oregon and of the United States Federal Courts. The arbitrator must file a written decision with the Executive Director within 14 days after the hearing. The arbitrator's decision is final and binding on the parties. If the arbitrator agrees with the member's objection, the Bar will immediately refund the portion of the member's dues that are reasonably attributable to the activity, with interest at the statutory rate paid on the amount from the date that the member's fees were received to the date of the Bar's refund. If the arbitrator agrees with the Bar, the member's objection is denied and the file in the matter closed. Similar or related objections, by agreement of the parties, may be consolidated for hearing before one arbitrator.

Public Affairs and Law Improvement Services

The department provides the following services:

1. Advice on legislation and related communications – participation in strategy sessions.
2. Assistance in obtaining board or BOG-PAC ratification of proposed positions and consideration of requests for bar lobbying assistance on major bills or positions.
3. Coordinate written dissemination of issues and legislative information within the bar through the *Bulletin* and the *Capitol Insider* newsletter, and the program website, *http://www.osbar.org/pubaffairs/publicaffairs.html*.
4. Forward legislative information, circulate key bills and respond to questions from bar groups.
5. Provide general liaison services between sections and government agencies, legislators and their staff, bar related organizations and the public.
6. Assist in coordination among sections and committees on legislative bills.
7. Assist in identification of and prioritization of appropriate legislation and issues as they develop.
8. Respond to public policy or government related requests from bar groups.

2011 Oregon State Bar Legislative Proposals

Board of Governors:

1. Board of Governors/ House of Delegates

- **SB 379** This bill eliminates the requirement for 10 signatures on nominating petitions for BOG and HOD Candidates.

2. Interest of Lawyer Trust Accounts

- **SB 380** This bill would change the sanction for an IOLTA violation from a disciplinary sanction to an administrative one.

3. Local Professional Responsibility Committee

- **SB 381** This bill would authorize the State Professional Responsibility Board to designate individual bar members to serve as investigators rather than relying on the current Local Professional Responsibility Committees. The LPRC structure would be eliminated.

OSB Sections

4. Business Law

- **HB 2681** Vesting of Indemnification – This bill would prohibit a company from taking indemnification rights away from a director or past director unless the company's articles of incorporation expressly allow the company to do so.

5. Construction Law

- **SB 382** Notice Requirements for Lien Claimants – This bill would specify that lien claimants are only required to provide notice to those mortgage assignees that are listed on a recorded assignment. Under current law, lien claimants are required to provide notice to all assignees, even though some assignees may not be listed on a recorded assignment and may be difficult or impossible to locate.
- **SB 383** Changes to Notice of Defect Statutes – This bill would exempt small claims actions, as well as counterclaims in all actions, from coverage by the Notice of Defect statutes. Additionally the bill would permit service in such cases by certified mail.
- **SB 384** OPPPA Amendments – This bill proposes several minor amendments to the Oregon Private Prompt Payment Act.

6. Consumer Law

- **HB 2682** Increase to Wage Garnishment Exemption – This bill increases Oregon's wage garnishment exemption from $196 to $217.50, the amount of the exemption required under federal law.

7. Elder Law

- **HB 2683** Protective Proceedings – This bill would make technical changes to maintain confidentiality of certain documents received from the Department of Human Services in protective proceedings.
- **HB 2684** Special Needs Trusts – This proposal would specify that special needs trusts must be included in a surviving spouses' estate for the purposes of a spousal elective share.

8. Estate Planning

- **SB 385** Elective Share Technical Amendments – This proposal would make several technical changes to Oregon's elective share statute.
- **SB 386** Disposition of Gifted Property – This proposal removes gifted property from the presumption of equal contribution, while retaining the authority to divide the property as may be "just and proper" depending upon the facts of a particular case.
- **SB 387** UPIA update – This bill would make several updates to the Oregon Uniform Principal and Income Act.

9. Family Law

- **HB 2685** Termination of Attorney-Client Relationships – This bill would permit the filing, upon the conclusion of a case, of a notice that the attorney-client relationship was terminated for the reason that the case is concluded.
- **HB 2686** Amendments to Dissolution and Parental Rights Statutes – This bill makes three changes to statutes dealing with dissolutions of marriage and acknowledgment of parental rights and responsibilities.
- **HB 2687** Temporary Support Orders – This bill makes three minor changes to temporary spousal and child support statutes.

10. Real Estate & Land Use

- **HB 2688** Urban Reserve Statutory Correction – This bill would correct an erroneous statutory reference in the Urban Reserve statutes.

Public Affairs Committee General Legislation Guidelines

The bar is committed to promoting legislation that serves one or more of the following goals and to opposing legislation that conflicts with one or more of them:

1. To provide access to justice for all Oregonians, including ensuring adequate support for low-income legal services and adequately funding indigent defense services.
2. To improve the efficiency and effectiveness of the judicial system, including adequate funding and facilities for the courts.
3. To increase the consistency and uniformity of laws, including statutes of limitation.
4. To support and improve the ability of attorneys to serve the interests of the citizens of the state competently and to advise the legislature of problems proposed legislation might present to competent representation.
5. To ensure a fair and effective system of criminal justice.
6. To monitor tort reform proposals.
7. To promote access to public records generally and to professional licensing and discipline records in particular.
8. To improve regulation of the legal profession and the lawyer discipline system.
9. To improve the juvenile justice system and encourage better coordination between the different components of the system.

2011 OSB Legislation Contacts

(Please note this contact list is subject to change)

Below is a list of bar legislative contacts. If you have particular questions or comments regarding legislation we encourage you to contact the appropriate person. Please contact Amanda Roeser at 503.431.6376 or aroeser@osbar.org if a contact assignment changes.

(* indicates person is also the section/committee chair)

Administrative Law ..... Janice Krem

Admiralty ..... John R. Dudrey

Affirmative Action ..... Frank Garcia (OSB)

Agriculture ..... Tim Bernasek
..... Steve Shropshire

Alternative Dispute Resolution ..... Jane Gordon
..... Helle Rode

Animal Law ..... Scott Beckstead

Anti-Trust ..... Joseph N. Eckhardt

Appellate Practice ..... Neil Byl
..... Ryan Kahn

Aviation ..... Tom Flaherty

Business Law ..... M. Chris Hall

Business Litigation ..... Renee Rothauge

Civil Rights ..... Sean Driscoll

Computer and Internet Law ..... Paula Holm Jensen

Constitutional Law ..... Greg Chaimov

Construction Law ..... Jeremy Vermilyea

Consumer Law ..... Keith Karnes

Corporate Counsel ..... Dan J. Field

Criminal Law ..... Tim Sylwester
..... Barbara Ghio

Debtor/Creditor ..... Samuel Sears

Disability Law ..... Robert C. Joondeph

Diversity ..... Megan Livermore
..... Alice Bartelt

Elder Law ..... Mike A. Schmidt

Energy, Telecom & Utility ..... Brendan McCarthy

Environmental Law ..... Diane Henkels
..... Michael R. Campbell

Estate Planning ..... Jeff Moore

Family Law ..... Ryan Carty
..... David Gannett
..... Sean E. Armstrong

Adoption Law Subcommittee ..... Robin Pope

Government Law ..... Stephanie Harper

Health Law ..... Lauren Rhoades

Indian Law ..... Craig Dorsay

Intellectual Property ..... Kelly Luzania
..... Anna McCoy

International Law ..... Kimball Ferris

Judicial Administration and Funding ..... Jennifer Gates
..... Eric Waxler

Juvenile Law ..... Cathy Ouellette
..... Judith Swanson

Labor & Employment ..... Rich Meneghello

Law Practice Management ..... David L. Carlson

Legal Ethics ..... Helen Hierschbiel (OSB)

Legal Services ..... Judith Baker (OSB)

Litigation ..... Lindsey Hughes

Military Assistance Panel ..... Jesse Barton
..... Mike Mendelson
..... Velda Rogers

Pro Bono ..... David J. Petersen
..... Cathy Petrecca

Procedure and Practice ..... Paul Bovarnick

Product Liability ..... David Rocker*

Professional Liability ..... Barbara Fishleder
..... Ira Zarov

Public Service & Information ..... Kay Pulju (OSB)

Quality of Life ..... Ellen K. Jones

Real Estate and Land Use
Real Estate.....Greg Nelson
Land Use.....Laurie Craghead
.....Chris Crean

Securities Regulation.....David Matheson
.....Timothy DeJong
.....Gustavo Cruz, Jr.

Sole and Small Firm Practitioners.....Kelly Doyle
.....Janice Hazel
.....Myah Osher

Sustainable Future.....Diane Henkels

Taxation.....Robert Manicke

Unlawful Practice & Independent Paralegals
.....J. O'Shea Gumusoglu*(OSB)
.....Helen Hierschbiel (OSB)

Workers' Compensation..... Jennifer Roumell

LAW IMPROVEMENT QUESTIONS
.....David Nebel (OSB)
.....Matt Shields (OSB)

Public Affairs Department
.....Susan Grabe (OSB)

OTHER INTEREST GROUPS

Access to Justice.....Judith Baker (OSB)

Bar, Press and Broadcasters .Doug Bray
.....Kateri Walsh (OSB)

New Lawyers Division .....Tamara Gledhill-Kessler

The Political Process: Roles and Responsibilities

1.0 Introduction

In the public policy arena, the bar plays a significant role in the evaluation and consideration of administration of justice issues in the legislative and political processes. The board encourages bar groups to be involved in legislative activities within their jurisdiction subject to the bar's legislative guidelines and relevant election laws. There is a long tradition of lawyers working through the bar process to improve the quality of laws in the state of Oregon and the bar's law improvement program has served to raise the credibility of lawyers as an resource for expertise in a wide variety of areas.

The Oregon State Bar Board of Governors guidelines for legislative and political activity are set forth in BOG Bylaws Article 12. The guidelines are drawn from the bar's statutory purposes, constitutional limits on the use of mandatory membership fees, and election law limits on the activities of public employees. They also reflect the recognition that the Oregon State Bar has a diverse membership with differing views on many subjects.

1.1 Statutory Authority

By way of background, the Oregon State Bar is a "public corporation and an instrumentality of the Judicial Department of the government of the State of Oregon..." ORS 9.010(1). Although the board has statutory authority to "at all times direct its power to the administration of the science of jurisprudence and the improvement of the administration of justice" (see ORS 9.080(1)), its actions are still constrained by other applicable law, including *Keller v. State Bar of California*, 496 U.S. 1 (1990). As a state entity, the bar's funds are subject to audit by the Secretary of State pursuant to ORS 297.210 and, for purposes of the expenditure of bar resources, bar "funds" are considered "public funds" and board members may be subject to the restrictions on the expenditure of public funds under ORS 294.100 as public officials.

As a mandatory membership organization, the Oregon State Bar cannot engage in the wide-range of activities allowed voluntary organizations. Even though the bar is partially funded by membership fees as opposed to state general fund revenues, its unique statutory composition makes it subject to various laws. Thus, in pursuing any activity, the expenditure of public funds by the board must be related to the purposes for which the bar exists. If it is not, the public officials who permit the unauthorized expenditure may be subject to personal liability under ORS 294.100 if the expenditure constitutes malfeasance or wanton neglect of duty.

1.2 Keller Standard

The U.S. Supreme Court's decision in *Keller v. State Bar of California* set the parameters for what a mandatory state bar can do under the First Amendment. In *Keller*, a member of the California bar contested the bar's use of compulsory dues to support and/or advocate "political or ideological "views in violation of his First Amendments rights. The U.S. Supreme Court held that a mandatory state bar's use of compulsory dues to finance political and ideological activities violates the First Amendment rights of dissenting members when such expenditures are not "necessarily or reasonably incurred" for the purpose of regulating the legal profession or improving the quality of legal services.

The court did not establish a particularly clear standard on what constitutes permissible or impermissible dues-financed activities. However, it stated that the extreme ends of the spectrum were endorsing or advancing gun control or a nuclear weapons freeze which were prohibited on the one hand and disciplining bar members or adopting changes to the profession's ethics code as acceptable on the other hand. We believe the broad middle area of law improvement is appropriate if it is germane to the bar's role in improving the quality of legal services to the people of the State of Oregon or relates to the regulation of the legal profession. The Board of Governors has set the scope of OSB permitted activities under *Keller* in BOG Bylaws Article 12.

Additionally, the bar's guidelines for legislative and policy activities require that the Board of Governors "endeavor to respect the divergent opinions of subgroups within the profession" and make reasonable efforts to "avoid committing bar funds to issues which are divisive or result in creating factions within the profession." See BOG Bylaws Article 12.

1.3 Oregon Election Law

Bar employees are not public employees within the meaning of ORS 260.432. Therefore, bar staff may participate in advocacy efforts on behalf of the bar.

1.4 OSB Board Member ("Elected Official") Roles and Responsibilities

The board may do the following:

1) Advocate support or opposition to a measure or candidate. A board member may use staff-prepared informational and advocacy materials.
2) Use public resources and staff to develop and distribute objective material on the effects of an initiative measure on the bar and the justice system.
3) Take a position on an initiative measure. Public announcement of the board's position by way of a press release is permissible.
4) Provide, at bar expense, a content neutral forum at which proponents and opponents of an initiative measure may present their views.
5) Personally campaign for or against a measure.

1.5 Recent bar activities

In 2006 the Board of Governors reviewed its policy on involvement in the initiative and electoral process and substantially expanded the scope of its activities.

In 2008 the Board of Governors and House of Delegates passed resolutions opposing both Initiative Petitions 51 and 53, imposed limits on contingency fees and created additional sanctions for "frivolous pleadings." The bar worked closely with other interest groups to oppose the measures and was ultimately successful when both initiatives were withdrawn by the petitioners after challenges were made to their signature gathering procedures.

The Board of Governors also voted to oppose Measure 59 which would have created an unlimited deduction for federal income taxes on individual taxpayers' state tax returns. This measure failed by a wide margin.

1.6 OSB Section/Committee Roles and Responsibilities

Sections and committees of the bar operate under the umbrella of the bar and thus are subject to the same legal constraints as the board. In light of the political restrictions outlined above, here are some examples of activities that are permitted and some that are restricted:

1) Bar groups may propose legislation within their area of jurisdiction subject to BOG approval.
2) Bar groups may take positions or respond to public policy activities on legislation. OSB Section/Committee leaders cannot use bar funds to advocate a position on a ballot measure. This means money, staff time during working hours, travel allowances, facilities or equipment. Section/committee members or officers cannot ask staff to research or write a speech designed to support or oppose a ballot measure or charge travel expenses for attending a meeting at which such a position is advocated.
3) Bar groups may coordinate or liaison with any group to engage in information gathering on issues involving the bar, the judicial system, the judicial department budget and issues relating to the administration of justice. Meetings to develop strategies to pass or defeat any measure or candidate are not permitted.

4) Bar groups can develop legislation for sponsorship to be included in the bar's legislative package or take positions on legislation that fall within *Keller* and legislative guidelines subject to OSB Public Affairs Committee approval.

5) Bar groups may not advocate a political position for or against an initiative or referendum or candidate.

Legally Trained Legislators

State Elected Officials with Legal Training
15 Legislators with Legal Training in the 2011 Session

Oregon Senate:

Floyd Prozanski (D), District 4
(Parts of Lane, Douglas and Coos Counties)

Peter Courtney (D), District 11
(Salem/Gervais/Woodburn)

Betsy Johnson* (D), District 16
(Scappoose)

Suzanne Bonamici (D), District 17
(NE Washington/NW Multnomah Counties)

Dave Nelson* (R), District 29
(Pendleton)

Oregon House of Representatives

Wally Hicks (R), District 3
(Grants Pass)

Dennis Richardson (R), District 4
(Central Point)

Phil Barnhart (D), District 11
(Central Lane and Linn Counties)

Shawn Lindsay (R), District 30
(Hillsboro)

Chris Garrett (D), District 38
(Lake Oswego)

Jefferson Smith (D), District 47
(East Portland)

Matt Wand (R), District 49
(Troutdale/Gresham)

Jason Conger (R), District 54
(Bend)

Mike McLane (R), District 55
(Prineville)

Cliff Bentz (R), District 60
(Ontario)

**Indicates law degree but not OSB member.*

Statewide Office

John Kroger (D), Attorney General

Kate Brown (D), Secretary of State

Brad Avakian (D), Commissioner of the Bureau of Labor and Industries

2011 Legislative Committees

Senate Judiciary Committee

Sen. Floyd Prozanski, Chair
Sen. Jeff Kruse, Vice-Chair
Sen. Suzanne Bonamici
Sen. Jackie Dingfelder
Sen. Doug Whitsett

House Judiciary Committee

Rep. Jeff Barker, Co-Chair
Rep. Wayne Krieger, Co-Chair
Rep. Chris Garrett, Co-Vice-Chair
Rep. Wally Hicks, Co-Vice-Chair
Rep. Mary Nolan
Rep. Andy Olson
Rep. Mike Schaufler
Rep. Carolyn Tomei
Rep. Matt Wand
Rep. Gene Whisnant

Joint Ways and Means Committee

Sen. Richard Devlin, Co-Chair
Rep. Peter Buckley, Co-Chair
Rep. Dennis Richardson, Co-Chair
Sen. Betsy Johnson, Co-Vice-Chair
Rep. Bill Garrard, Co-Vice-Chair
Rep. Nancy Nathanson, Co-Vice Chair
Sen. Alan C Bates
Sen. Chris Edwards
Sen. Fred Girod
Sen. Rod Monroe
Sen. David Nelson
Sen. Chuck Thomsen
Sen. Joanne Verger
Sen. Doug Whitsett
Sen. Jackie Winters
Rep. E. Terry Beyer
Rep. Jean Cowan
Rep. Tim Freeman
Rep. Betty Komp
Rep. Tina Kotek
Rep. Mike McLane
Rep. Mary Nolan
Rep. Greg Smith
Rep. Kim Thatcher
Rep. Gene Whisnant

Ways and Means Public Safety Subcommittee

Sen. Jackie Winters, Co-Chair
Rep. John E Huffman, Co-Chair
Rep. Mary Nolan, Co-Chair
Rep. Jeff Barker, Co-Vice Chair
Rep. Wally Hicks, Co-Vice Chair
Sen. Rod Monroe
Sen. Joanne Verger

2011 Oregon Legislators

SENATE DISTRICT#	REGION		SENATORS (16D - 14R)
1	Roseburg	Jeff Kruse	Republican
2	Central Point	Jason Atkinson	Republican
3	Ashland	Alan C. Bates	Democratic
4	S. Lane/N. Douglas Cos.	Floyd Prozanski	Democratic
5	Coos Bay	Joanne Verger	Democratic
6	Springfield	Lee Beyer	Democratic
7	Eugene	Chris Edwards	Democratic
8	Albany	Frank Morse	Republican
9	Molalla	Fred Girod	Republican
10	Salem	Jackie Winters	Republican
11	Salem	Peter Courtney	Democratic
12	McMinnville	Brian Boquist	Republican
13	Hillsboro	Larry George	Republican
14	Beaverton	Mark Hass	Democratic
15	Hillsboro	Bruce Starr	Republican
16	Scappoose	Betsy Johnson	Democratic
17	Beaverton	Suzanne Bonamici	Democratic
18	Portland	Ginny Burdick	Democratic
19	Tualatin	Richard Devlin	Democratic
20	Canby	Alan Olsen	Republican
21	Portland	Diane Rosenbaum	Democratic
22	Portland	Chip Shields	Democratic
23	Portland	Jackie Dingfelder	Democratic
24	Portland	Rod Monroe	Democratic
25	Gresham	Laurie Monnes Anderson	Democratic
26	Hood River	Chuck Thomsen	Republican
27	Tumalo	Chris Telfer	Republican
28	Klamath Falls	Doug Whitsett	Republican
29	Pendleton	David Nelson	Republican
30	John Day	Ted Ferrioli	Republican

HOUSE DISTRICT#	REGION		REPRESENTATIVES (30R - 30D)
1	Gold Beach	Wayne Krieger	Republican
2	Roseburg	Tim Freeman	Republican
3	Grants Pass	Wally Hicks	Republican
4	Central Point	Dennis Richardson	Republican
5	Ashland	Peter Buckley	Democratic
6	Medford	Sal Esquivel	Republican
7	Roseburg	Bruce Hanna	Republican
8	Eugene	Paul Holvey	Democratic
9	Coos Bay	Arnie Roblan	Democratic
10	Newport	Jean Cowan	Democratic

HOUSE DISTRICT#	REGION		REPRESENTATIVES (30R - 30D)
11	Central Linn/Lane Cos.	Phil Barnhart	Democratic
12	Springfield	E. Terry Beyer	Democratic
13	Eugene	Nancy Nathanson	Democratic
14	Eugene	Val Hoyle	Democratic
15	Albany	Andy Olson	Republican
16	Corvallis	Sara Gelser	Democratic
17	Scio	Sherrie Sprenger	Republican
18	Silverton	Vic Gilliam	Republican
19	Salem	Kevin Cameron	Republican
20	Salem	Vicki Berger	Republican
21	Salem	Brian L. Clem	Democratic
22	Woodburn	Betty Komp	Democratic
23	Dallas	Jim Thompson	Republican
24	McMinnville	Jim Weidner	Republican
25	Keizer	Kim Thatcher	Republican
26	Wilsonville	Matt Wingard	Republican
27	Washington Co.	Tobias Read	Democratic
28	Aloha	Jeff Barker	Democratic
29	Hillsboro	Katie Eyre Brewer	Republican
30	Hillsboro	Shawn Lindsay	Republican
31	Clatskanie	Brad Witt	Democratic
32	Cannon Beach	Deborah Boone	Democratic
33	Portland	Mitch Greenlick	Democratic
34	Washington Co.	Chris Harker	Democratic
35	Tigard	Margaret Doherty	Democratic
36	Portland	Mary Nolan	Democratic
37	West Linn	Julie Parrish	Republican
38	Lake Oswego	Chris Garrett	Democratic
39	Oregon City	Bill Kennemer	Republican
40	Gladstone	Dave Hunt	Democratic
41	Milwaukie	Carolyn Tomei	Democratic
42	Portland	Jules Bailey	Democratic
43	Portland	Lew Frederick	Democratic
44	Portland	Tina Kotek	Democratic
45	Portland	Michael Dembrow	Democratic
46	Portland	Ben Cannon	Democratic
47	Portland	Jefferson Smith	Democratic
48	Happy Valley	Mike Schaufler	Democratic
49	Troutdale	Matt Wand	Republican
50	Gresham	Greg Matthews	Democratic
51	Clackamas	Patrick Sheehan	Republican
52	Hood River	Mark Johnson	Republican
53	Sunriver	Gene Whisnant	Republican
54	Bend	Jason Conger	Republican
55	Bend	Mike McLane	Republican
56	Klamath Falls	Bill Garrard	Republican
57	Heppner	Greg Smith	Republican
58	Pendleton	Bob Jenson	Republican
59	The Dalles	John Huffman	Republican
60	Ontario	Cliff Bentz	Republican*

indicates law school graduate. ** indicates law student

How To Testify Before a Legislative Committee

Committees are the heart of Oregon's legislative process. The committee process provides legislators more opportunity to closely study a measure than would be possible in a floor debate. Committees may hear from many people who support or oppose the measure.

Giving public testimony before a legislative committee can be an exciting and fulfilling experience if you are prepared.

Your testimony may influence the committee's action. It also becomes part of the permanent record and may be used in future research.

Listed below are suggestions to help make your presentation successful.

Know Your Audience

The members of the committee are "citizen legislators." They care that you have taken time out of your day to come and testify before them.

- Be respectful.
- Don't accuse committee members of causing your particular problem.
- Resist the temptation to scold, put down, or insult the decision makers or other witnesses. This tactic will likely alienate them from your cause.

Know the Issue

Support your personal opinions with as many facts as possible. Be knowledgeable of the "other side of the story." You may be asked to discuss the differences. Draw from your own knowledge and experience.

Be Familiar with the Committee Process

- Know the location of the building, the meeting room, and the meeting time.
- Agendas will be posted outside the meeting room. Check to make sure the measure you are interested in has not been removed from the agenda. The measures may not be heard in the printed order.
- If possible, attend a committee meeting before you testify to become familiar with the process and room layout.
- When you arrive at the meeting, sign the witness registration sheet. Witnesses are not necessarily called in chronological order.

Presenting Your Written Testimony

1. When you are called to testify, give copies of your testimony to committee staff before you begin your presentation. The number of copies requested is printed on the bottom of the committee meeting agenda.
2. Begin your presentation by addressing the chair person first, then members of the committee. "Chair___, members of the committee . . ."
3. For the record, state your name, address, and the organization or group you represent.
4. State whether you support or oppose the legislative measure being heard and briefly explain. Do not read your testimony to the committee word for word. Prepare an outline.
5. Keep in mind you may have a ten minute version of your testimony – be prepared to summarize it in one minute – that may be all the time you are allowed!
6. Thank the committee members and offer to answer any questions. "Thank you for the opportunity to testify before you today. I would be happy to answer any questions."
7. When a member asks you a question respond: "Chair _____ , Senator/Representative (state name), the answer to your question is . . ."
8. Relax! The members understand that this can be an intimidating experience–they don't expect a perfect presentation.

Group Testimony

- Select several people to cover different topics so the testimony is not repetitive.
- Address the problem, possible solutions, and your group's best solution.

Special Needs

If you require special accommodation in order to testify before a committee, please contact the committee administrator or support staff 24 hours BEFORE the meeting with your request.

Contact Numbers:

(503) 986-1813 or (503) 986-1187
TDD (503) 986-1467 (inside Salem)
1-800-332-2313 (outside Salem)

If you need information regarding the legislative process, email the Legislative Liaison, or call 503-986-1000.

Communicating With Your Legislator

What your Legislator Likes

1. Your legislator likes to hear opinions from home and wants to be kept informed of conditions in the district. Base your letter on your own pertinent experiences and observations.
2. Write about a specific bill; describe it by number or its popular name. Your legislator reviews hundreds of bills in the course of a six-month period. Write only about one subject in your letter.
3. Your legislator likes intelligent, well thought-out letters that present a definite position, even if your legislator does not agree with it.
4. Even more important and valuable is a concise statement of the reasons for your position, particularly if you are writing about a field in which you have specialized knowledge. Your legislator has to vote on many matters with which he has little or no first-hand experience. Some of the most valuable help comes from facts presented in letters from persons who really know what they're talking about. (However, if you are not sure about the specifics of the bill, it is better to just indicate that you support it because you feel it is important legislation rather than indicating a number of reasons which are not sound ones.)
5. Short letters are always best. Members of the Legislature receive many letters each day, and a long one may not get as prompt a reading as a brief statement.
6. Letters should be timed to arrive while the issue is still alive. If your legislator is a committee member, he will appreciate having your views while the bill is before him for study and action.
7. A legislator likes to know when he has done something of which you approve. Do not hesitate to write if your legislator has supported and voted for legislation in which you are interested.

What Your Legislator Does Not Like

1. Your legislator does not like letters that merely demand or insist that he vote for or against a certain bill or that tell him what you want him to vote for but not why. Your legislator has no way of knowing whether your reasons are good or bad, and is not greatly influenced.
2. Your legislator does not like to be threatened with promises of defeat at the next election.
3. Your legislator does not like to be told how influential the writer is in his own locality.
4. Your legislator does not like to be asked to commit on a particular bill until the committee in charge of the subject has had a chance to hear evidence and dig out all of the pros and cons.
5. Your legislator does not like form letters, or letters that include excerpts from other peoples' letters on the same subject.
6. Your legislator does not like to be deluged by letters from the same person on the same subject. Quality, not quantity, is what counts.

Tips for Effective and Successful Lobbying

Follow a few common-sense guidelines when lobbying for state bar positions and your efforts will be more productive and less frustrating.

Be prepared. Legislators rely heavily on correspondence and committee hearings for information to make decisions. Take extra copies of written testimony with you.

Know the players. Develop and maintain relationships with key players who may have an interest in your issues or who represent a part of your community. They can often provide guidance or important entrees in the legislative process.

Maintain your credibility. Be candid and avoid making demands or overstating the truth. An effective witness is regarded as a valuable resource. Most legislators respond best to well-reasoned arguments.

Be concise. Be direct and to the point. Focus on your primary message. If necessary, written testimony can include additional attachments and longer explanatory information.

Be positive. Demonstrate positive advocacy and provide constructive feedback on issues. Remember, legislators are trying to solve problems, real or perceived. Flat-out opposition may arouse hostility.

Be persistent. Do not give up. Persistence makes the difference in the statehouse.

Build relationships. Build widespread support from a variety of interest groups for your legislative proposal or position. Bills are often torpedoed by interest groups that feel they were excluded from the formulation of the policy. When appropriate, recruit section and committee support.

Monitor the status of bills. Carefully follow the progress of your legislation. Do not lose sight of your bill until it is signed into law by the governor.

Consider fiscal implications. Do not overlook the importance that financial impact may have on the success or failure of a legislative proposal.

Recognize the art of compromise. Remember, half a loaf is better than nothing. Be professional, because today's opponent may be tomorrow's ally.

Practical Aspects of Lawyer "Lobbying"

The legislative process is complex. Failure to understand basic principles of the process and organization frequently result in an inability to effectively pursue necessary legal changes. To render valuable service to clients, the public and the law itself, a lawyer should know fundamental rules of the legislative process. These include:

Who's Who: Speaker of the House and President of the Senate, Majority and Minority Leaders, Committee Chairs, Committee Members, Clerk, Secretary, floor staff, legislative assistants, committee and caucus staff.

What's What: Committee rooms, offices in the Capitol, chambers, Coffee Shop, rules in the hall.

Bill Drafting and Introduction: Legislative Counsel (how to get a "note from mother"), pre-session filing, interim committees, requests, priorities, amendments, and relating clauses.

Bill Tracking: Following the agenda in both chambers, hearing schedules (24-hour and 36-hour rules; suspension in final days), floor motions, debate and votes, conference committees, veto/signing by governor, Session Laws.

Lobbying: Preparing testimony and exhibits, visiting members in office, after hours, in committee and during floor session. What a legislator needs from a lawyer lobbyist and when lawyers should keep out of sight.

Ethics Issues for Lobbyists

1. What is lobbying?

It is defined as influencing or attempting to influence legislative action through oral or written communication with legislative officials, solicitation of others to influence or attempt to influence legislative action or attempting to obtain good will of legislative officials. ORS 171.725(8).

2. What are some of the fine points regarding the question "What is lobbying?"

Oregon Attorney General Opinion 8259 (August 7, 1998) discusses the following issues, among others:

a. Is providing information without taking a position either in support of or opposition to specific legislative action lobbying? Short answer: No.

b. Is office work such as creating, drafting, editing and finalizing legislative presentations lobbying? Short answer: No. Lobbying only includes the acts of imparting or transmitting testimony or presentations to legislative officials and does not encompass the acts of creating and preparing testimony.

c. Is waiting to testify, in and of itself, lobbying? Short answer: No.

d. Does lobbying include attending meetings of interested stakeholders for the purpose of obtaining approval or compromise on proposals for legislative measures? Short answer: Yes, if attendees request or urge members of the stakeholder group to communicate with legislative officials about the group's work for the purpose of having proposed measures sponsored, supported, passed, or defeated.

3. Who are "legislative officials"?

ORS 171.725(7) defines "legislative official" to mean "any member or member-elect of the Legislative Assembly, any member of an agency, board or committee that is part of the legislative branch, and any staff person, assistant or employee thereof."

4. How is "lobbyist" defined?

As defined in ORS 171.725(9), lobbyists include:

a. any individual who agrees to provide personal services for money or any other consideration for the purpose of lobbying.

b. any person not otherwise within a. above who provides personal services as a representative of a corporation, association, organization or other group, for the purpose of lobbying.

c. any public official who lobbies.

"Public agency" means a commission, board, agency or other governmental body. ORS 171.725(10).

"Public official" means any member or member-elect of any public agency and any member of the staff or an employee of the public agency. ORS 171.725(11).

5. When do "lobbyists" have to register with the Oregon Government Ethics Commission (OGEC)?

The statutes that answer this question are not models of clarity. Once a person spends more than 24 hours during any calendar quarter lobbying or spends more than $100 lobbying during any calendar quarter, the person must register as a lobbyist. ORS 171.735(4).

Difficult to define, lobbying activities are undertaken for the purposes of influencing legislation or engendering goodwill. Such activities include testimony at legislative hearings, formal appointments, casual conversations, written correspondence (letters, memos, e-mails, notes), telephone conversations, and providing dining or drinks, or travel and accommodations. Since the focus is on providing information or direct provision of benefits to public officials, travel time would not seem to count towards the 24 hour limit, and personal expenses for travel, meals and lodging would not seem to count against the $100 limit.

Once an individual or other entity passes either the 24 hour or $100 threshold in a calendar quarter, the individual or entity must register with the OGEC within three working days. ORS 171.740(1).

6. Are there any other exceptions to registration?

Yes. See ORS 171.735. The one most relevant to this discussion is contained in ORS 171.735(3). "Any individual who does not receive compensation or reimbursement of expenses for lobbying, who limits lobbying activities solely to formal appearances to give testimony before public sessions of committees of the Legislative Assembly, or public hearings of state agencies, and who, when testifying, registers an appearance in the records of the committees or agencies" is exempt from registration so long as the person is not otherwise registered with the OGEC.

7. Beyond registering, what must lobbyists do?

They must file quarterly statements of lobbying expenditures in accordance with the requirements of ORS 171.745.

8. What must employers of lobbyists do?

Any person on whose behalf a lobbyist was registered, or was required to register with the OGEC at any time during the preceding calendar year, must file with the OGEC quarterly statements of expenditures in accordance with the requirements of ORS 171.750.

9. What other important restrictions apply to lobbyists?

a. Lobbyists may not instigate the introduction of any legislative action for the purpose of obtaining employment to lobby in opposition to the legislative action. ORS 171.756(1).

b. Lobbyists may not attempt to influence the vote of any member of the Legislative Assembly by the promise of financial support of the candidacy of the member, or by threat of financing opposition to the candidacy of the member, at any future election. ORS 171.756(2).

c. Persons may not lobby or offer to lobby for consideration any part of which is contingent upon the success of any lobbying activity. ORS 171.756(3).

d. Lobbyists cannot, pursuant to ORS 171.764(1), make false statements or misrepresentations to any legislative or executive official or, knowing a document to contain a false statement, cause a copy of such document to be received by a legislative or executive official without notifying such official in writing of the truth as prescribed in ORS 171.764(2).

10. What are the rules surrounding gifts to legislators?

The 2007 legislature passed a complicated and far reaching government ethics bill that drastically affects the extent to which groups and individuals can make gifts to public officials and candidates. ORS 244.025(2) provides:

During a calendar year, a person who has a legislative or administrative interest in any governmental agency in which a public official holds any official position or over which the public official exercises any authority may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of $50.

ORS 244.025(3) contains the same gift limit for candidates. "Gift" is broadly defined in ORS 244.020(5)(a) as "something of economic value"; however ORS 244.020(5)(b) contains 14 exceptions to the definition. Gifts of entertainment are prohibited at any cost. ORS 244.025(4). Honoraria are also restricted. ORS 244.042.

Note that these prohibitions do not apply only to lobbyists: they apply to anyone with a legislative or administrative interest, defined in ORS 244.020(8) as follows:

"Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the action or vote of a person acting in the capacity of a public official.

The bottom line: these rules apply to bar members engaging in legislative advocacy. The rules are new, complicated and are likely to be construed broadly to restrict gifts to public officials. Anyone contemplating bestowing anything of value on any public official should review these statutes and the OPEC rules carefully beforehand.

11. Are there additional restrictions that apply to lawyer-lobbyists?

Yes. Oregon lawyers must comply with all applicable provisions of the Oregon Rules of Professional Conduct (ORPC) while engaging in lobbying activities. Some of the more important rules include:

a. ORPC 3.9: A lawyer representing a client before a legislative body must disclose that the appearance is in a representative capacity. The lawyer must comply with the duties of candor in ORPC 3.3, the requirements of fairness to opposing parties and counsel in ORPC 3.4, and the rules in ORPC 3.5 regarding impartiality and decorum.

b. ORPC 8.4(a)(3): It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on the lawyer's fitness to practice law.

c. ORPC 7.1(a)(5): A lawyer may not make any communication that states or implies an ability to influence improperly a government agency or official or to achieve results by means that violate the ORPC or other law.

d. ORPC 1.11: Lawyers who hold public office must comply with rules relating to special conflicts of interest for former and current government officers and employees.

12. Is it unlawful to make political contributions to elected officials during a legislative session?

No. The 2001 Oregon Legislative Assembly enacted ORS 260.076 in an effort to address some of the concerns related to contributions received during a legisla-

tive session. ORS 260.076(1) provides that "A legislative official, statewide official or candidate therefor, or the official's or candidate's principal campaign committee, shall file statements showing contributions received by or on behalf of the official, candidate or committee during the period beginning January 1 immediately preceding a regular biennial session of the Legislative Assembly and ending upon adjournment of the regular biennial session of the Legislative Assembly, or during any special session of the Legislative Assembly." The required statement "shall be filed not later than two business days after the date a contribution is received" on a form prescribed by the Secretary of State. ORS 260.076(5).

13. Are members of the Board of Governors, OSB Committee Chairs and Members, and OSB Section Executive Committee Chairs and Members required to register as lobbyists for the Oregon State Bar?

As a general proposition, yes, if they spend more than 24 hours during any calendar quarter lobbying or spend more than $100 lobbying during any calendar quarter.

The exception contained in ORS 171.735(3) should be restated here: "Any individual who does not receive compensation or reimbursement of expenses for lobbying, who limits lobbying activities solely to formal appearances to give testimony before public sessions of committees of the Legislative Assembly, or public hearings of state agencies, and who, when testifying, registers an appearance in the records of the committees or agencies" does not have to register as a lobbyist.

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ORPC 1.11: Special Conflicts of Interest Rules for Government Officers and Employees

Except as otherwise permitted, a lawyer who has formerly served as a public officer or employee of the government has a duty not to use confidential information to the government's disadvantage. This duty continues after the conclusion of the lawyer's service. ORPC 1.9(c). In addition, the lawyer may not otherwise represent a client in matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency consents in writing to the representation. ORPC 1.11(a).

When a lawyer is disqualified under ORPC 1.11(a), other lawyers in her or his firm are disqualified as well, unless the disqualified lawyer is screened from participation in accordance with ORPC 1.10(c) and written notice is promptly given to the appropriate governmental agency to enable it to monitor compliance. ORPC 1.11(b).

A lawyer with confidential government information about a person, acquired when the lawyer was a public officer or employee, may not represent a private client with adverse interests in a matter in which the information could be used to the person's disadvantage. A firm with which that lawyer is associated is not disqualified if the disqualified lawyer is screened from participation in accordance with ORPC 1.10(c). ORPC 1.11(c).

A lawyer currently serving as a public officer or employee is subject to the general conflicts rules in ORPC 1.7 and 1.9 applicable to current and former clients. ORPC 1.11(d) (1). In addition, the lawyer may not:

1. Use the lawyer's public position to obtain or attempt to obtain special advantage in legislative matters for the lawyer or for a client.
2. Use the lawyer's public position to influence or attempt to influence a tribunal to act in favor of the lawyer or a client.
3. Accept anything of value from any person when it is obvious that the offer is for the purpose of influencing the lawyer's action as a public official.
4. Either while in or after leaving office, use information the lawyer knows is confidential government information obtained while a public official to represent a private client.
5. Participate in a matter in which the lawyer participated personally while in nongovernmental employment, unless the lawyer's former client and the appropriate governmental agency give informed written consent.
6. Negotiate for private employment with anyone who is involved as a party or as a lawyer for a party in a matter in which the lawyer is participating personally and substantially. ORPC 1.11(d) (2).

Consistent with the debate clauses in the state and federal constitutions, and notwithstanding any ORPC, a lawyer-legislator is not subject to discipline for words uttered in legislative debate. ORPC 1.11(e).

A member of a lawyer-legislator's firm is not subject to discipline for representing a client in a claim against the state, provided that the lawyer-legislator is screened from participation or representation under ORPC 1.10(c) and does not directly or indirectly receive a fee from such representation. ORPC 1.11(f).

MCLE Credits for Legislative Service*

*Current at the time of this handbook's publication.

OSB MCLE Rules and Regulations
RULE 5 — ACCREDITATION STANDARDS

5.2(e) Other CLE Activities — Legislative Service

Two general credit hours per month shall be given for each full month of service as a member of the Oregon Legislative Assembly while it is in session.

Using the Media

The media is powerful in all our lives. It is infinitely more powerful in the lives of our legislators. Used effectively, a media strategy can reinforce your work in Salem when major policy issues are involved. Because of legislators' unique sensitivity to the media, any public comment or publicity needs to be part of a larger media strategy.

Much like successful legislative work, an effective media strategy depends on building relationships. Media tools include press kits, news releases, op-ed articles/guest editorials, editorial meetings, establishment as a resident "expert," and participation in community forums. Together, they add tremendously to the power of your legislative message.

Most law improvement projects will not usually be of great interest to the media. However, Kateri Walsh, OSB media relation coordinator, would be happy to work closely with any group or individual in developing a more comprehensive plan for working on specific topics which may have media involvement.

Here are some media tips!

- Don't trump your legislator. In fact, the legislature should be your first point of contact, and media conversations should flow from those communications, not vice-versa.

  Rule no. 1 is to not grandstand with the media in any way that trumps the efforts of the legislators who have the power to advance - or table - the larger agenda.

- Prepare your legislator. Nothing that comes from you or your office should come as a surprise to any of the legislators you have contacted.
- Develop one or two key messages, and keep coming back to them. Most of the issues you'll be commenting on are complex. But most news stories have a finite capacity for complexity. You will stay on track if you have one or two messages that you focus on consistently throughout a conversation, or communication.
- Repeat, repeat, repeat. The rule in media is that nothing reaches the public consciousness until it is presented at least three times. Establish your key message, but then find multiple ways of presenting it to the media. Keep it fresh.
- Don't speak off the cuff. If you get an unsolicited call from a reporter, don't feel like you have to talk with them at that moment. Ask them what their deadline is, and offer to call them back. It gives you an opportunity to develop your key message and language, and think through the potential questions and implications. If appropriate, you can even call your legislators and chat with them about their public priorities prior to shaping your response.
- Be consistent as you move from legislative to media communications. From a public relations standpoint, it can be tempting to alter your message slightly depending on the audience. Don't tell your legislator one thing, and then alter it for presentation to the media. It impacts your credibility with Salem, dilutes your message, and adds fuel to the other side of the issue.
- Tie news releases to a hard news angle. Soft news stories and features can be quite effective in making an issue "real" to the public. But whenever possible, tie your message to hard news. Find a study that's recently out that reinforces your message. Provide hard, tangible numbers to illustrate your point of view.
- Plan your responses to the toughest potential questions. You have two goals: to establish your expertise on a topic; and to present yourself as a citizen who wants to help facilitate public discussion. Don't appear to get agitated if questions get tough. It's part of facilitating the discussion. Have your responses ready, preferably in the form of some hard numbers, statistics or facts. Avoid emotional arguments. And keep coming back to your key messages.
- Know the media outlet before meeting with them. Particularly in dealing with print media, or with radio talk shows, be aware of the institution's or the individual's bias prior to talking.
- Eliminate all legalese. Simplify the issue - and your language - to its simplest components. Understand that the reporters did not attend law school, and their readers/audience often didn't attend college, or even high school. Be patient if the issue requires some lengthy explanation. Everybody's better off ensuring that the reporter gets it right before you leave.
- Provide a list of further contacts that will reinforce your message. Reporters want to have a list of recognized "experts." Make it easy on them. Provide them with names, phone numbers, and titles or other reason for their expertise.

Legislative Resources

Contact Numbers

Oregon State Bar

Public Affairs Department . . . . . (503)431-6376
www.osbar.org/pubaffairs/publicaffairs.html . . . . . .pubaff@osbar.org

Oregon Legislature

Legislative Committees . . . . . (503) 986-1813
House Democratic Office . . . . . (503) 986-1900
House Republican Office . . . . . (503) 986-1400
Senate Republican Office . . . . . (503) 986-1950
Senate Democratic Office . . . . . (503) 986-1700
Legislative Counsel . . . . . (503) 986-1243
Distribution Center (for copy of legislative bills) . . . . . (503) 986-1180

Web site Resources

Oregon Legislature
www.leg.state.or.us

Legislative Measures (Search Engine)
www.leg.state.or.us:8765/

2007 Oregon Revised Statutes (ORS) (Search Engine)
www.leg.state.or.us:8765/

Oregon Secretary of State Elections Division
www.sos.state.or.us/elections/elechp.htm

Oregon State Archives
http://arcweb.sos.state.or.us/

United States Congress
http://thomas.loc.gov/

United States House of Representatives
www.house.gov/

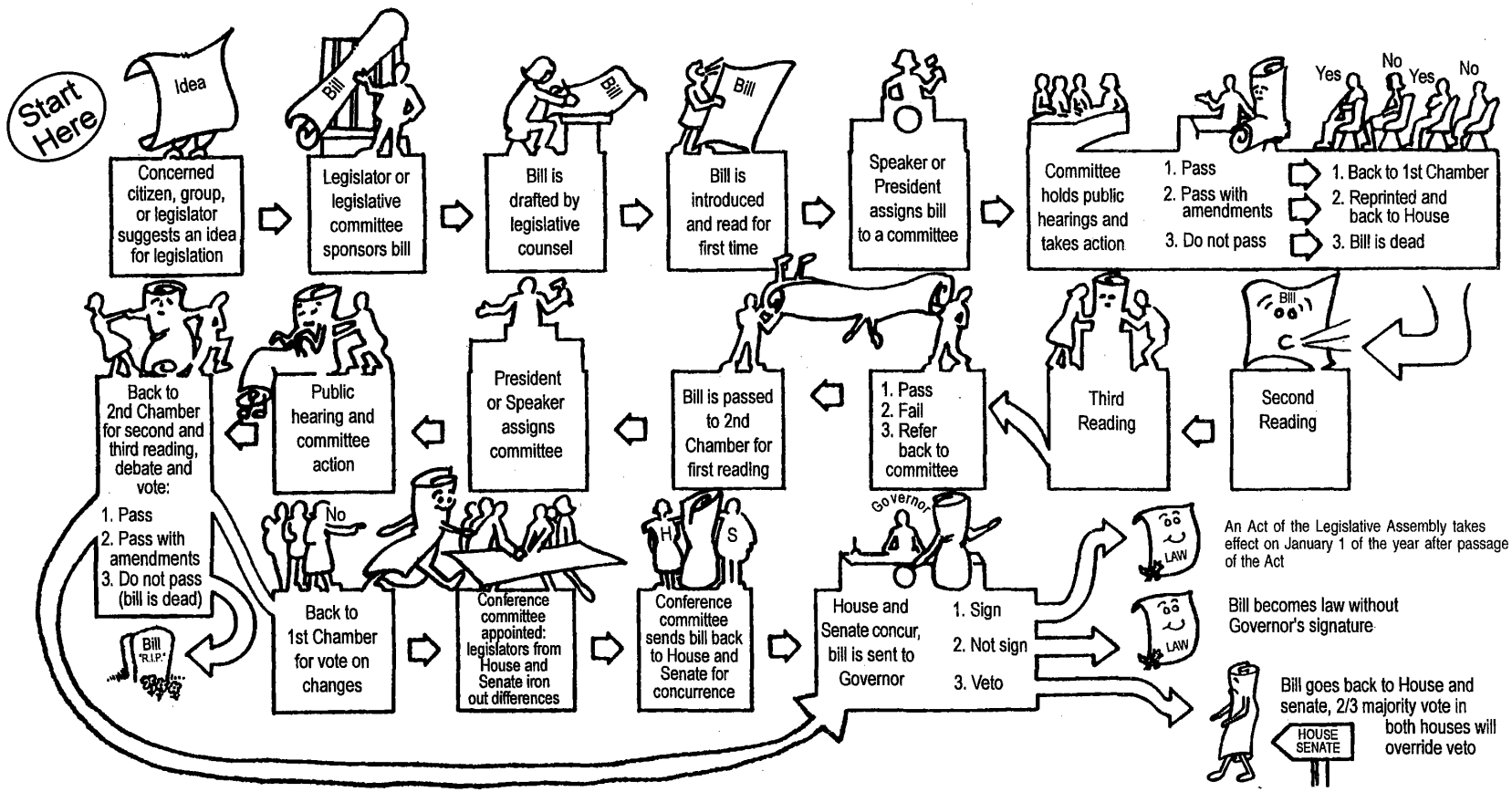
House Judiciary Committee
www.house.gov/judiciary/

United States Senate
www.senate.gov/

Senate Judiciary Committee
www.senate.gov/judiciary

How An Idea Becomes Law

A Simple View of the Oregon Legislative Process



THE OREGON LEGISLATIVE ASSEMBLY

The Oregon Legislative Assembly is state government's "board of directors." It is responsible for making laws dealing with Oregon's well-being, adopting the state's budget, and for setting public policy. The Legislative Assembly is made up of two bodies: the Senate and the House of Representatives. The Senate consists of 30 members elected for four-year terms. The House consists of 60 representatives elected for two-year terms. Each member of the legislature represents a district (an area determined by population). Every Oregonian is represented by one state senator and one state representative. Over 3,000 bills are considered each session. Relying largely upon work done in committees, the legislature enacts about one-third of the bills into Law. The Legislature convenes on the second Monday in January of every odd numbered year for approximately six months.

INFORMATION SYSTEMS
Computer and Media Technologies

howBillbecomesLaw.p65 • Rev. 11/2000

Legislative Summary Format

This is a suggested legislative summary format for bar group sponsored legislation. The legislative summary will be the cornerstone of communications with other legal interest groups as well as the basis for future written and oral testimony provided to legislative committees during session. It may also serve as a useful format to analyze bills under consideration during the session. The summary should be no more than 1-2 pages in length. More in-depth measure analysis may be attached as an additional document if necessary.

OREGON STATE BAR
Legislative Summary of Proposal

RE: Legislative Concept

FROM: Committee or Group proposing legislation

Legislative Contact:

Name:

Telephone:

Fax:

Email:

This bill would amend ORS _____

1. PROBLEM PRESENTED

Briefly state the PROBLEM PRESENTED (include ORS or case citation if applicable)

2. SOLUTION

Identify the SOLUTION to the problem (include proposed language change)

3. PUBLIC POLICY IMPLICATION

Identify any PUBLIC POLICY IMPLICATIONS (this includes legal, constitutional, financial, and any other issues as well as potential sources of opposition)

Sample of Legislative Summary

OREGON STATE BAR
Legislative Summary of Proposal

RE: Requirement that trustee under the Oregon Trust Deed Act file notice of amount necessary to cure or pay off 15 days prior to foreclosure sale. (LC 443)

FROM: OSB – Debtor/Creditor

Legislative Contact:

Name:

Phone Number:

Fax:

Email:

This bill would amend ORS 86.705, et. seq., the Oregon Trust Deed Act and, specifically, we anticipate amending 86.750(3).

1. PROBLEM PRESENTED

The problem arises in that more and more out-of-state "trustee services companies" are conducting non-judicial foreclosures in Oregon. These "foreclosure mills" are nearly inaccessible to borrowers, holders of junior encumbrances and potential investors wishing to bid at foreclosure sales, to obtain information on the amounts necessary to cure or the minimum bid at the sale. Some of these trustee services companies do not even list their telephone numbers on the trustee's notices of sale. Most have automated phone systems that give parties endless options to choose, where a live person cannot be reached. Some have actually disseminated recorded information that is incorrect. Despite repeated requests, it is often difficult for borrowers to obtain cure amounts or payoffs, if they have refinances or sales of their property. Their only alternative is to file an action to enjoin the sale or file for bankruptcy protection.

2. SOLUTION

The solution to the problem is to require the trustee to record an affidavit prior to the sale that sets forth the information that a borrower, junior encumbrancer or investor may need to tender a cure or pay off the loan. In this way, a tender may be made prior to the sale.

3. PUBLIC POLICY IMPLICATION

The requirement to record the affidavit will not significantly burden the trustee nor the existing procedures for non-judicial sales. While the "foreclosure mills" may oppose this additional requirement, it is generally within the contemplations of the act. Currently, ORS 86.753 allows a borrower or its successor in interest to cure the defaults at any time prior to five days before the last date set for the sale. That statute currently does not require the trustee or the beneficiary to give the borrower the amount necessary to cure. In many cases, due to complex interest accruals, late charges, foreclosure costs and attorney's fees, the borrower may not know the amount necessary to tender. We believe that this change will conform with current public policy.

Sample Letter to Legislator

LANE
POWELL
SPEARS
LUBERSKY
LLP

Christopher P. Cline
(503) 778-2103
clinec@lanepowell.com

June 14, 2001

VIA FACSIMILE (503) 986-1778

Law Offices

A Limited Liability Partnership Including Professional Corporations

601 S.W. Second Avenue Suite 2100 Portland, OR 97204-3158

(503) 778-2100

Facsimile: (503) 778-2200

Website: www.lanepowell.com

Senator John Minnis
900 Court Street NE, S-311
Salem, OR 97301

Dear Senator Minnis:

I am writing to you on behalf of the Executive Committee of the Oregon State Bar's Estate Planning Section. I previously had testified before your committee on behalf of two bills which our committee had sponsored. I am writing to you today to express our committee's support for that portion of SB 166 relating to so-called "pet trusts." Our committee previously had supported HB 2739, which incorporated this legislation. I realize that, at first blush, such legislation appears trivial. However, our committee believes that it is nevertheless substantial legislation for the following reasons.

First, believe it or not, many of our clients ask that trusts be established for their pets, and it is not clear under current Oregon law whether such trusts are allowed. Second, this legislation is being introduced together with federal legislation that would provide a charitable income tax deduction for trusts that are created for pets, where the remainder interest on the pet's death passes to charity. Adopting the Oregon "pet trust" bill would allow Oregon residents to create such charitable trusts once the federal legislation is passed. For these reasons, our committee endorses that portion of SB 166 relating to pet trusts, and we respectfully ask for your support and approval as well. If you have any questions, please feel free to contact me.

Very truly yours,

LANE POWELL SPEARS LUBERSKY LLP

Christopher P. Cline

CPC:jrm
cc: J. Alan Jensen, Esq.
Susan Grabe, Esq.
Craig Heath, Esq.
999999.2001/325984.1

Anchorage, AK
Mount Vernon, WA
Olympia, WA
Portland, OR
Seattle, WA

London, England

Sample Legislation

71st OREGON LEGISLATIVE ASSEMBLY--2001 Regular Session

House Bill 2372

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Joint Interim Judiciary Committee for the Procedure and Practice Committee of the Oregon State Bar)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Allows taking of testimony in civil jury trial by simultaneous transmission from different location. Requires showing of compelling need.

1 **A BILL FOR AN ACT**

2 Relating to testimony in civil trials; creating new provisions; and amending ORS 45.010.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. In civil jury trials the court may, on timely notice and for good cause shown,**
5 **in compelling circumstances and with appropriate safeguards, permit presentation of testi-**
6 **mony in open court by simultaneous transmission from a different location.**

7 **SECTION 2.** ORS 45.010 is amended to read:

8 45.010. The testimony of a witness is taken by [*five*] **six** modes:

9 (1) Affidavit.

10 (2) Deposition.

11 (3) Oral examination.

12 (4) Telephone examination under ORS 45.400.

13 (5) Examination before a grand jury by means of simultaneous television transmission under
14 ORS 132.320.

15 **(6) Examination by simultaneous communication device under section 1 of this 2001 Act.**

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Sample of Testimony Before House Judiciary Committee

Wednesday January 22, 2003
In Support of HB 2064

Chair Williams, members of the committee, my name is Kevin Chames. I have been a lawyer since 1987. I currently maintain an office in Wilsonville and have practiced in the Portland metropolitan area since admission to the bar. I am here as a member of the Oregon State Bars' Procedure and Practice Committee as a whole and the subcommittee assigned to study HB 2064.

The Procedure and Practice Committee is composed of attorneys throughout the state, including Pendleton, Bend, Corvallis, Eugene, Medford and Wilsonville as well as Portland. The Committee prides itself on maintaining an evenly balanced membership of attorneys who represent both defendants and plaintiffs in civil litigation. In my practice I represent both. Our committee works hard to build a consensus on each issue we look at. We are charged with assessing the practical impact on the day-to-day workings of our civil judicial system, posed by bills presented to the legislature. Today, I am here to comment on HB 2064 on behalf of our committee.

Currently, ORS allows for testimony to be given in certain situations by means of a notarized affidavit. The notary requirement increases the time and expense of litigation, especially in less populated areas of Oregon where there are a limited number of public notaries. Even where the number of notaries is more plentiful, the notary requirement still increases the time spent by both the lawyer and the client; which, ultimately costs the client more in the form of attorney fees and both the lawyers and client's productivity in having to take the time to get statements notarized.

HB 2064 would amend statutes to allow for the use of a "declaration," subject to the penalty of perjury, as an additional mode of offering testimony. The types of declarations are currently used in federal courts in Oregon.

I urge the Judiciary Committee to move this bill to the full House with a "do pass" recommendation. Thank you for the opportunity to testify before you today. I would be happy to answer any questions.

Sample of Legislative Testimony Before the Senate Judiciary Committee – Civil

May 14,2001
In Favor of HB 2363

My name is Ruth Simonis. I am co-chair of the Legislative Committee of the Elder Law Section of the Oregon State Bar Association.

During the 1998 legislative session, new notice requirements were added in cases involving a petition for guardianship over an allegedly incapacitated adult. These requirements were codified in ORS 125.070(3), which included a statutorily prescribed notice form. The intent was that the traditional notice requirements in ORS 125.070(2) be given in addition to the new notice form in ORS 125.070(3).

Unfortunately, due to inartful drafting, the notice requirements under ORS 125.070(2), which was originally required to be given to all respondent's in a guardianship are now only required for minor respondents in a guardianship. Adult respondents are required to receive only the statutory notice form created last session under ORS 125.070(3). Experienced elder law attorneys have continued to give both the traditional notice information and the new notice form to adult respondents, but the statute itself is unclear. Attorneys unfamiliar with this area of law would not know that both kinds of notice should be provided.

This bill would solve this problem by providing that the pre-1998 traditional notice requirements in ORS 125.070(2) would apply only to the appointment of a conservator for a financially incapable respondent, or for a guardian/conservator of a minor respondent. The new notice requirements passed last session and codified, as ORS 125.070(3), would be amended to include those notice requirements listed in ORS 125.070(2) which were not included in subsection (3).The result would be one standardized, comprehensive statutory notice form to all adult respondents in a guardianship. The consolidation of notice requirements into ORS 125.070(3) will provide clear direction to practitioners and ensure that the important information about the guardianship proceeding is provided in a readable and uniform manner to all adult respondents in a guardianship.

Sample Letter Requesting a Hearing

B.B. Bouneff • John Chally
Sandra Hodgson*

*Admitted in Oregon and Montana

Legal Assistants
Leslie East
Shelly Reynolds

March 26, 2001

Senator Bill Fisher
Chair, Senate Health and Human Services Committee
900 Court Street NE S-209
Salem, OR 97301

RE: Senate Bill 125

Dear Senator Fisher:

I am writing to request you to schedule a hearing on Senate Bill 125. I am a member of the Standing Committee on Adoption for the Family Law Section of the Oregon State Bar. Our committee worked with the Coalition of Oregon Adoption Agencies on this bill, and we believe it provides a needed service for birth parents who are placing their children for adoption.

SB 125 adds a new section to the adoption statutes that would require written notice to a birth parent who is voluntarily relinquishing a child for adoption that he or she has the right to receive adoption related counseling in either an independent or agency adoption. The prospective adoptive parents would be required to pay for the uninsured costs of the counseling. The counseling would be limited to three sessions prior to relinquishment and three sessions after relinquishment.

There is no financial or constitutional impact from this bill.

It is currently standard practice in adoption situations for the adoptive parents to pay for birth parents' adoption counseling. This bill would insure that all consenting birth parents were notified of the availability of counseling.

Please schedule a hearing on SB 125 so that it can be considered this session. Thanks for your attention to this matter.

Very truly yours,

Sandra Hodgson

SH:srr
Enclosures
cc: Susan Grabe, Oregon State Bar

825 N.E. Multnomah, Suite 1125, Portland, Oregon 97232-2193
Website: adoptionnorthwest.com Email: bounchal@worldstar.com
Telephone: 503/238-9720 • FAX: 503/239-3989