OSBA Legislative Highlights

OREGON SCHOOL BOARDS ASSOCIATION

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July 12, 2017

Legislature concludes business, leaving revenue reform work undone

With the passage of Senate Concurrent Resolution 31, the sine die motion, the 2017 Legislature officially concluded its business on Friday, July 7.

It was a contentious and frustrating session. The Legislature is constitutionally charged with balancing Oregon's budget for the biennium, and the session began with the state's budget books $1.8 billion in the red. Legislators wrestled with raising revenue, cutting spending or some combination of both. Modest changes to spending and taxes and favorable economic growth closed this biennium's budget gap, but legislators could not agree on a systemic solution to the problems that created the deficit in the first place.

The source of the problem precedes the 2017 session. Like a legislative plague ship drifting uncontrolled into a busy port, most legislators have watched the budget deficit disaster coming for years. The deficit was caused by many factors, including expanded health care coverage for Oregonians enacted in 2015, an unpredictable statewide tax system heavily dependent on personal income taxes, rising costs for public employers, and an unfavorable decision against the state in the 2015 Public Employees Retirement System-related case of Moro v. State. Aware it was coming, legislative leadership was still unable to address the deficit with a pre-session plan, which would have quarantined the problem before it infected the entire session.

Sen. Mark Hass (D-Beaverton), chair of the Senate Finance and Revenue Committee and co-chair of the Joint Committee on Tax Reform, made stabilizing Oregon's tax system one of his primary goals for this session, but the Legislature was unable to agree on significant changes. (Photo by Jake Arnold, OSBA)

The problem, at the most basic level, came down to a disagreement about how to fix the existing governance structure that regularly produces budget deficits. Democrats wanted to address the deficit by changing Oregon's tax system and raising taxes on businesses. The plan put forward by the Democrats, led by Sen. Mark Hass (D-Beaverton), was to enact a relatively small tax on all business activity in Oregon. Currently, businesses are taxed on their profits. The

With the passage of the sine die motion on July 7, the Senate chamber once again stands empty. When the Legislature returns in 2018, many of this session's challenges will still be waiting. (Photo by Jake Arnold, OSBA)

change to a tax on activity, called a commercial activity tax, or CAT, could require more businesses to pay taxes and increase Oregon revenue. A few other states, notably Ohio, have found success with this kind of tax.

Republicans, on the other hand, wanted to address the deficit mainly by cutting spending. They balked at the idea of new taxes on businesses, saying that it was bad for Oregon and that Oregonians were against it. They cited the defeat of Measure 97 in November as proof. That ballot measure would have implemented a similar statewide CAT plan targeting Oregon's largest corporations. Almost 60 percent of voters said "no." Republican legislators indicated they would support new revenue only if it was paired with significant cost-control measures, including seriously addressing the unfunded PERS liability of approximately $22 billion.

Although Democrats held majorities in both the House and Senate, they were one vote shy of the three-fifths "supermajority" that is constitutionally required to pass a tax bill. To make a systemic change that included a tax overhaul, Democrats needed at least one Republican vote in each chamber. In the end, there was no Republican support, and only modest fixes to balance the budget were passed, including a tax on health care providers and a bill to curb state agency spending. The lack of a systemic fix means the same issues that stymied this session will likely come back to haunt future legislatures.

The inability to find an agreement produced acrimony that infected the building and plagued the legislative process all session. It impacted every policy committee, including education, and as a result, relatively few policy bills passed.

The chairs of the House and Senate committees on education, Rep. Margaret Doherty (D-Tigard) and Sen. Arnie Roblan (D-Coos Bay), took the position that if a bill was going to be costly to schools or districts, then they were generally unwilling to schedule it for a vote, no matter how beneficial the policy. This is good work by those legislators, and they should be commended. Yes, Oregon should do more for schools, but in a session when the allocation to the State School Fund did not even meet current service level needs, avoiding new, costly mandates to districts was especially important.

OSBA Board President Betty Reynolds and Executive Director Jim Green testify in March before the House Education Committee. The House Education Committee, led by Rep. Margaret Doherty (D-Tigard), held in check many bills that came with unfunded mandates. (Photo by Jake Arnold, OSBA)

OSBA worked on many bills that eventually became law, including:

- SB 4 – limits the mandate on physical education minutes requirements and extended the implementation deadline to 2019.
- SB 182 – revamps the way educator mentorship programs are funded.
- SB 327 – preserves for school districts the recreational immunity defense against lawsuits.
- HB 2246 – gives districts more flexibility and better guidance for plans around the grants for the High School Graduation and College and Career Readiness Act (a.k.a. Measure 98).

OSBA's major legislative priority, House Joint Resolution 4, had a successful hearing in March but unfortunately never came to a vote. That measure would have started the process to require funding of education to the level recommended by the Quality Education Model. Funding to the QEM would have meant an approximate addition of $2 billion to the State School Fund, so it is not entirely surprising that the measure was not voted out of committee.

Most of the work this session was about money. Each session the Legislature allocates money for K-12 public education through the State School Fund, by far the largest allocation each session. This year, SB 5517 sent $8.2 billion to the fund, $200 million less than school business officials calculated would be necessary to maintain current service levels. It is, however, more than the $8 billion the Legislative Fiscal Office calculated was sufficient.

The $8.2 billion is not enough for all districts to avoid cuts, but it is at or above the level that most school districts used for budgets that had to be completed before the Legislature determined the allocation. Additionally, the Legislature approved $170 million for Measure 98 grants and about $200 million in capital construction matching and seismic upgrade bond funds. Considering the budget deficit at the start of the session and that the Legislature was unable to add revenue to the budget, education spending could have been a lot worse.

The OSBA legislative team will now charge into the interim between sessions. There is already plenty of work to be done ahead of the short session starting in February 2018. Education governance, including the future of the Chief Education Office; a continued push for revenue reform; and myriad cost-control proposals are circulating among legislators and stakeholders. The OSBA legislative services team is laying the foundation now to make the next session more productive than the disappointing 2017 session.

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Chalk up some wins for schools with bills that went nowhere

The 79th legislative session is in the books. In a session that started with a $1.8 billion budget deficit, K-12 public education ended up with an $8.2 billion State School Fund, less than schools asked for but more than legislators initially offered. When legislators don't have money for budgets, they tend to dabble in policy. The fiddling usually leads to policy bills that cost the schools extra resources to implement. This session, however, there was a conscious effort to be mindful about passing legislation that put a burden on schools.

"Wins" during session are not always about getting bills passed, but also include the bills that are stopped.

Here are a few bills that schools are better off without:

- House Bill 2651 would have made class size a mandatory subject of collective bargaining. Class size is currently a permissive subject and consistently comes up during bargaining. Class size is an important issue, but this bill could have required additional resources and schools need the flexibility to spend resources where they think they will do the most good. The bill was narrowly defeated in committee.

- HB 3087 would have set up a process for employees to access paid family leave for 12 weeks with an additional six weeks of parental leave. This bill included a funding component of a 0.5 percent payroll tax on employers and employees, and it required a three-fifths majority to pass. The bill was moved to a work group for additional work on stakeholder concerns. The paid family leave benefit likely will be brought forward again in the short February 2018 session.

- Senate Bill 217, called the concussion bill, had two public hearings and work behind the scenes to try to add chiropractors and naturopaths to the list of health professionals who could authorize a student to return to play after a concussion. This bill was not moved forward, but an interim group is working on how to add health care professionals who could authorize a student's return to play.

- SB 294 was the union-backed contracting-out-for-services bill. The idea has been brought forward in every session in recent years and would impact all local government agencies. To give it a better chance to pass, the bill was changed this year and targeted only school districts. The bill would have made it more difficult for schools to contract out busing and food service operations by requiring additional steps that could be challenged by the union along the way. The bill had two hearings and died without moving out of committee.

- SB 297 would have created the CTE-STEM Investment Council, abolishing the current structure in the Oregon Department of Education. The bill would have revised the process for awarding grants to districts for science, technology, engineering and mathematics programs and career and technical education projects and would have broadened the authority of the new council.

- SB 915 would have modified the minimum amount of funding that a school district must pass through to a charter school. The minimum amount is set in statute, but the school district and charter school can negotiate a higher level. This issue comes before the Legislature every session and includes passionate testimony on both sides.

This is just a short list of some of the more significant bills that did not move forward. The *OSBA-COSA Legislative Report* containing all education-related bills that passed should be available in late August.

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