

OSBA Legislative Highlights



the Promise
OF OREGON

February 24, 2017

Mandatory class size bargaining divides House Education Committee

"There is no debate about class size in Oregon. None," said Chuck Bennett, testifying Wednesday on behalf of the Confederation of Oregon School Administrators. "Smaller class sizes are better for kids, better for teachers, and education is improved."

He agreed class sizes in Oregon are too large.

"Unfortunately, that's not the issue today," he told the House Education Committee.

The issue was [House Bill 2651](#), which would make class size a mandatory subject of bargaining in contract negotiations between school districts and teachers.

The main proponent is committee Chair Margaret Doherty (D-Tigard), who is a former teacher and consultant with the Oregon Education Association. She began her testimony by saying that class sizes are too large; large class sizes are a condition of employment; and there is real value in having class size as a topic on the table during labor negotiations.

"We just want to have the discussion," she said.

The issue, Bennett said, is funding.

"We don't have anything to give," he said during his testimony. "We are in a bargaining situation that's imbalanced."

OSBA joined COSA to testify against the measure.

Richard Donovan, OSBA legislative specialist, told the committee that "remedies of class size should be remedies of funding, hiring more people, not changing labor law," saying that enactment of HB 2651 would not lead to lower class sizes but would rather lead to increased labor strife and disagreement.

The Oregon Education Association and the Oregon School Employees Association testified in support of the measure.

"Legislation allowing us to have those conversations about class size could bring some differentiation and direction of resources to this very important issue," said Maureen Barnhart, a fourth-grade teacher and member of the Hillsboro Education Association.

Reaction from the committee on the issue was mixed.

Rep. Susan McLain (D-Forest Grove) is a vocal supporter of the measure, stating that she sees it as a way to lower class sizes.

Rep. Rich Vial (R-Scholls) was less enthusiastic. One outcome of the bill could be an increase in labor strife and potential strikes, he said.

"I've been on a school board, I've negotiated contracts, both in a school environment and other places with unions, and it feels like anything is always on the table anyway," he said. "What does this (bill) do?"

The future of the bill is unclear. Some members on the committee have obviously taken sides. Others seem to be giving serious consideration to the issue but have yet to take a position. OSBA will continue watching the bill and will keep members posted on new developments.

- Richard Donovan
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State revenue forecast delivers good news but not too good

The Oregon revenue forecast is up almost \$200 million from the December forecast, state economist Mark McMullen told the Senate Finance and Revenue and the House Revenue committees this week.

Oregon's continued and sustainable growth is good news, but this uptick in revenue also carries a down side for government budgeting: The potential personal income kicker (tax rebate) would be activated if the personal income tax collections total at least 2 percent more than projections made at the beginning of the two-year budget cycle. The state would need to generate an additional \$265 million over the expected revenues before July 1 to trigger the kicker.

McMullen said revenue remains in the economic "sweet spot": growing faster than expected but not so fast as to force a kicker payback to taxpayers. Personal income is down slightly from the end of session 2015 forecast, but corporate taxes have grown enough to force an estimated \$36.2 million corporate kicker for K-12 education in 2017-19.

"Oregon's economy is strong," said Senate President Peter Courtney. "Our revenues are up, but we still have hard work ahead. Our budget isn't balanced. We're going to have to make some cuts. We're going to have to raise some revenue. Both are tough; both have to get done if we are going to meet the needs of Oregon and her people."

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OREGON IN ECONOMIC ‘SWEET SPOT’

Oregon is growing **faster** than expected but **not quite fast enough** to trigger the personal income tax kicker, which would cause the state to have to give back money – the “sweet spot,” according to state economist Mark McMullen.
 🏠 A corporate kicker of \$36.2 million that goes to K-12 education is estimated.

Other numbers in the March 2017 forecast:



The Economic Analysis Office releases a report four times a year. **The next forecast will be released May 16.**

For more information, see <http://bit.ly/2lwXD8c> | Source: Office of Economic Analysis

All these figures could change depending on how the economy performs between now and the next revenue forecast in May. Until then, lawmakers will continue to build the biennial budget for 2017-19, including the appropriation for the State School Fund.

Legislative leaders said the revenue forecast points to the need for revenue reform.

“Unfortunately, the forecast also highlights how broken our revenue system has become,” said House Majority Leader Jennifer Williamson (D-Portland). “Despite today’s good news, we’re still \$1.7 billion away from just funding our schools and basic services at their current levels.”

House Speaker Tina Kotek (D-Portland) pointed to Oregon’s ongoing budget problems.

“Without new revenue, the impacts of our current budget deficit will hit people in every corner of the state with teacher layoffs, bigger class sizes, higher tuition costs, the loss of health insurance coverage, or other harmful impacts in their everyday lives,” she said.

- Lori Sattenspiel

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Protecting marijuana use conflicts with federal contract requirements

[Senate Bill 301](#) would modify a law that protects workers’ use of tobacco products to include the use of all substances that are legal in Oregon, adding marijuana to the list. The bill makes it an unlawful employment practice to require, as a condition of employment, that workers refrain from using a substance that is lawful during

nonworking hours. The bill provides employers exceptions for “bona fide occupational qualifications,” impaired performance and collective bargaining agreements.

Controversy has surrounded the bill because the state law and federal law are in conflict. Marijuana is a Schedule I controlled substance under federal law, and illegal in almost all uses.

Lawyers debated how the 2015 legalization of marijuana use, under Measure 91, fit with federal law prohibiting use of illegal substances in the workplace.

Rob Bovett, legal counsel for the Association of Oregon Counties, said SB 301 directly conflicts with federal law on controlled substances and would likely be struck down.

“School districts have federal contracts and receive federal dollars,” said Lori Sattenspiel, OSBA interim director of legislative services. “These contracts require, in some cases, to certify a drug-free workplace. Those dollars could be in jeopardy if SB 301 passes.”

Sattenspiel raised other pressing concerns before the Senate Judiciary Committee chaired by Sen. Floyd Prozanski (D-Eugene).

“Safety of our students and staff is a great concern,” she said. “How to measure if someone is on the job and impaired is a question that needs to be answered.”



Sen. Floyd Prozanski

There is no guidance or specific testing that can quickly and accurately determine if an employee has shown up for work impaired.

Marijuana users presented the law change as an issue of fairness. If usage doesn’t interfere with “bona fide

occupational qualifications” or break Oregon law, then what people enjoy on their own time is their own business, proponents said.

“We have the opportunity to end employment discrimination against cannabis consumers,” said Leland Berger, a proponent of SB 301.

The bill has not been scheduled for further action.

- *Lori Sattenspiel*

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Bill Briefs

Revenue on marijuana sales

House Bill 2203

What it does: The bill, as written, would redistribute the revenue received from the sale of marijuana in Oregon. The bill would remove 40 percent of incoming marijuana tax revenues from education.

What's new: The bill was heard earlier this week, and the committee had two amendments to review. Neither amendment was adopted during the hearing.

What's next: The bill is expected back in committee next week to adopt an amendment that would restore the 40 percent of marijuana sales to education and move that revenue into the State School Fund. OSBA will continue to monitor the bill's progress.

Student safety

Senate Bill 414

What it does: The bill would set up a student threat assessment system to support school personnel with the handling of threats to the school, staff and students. This threat assessment program would be set up in the Department of Education and include program and training requirements.

What's new: The bill was heard again Feb. 22, in an informational hearing before the House Judiciary Committee.

What's next: The bill remains in the Senate Education Committee and has not been scheduled. OSBA will continue to monitor the bill's progress.

Public records

Senate Bill 481

What it does: The bill would define a process that public bodies follow for completing public records requests. The bill is the product of an 18-month task force looking at the public records law.

What's new: The bill was heard Feb. 22 in the Senate General Government and Accountability Committee. OSBA testified in support, asking for amendments to deal with the timeline for response to requests when schools are closed during breaks.

What's next: The bill is expected to be scheduled again for the committee to consider amendments.

SB 301:
Would put
ALL SUBSTANCES LEGAL IN OREGON
on similar footing as tobacco.

Employers would not be able to prohibit workers from using any legal substances in their off hours.	Employers could restrict usage for "a bona fide occupational qualification."	Employers could still terminate for impaired performance.	Collective bargaining agreements could prohibit off-duty use.
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The Week Ahead

Feb. 24, 5 p.m. Members of the Joint Ways and Means Committee attend budget-focused town hall at Southern Oregon University in Ashland.

Feb. 25, 2 p.m. Members of the Joint Ways and Means Committee attend budget-focused town hall at Lane Community College in Eugene.

Feb. 27, 8:30 a.m. Joint Ways and Means Education Subcommittee holds public hearing on Chief Education Office ([SB 5522](#)) and Teacher Standards and Practices Commission ([HB 5038](#)).

Feb. 27, 3 p.m. House Education Committee holds public hearing on providing funding for instruction of talented and gifted children ([HB 2419](#)) and establishing a task force on out-of-school youths ([HB 2657](#)).

Feb. 28, 8:30 a.m. Joint Ways and Means Education Subcommittee holds public hearing on the Department of Education ([SB 5516](#)) and the State School Fund ([SB 5517](#)).

March 1, 8:30 a.m. Joint Ways and Means Education Subcommittee holds public hearing on the Department of Education ([SB 5516](#)) and the State School Fund ([SB 5517](#)).

March 1, 3 p.m. House Education Committee holds work session on requiring instruction in civics and financial literacy ([HB 2219](#), [HJR 14](#) and [HB 2229](#)).

March 2, 8:30 a.m. Joint Ways and Means Education Subcommittee holds public hearing on the Department of Education ([SB 5516](#)) and the State School Fund ([SB 5517](#)).

March 2, 3 p.m. Senate Education Committee holds public hearing on allowing people with pending teaching licenses to teach in public schools ([SB 205](#)), identifying outside groups eligible for education-related grants ([SB 286](#)) and increasing effectiveness of agriculture classes ([SB 230](#)).

March 3 Revised Oregon plan for Every Student Succeeds Act posted for 30 days of public comment.

March 3, 6 p.m. Members of the Joint Ways and Means Committee attend budget-focused town hall at Port of Tillamook Bay.

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Items may be added to committee agendas during the week. The Oregon Legislature keeps an updated page of committee agendas at:

olis.leg.state.or.us/LIZ/Committees/Meeting/List

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***Now is the time
to urge your legislators
to invest in public education***

Learn how to advocate for reinvestment in public education that will support student achievement. Receive training at the OSBA and COSA Legislative Day in Salem on March 13, then meet with your legislators to discuss education priorities and share stories from your organization's perspective.

Registration information is on the OSBA website:
www.osba.org/Calendar/Events/Legislative_Day-2017.aspx

Sign up to talk to your legislator

Be sure you are scheduling your appointments with your legislators. Try to schedule appointments after 11 a.m. so you don't miss OSBA's program.

If you need to look up phone numbers or email addresses, your legislators' information is on the Oregon Legislature's website:

- House – www.oregonlegislature.gov/house
- Senate – www.oregonlegislature.gov/senate