

OSBA Legislative Highlights



the Promise
OF OREGON

April 7, 2017



As warming temperatures bring out the cherry blossoms, things are heating up in the Capitol as well. The Legislature faces a key deadline today to move bills. (Photo by Dronescape Consulting, March 26)

Legislative deadline winnows one-quarter of bills

Today marks a major hurdle for bills in the Legislature.

For a bill to remain “alive,” it must be scheduled for a work session in a policy committee by today, April 7.

This first chamber deadline applies to policy committees, including House and Senate education. The deadline does not apply to Ways and Means or any of its subcommittees and House and Senate rules and revenue committees. Bills remaining in a policy committee that are not scheduled for a work session by today cannot receive further action and are considered “dead.” If a committee hasn’t decided if the bill should move forward, often it is sent to another committee where the rule does not apply, keeping the issue alive.

For legislative advocates, the first deadline narrows the massive number of bills that could be enacted to roughly three-quarters. Approximately 4,000 bills have been drafted this session, and OSBA has been following about 500 of them. This deadline should narrow the list of education-related bills to about 400.

The next major deadline is April 18, when bills must be moved out of the committees in the chamber in which they were introduced.

- *Lori Sattenspiel*
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Bill raises issues with schools' child protection responsibilities

[Senate Bill 101](#) would prohibit a school administrator or staff member from notifying anyone about a child abuse investigation in progress on school grounds. Current law already states this for public schools, but the bill would add authorization for students in private schools to be interviewed.

Private schools regularly restrict access because they believe the statute does not apply to them, testified Stacey Ayers, Department of Human Services child safety manager, and the bill was needed to expand the authorization of Child Protective Services to interview a student in private school.

The bill also would call into question districts' use of a form investigators are required to fill out before interviewing a child. The form is designed to assure the legality and properness of the action, shielding the child from invasive or even harmful contact with people coming to school and wanting to talk to a student, as well as show that the school has performed its duty to protect the child.

"Safety of students is our priority," testified OSBA Interim Director of Legislative Services Lori Sattenspiel before the Senate Judiciary Committee on Thursday. "When investigators or law enforcement come on school grounds to investigate a report of child abuse, the school uses a form with a checklist to be sure the investigator or law enforcement officer has followed the law and has proper documentation before any interview with a student."

Ayers took issue with the form.

"Many public school districts in varying parts of the state have adopted a process of notifying parents that CPS is there to interview the child," Ayers said. "School personnel are providing these notifications to the parents who are the alleged perpetrators. This often results in the parent restricting our ability to interview the child, which compromises child safety."

Sattenspiel said that problem could arise because an investigator refused to fill out the form and the school can't just blindly hand over its responsibilities for child protection.



Chair Sen.
Floyd Prozanski

The form was created to help school districts cooperate with investigators and ensure the district administrator, staff and students are protected, she said.

Before closing the hearing, committee Chair Sen. Floyd Prozanski (*D-South Lane and North Douglas counties*) asked stakeholders to meet with him.

He said he wants to make sure specific changes to current law found in ORS 419B.045 do not cause unintended consequences.

- Lori Sattenspiel
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Bills would protect schools from lawsuits by users of their lands

The legal and technical wrangling around "recreational immunity" boils down to making public lands and facilities open to residents without sending insurance costs into the stratosphere.

The fate of the recreational immunity bill was tightly wound with a bill on non-economic damage caps in lawsuits, so [Senate Bills 327](#) and [737](#) were both heard Thursday before the Senate Judiciary Committee. Recent court decisions raised questions about both issues, and the bills represented negotiated compromises.

The Oregon Public Use of Lands Act encourages public and private owners of land, including school districts, to make their land available to the public for recreational purposes by providing landowners immunity from tort liability. However, in *Johnson V. Gibson*, the Oregon Supreme Court ruled that the act intended only to immunize the actual landowner and never intended recreational immunity to protect employees or agents acting on behalf of the landowners.

The Johnson ruling dramatically undermined landowner recreational immunity from tort liability because public employers are statutorily required to indemnify their employees, which could have meant districts having to choose between severely limiting public access to all facilities or dramatic increases in insurance costs. SB 327, which was amended and moved on, would provide immunity to lawsuits for owners of land as well as all employees and agents of the landowner when they are acting in the capacity of the landowner, nullifying the Johnson ruling.

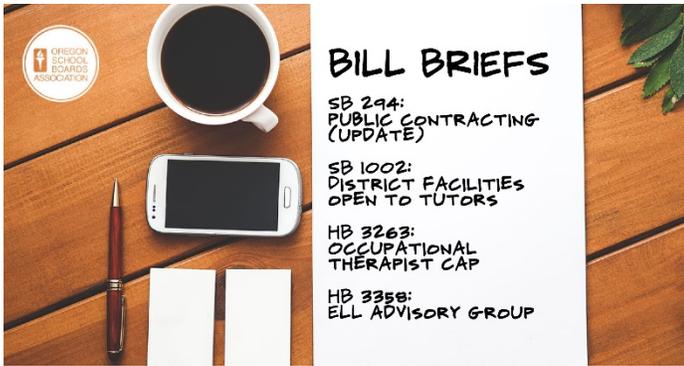
During the same hearing, the committee also amended and moved SB 737, which would remove damage limits for tort claims, a.k.a. "tort caps." The bill was a response to the Oregon Supreme Court ruling in *Horton v. OHSU* that affirmed the legality of caps.

OSBA was monitoring the bill, but because the bill includes an exemption for those already operating under tort caps created by a different law, the Tort Claims Act, schools and school districts should not be affected by the bill.

OSBA will monitor both bills and will be actively lobbying in favor of SB 327. Both bills are headed to the Senate floor for a vote by the full membership.

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Bill Briefs



UPDATE Public contracting

[Senate Bill 294](#)

What it does: The bill as originally written would have created additional tasks for districts if they wanted to use a third party for some school district support services, such as busing. The bill would have made it possible for the bargaining unit to ask the courts for a judicial review of the cost analysis required in the procurement process. The bill was originally heard March 8 in the Senate Workforce Committee. For complete details of the original bill, see the [March 10 Legislative Highlights](#).

What's new: The Senate Workforce Committee heard the bill again April 5 with an amendment that would change the procurement process only for school districts. All other contracting agencies would be exempt from any changes. The new process would include conducting a request for information (RFI) for the cost analysis. Disagreements about the cost analysis would go to arbitration. The amendment still makes this bill a challenge for school districts.

What's next: OSBA testified in opposition and will monitor the bill.

District facilities open to tutors

[Senate Bill 1002](#)

What it does: The bill would require school districts, public libraries and tribal libraries to allow tutors access to facilities when the schools and libraries are open. The bill was brought forward to address challenges parents are having with school districts addressing students' educational needs. Some students need additional supports such as a tutor. Tutors are being denied access to work with these students in school district facilities. School districts already have facility-use policies that would include tutors.

What's new: The Senate Education Committee heard testimony April 4. Parents motivated the committee to recommend the school district work with the parents for a solution that helps the student achieve.

What's next: OSBA testified in opposition, citing the current district policies that provide possible solutions. The bill is scheduled for a work session April 13.

Occupational therapist cap

[House Bill 3263](#)

What it does: The bill would direct the State Board of Education to adopt rules for occupational therapists and occupational therapy assistant in schools, including a maximum number of students with which a therapist or assistant could work. OSBA supports the excellent work done by occupational therapists and therapy assistants but was concerned by the potential precedent set by placing a "cap" in statute on the number of students with which an educator or school employee could work.

What's new: The House Education Committee heard the bill April 3, and it was carried over for a potential vote April 5. However, the committee did not vote on the measure April 5, and no further hearings or votes have been scheduled.

What's next: OSBA will continue to monitor the bill.

ELL advisory group

[House Bill 3358](#)

What it does: The bill would direct the Oregon Department of Education to convene an advisory group directed to advise the department on English language learner programs. The advisory group would focus on advising ODE on specific ELL issues, including alignment of all ELL programs.

What's new: The House Education Committee heard the bill April 5, and it was scheduled for a work session April 17.

What's next: An amendment that is expected to be adopted would limit the membership to 15 as well as some other technical adjustments that are needed to augment the current ELL advisory group.

The Week Ahead



April 10, 1 p.m.
Senate General Government and Accountability Committee holds work session on:

- Creating public records advocate and Public Records Advisory Council ([SB 106](#)).

April 10, 1 p.m.
Senate Human Services Committee holds work session on:

- Limiting districts' ability to require students to be in abbreviated-day programs ([SB 263](#)).

April 10, 1 p.m.

House Judiciary Committee holds work session on:

- Prohibiting restraints in schools ([HB 3266](#)).
- Requiring background checks for school volunteers ([HB 2992](#)).

April 10, 3 p.m.

House Education Committee holds work session on:

- Studying assisting students in poverty ([HB 3216](#)).
- Requiring charter schools to get permission for locating in districts ([HB 3413](#)).
- Analyzing student progress ([HB 2898](#)).
- Increasing social work in schools ([HB 2658](#)).
- Establishing Oregon Quality Education Model Modernization Task Force ([HB 2688](#)).
- Studying virtual public charter schools ([HB 2720](#)).
- Developing ethnic studies standards ([HB 2845](#)).
- Waiving diploma requirements for some students ([HB 3267](#)).
- Providing education after treatment programs ([HB 3156](#)).
- Increasing compulsory school age to 7 ([HB 3029](#)).

April 11, 3 p.m.

Senate Education Committee holds possible work session on:

- Prorating physical education minutes ([SB 4](#)).
- Modifying district payments to public charter schools ([SB 915](#)).
- Establishing standards for community classrooms ([SB 704](#)).
- Getting teachers and administrators to seek national certifications ([SB 578](#)).

April 11, 3 p.m.

House Higher Education and Workforce Development Committee holds work session on:

- Establishing cultural competency oversight committees for community colleges ([HB 2864](#)).
- Enabling community colleges to offer associate's degree tied to training programs ([HB 3335](#)).
- Reporting on workforce development training by community colleges ([HB 3003](#)).
- Revising accelerated college credit program standards ([HB 2313](#)).

April 12, 3 p.m.

House Education Committee holds possible work session on:

- Allowing interscholastic activities for charter school students ([HB 3293](#)).
- Allowing social workers to act as school counselors ([HB 3395](#)).
- Establishing Accomplished Teacher Program ([HB 2763](#)).
- Establishing Task Force on the High School Graduation and College and Career Readiness Act ([HB 2246](#)).

House Education Committee holds work session on:

- Allowing recognized high school assessments ([HB 3015](#)).
- Seeking funding for K-20 partnerships ([HB 3138](#)).
- Awarding grants for transportation ([HB 2693](#)).
- Requiring charter schools to meet food standards ([HB 2554](#)).

April 13, 3 p.m.

Senate Education Committee holds possible work session on:

- Requiring students to answer naturalization test questions for diploma ([SB 1038](#)).
- Requiring plan for testing school facilities for environmental hazards ([SB 1047](#)).

Senate Education Committee holds work session on:

- Establishing grants for school nurses ([SB 111](#)).
- Providing interscholastic activities for charter schools ([SB 208](#)).

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- Allowing charter schools to contract with for-profit entities to provide services ([SB 209](#)).
- Allowing Oregon Educators Benefit Board opt-out ([SB 387](#)).
- Revising educator preparation program approvals ([SB 221](#)).
- Establishing CTE pathways to post-secondary institutions ([SB 138](#)).
- Allowing community college faculty to receive compensation from other sources ([SB 206](#)).
- Creating policies for use of school facilities by private tutors ([SB 1002](#)).
- Developing academic standards for Oregon Studies ([SB 280](#)).

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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