

Oregon Community College Association

2011 Legislative Session Highlights

The lingering impact of the continuing recession was the backdrop for the 2011 session. The Legislature was faced with the task of producing a budget for the upcoming biennium that could bridge a \$3.5 billion budget gap. This gap was the difference between what the state would have collected and what it would have cost to maintain state services at the same level as the end of the 2011 fiscal year. The budget shortfall dominated the discussions around budgets in Salem creating an extremely challenging environment for state budgets.

The other factor affecting the work of the 2011 Legislature was the 30-30 split in the Oregon House of Representatives. Rep. Arnie Roblan (D-Coos Bay) and Rep. Bruce Hanna (R-Roseburg) were chosen as Co-Speakers of the House and each committee in the House had one Republican and one Democratic co-chair. This meant many controversial proposals from either party would not move forward, although issues such as expanding charter schools did become part of end-of-session negotiations between the Governor and House Republicans.

Proposals to reshape several facets of the way the state organizes and funds post-secondary and higher education heavily influenced the work of both the Legislature and OCCA in this legislative session. Both the Legislature and the Governor had different proposals dealing with Oregon's colleges and universities, though the Governor's proposal also included K-12.

Community College Legislative Priorities

Funding

Community College Support Fund

The Community Colleges Support Fund (CCSF) received \$395.5 million from the 2011 Legislature. However the Legislature held back \$14.5 million from the CCSF that will be released in the February session in 2012 as long as the economy does not go into another recession, bringing to total funding level to \$410 million. All state agencies faced the same 3.5 percent hold back of funds. The Community College and Workforce Development budget bill (HB 5011) includes language allowing for a large portion of the budget to be spent in the first year, essentially having campuses base the first year of the biennium on \$410 million. If the state economy continues along its expected path the remainder of the community college funding will be released, bringing the second year of the biennium back up to the \$410 million mark. If the economy goes into recession again and state revenue projects fall correspondingly, the Legislature will not return the held back funds and the amount held back will become an automatic allotment reduction.

The Community College Support Fund also received an additional \$15 million as part of the "maintenance of effort" requirement for federal dollars received from the federal American Recovery and Reinvestment Act of 2009. Dollars received by Oregon from the Act in 2009 carried the requirement that the state maintain a certain level of funding for higher education generally, which by the federal definition includes OUS, OHSU and community colleges. The \$15 million for community colleges was added to meet the maintenance of effort requirement and the funds were spent by June 30, 2011 in the current 2009-11 biennium. The Act did not require any particular split of funds, however the Legislature split the \$48 million they were required to spend roughly proportionally between colleges, OUS and OHSU.

Capital Construction

For the fourth consecutive session, Oregon's community colleges put forward a prioritized list of capital construction projects. During the 2009 session Oregon's community colleges received approval for over \$124 million in state support for deferred maintenance and capital construction projects. However, because of continuing declines in state revenues and limited bonding authority, legislative leadership was reluctant to commit to providing any General Obligation bond resources from the general fund during this session. State Treasurer Ted Wheeler had also previously warned the Legislature that the state had nearly reached its debt limit for Article XI-G bonding, the bonds the Legislature has used for the majority of community college capital projects.

However, in the closing weeks of the legislative session, some legislators advocated canceling three projects approved in the 2009 session because these three community colleges have not yet secured local matching funds. OCCA argued that canceling the bond sales for previously approved projects would undermine the colleges' ability to attain local matching funds. In the end, previously approved projects at Umpqua, Columbia Gorge and Clackamas totaling \$24.5 million were protected.

Also passed this session was a fix created by the passage of last May's passage of Ballot Measure 89 which included a provision requiring that the Legislature affirm that all capital projects serve an educational purpose. Projects passed in the 2009 session did not meet this requirement and OCCA worked with the Oregon University System, bond counsel, the Legislative Fiscal Office and others to introduce and pass HB 3338. This bill stated that projects financed under Article XI-G of the Oregon Constitution in 2009 for higher education institutions or activities and community colleges serve an educational purpose. This allowed the previously approved bond sale to proceed as planned in Spring 2011.

The Oregon Opportunity Grant

The Oregon Student Assistance Commission, the agency that oversees the Oregon Opportunity Grant, began this session trying to rebuild its reputation after a turbulent 2009-11 biennium when the Commission allocated about 75 percent of its Opportunity Grant Funds in the first year of the cycle leaving programs badly under-funded in the second year of the biennium. Legislators responded angrily to the over-spending and the executive director of the commission eventually resigned. With a new executive director the commission focused most of its energy on rebuilding its relationship with the Legislature in the 2011 session.

In his budget for 2011-13, the Governor recommended \$115 million for the Oregon Opportunity Grant up from the \$101.8 million received in the 2009-11 legislative session making it the only part of post-secondary education to receive an increase in the Governor's recommended budget. However, the Legislature approved a smaller increase to the program and ultimately provided a funding level of \$103 million.

Reform Proposals: SB 242/ SB 909

With two major proposals for restricting various aspects of higher education, OCCA put a great deal of attention into ensuring there would be no negative impact on local governance and initiative. OCCA engaged with both the legislative and the Governor's proposal well in advance of session steering away from some of the most significant challenges to local governance before session had begun. The two major proposals, SB 242 and SB 909 both passed.

SB242

Over the summer of 2010 the Legislative Work Group on Higher Education met several times to discuss ideas for higher education leading up to the legislative session. The most substantive piece of work from that committee became SB 242. The two major elements of SB 242 were a proposal to grant the Oregon University System autonomy from state agency status and a proposal to create a Higher Education Coordinating Commission.

The first draft of the bill, which was created during the summer by the interim Higher Education Committee, contained several elements that community colleges opposed because they would badly undermine local governance. OCCA worked extensively with the bill's drafters, Senator Mark Hass and Rep. Tobias Read, to remove all of the elements that would affect community college governance. As passed, the new Higher Education Coordinating Commission will be a place to recommend metrics for return on the state's investment. In concrete terms, the major structural changes created by the coordinating commission part of the bill will to move the Oregon Student Assistance Commission and its volunteer board of commissioners under the new commission. The new body will also administer the "adverse impact" process, which currently rests with the Office of Degree Authorization.

SB 909

By the time session had begun, legislators had already done considerable work on SB 242, while Governor Kitzhaber was just beginning to describe his proposal to legislators and now had to begin the process of pushing his priority bill through the process.

Kitzhaber's staff described the Governor's proposal as a budgeting process and not a governance proposal. His idea was to create an investment board that would look at the Oregon University System, Community Colleges, K-12 and early learning along one continuum. The goal of the board would be to create a unified outcomes-based budget.

When the bill was first introduced it included sweeping structural changes and would have dissolved both the State Board of Education and the State Board of Higher Education. However, the Governor's office worked with OCCA and other advocates to re-work the legislation to address the core goals without making sweeping changes to governance and structure. However, the bill directs a task force to examine what the structure for state-level decision making should be.

LEGISLATIVE ISSUES AND POLICY BILLS

Revenue

During the preceding biennium each revenue forecast was lower than the previous forecast. This continued, until the March 2011 forecast, when the state economist, Tom Potiowsky announced that revenue for the 2009-2011 biennium would be up by \$3.3 million. Offsetting this uptick was the announcement that his forecast for 2011-13 was down by \$109.3 million. This was the first time that we started to see Oregon's economy grow. Compounding the fiscal challenge for 2011-2013 was the loss of significant federal funding.

In his inaugural address Governor John Kitzhaber announced that there would be a new era of "austere" government and that the budget would be balanced without new tax increases. Two major reforms quickly developed legs. The first was to reduce state services with significant cuts to all levels of education (including community colleges), state government in general, and the Department of Human Services in particular. The second major reform, to try to control health care costs for low income Oregonians, is just being implemented and has as its goal reducing health care costs by \$242 million.

In May, it became apparent that the national economy was beginning to grow and that state revenues were stabilizing. The May revenue forecast indicated that lawmakers would have about \$128 million more to spend in the 2011-13 biennium and that job growth had finally turned positive with Oregon's manufacturing sector finally beginning to rebound. Although recovery had begun, the requirement that the \$3.5 billion budget gap be closed meant that all agencies would have less funding to provide public services and that community colleges would have less funding to serve significantly higher enrollment levels.

This session the Legislature took an entirely different approach to revenue than they did in the 2009 session. To close the budget gap last session, the Legislature passed what later became Ballot Measures 66 and 67. Unfortunately, neither tax increase generated the dollars originally estimated. In contrast, this session the Governor made it clear there would be no new tax measures. Only revenue reform measures would be considered. Almost all revenue reform measures failed to move forward in this session. As a result, the budget for the next biennium was balanced with significant spending reductions.

One bill that did pass was SB 301, a bill reconnecting the Oregon tax code to the Federal income tax code and other provisions of federal tax law. This bill permits Oregon taxpayers to deduct up to \$4,000 in education expenses from their Oregon income tax and excludes from Oregon tax the cost of the value of health care for dependents between the ages of 19 and 26. While this bill had bi-partisan support, it was noted that it cost the state close to \$100 million per biennium in revenue.

Policy Bills

Over the course of the legislative session, OCCA tracked several hundred bills. With a divided Legislature, the number of bills that passed was significantly less than in previous sessions. The following provides a highlight of several major bills with an impact on community colleges. A more complete report of legislative initiatives will be provided by OCCA later this summer.

(P) = Passed (F) = Failed to Pass

Education Policy

(P) Revises Mission of Higher Education to Meet Numerical Educational Goals (SB 253) – This bill was the product of the Interim Senate Committee on Education and the General Government for Higher Education Workgroup. It sets 40/40/20 as the educational goal for the state and declares that the purpose of higher education includes this goal. The bill sets 2025 as the target date for achieving it.

<http://www.leg.state.or.us/11reg/measpdf/hb3400.dir/hb3418.en.pdf>

(P) Requires college district to develop standards for military translating military training into credits (SB 275) – Clackamas Community College President Joanne Truesdell testified on the bill explaining the work community colleges do in this area currently. Members of the House and Senate Veterans Affairs Committees voiced some concern that legislation would require seventeen different policies, but OCCA and CCWD informed legislators that model policies could be developed by a group such as the Council of Instructional Administrators and adopted by all of the colleges.

<http://www.leg.state.or.us/11reg/measpdf/sb0200.dir/sb0275.en.pdf>

(P) Task force on tuition waivers for spouses and dependents of fallen and disabled soldiers (SB 338) – Working with the Oregon Department of Veterans Affairs (ODVA), a group of veteran advocates claimed that colleges were not providing tuition waivers as they had agreed in 2008 and 2009. Testimony by veterans' groups and ODVA was negative and misleading. Despite their claims, all Oregon community colleges had tuition waiver programs for veterans' dependents as promised. However, it was pointed out correctly that there were some significant differences in a few programs and the task force passed in SB 338 will create uniformity and align the programs with a similar program offered by the Oregon University System. The task force will be convened by the Department of Community Colleges and Workforce Development and will include all of the community college presidents. The task force will also consult with the ODVA.

<http://www.leg.state.or.us/11reg/measpdf/sb0300.dir/sb0338.en.pdf>

(F) Mandatory College Application Requirements to Receive High School Diploma – (HB 2732) This bill would have required students to complete and submit an application to an apprenticeship program or post-secondary education institution in order to receive a high school diploma. Rep. Tobias Read sponsored the bill and the Oregon Student Assistance Commission and the Oregon University System testified in support. OCCA worked to defeat the legislation because, while well meaning, the requirement would most likely have been counterproductive to the actual goal of increasing college attendance. Most community colleges have no application fees and could have been deluged with applications from students who did not intend to go to college but did not want to pay a university application fee. That could have forced colleges to create application fees. Further, OCCA argued it would make it impossible to target students who were on the verge of attending college but needed extra attention as colleges would receive applications from all high school graduates regardless of their intention.

<http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2732.a.pdf>

(P) Task Force on Higher Education Student Success (HB 3418) – HB 3418 creates a Task Force on Higher Education Student and Institutional Success. The task force is directed to analyze best practices and models for student and institutional success, to examine barriers, study methods for acquisition of basic skills and career preparation, and identify alternative funding options. A report must be submitted by October 2012 for the 2013 Legislature. Members of the task force include a community college board member, president, faculty, and student, who will be appointed by the Governor.

<http://www.leg.state.or.us/11reg/measpdf/hb3400.dir/hb3418.b.pdf>

(P) Establishes Transfer Rights for Students between the Oregon University System and Community Colleges (HB 3521) – Significant progress was made to help students transfer between post-secondary institutions. OCCA worked with Rep. Michael Dembrow on this legislation which will create guarantees for students with respect to credits and status. OCCA worked with both the Oregon University System and Rep. Dembrow so all sides agreed on the legislation which ultimately passed without controversy. The legislation was modeled after California’s Student Transfer Bill of Rights. The Joint Boards of Education is tasked with establishing the details of the Transfer bill of rights and will report back to future Legislatures.

<http://www.leg.state.or.us/11reg/measpdf/hb3500.dir/hb3521.en.pdf>

(P) Allows Community Colleges, OUS and OHSU to hear appeals on rejected charter schools (HB 3645/SB 994) – This legislation was part of a package of several bills, which were part of an end-of-session education package. An agreement had been reached by leadership and the governor’s office that the package would move forward in exchange for an additional \$25 million for K-12 education. As the bills were being passed out of committee and sent to the floor, community colleges were added in as one of the institutions to which charter schools could appeal. OCCA worked to kill the legislation outright but it appeared all of the bills in the package would have enough votes to pass. However, because concerns raised by community colleges had created so much discomfort in both House caucuses, legislators agreed to a compromise that makes hearing such appeals completely optional for colleges and a college’s decision could not be appealed. Amendments to the bill addressing OCCA’s concerns were included and passed in a separate piece of legislation, SB 994.

<http://www.leg.state.or.us/11reg/measpdf/hb3600.dir/hb3645.a.pdf>

<http://www.leg.state.or.us/11reg/measpdf/sb0900.dir/sb0994.en.pdf>

Financial Aid

(F) Creates Account in Opportunity Grant For-Profit Schools (HB 3670) – OCCA worked with a small coalition of advocates to stop this legislation which would have created an account within the Oregon Opportunity Grant and made for-profit schools eligible recipients of Opportunity Grant dollars. The fund would have been able to take both public and private funds. OCCA testified against the legislation and lobbied members extensively. The legislation was ultimately sent to the Ways and Means Committee and went no further.

<http://www.leg.state.or.us/11reg/measpdf/hb3600.dir/hb3670.a.pdf>

(P) Foster Children Tuition Waivers (HB 3471) – Rep. Michael Dembrow and Rep. Matt Wingard pushed this legislation, which waives tuition for former foster youth and guarantees an Oregon Opportunity Grant for those students. The waiver applies to community colleges, the Oregon University System and Oregon Health and Sciences University. OCCA worked successfully to have language added to the bill which guarantees an Opportunity Grant for waiver-eligible students. OCCA also added language to apply the waiver only after the Pell Grant and Opportunity Grant funds have been applied to tuition, so there should not be a fiscal impact on colleges.

<http://www.leg.state.or.us/11reg/measpdf/hb3400.dir/hb3471.en.pdf>

Personnel/Operations

(F) Authorizes board of education of community college district to commission police officers (HB 3240) – This bill would have given community college boards the authority to create police departments and commission police officers. In addition, the bill would have changed a number of statutes that pertain to police officers and designate community colleges as law enforcement agencies. The bill was sponsored by Rep. Barker at the request of the American Federal of Teachers. OCCA testified that community colleges were not involved in developing this proposal and while OCCA has taken a neutral position, we do not believe the bill is necessary.

<http://www.leg.state.or.us/11reg/measpdf/hb3200.dir/hb3240.intro.pdf>

(F) Clery Act Reporting Requirements (HB 3015) - HB 3015 would have required community colleges and public universities to submit reports to the State Board of Education and the State Board of Higher Education outlining their compliance with the federal Jeanne Clery Campus Security Policy and Campus Crime Statistics Act. The bill would have also required colleges to identify areas of non-compliance and develop plans to address those areas within one year. OCCA testified that the bill is an unnecessary duplication of current federal requirements and that the current annual reports are already readily available on both college websites and on the US Department of Education website.

<http://www.leg.state.or.us/11reg/measpdf/hb3000.dir/hb3015.intro.pdf>

(F) Reporting Requirement for Full-time and Part-time Faculty (HB 3118) – Representative Dembrow introduced HB 3118 to further clarify the information related to full-time and part-time faculty ratios and benefits that is included in the annual report required of the Department of Community Colleges and Workforce Development and the Oregon University System. OCCA worked with Rep. Dembrow to address specific concerns he had and agreed to review the criteria used to generate the report before the next report is submitted. OCCA and PCC HR Director Jerry Donnelly provided testimony to the House Higher Education Subcommittee about the process community colleges created last year to standardize the data and comply with the reporting requirements. As a result of these conversations, Rep. Dembrow agreed not to move the bill forward.

<http://www.leg.state.or.us/11reg/measpdf/hb3100.dir/hb3118.intro.pdf>

(P) Veterans Hiring Interview Preference (HB 3207) – This bill was introduced to address one of the recommendations suggested by former Governor Kulongoski’s Task Force on Veterans Services. It requires public employers to interview a veteran if the interview is part of selection process and employer determines the veteran meets minimum and special qualifications for the position. Public employers are permitted to seek advice from the Oregon Military Department or the Oregon Department of Veterans Affairs to determine whether a certain type of military education or experience results in a transferrable skill. OCCA remained neutral on the bill after it was amended to address concerns raised by state and local governments.

<http://www.leg.state.or.us/11reg/measpdf/hb3200.dir/hb3207.en.pdf>

(F) Unemployment Benefits During Summer Term (HB 3320/SB 35) -- Once again legislation was introduced to allow community college employees to receive unemployment benefits during summer and breaks between terms. OCCA provided a letter of opposition to SB 35 and testified in opposition to HB 3320. Proponents of HB 3320 argued that the traditional definition of an academic year is no longer valid due to the increasing number of students who are attending during summer term. While the bill did not move out of committee, we expect the proponents of HB 3320 to continue to discuss proposals to address the issue of increasing summer enrollments and full year faculty employment during the interim. OCCA will continue to monitor these efforts.

<http://www.leg.state.or.us/11reg/measpdf/hb3300.dir/hb3320.intro.pdf>

<http://www.leg.state.or.us/11reg/measpdf/sb0001.dir/sb0035.intro.pdf>

(F) Part-time Faculty Reemployment Rights (SB 931) – SB 931 would have required community colleges to create re-employment preference lists of part-time faculty. It would have significantly impacted local control and the ability to bargain with faculty at the local level. OCCA was joined by several college representatives in testifying against the bill in committee. The bill died in committee with no further action.

<http://www.leg.state.or.us/11reg/measpdf/sb0900.dir/sb0931.intro.pdf>

(F) Public Records Law (SB 41) – As part of his transparency initiative, Attorney General John Kroger proposed significant changes to Oregon’s public records law. These changes focused on limiting the fees that public bodies could charge to fulfill records request, setting firm timelines for responding to state and local governments to propose compromise amendments that provided greater flexibility in response times based on the complexity of the request. Unfortunately a compromise could not be reached and the bill failed to move out of committee.

http://www.leg.state.or.us/committees/exhib2web/2011reg/SGGCP/04-20-2011meetingmaterials/Amendments/SB0041_-8_amendment.pdf

Public Contracting

(P) Local Contracting Preference (HB 3000) – HB 3000 as originally proposed would have required state and local contracting agencies to give a preference to goods fabricated or processed or services performed entirely in the state of Oregon. Due to the efforts of state and local governments, the bill was amended to remove the mandatory preference. As amended the preference is permissive and allows a contracting agency to give Oregon bidders a preference up to 10%. The provisions of the bill do not apply to emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts. The effective date of HB 3000 is January 2012.

<http://www.leg.state.or.us/11reg/measpdf/hb3000.dir/hb3000.en.pdf>

(F) Contracting Cost Analysis Threshold (HB 3488) – OCCA supported efforts by Rep. Mark Johnson to raise the current threshold that triggers the cost analysis required when contracting out goods and services from \$250,000 to \$2 million. The cost analysis was passed in 2009 to make it more difficult to contract out services. HB 3488 was heard in the House Rules Committee and testimony in support was provided by OCCA and Eileen Miller, Procurement Manager from Chemeketa Community College. The bill was opposed by labor unions representatives who were the original proponents of the legislation in 2009. The bill did not move out of the House Rules committee.

<http://www.leg.state.or.us/11reg/measpdf/hb3400.dir/hb3488.intro.pdf>