

OADC

Oregon Association
of Defense Counsel

**State Government Relations
End-of-Session Report
75th Oregon Legislative Assembly—2009**

Prepared by
Inga Deckert &
Jack Isselmann
Tonkon Torp LLP

**Oregon Association of Defense Counsel:
State Government Relations
End-of-Session Report
75th Oregon Legislative Assembly – 2009**

TABLE OF CONTENTS

I.	INTRODUCTION.....	2
II.	2009 LEGISLATIVE SESSION	2
	<i>Statute of Limitations and Ultimate Repose</i>	<i>3</i>
	<i>Attorney-Client Privilege.....</i>	<i>3</i>
	<i>Antitrust</i>	<i>3</i>
	<i>Class Action Lawsuits</i>	<i>3</i>
	<i>Settlements and Judgments for Minors.....</i>	<i>4</i>
	<i>Attorney Fees and Costs.....</i>	<i>4</i>
	<i>Oregon State Bar.....</i>	<i>5</i>
	<i>Judgments and Writs of Garnishment</i>	<i>5</i>
	<i>Court Administration and Function.....</i>	<i>5</i>
	<i>Liability for Child Support Withholding</i>	<i>6</i>
	<i>Foreign Judgments</i>	<i>6</i>
	<i>Forfeiture.....</i>	<i>7</i>
	<i>Strategic Lawsuits Against Public Participation</i>	<i>7</i>
	<i>Conflict of Laws</i>	<i>7</i>
	<i>Notary Protest</i>	<i>7</i>
	<i>Servicemember’s Civil Relief Act.....</i>	<i>8</i>
	<i>Oregon Law Commission.....</i>	<i>8</i>
	<i>Appeal of Protective Orders</i>	<i>8</i>
	<i>Judges and the Judicial Department.....</i>	<i>8</i>
	<i>Personal Injury Protection.....</i>	<i>9</i>
	<i>Small Claims</i>	<i>10</i>
	<i>Bad Faith Claims</i>	<i>10</i>
III.	2009 INTERIM ACTIVITIES AND FEBRUARY 2010 "SUPPLEMENTAL" LEGISLATIVE SESSION	10
IV.	CONCLUSION	11
	INDEX	12
 APPENDIX: Report of Tracked Legislative Measures		

**Oregon Association of Defense Counsel:
State Government Relations
End-of-Session Report
75th Oregon Legislative Assembly – 2009**

PREFACE

The Oregon Legislature saw a record number of 2,781 legislative measures introduced during the 2009 session. Of these, the Oregon Association of Defense Counsel monitored or directly participated in the debate on approximately 75 measures.

The following report contains, for the most part, a summary of bills that passed in which OADC has an interest. We also included a discussion of a few bills that did not pass either because OADC was active with those bills or because we believe work on those bills will continue into the interim. Our analysis organizes the key legislative measures by subject-matter and provides context for broader issues that may be at play in a particular policy area, even where those issues may not presently bear directly on OADC.

Section III of this report outlines the anticipated legislative activity over the next two years and key areas for OADC to focus its efforts to fully engage in these activities for the benefit of its members and the organization. We hope you find this document to be a useful reference to OADC's work in the 2009 legislative session. As always, we welcome your input, comments, guidance and suggestions.

**Oregon Association of Defense Counsel:
State Government Relations
End-of-Session Report
75th Oregon Legislative Assembly - 2009**

I. INTRODUCTION

It has been a pleasure to assist the Oregon Association of Defense Counsel with its State Government Relations activities this year. During the 2009 legislative session, we monitored and worked directly on roughly 75 separate pieces of legislation before the Oregon Legislative Assembly on behalf of OADC.

The 2009 Oregon legislative session adjourned on June 29, the earliest adjournment deadline achieved since 1995. The session was dominated by the effects and impact of the global economic recession. In March, the Legislature was required to cut budgets to meet an approximately \$300 million shortfall in the 2007-2009 biennial budget. Cuts were ameliorated through the use of federal stimulus monies. Nevertheless, the need to balance the current biennium's budget set the tone for the remainder of the legislative session. In the end, the Oregon Legislature executed over \$2 billion in cuts to the 2009-2011 biennial budget. The leadership of the assembly also made clear it did not intend to balance the budget solely by means of budget cuts. Consequently, multiple revenue packages were passed, including increases in the gas tax, vehicle licensing and registration fees, the corporate minimum tax, the tax rate on businesses and upper-income Oregonians, the hospital tax and a new tax on health insurance premiums, and new court fees and surcharges to help fund the Judicial Department and indigent defense.

Although budgetary issues dominated the session, the legislature considered and passed significant legislation in several policy areas, including a major transportation package, health care reform, and delaying the implementation of Ballot Measure 57—the measure passed by voters in November 2008 that increases criminal sentencing for those convicted of certain drug and repeat property crimes.

II. 2009 LEGISLATIVE SESSION

This section of the report contains a summary and, where appropriate, context for the debate of bills tracked on OADC's behalf. For more details on any particular measure, the text of the bill can be viewed on the legislature's website at www.leg.state.or.us. For bills that were passed into law, the enrolled version of the bill is the final version. The appendix to this report contains a complete list of all bills we tracked on OADC's behalf.

Statute of Limitations and Ultimate Repose: The legislature passed two bills, House Bill 2434 and Senate Bill 284, amending Oregon law relating to the statute of ultimate repose for large commercial structures and the statute of ultimate repose for certain product liability actions, respectively.

House Bill 2434: House Bill 2434 decreases the statute of ultimate repose in ORS 12.135 for large commercial structures from ten years to six years, unless the structure is owned or maintained by a homeowners association or associations of unit owners. If, however, the plaintiff is a public body, the action may be commenced within ten years after the substantial completion or abandonment of construction, or alteration or repair of the structure. This bill becomes effective January 1, 2010.

Senate Bill 284: Senate Bill 284 increases the statute of ultimate repose for product liability actions, including wrongful death, to ten years or the statute of ultimate repose of the state in which the product was manufactured or from which it was imported, whichever is later. Manufactured homes and physicians, unless involved in the manufacture or design of the product, are exempt from the two-year increase. Product liability actions for damages from halide or mercury vapor light bulbs are exempt from any statute of ultimate repose. Senate Bill 284 becomes effective January 1, 2010, but applies retroactively to certain product suits concerning halide and mercury vapor light bulbs.

Attorney-Client Privilege: House Bill 2453 extends the attorney-client privilege by expanding the definition of “representative of the client” in ORS 40.225 to mean: (1) a principal, an officer or a director of the client; or (2) a person who has authority to obtain professional legal services, or to act on legal advice rendered, on behalf of the client, or a person who, for the purpose of effectuating legal representation for the client, makes or receives a confidential communication while acting in the person’s scope of employment for the client. This bill becomes effective January 1, 2010.

Antitrust: House Bill 2584 essentially overturns the 1977 U.S. Supreme Court’s Illinois Brick decision which held that only a direct purchaser could bring a lawsuit for an antitrust violation. In 2001, Oregon passed a partial repeal of the Illinois Brick decision by granting the Attorney General’s office the authority to bring cases on behalf of consumers. House Bill 2584 goes further and allows indirect purchasers, including consumers and businesses, to file lawsuits for alleged antitrust injuries. It also deems a Department of Justice lawsuit superior to a private plaintiff’s suit, if the department files an action within thirty days on behalf of the same class of people. House Bill 2584 becomes effective January 1, 2010.

Class Action Lawsuits: House Bill 2585 repeals Oregon Rule of Civil Procedure 32 K, which prohibited class action lawsuits for the recovery of statutory minimum penalties under the Unlawful Trade Practices Act, Truth in Lending Act and any other similar lawsuits. It also imposes requirements for the recovery of statutory damages for class action lawsuits under the

Unlawful Trade Practices Act. The bill applies retroactively unless a judgment was entered before June 25, 2009.

Settlements and Judgments for Minors: House Bill 2687 was introduced on behalf of the Oregon Trial Lawyers Association. It makes changes to ease the implementation of House Bill 3083, passed during the 2005 legislative session, which allowed settlements and judgments for minors that are less than \$25,000 to be placed in locked accounts. However, implementing the law became troublesome for some banks because of a minor's lack of authority to enter into binding contracts. House Bill 2687 fixes this problem by clarifying that minors in such situations have the authority to enter into binding accounts. The bill also makes it clear that withdrawal of funds from those accounts is only allowed pursuant to a court order, upon the minor's death or the when the minor becomes an adult. The bill directs attorneys to keep records on settlement agreements and keep the records for two years after the minor becomes an adult. Attorneys are required to place the funds in an FDIC-insured bank account on behalf of the minor. If an attorney is not involved, the person entering the settlement agreement on behalf of the minor must put the money in an FDIC-insured bank account. Alternatively, the attorney or person entering into the settlement agreement or who has legal custody of the minor may place the money in an annuity with the minor designated as the sole beneficiary. House Bill 2687 becomes effective January 1, 2010.

Attorney Fees and Costs: Several bills passed this session changing the law with respect to awarding attorney fees and costs.

House Bill 3111: House Bill 3111 amends ORS 646.638 to change an award of attorney fees and costs at trial and on appeal from prevailing party to prevailing plaintiff in unlawful trade practices cases. Under the bill, defendants can recover attorney fees and trial costs only if a court finds that plaintiff had no objectively reasonable basis for bringing the lawsuit. This bill becomes effective January 1, 2010.

Senate Bill 59: Senate Bill 59 makes Oregon law substantially equivalent to federal law by allowing the award of prevailing party costs and reasonable attorney fees to an intervenor in a housing discrimination hearing. The Bureau of Labor and Industries investigates cases of fair housing discrimination under a contract with the United States Department of Housing and Urban Development that requires "substantial equivalency" between state and federal law. This bill became effective July 1, 2009.

Senate Bill 404: Senate Bill 404 repeals ORS 20.160 and 20.170, so that attorneys of nonresidents are no longer liable to a defendant for costs awarded against their client. ORS 20.160 holds an attorney representing a nonresident plaintiff personally liable for any costs the court awards and the plaintiff fails to pay. ORS 20.170 is a companion provision setting forth the requirements for a surety bond under ORS 20.160. These provisions were originally enacted in 1862, likely to deal with the difficulty of collecting costs from distant parties. The Oregon State

Bar Procedure and Practice Committee reports it is not aware of any class of litigants who would be harmed by the repeal of these laws. Senate Bill 404 became effective June 18, 2009.

Senate Bill 745: Senate Bill 745 allows attorney fees for claims based on an express or implied contract regardless of whether the prevailing party was a party to the contract. Senate Bill 745 is a response to two appellate court cases, *Dess Properties LLC v. Sheridan Truck & Heavy Equipment LLC* and *Autolend, IAP Inc. v. Auto Depot Inc.*, where the court found that the defendant was not allowed to recover attorney fees under ORS 20.083 and ORS 20.096 because the defendant was not a party to the contract. These cases are problematic for victims of identity theft because they become the defendant in a case and do not have a contract with the plaintiff. Senate Bill 745 became effective June 16, 2009.

Oregon State Bar: Senate Bill 244 increases the size of the Board of Bar Governors of the Oregon State Bar from 16 to 18 members, starting in 2011, by increasing the number of bar governors elected from districts. It allows the board to establish special terms that are shorter than four years for the purpose of staggering the terms of board members. The bill also includes “public body” and limited liability company within the term “person” for the purposes of the unauthorized practice of law provisions of ORS 9.160 to 9.166 and 9.280. Last, SB 244 clarifies the jurisdiction of the Oregon State Bar concerning the unauthorized practice of law as it applies to the practice of law in this state, not outside the state. This bill becomes effective January 1, 2010.

Judgments and Writs of Garnishment: Senate Bill 240 was introduced to clarify what information is allowed or required to be placed in judgment documents and writs of garnishment. This bill seeks to balance the needs of financial institutions to have accurate information and the needs of the general public for protection from identity theft. Senate Bill 240 limits the use of Social Security and driver’s license numbers to the last four digits in judgment documents and liens and limits required information to birth year instead of birth date. It also limits the use of Social Security numbers to the last four digits in writs of garnishment, unless the full number is needed to identify the debtor. (Garnishees are protected from liability for mistakes when relying on the last four digits of a Social Security number.) Senate Bill 240 became effective June 4, 2009, and applies to documents recorded after that date.

Court Administration and Function: The following two senate bills streamline and clarify court functions and reduce administrative costs.

Senate Bill 262: Senate Bill 262 was introduced on behalf of the Judicial Department in an effort to streamline court functions and reduce costs. Senate Bill 262 allows: (1) the Chief Judge of the Court of Appeals to order that a department of appellate judges consist of two judges unless a third judge is necessary to break a tie vote, (2) two temporary, or pro tem, judges to sit on panels of three judges, and (3) the Chief Judge to delegate authority to rule on motions and issue orders in procedural matters to an appellate commissioner. The bill also limits de novo review to only a few types of cases. Senate Bill 262 became effective June 4, 2009.

Senate Bill 270: For the most part, Senate Bill 270 contains technical fixes to various statutes in an attempt to improve court administration and clarify court procedures. These changes are meant to be procedural rather than substantive and include, for example, allowing the Chief Justice of the Supreme Court to establish procedures for closing courts in emergencies and establish standards for determining when courts are closed for purposes of rules and laws and allowing a presiding judge of a judicial district to delegate the exercise of administrative powers to another judge or to a trial court administrator. After the bill passed the Senate, a more substantive amendment was adopted in the House. Among other things, the amendment clarified that juvenile court records remain confidential on appeal, makes an exception for modifications of judgments under ORS 416.880 that a supplemental judgment may only contain provisions not included in the general judgment, and prohibits a person from being eligible to serve on a jury or grand jury if he or she has been convicted of a misdemeanor involving violence or dishonesty within the preceding five years. Senate Bill 270 became effective June 24, 2009.

Liability for Child Support Withholding: Senate Bill 373 allows an obligor and obligee under a child support order to bring a civil action for damages against an employer who withholds money under an order to withhold, but who fails to pay the withheld amounts within time required by law. It also eliminates the cap on damages that may be recovered by an obligee in action against the withholder for failure to withhold or pay.

The Support Enforcement Division of the Oregon Department of Justice will attach the wages of anyone owing child support regardless of whether the person is in arrears. The division does so by serving a writ of attachment upon the person's employer. The employer has a legal duty to withhold wages in accordance with the terms of the writ. If the employer fails to do so or withholds too much, the employer is liable for the actual amounts and damages not to exceed that amount. In *Arvidson v. Kurahashi*, 217 Or. App. 74 (2007), the employer first properly withheld the employee's wages, but then periodically delayed forwarding the withholdings to improve cash flow. As a result, the employee was subject to fines, fees and assessments for late payment. The employee sued his now former employer. The Court of Appeals found that the statute did not allow the employee to recover damages resulting from the delayed payments. Senate Bill 373 allows an employee to bring an action for damages when the employer delays paying the withholding. All of the withholding violations create a private right of action so that either parent can bring the suit, in addition to the Division of Child Support or district attorney. Senate Bill 373 becomes effective on January 1, 2010.

Foreign Judgments: Senate Bill 286 repeals the Uniform Foreign Money-Judgments Recognition Act and enacts the Uniform Foreign-Country Money Judgments Recognition Act. The Uniform Foreign-Country Money Judgments Recognition Act is a product of the National Conference of Commissioners on Uniform State Laws. It revises the Uniform Foreign Money Judgments Recognition Act of 1962, which Oregon adopted in 1977 and codified in ORS 24.200 to ORS 24.255. Senate Bill 286 updates the 1962 Act, clarifying its provisions and correcting problems created by the interpretation of provisions over the years. Under Senate Bill 286, the

Uniform Foreign Money-Judgments Recognition Act specifies that a party seeking to enforce a foreign judgment has the burden of proof and must file an action in court to obtain recognition of the foreign judgment. It also provides a 15-year statute of limitations on enforcing foreign judgments. This bill becomes effective January 1, 2010.

Forfeiture: Senate Bill 356 clarifies Oregon's forfeiture laws and incorporates changes in these laws to reflect the enactment of Ballot Measure 53. This bill became effective April 28, 2009.

Strategic Lawsuits Against Public Participation: Strategic Lawsuits Against Public Participation (SLAPP) are suits filed by corporations and developers to scare citizens into dropping their protests against the corporation and developer's actions. Currently, Oregon law allows someone named as a defendant in a SLAPP suit to bring a special motion to strike the suit. The initial burden is on the defendant/protestor to show the claim arises from protected speech, after which the burden shifts to the plaintiff/corporation to establish the probability that plaintiff's claim is valid and will prevail. Senate Bill 543 provides that if the trial court denies the special motion to strike, it shall enter a limited judgment instead of an order, allowing the defendants to immediately appeal. Senate Bill 543 becomes effective January 1, 2010.

Conflict of Laws: Senate Bill 561 was introduced on behalf of the Oregon Law Commission and establishes rules for conflict of laws in tort claims and certain other noncontractual claims. The objective of the bill is to provide a methodology for courts to use in torts conflict-of-law cases that also allows flexibility. Senate Bill 561 becomes effective January 1, 2010.

Notary Protest: House Bill 2090 allows a notary public to protest commercial paper if the notary is an officer or employee of a financial institution or investment company or a member of the Oregon State Bar, or serves under the supervision of an officer, employee or member. Protesting commercial paper creates a mechanism to demand payment of promissory notes, unpaid checks and other payment instruments through the physical presentment of the item. The original purpose of protesting was to facilitate banking transactions. The Secretary of State advises notaries public that protesting commercial paper is a complex process and is only appropriate when completed as part of an official banking act. However, it has been reported that notary protest has been used in recent years to harass public officials, including judges, corrections officials, and law enforcement officials. House Bill 2090 restricts the use of notary protest to notaries who are officers or employees of a financial institution or investment company, a member of the Oregon State Bar, or who serve under the supervision of an officer, employee, or member of a financial institution or investment company or under the supervision of an Oregon State Bar member. It prohibits a notary who is a stockholder, director, officer, or employee of a bank, trust company, or other corporation from protesting commercial paper that is owned or held for collection by the entity. It also prohibits a notary from protesting any commercial paper owned or held for collection by a financial institution or investment company

if the notary is individually a party to the commercial paper. House Bill 2090 becomes effective January 1, 2010.

Servicemember's Civil Relief Act: The Servicemember's Civil Relief Act (SCRA) provides a wide range of protections for individuals called to active duty or deployed in the military. It is intended to postpone or suspend certain civil obligations (such as debts, pending trials and taxes) to enable service members to devote full attention to duty and relieve stress on their family members. House Bill 2303 allows a soldier, sailor, marine, member of the Air Force, or the National Guard on active duty to notify a creditor or a person suing the service member that the service member is on active duty and protected by the SCRA. The bill allows the service member to obtain attorney fees and damages if the service member notifies a party at least 30 days prior to the commencement of a legal action under this measure that the service member is protected by the SCRA. It also allows the defendant to avoid attorney fees by remedying the violation before the commencement of a lawsuit and gives the defendant 30 days to remedy. Last, HB 2303 exempts an action under this measure from court-ordered arbitration. This bill became effective May 8, 2009.

Oregon Law Commission: Senate Bill 562 makes changes to the membership and duties of the Oregon Law Commission. The commission's enabling statutes have not been amended since its creation in 1997. The bill, among other things, adds two members from the judiciary, increases terms from two to four years, and provides that the Senate and House appointments must be one current member and one current or former member. Senate Bill 562 became effective May 21, 2009.

Appeal of Protective Orders: In tax court or magistrate proceedings, the magistrate or judge could issue protective orders to protect the confidentiality of business records, tax returns, or documents containing trade secrets. Under existing law, these orders were considered final for purposes of appeal to the Supreme Court. Senate Bill 609 allows for decisions of the magistrate involving protective orders to be appealed to the regular division of the tax court and allows the magistrate to stay the case on merits until the request for a protective order is resolved. The bill also requires that certain appeals to the regular division of the tax court be expedited and determined within 90 days, unless the court determines additional time is needed. Senate Bill 609 becomes effective September 28, 2009.

Judges and the Judicial Department:

Judicial Department Budget

In an effort to shield the Judicial Department and other legal system agencies from more drastic cuts for the 2009-2011 biennium, the legislature passed House Bill 2287, which creates a multitude of new court fees and surcharges that are anticipated to raise nearly \$40 million. The new fees are a temporary response to the current recession; the fees are effective October 1 through June 30, 2011. House Bill 2287 as passed is the

product of a legislative workgroup lead by Senator Vicki Walker and Representative Nancy Nathanson. The workgroup met several times and consisted of interested stakeholders, including representatives of OADC, OTLA, the judicial department, and the Oregon State Bar. Even with the additional funding anticipated under HB 2287, the judicial department will sustain significant funding cuts from last biennium that will result in a reduction of approximately 220 non-judge positions.

House Bill 2287 also creates the Interim Committee on State Justice System Revenues, which will make recommendations to the legislature on permanent funding for the judicial department through court fees, surcharges and fines and if a special session is held in February, will also make a report to the legislature within five days after the session is convened.

In the final appropriation bill of the session, House Bill 5054, commonly referred to as the “Christmas tree bill,” the Ways and Means Committee made additional cuts to the judicial department’s budget. The Governor has issued a notice of possible intent to use his line-item veto power to restore \$6.25 million of the funding cut contained in House Bill 5054.

Judicial Salaries

Among other things, Senate Bill 778 establishes salaries for justices and judges of various courts and limits the duties of the Public Officials Compensation Commission to making recommendations to the Legislative Assembly on salaries of elected officials.

Judges as Teachers

An Oregon State Supreme Court decision issued in 1979 found that a judge who was regularly employed as a part-time teacher by a state-funded school violated the separation of powers section of Article III of the Oregon Constitution. Senate Joint Resolution 4, if approved by the voters, would allow the State Board of Higher Education or a school board to employ a judge of any court in Oregon as a teacher.

Personal Injury Protection: The following two bills, House Bill 2326 and House Bill 2369, relate to personal injury protection.

House Bill 2326: House Bill 2326 increases personal injury protection maximum monthly income replacement payments from \$1,250 to \$3,000 and increases minimum motor vehicle liability coverage for property damage from \$10,000 to \$20,000. This bill becomes effective January 1, 2010.

House Bill 2369: House Bill 2369 provides that a release for bodily injuries obtained by a motor vehicle liability insurer within 60 days following an accident may not impair the ability

of the insurer to recover personal injury protection benefits by subrogation. It requires a representative of a motor vehicle liability insurer to provide notice to the person from whom the insurer obtains a release for claim of bodily injuries and specifies the contents of the notice. The bill also allows a person to rescind a release within five business days of the execution of the release. House Bill 2369 becomes effective January 1, 2010.

Small Claims: Senate Bill 306 was introduced by the Senate Interim Judiciary Committee. As introduced, it would have raised the maximum amount a claimant could seek in a small claims case under ORS 20.080 from \$5,500 to \$10,000. The OADC was neutral on the bill as introduced, but saw an opportunity to amend the bill to improve other provisions of ORS 20.080. Members of OADC testified as to some of the shortcomings of ORS 20.080 and suggested provisions to improve the bill. After participating in a workgroup on the bill and continuing to work on it in the House Judiciary Committee, final amendments were adopted into the bill to: (1) increase the length of time between when a demand for payment for small torts is made and a lawsuit filed from 10 days to 30 days (20 days for small contracts), (2) increase the demand limit amount of small tort actions from \$5,500 to \$7500 initially and further increase the amount to \$10,000 in 2012 (small contract claims increased from \$5,500 to \$10,000), and (3) add a requirement that a plaintiff provide in the notice to the defendant in tort actions certain documentation such as medical records and property damage records. The bill also requires a plaintiff to provide this documentation to the defendant's insurer if the insurer is known. The requirement of plaintiff to provide supporting documentation continues until litigation. Senate Bill 306 becomes effective January 1, 2010, and applies to actions filed after that date.

Bad Faith Claims: House Bill 2791 would have created a new cause of action for third-party and first-party bad faith insurance claims settlements that could be brought against insurers and "other persons." Most specifically, OADC raised concerns about defense counsel becoming targets of claims. We worked with the bill's proponent, Representative Brent Barton, an attorney at Perkins Coie, to obtain amendments to exclude defense counsel from the scope of the bill. Because OADC remained concerned about other provisions of HB 2791, we worked with a coalition of insurance companies and other interested parties toward a mutually acceptable proposal. We raised important issues and resolved many that separated us. However, important sticking points kept us from reaching an agreement. We agreed with Rep. Barton to reconvene the working group in the interim to resolve outstanding issues outside of the pressure of the legislative session calendar. Rep. Barton praised OADC's willingness to come to the table and work through many of the issues that separated us.

III. 2009 INTERIM ACTIVITIES AND FEBRUARY 2010 "SUPPLEMENTAL" LEGISLATIVE SESSION

The Legislature will meet for a second experiment with a "supplemental" session in February 2010. It is possible if revenue forecasts continue to decline in the fall that the Legislature could call itself in for a special session to rebalance the budget; however, this is not expected.

Much of the political activity between now and the supplemental session will revolve around tax referral efforts. During the session, there was speculation about which taxes opponents would refer to the ballot. At this point, referral efforts are focused on the increase in business taxes and taxes on high-income Oregonians. If successfully referred, these taxes will be before the voters in a special election to be held on January 26, 2010.

We anticipate the focus of the 2010 supplemental session to be on budgetary issues. The degree to which the legislature will have the capacity to debate any policy issues will depend in large part on whether the taxes are upheld or rejected. If they are rejected, the session will likely be almost exclusively focused on cutting approximately \$1 billion from the State budget. Even if they are upheld, budget adjustments will likely be required and any policy issues undertaken will be of a relatively small magnitude and likely will pertain to the priorities of legislative leaders.

Even though the tax referrals and budgetary issues do not have a direct impact on OADC, we mention them because they will set the stage for much of the political and legislative debate this interim. Outside of these discussions, we anticipate an active interim for OADC.

Among the activities this interim in which we anticipate OADC will have an interest are a continuation of the discussion of House Bill 2791 and bad faith claims. Also, as mentioned earlier, HB 2287 creates the Interim Committee on State Justice System Revenues, which will make recommendations to the legislature on permanent funding for the judicial department through court fees, surcharges and fines, and if a special session is held in February, will also make a report to that assembly. We anticipate OADC will monitor this committee's activities. Another potential issue of interest that may develop this interim is an effort to make ORCP 54E once again applicable to small claims. During the session, we were approached by other organizations wanting to discuss the possibility of working together and building a coalition of support for such an effort. As the interim progresses, other activities may arise in which OADC may want to participate. We will be watching for activities of interest and ready to participate on OADC's behalf as appropriate.

It is not too soon for the OADC to begin developing its agenda for the 2011 legislative session. Once the agenda and priorities are decided upon, we will begin the necessary education and coalition-building efforts to optimize our chances of achieving success in 2011.

IV. CONCLUSION

It has been our privilege to represent OADC before the 2009 Legislative Assembly. We appreciate the active assistance, expertise and professionalism of OADC's members as we advocated on their behalf in the Capitol. We look forward to continuing our work with OADC throughout this interim and in preparation for the next legislative session. Thank you.

INDEX

	Page(s)
House Bill 2090.....	7
House Bill 2287.....	8, 11
House Bill 2303.....	8
House Bill 2326.....	9
House Bill 2369.....	9
House Bill 2434.....	3
House Bill 2453.....	3
House Bill 2584.....	3
House Bill 2585.....	3
House Bill 2687.....	4
House Bill 2791.....	10, 11
House Bill 3083.....	4
House Bill 3111.....	4
House Bill 5054.....	9
Senate Bill 59	4
Senate Bill 240	5
Senate Bill 244	5
Senate Bill 262	5
Senate Bill 270	6
Senate Bill 284	3
Senate Bill 286	6

Senate Bill 306	10
Senate Bill 356	7
Senate Bill 373	6
Senate Bill 404	4
Senate Bill 543	7
Senate Bill 561	7
Senate Bill 562	8
Senate Bill 609	8
Senate Bill 745	5
Senate Bill 778	9
Senate Joint Resolution 4.....	9