



OREGON STATE SENATE

History

Let me take you back to the fall of 2011. One of the biggest controversies in Oregon was the firing of the president of the University of Oregon.

Alumni, faculty, students and boosters were furious. In their eyes, he was fired not for insubordination, but for giving raises to faculty, for trying to be innovative and for campaigning for a university board.

It was a very big deal. The New York Times wrote about. The Governor said he received more email about it than he did for his position on the death penalty.

But like most family fights ... people calmed down. The Governor invited UO folks to lunch, met with legislators, talked to boosters and eventually the family decided the UofO should have its own board.

January 2012. The UO was eager to get going and wanted its new board created and passed in our short 2012 session. That should be no surprise to people familiar with the Ducks no-huddle-hurry-up offense.

Instead, the Legislature in February created a task force to consider university governance for the UO and any other institution that wanted one.

I co-chaired that task force with Representatives Mark Johnson and Michael Dembrow and equal number of Rs and Ds and two members of the OEIB, Matt Donegan and Kay Toran. (And Sen. Fred Girod.)

When we started the interim meetings, Portland State University said it too wanted its own board.

After months of research and looking at how every other state, we arrived at a hybrid model similar to North Carolina.

It's allows a university to have its own board ... yet still maintains a state system of higher education. These boards would have two primary tools they don't have now:

1. Authority to hire and fire the president
2. Authority to issue revenue bonds upon review of the treasurer

There would still be one single appropriation from the legislature and the money would be distributed just like it is now. The universities would still be required to meet state

achievement compacts, to work toward the statewide 40-40-20 goals and would be subject to program review by the Higher Education Coordination Commission.

In December, the task force unanimously recommended this approach to the legislature.

The recommendations were drafted into legislation, referred to the Senate Education Committee and this was the first bill our committee took up in our first week of session.

The next step was filling in the technical blanks. We set up a work group that included the legal counsel from the University of Oregon, Portland State, Oregon State and the Oregon University System. Joining them were three lawyers from legislative counsel, headed by Dan Gilbert who worked weekends every week this year until this bill was out. We also had our own lawyer, Dana Richardson, from the President's office. And our Education committee administrator, Richard Donovan—who is also a lawyer. We also had a lawyer from the justice department, one from the Treasurer's office and two from OUS's bond counsel. My interim committee co-chairs Reps. Johnson and Dembrow also joined us. I facilitated these work group meetings on Thursday mornings in the legislative counsel library – and I often wondered what the total hourly rate might be if we were to calculate it.

It was the most remarkable work group I've ever been associated with.

These were the legal experts on higher education law in Oregon – and they were collaborating on hundreds of issues. Parking, for example. If a school has it's own board, is it in control of parking? I've heard it said, a successful college president is one who provides parking for faculty. What about law enforcement? How does a university handle that? And should the new law enforcement entity be armed? There were hundreds of technical issues like this. When I say collaboration, I distinguish it from compromise or consensus. Collaboration is – by definition – people working together to complete shared goals. These lawyers also helped clean up existing higher education statutes to bring them in line with the digital age. It was hard work.

Nearly every week we produced a new 200-page amendment to SB 270, refining it as we went along. We held eight public hearings and work sessions on the bill. There was lots of discussion on every aspect of this legislation. In retrospect, I can see why we had unanimous support: all five committee members saw it, lived with it, got to know it, shaped it, fought with it, played with it, loved it and, I think, experienced a sense of loss the day we sent it to your committee.

REGIONALS

Eastern Oregon, Western Oregon, Southern Oregon and Oregon Institute of Technology weighed in early and often on this bill. They came before the task force and before the Senate with a clear message: We don't want a board—leave us out. They did testify in support of a task force that looks at how the regionals could be more

effective, competitive and efficient – a natural next step of our higher ed restructuring that started four years ago with Senate Bill 242. This is in Section 166. This bill also provides a pathway for these four institutions in Section 4 if they ever want a board in the future. But it would require legislative approval.

We need our regional and technical schools to be successful. For thousands of Oregonians they are the ONLY institutions that will work for them. Nobody is more sensitive to this than me.

Shared services

One of the key concerns of nearly everyone was shared services, or economies of scale. If UO goes out on their own – what does that do to everyone else? We resolved this question in a number of ways. First, in the preamble in Section 1 (1)(c) we clearly state that university boards must not negatively impact public universities that do not have governing boards.

This theme is consistent throughout the 200 pages of this bill. The two biggest shared services are PERS and PEBB. And the bill clearly prohibits universities from opting out of both.

It clearly requires these new boards to continue in shared services. And the testimony from UO and PSU has been that they too want to benefit from the economies of scale provided by the system.

I want to underscore that both the interim committee and the Senate Education Committee spent a lot of time on this issue – Senator Girod can attest to that.

Board Composition

Our committee spent probably more time on the issue of board composition than perhaps any other section. The boards of between 11-to-15 members call for one student member and one non-voting faculty member. This represents a huge compromise from what the universities originally wanted. Any changes from this and we would not have had a unanimous vote. But this current composition structure of the board – appointed by the governor – is very, very important to the senate.

Fifteen months of work went into shaping the policy before you. The first months of this session produced remarkable work by a team of talented legal minds to craft the technical details. Countless hours of fine-tuning. Unanimous votes from the committee and from the original task force on the policy before you.

You may be asked to change some of the many, many policy decisions in this bill. I implore you to be very, very cautious. One change in one section may have unintended consequences in another section – or in another bill.

So I implore you, if you would like to make changes, please be very, very careful.

Thank you.

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A New Comedy

November 28, 2011

University of Oregon President Is Ousted

By TAMAR LEWIN

The Oregon State Board of Higher Education voted Monday afternoon to terminate the contract of the University of Oregon president, Richard W. Lariviere.

At the start of the emergency board meeting, when the chancellor, George Pernsteiner, recommended that Dr. Lariviere's contract be ended as of Dec. 28, the room erupted in boos.

The decision came after a public comment hour in which speaker after speaker implored the board to retain the president, or at least defer the decision.

"This has been a long dysfunctional ride," said Matt Donegan, the board president. "It is heartbreaking to be here right now."

Still, the decision came as no surprise; indeed, news media reports last week said Dr. Lariviere had already been notified that his contract would not be renewed when it expired on June 30. But at Monday's meeting, the board said that last week's discussions were confidential consultations, and that no decision had been reached before the meeting.

At the meeting, the University Senate president, Robert Kyr, presented a petition with 6,300 signatures, asking the board to renew Dr. Lariviere's contract, and saying that his departure would shatter morale and lead many employees to leave the university.

Speakers were passionate about how much Dr. Lariviere had accomplished since arriving at the university two years ago, calling him "the embodiment of hope at the university."

In his own statement, Dr. Lariviere said the university had been impoverished by decades of disinvestment by the state. "The demand for fresh thinking and new models has never been more urgent," he said.

Dr. Lariviere annoyed the board during the last legislative session, when he proposed that his flagship university form its own governing board and become more financially independent of the state.

The board renewed his contract in June, but only for one year — and with several conditions, including that he no longer push for a separate board. Tensions with the board were exacerbated further this year, when Dr. Lariviere gave raises to some administrators and faculty members, at a time when the university system was in the midst of contract negotiations with the union representing clerical and support staff.

Over the weekend, Gov. John Kitzhaber said the board would be “fully justified” in ending Dr. Lariviere’s reign.

“There have been a number of well-publicized incidents involving Dr. Lariviere that have eroded trust and confidence with the Board of Higher Education,” said the governor, a Democrat. “His decision to bypass the board and lobby for increased independence for the University of Oregon was a clear violation of policy and made our larger, collective efforts to advance systemwide reform much more difficult.”

The governor also said Dr. Lariviere’s salary increases “disregarded my specific direction on holding tight and delaying discussion about retention and equity pay increases until the next biennium to allow for a consistent, systemwide policy on salaries.”

Over the weekend, there was an outpouring of support for Dr. Lariviere.

Early Sunday morning, vandals struck the home of Mr. Pernsteiner, the Oregon University System chancellor, with eggs and a spray-painted message, “The Hat,” referring to the fedora Dr. Lariviere often wears. At the university’s football game Saturday, the stadium was decorated with posters and banners saying, “I Stand With the Hat.”

Phil Knight, the chairman of Nike and an important university donor, standing with Dr. Lariviere’s campus supporters, has said the ouster was an “astonishingly bad decision” that amounted to an “application of Oregon’s assisted suicide law.”

Governing Board Membership in Pac-12 and Big-10 Public Universities with Voting Status of Student and Faculty Members

Pac-12 Public Universities

State	Governing Board	Voting Student(s)	Voting Faculty	Institution	Notes
Arizona	Board of Regents (system board)	X		Univ. of Arizona	12 regents: 11 voting, 1 non-voting. Two students serve on the board, one voting and one non-voting. The chair of the Arizona Faculties Council participates as a non-voting partner.
				Arizona State Univ.	
California	Board of Regents (system board)	X		UC-Berkeley	26 regents including 1 voting student and 7 ex officio voting members. In addition, the chair and vice chair of the UC Academic Council are nonvoting members.
				UCLA	
Colorado	Board of Regents (system board)			CU-Boulder	9 regents total
Oregon	Board of Trustees (institutional boards)	X		Univ. of Oregon	11-15 members: 1 voting student; 1 non-voting faculty; ex-officio, non-voting president
				Portland State Univ.	
Utah	State Board of Regents (system board)	X		Univ. of Utah	1 non-voting student, and 3 ex officio
Washington	State Board of Regents (institutional boards)	X		Univ. of Washington	For each board: 10 members, including 1 voting student
				Washington State Univ.	

Source: University and board websites

Big-10 Public Universities

State	Governing Board	Voting Student(s)	Voting Faculty	Institution	Notes
Illinois	Board of Trustees (institutional boards)	X		Univ. of Illinois	13 trustees including 3 students, 1 of whom is a voting member
Indiana	Board of Trustees (institutional boards)	x		Indiana Univ.	9 (IU) or 10 (Purdue) trustees including 1 voting student
				Purdue Univ.	
Iowa	Board of Regents (system board)	x		Univ. of Iowa	9 regents including 1 voting student
Michigan	Regents of the UM MSU Board of Trustees			Univ. of Michigan	8 regents
				Michigan State Univ.	8 trustees
Minnesota	Board of Regents (institutional boards)			Univ. of Minnesota	20 regents consisting of 12 voting members and 8 non-voting students
Nebraska	Board of Regents (system board)			Univ. of Nebraska-Lincoln	12 regents consisting of 8 voting members and 4 non-voting students
Ohio	Board of Trustees (institutional boards)			Ohio State Univ.	19 Trustees including 2 non-voting students and 2 other non-voting members
Pennsylvania	Board of Trustees (institutional boards)	x		Penn State Univ.	32 trustees including 1 voting student
Wisconsin	System Board of Regents (system board)	x		Univ. of Wisconsin Madison	18 regents including 2 voting students

Source: University and board websites

SB 270 List of Bill Drafters

Joint Special Committee on University Governance (Sens. Mark Hass, co-chair, Lee Beyer, Fred Girod; Reps. Michael Dembrow, co-chair, Mark Johnson, Val Hoyle, Sherrie Sprenger; Matthew Donegan; Kay Toran)

Sen. Mark Hass

Rep. Michael Dembrow

Rep. Mark Johnson

Gina Zedjlik, Deputy Legislative Counsel

Dan Gilbert, Deputy Legislative Counsel

Harrison Conley, Senior Deputy Legislative Counsel

Cynthia Byrnes, Senior Assistant Attorney General

Laura Lockwood-McCall, Director of Debt Management, Oregon State Treasury

Doug Goe and Christine Reynolds, Orrick, Herrington and Sutcliffe

Dana Richardson, Director of Legislation, Senate President's Office

Ryan Hagemann, General Counsel, Oregon University System

Randy Geller, General Counsel, University of Oregon

David Reese, General Counsel, Portland State University

Meg Reeves, General Counsel, Oregon State University

Richard Donovan, Committee Administrator, Senate Committee on Education and Workforce Development

Heidi Hall, Chief of Staff, Sen. Mark Hass

