

AGENDA COVER MEMORANDUM

W. S. A.

AGENDA DATE: April 4, 2007

TO: **Board of County Commissioners**

FROM: **Lane County Legislative Committee**
Bill Dwyer
Pete Sorenson

PRESENTED BY: Anthony S. Bieda, IGR Manager

AGENDA TITLE: Report by Legislative Committee
1) Review of Recommendations on Legislative Bills

DISCUSSION: The Board will review recommendations from its Legislative Committee about legislation of interest to the county that is pending before the Oregon Legislature.

ISSUE: The following are recommendations on pending legislation from the Legislative Committee, adopted at its meeting of Thursday, March 15, 2007, for consideration by the full Board:

SB 562 Requires Department of Human Services to award grants for primary medical care home pilot projects. Establishes Primary Care Home Pilot Project Fund. Continuously appropriates moneys from fund to department for purpose of grants. Declares emergency, effective on passage.

Analysis: The Primary Care Home Pilot Project (SB 562) which would provide a mechanism for Community Health Centers of Lane County (CHCLC) to potentially receive between \$500,000 to 750,000 a biennium from the state of Oregon. SB 562 will enhance CHCLC's ability to improve outcomes for patients. This kind of innovation helps to address the current and growing health care crisis.

SB 562 will award grants for pilot projects to test primary medical care home models tailored to individual and community needs. Between 10-15 communities will receive grants. It is estimated that \$7-8 million will be made available. CHCLC would go through a Request for Proposal process. With the exception of matching Medicaid, the State does not have another program to directly support the work of Federal Qualified Health Clinic's with state funding.

CHCLC serves more than 9,000 patients, of which approximately 59% of our patients are uninsured, and 30% are insured through the Oregon Health Plan or other public coverage. The Primary Care Home Pilot Project would allow the CHCLC to build on existing expertise and sustain a robust preventative model of care. This model focuses on patient-centered care, supporting investment in providing patients with accessible, continuous, and coordinated care. It allows us to achieve better outcomes, for example through case management services, reducing emergency room visits, integrated mental health services, and group management of chronic disease.

Recommended Position: Support

SB 583 Requires person who owns, maintains or possesses data that includes individual personal information and is used in person's business, vocation, occupation or volunteer activities to notify individual following discovery of breach of security if personal information is included in data for which security was breached. Specifies notification methods and lists exemptions from notification requirements.

Permits consumer to place security freeze on consumer report if consumer provides certain information and pays any required fee. Specifies time in which consumer reporting agency must place freeze and send confirmation of freeze to consumer. Permits consumer to temporarily lift or permanently remove security freeze by complying with certain procedures. Specifies conditions in which consumer reporting agency may lift or remove freeze. Specifies exemptions from requirement to place freeze. Requires consumer reporting agency to notify consumer of any change in consumer report that has freeze in place. Prohibits person from printing consumer's Social Security number on materials not requested by consumer or part of transaction unless Social Security number is redacted, except in specified circumstances.

Requires person that owns, maintains or possesses data that includes individual personal information to implement security program for data. Specifies requirements for security program. Permits Department of Consumer and Business Services to investigate violations of Act, require filing of statements, administer oaths and affirmations, issue subpoenas and otherwise take evidence for investigation. Permits department to issue cease and desist orders, require payment of restitution or compensation and assess penalty of not more than \$1,000 for each violation. Permits Department of Consumer and Business Services to adopt rules to implement and enforce Act.

Analysis: This is an Anti-identity Theft bill and impacts Lane County in several ways. This bill was reviewed by County Counsel staff, Information Services staff and Human Resources staff. As an organization that "owns, maintains or possesses data that includes personal information," the County would be required to comply with its confidentiality, notification and security system requirements.

It requires that personal information that could be sufficient to permit an individual to fraudulently assume the identity of a client, employee, contractor, or applicant of the County be redacted from our records. That practice is already in place, and would not be a hardship to comply with.

The bill also requires that if our records are illegally accessed, we must inform all persons who are referenced in the records. We would do that in any case, so this is also not a hardship for the County.

Finally, it requires that we develop, implement and maintain appropriate safeguards to protect the security, confidentiality and integrity of the personal information, including disposal of the data. This section of the bill could impact the County financially. In order to be compliant, we would have to purchase and install specific tools into our information systems that we don't have in place now. We would need to install an intrusion detection system on all servers (now only present on our web servers) so that we would be alerted when our system is attacked and an auditing system that collects data from information transactions and tells us exactly what was compromised.

To comply with the bill's provisions, IS may need to reprioritize system upgrades in order to meet the January 1, 2008 deadline. However, this bill sets forth best practice provisions that we need to meet in any case.

Recommended Position: Support

SB 671 Specifies that records created or collected by attorney, or agent of attorney, for public body are public records and not exempt from disclosure unless records include legal advice, opinion or counsel rendered by attorney.

Analysis: The bill was prepared at the behest of Oregon Newspaper Publishers Association. It would severely limit or eliminate the attorney client privilege for governmental clients. The bill is a knee jerk reaction to the decision in Klamath County School Dist. v. Teamey, 207 Or App 250, 140 P3d 1152 (2006). ONPA wrongly believes that decision opened a gap in the Public Records Act that would let the government abuse the client-attorney privilege simply to avoid the disclosure of public records.

Several County Counsels have been working to reach a compromise that does not damage the privilege, in their role as representatives of the Government Law section of the Bar.

The bill requires disclosure of all records created or collected by an attorney or an agent of an attorney except those parts containing ". . . advice, opinion or counsel rendered by the attorney". These records are normally protected by the attorney client privilege.

This bill will seriously impact any attorney, public or private, who does any work for the government. If the government is the client, all of the attorney's files relating to that client are subject to this law. Under this law there would be only a limited or conditional privilege protecting the file from discovery.

The impact of this bill is not limited to attorneys doing work for the government. It would render joint defense agreements (agreements with co-counsel where a private client and the government are on the same side) very difficult, if not impossible. This bill would override any agreement to share information. It may well also force us to engage in formal discovery we have avoided in the past through informal means, which is a much more costly for the client – be it government or private.

It would also mean that records that a governmental body holds which contain confidential or privileged information of private citizens would also no subject to disclosure.

Recommended Position: Oppose

HB 2624 Authorizes governing body of specified cities to submit request that Governor declare emergency directly to Office of Emergency Management rather than submitting request through county.

Analysis: This bill defines a "qualifying city" as a city with a population of at least 50,000. This bill says that, in the event of a disaster, cities with a population of at least

50,000 can request resources directly from the state whereas cities with a lesser population must continue to go through the County.

It is the view of the Lane County Emergency Manager that this bill has the potential for creating chaos during a disaster. Emergencies do not discriminate based on jurisdictional boundaries but rather their impact is spread across entire areas or regions encompassing multiple jurisdictions, both large and small.

Recommended Position: Oppose

HB 2764 Limits number of medium and high risk offenders that may be supervised by parole and probation officers who engage in case supervision.

Analysis: The bill was introduced by the statewide FOPPO organization, the union representing many Parole & Probation Officers in Oregon. It is considered a workload issue. While it would be a good thing to have caseloads with no more than 60 medium and high risk cases, it's not always achievable. If counties could not achieve that, it would put them in violation of the law. This also conflicts with the policy of local control, where the state provides the funding and counties allocate the funding to meet local needs; same practice.

Recommended Position: Oppose

HB 2828 Authorizes parole and probation officer to stop and frisk person based upon reasonable suspicion.

Analysis: Both sections seem to indicate that PO's can stop anyone, not just someone on parole or probation, and in some cases frisk them. That really seems as if PO's are becoming traditional law enforcement officers. Area of concern: If the PO is acting as a law enforcement officer, then all of the rules and regulations surrounding when a stop and a search can occur would apply. PO's foreseeably lose the ability to require supervised offenders to consent to search.

This legislation gives much greater authority to parole and probation officers to stop and frisk persons. This legislation is concerning on a variety of levels, because it would make parole and probation officers much more like peace officers, which may lead to court decisions that they can no longer compel searches of probationers.

Recommended Position: Oppose

HB 3000 Prohibits open field burning, stack burning, pile burning and propane flaming. Requires registration for open burning of agricultural waste. Establishes Open Burning Management Account. Continuously appropriates moneys in account to Department of Environmental Quality for smoke management program. Declares emergency, effective on passage.

Recommended Position: Support