

WINTER 2018

A Publication of the Oregon Fire District Directors Association

The COMMUNIQUE

LEGISLATIVE UPDATES

Governor Brown's New Budget

JANUS JEOPARDY

Public Workers Opting Out of Union Dues

USDA Offers Financing

Programs for Emergency Response Equipment

Meet Our New Board Members

The COMMUNIQUE

A Publication of the
Oregon Fire District
Directors Association

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MISSION

To serve and strengthen through the provision
and coordination of timely information,
education, and legislation.

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LEGISLATIVE UPDATE

By Genoa Ingram

Governor's Budget and Impact on Public Safety Following the November 2018 mid-term election, Governor Kate Brown released her recommended budget for the 2019-20 biennium. At \$23.6 billion, Brown's general fund and lottery budget represents a 12.4 percent increase from the current two-year budget. While the Governor did not specify how the additional revenue would be generated, an increase of approximately \$800 million in new taxes on tobacco and alcohol, is being discussed in addition to other measures.

The Governor's proposed budget for the Office of State Fire Marshal is \$29.5 million, a 26.7 percent decrease from the 2017-19 biennium. The decrease is due to the one-time funding provided by the State to address the 2017 and 2018 fire seasons. Those funds totaled more than \$30.0 million due to the 15 Conflagration Declarations. A proposed \$0.8 billion increase in the Petroleum Load Fee will enable the OSFM to replace aging emergency response vehicles and issue them to regional teams.

OFDDA Weekly Legislative Update: During each Legislative Session, OFDDA provides a weekly update to OFDDA members, our fire service partners, and other interested parties. To make sure you receive these updates, please submit your email address to genoa@ofdda.com and you will be added to the list. You may safely unsubscribe at any time.

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PRESIDENT'S MESSAGE

The theme of the Oregon Fire Service conference this year was "*The Power of Teamwork.*" ***What does that mean to us?*** It means directors who work with their fire chiefs, staff, and paid and volunteer firefighters to provide the best protection they can to the people and property of their district, given the constraints of their individual budgets. **It means thinking outside the box, communicating with surrounding districts, and exploring possible areas where resources can be shared to benefit everyone.** It means learning to use grants that are available for multiple purposes, and using programs available for recovering expenses incurred by your district from those people who have been involved in auto accidents but do not reside in your district.



John Dunn
OFDDA President

A lot of districts are already doing things like this, but some districts are not aware of available resources. Organizations such as OFDDA, OFCA, SDAO, and OSFM are always available to help, with many different available services. We are well respected on national and state legislative levels and **Oregon is a leader in the country for fire service because of the organizations that represent us.**

OFDDA's mission statement is "*to serve and strengthen through the provision and coordination of timely information, education and legislation.*" **That is why it is important for OFDDA to work with our other Oregon association fire service partners.** We should think about how to work together to improve and coordinate our educational programs, legislative services, and communication between our organizations and districts. We need to be prepared to solve the problems that face us today and in the future.

Our goals should be to work together to protect our communities and our people who work in the fire service, to continue to earn the respect and trust of our state and federal legislators, and to keep our voice strong. *That is the power of our fire service team and the power of teamwork.*



Oregon State Fire Marshal with 2019 OFDDA board members (left to right): Oregon State Fire Marshal **Jim Walker**; **John Dunn**, Board President; **Kevin Van Dyke**, 1st Vice President; **Jamel Mercado**, Director Position #4; **Jay Cross**, Director Position #5; **David Burnett**, Director Position #2; **Curtis Hoopes**, 2nd Vice President; **Laura Green**, Director Position #6; **Don Thompson**, Immediate Past President/Director Position #1; **Scot Breeden**, Director Position #3.

Meet the New Board Members

David Burnett, Director - Position #2 Chiloquin Fire & Rescue



David has been the Board President for Chiloquin Fire and Rescue for three years and has approximately 11 years in the fire service. He was voted "Rookie of the Year" when he was 69 as a volunteer for Chiloquin where he began his fire service career and worked for almost six years. For the past ten years he has also been Santa for the Fire District and Ambulance Service. In addition, David is also Vice Chair for the Klamath County 9-1-1 Emergency Dispatch District and has been newly re-elected to that Board. He is very excited about being elected to the OFDDA Board, and looks forward to serving.

Scot Breeden, Director - Position #3 Sheridan Fire District

Scot began volunteering at the age of 15 in the student program at Sheridan Fire District. For the past 24 years, he has served on the Sheridan FD board of directors. Seven of those years he also served on the local school district board. Scott is self employed and lives in Sheridan with his wife, Judy, and his three beautiful daughters.

Scot is thankful for the opportunity to serve on the OFDDA Board.



Laura Green, Director - Position #6 Canby Fire District



Laura has served on the board of directors for the Canby Fire District for the last six years, and has made it her passion to give back to her community with her service on the board. During this time, she has contributed to hiring a new chief and passing a levy, as well as passing the recent 2018 bond.

Laura served in the US Navy and had family members who served in public service, which increased her desire to give back by helping to provide a safe and secure environment for members of the fire service as well as the citizens of Canby.

LEGISLATIVE UPDATE

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Important Dates at the Capitol:

January 14-16: The Legislature will meet to organize, swear in the Governor and legislators, and announce committee memberships. New bills to be considered in 2019 are also anticipated to be made available.

January 18: The Special Districts Association will hold its SDAO Legislative Day on January 18. Please watch www.sdao.com for information and registration.

January 22: The 80th Legislative Assembly will convene Tuesday, January 22, 2019.

May 23: Fire Service Day at the Capitol. This year, Fire Service Day will be coordinated by the Oregon Fire Chiefs Association. This event is a favorite among legislators and is an excellent opportunity to showcase all facets of the fire service. Please plan to attend.

June 30: Under the Oregon Constitution, the legislature may last 160 days in odd-numbered years and therefore must adjourn by June 30. Between January 22 and June 30 there will be a number of deadlines for proposed legislation to be scheduled and heard.

Should you have questions regarding the legislative process or proposed legislation, please do not hesitate to contact me at **800-223-9708** or via email at genoa@ofdda.com.



OFSOA Update

By Julie Spor, OFSOA President Sisters-Camp Sherman Fire District

The Oregon Fire Service Office Administrators (OFSOA) is an educational and networking organization for administrative personnel serving Oregon Fire Service agencies - from Fire Chiefs and Administrative Assistants to Entry Level Clerk positions. OFSOA has approximately 176 current members within five different regions around Oregon.

We held our annual conference in Bend in October and provided some great training for your district's staff members who were able to attend. I would like to thank the fire chiefs and directors of each agency who support their staff's involvement in OFSOA and their attendance at these important training and networking events. Scholarships are available for districts who may need assistance with funding. For more information regarding scholarship opportunities, please email scholarships@ofsoa.com.

Our next event will be our spring workshop on April 18 and 19, 2019, in Albany, and our fall conference will be at the Grand Hotel in Bridgeport on October 16-18. More information regarding each of these events will be available on our website or in the member newsletter after the first of the year.

We have a member [email news-blast](#) which can be used to request information from other districts or share information and resources with other districts. Many of your districts already use this resource. If your district does not have a membership with OFSOA, or you would like more information regarding membership, you can visit our website at www.ofsoa.com and click on "join."

If there is anything OFSOA can do for you, please don't hesitate to get in touch with me.

Wishing you all a very Merry Christmas and a Happy and Safe New Year!

The **SDAO Consulting Services Program** has been a service of our association since 2007 and has assisted nearly every special district in the state through trainings, problem solving, advising, and other consulting services. Our mission is to provide members with assistance in making sound management and policy decisions that are in alignment with best practices and state law. As a result, districts operate more proficiently, with less conflict and liability exposure, providing more resources for their specific service.

It is our vision to be the premier choice and first call by members for exceptional consulting services. To ensure that we are more readily available to our members we recently onboarded Shanta Carter, our new program assistant. Shanta came to us with valuable experiences that will benefit the growth of our program as we begin to streamline processes to make us more efficient and available to our members. Our consultants can assist your district in various ways including the following:

- Organizational Assessments
- Management Recruitment
- Basic Planning
- Board Practices Assessment
- Board Training
- Special Projects



Member districts are eligible for up to eight hours of services provided by our consultants. After this time is exhausted, members will have the option of continuing at an hourly rate.

For more information about the Consulting Services Program, please contact Shanta Carter at scarter@sdao.com or **800-305-1736**.

Length of Service Award Program

The Length of Service Award Program (LOSAP) was developed as a recruitment and retention program for volunteer personnel and serves as one way in which districts can say “thank you” to its volunteer staff. Districts are able to make contributions on behalf of its volunteers into this deferred compensation plan; volunteers who vest in the program are then eligible to receive those contributed funds after separating from service. It is also possible for volunteers experiencing financial hardship to access a portion of those funds while still in service.

An exciting update to the LOSAP plan was provided by the federal government when it increased the maximum yearly contribution from \$3,000 to \$6,000 per participant per year beginning with taxable years after December 31, 2017.

Although some people have referred to this as a “retirement plan” for volunteers, it is important to note a few important features of the plan:

- Access to the contributed funds is not age-dependent; volunteers who have vested in the program and have been separated from the district for at least six months can access the funds regardless of the volunteer’s age.
- There is no required minimum distribution—vested, separated volunteers can leave the funds in their investment accounts for as long as they wish.
- Districts are not required to make contributions. The plan is designed so that contributions to LOSAP accounts are strictly voluntary.

The Oregon Fire District Directors Association is proud to administer the LOSAP plan in Oregon. It is an honor to oversee this valuable recruitment and retention tool. If you are interested in establishing a LOSAP plan at your district or would like a refresher on your existing plan, please contact the OFDDA office.

USDA Offers Financing for Emergency Response Equipment

Replacing old and outdated emergency equipment is often challenging for small, underfunded communities in rural areas.

Fortunately, there are programs through the U.S. Department of Agriculture (USDA) Rural Development that can help provide these necessary funds. The Community Facilities **loan and grant program** and **loan guarantee program** can provide financing to help rural communities with populations of 20,000 or less to purchase emergency equipment such as ambulances, fire trucks, protective gear, medical equipment, communications equipment, and more.

Smaller communities with limited financial resources and a population of 2,500 or less will receive priority for these funds. Interested communities can get more information from <https://www.rd.usda.gov/programs-services/all-programs/community-facilities-programs>.



JANUS JEOPARDY

By Diana Moffat, Labor Lawyer, Local Government Law Group, PC

It has been just over four months since the US Supreme Court issued the decision, in *Janus v. AFSCME*, 585 U.S. ___ (2018), which shot down forced union fees for public sector workers. The justices said the “fair share” fees imposed on government workers in a collective bargaining unit who choose not to join the union representing them violate those workers’ constitutional free speech rights. In essence, the ruling made it illegal to require union dues payments from public sector employees who choose to not be a member of the union (as fair share employees), even though they still remain part of the bargaining unit and therefore still benefit from the provisions of any applicable Collective Bargaining Agreement (CBA).

So now, let’s play Jeopardy, with Alex, and see if you can prevail!

Janus for \$200:

ANSWER: In addition to Fair Share payments, by implication these forced payments are also no longer being enforced.

QUESTION: What are forced Religious Objection payments under ORS 243.666?

EXPLANATION: It seems to be fairly unanimous, amongst employer labor representatives and union representatives that an employer, and union, should no longer require an employee who holds an objection to union membership based on “bona fide religious tenets or teachings of a church or religious body of which such employee is a member” to “pay an amount of money equivalent to regular union dues and initiation fees and assessments, if any, to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the representative of the labor organization to which such employee would otherwise be required to pay dues.” (ORS 243.666)

Janus for \$400, Alex:

ANSWER: If you are in the midst of a current Collective Bargaining Agreement (CBA), you should have reached agreement with your union to do, at least, these two things.

QUESTION: What is a mid-term Memorandum of Understanding (MOU) to bring our CBA language into compliance with the Janus ruling by removing Fair Share and Religious objection withholdings, as well as to make

sure that we have copies of all employee withholding authorization forms?

EXPLANATION: Under the Janus ruling Fair Share, and probably Religious objection, withholdings are no longer allowed. In addition, despite some controversy from the unions, it is a best practice to make sure that you have copies of actual withholding authorizations from each employee for whom you are deducting union dues. This does not mean that previous authorizations are no longer valid. It simply means that you have an affirmative duty to make sure that you have written authorization from each employee to make union dues/fees deductions from their wages. See an advisory issued by the Attorney General in Oregon: https://www.doj.state.or.us/wp-content/uploads/2018/07/AG_Advisory_on_Janus_Decision.pdf

“The Janus opinion only applies to the payment of an agency service fee by individuals who decline union membership. The Janus decision does not impact any agreements to pay union dues between a union and its members to pay union dues. Existing membership cards or other agreements by union members to pay dues should continue to be honored.”

Janus for \$800, please:

ANSWER: This kind of language is between the employee and the union and should not be included in your CBA or MOU.

QUESTION: What is the union proposed language to prohibit an employee’s ability to change their union dues status during the life of the CBA?

EXPLANATION: Many unions are now proposing to limit an employee’s ability to change their membership status to a non-dues paying status during the life of the applicable CBA. There are some pre-Janus cases that would support the union’s ability to bargain for such a provision. However, in light of the Janus decision, such provisions should be met with caution from the employer. Many employers, therefore, are taking the position that they are not required to bargain for such a limitation during a mid-term MOU bargaining process to address the Janus impacts, as such a limitation is beyond the scope of the impact bargaining resulting from Janus. They are inclined to process any employee request to change their membership status, to join or unjoin, with reasonable payroll notice, so long as there is no current CBA language to the contrary.

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If, however, you are in the process of bargaining for a successor CBA, this subject would likely be considered to be a mandatory subject of bargaining – one which you must bargain with the union about. That, however, does not change the underlying fact that these types of limitations, placed on an employee's ability to change his/her union paying status, is an infringement on employee rights under collective bargaining law. Therefore, they should still be addressed, and acquiesced to with caution. If you do agree to such a limitation, that agreement should be coupled with very strong assumption of liability language for any resulting legal claims brought against the District by an employee.

Janus for \$1,000:

THIS IS THE DAILY DOUBLE!
HOW MUCH DO YOU WANT TO WAGER?

ANSWER: In this State, the Governor recently signed an Executive Order which removed the union's obligation to provide services to non-member (non-dues paying) employees.

QUESTION: What is the State of New York?

EXPLANATION: Governor Cuomo signed an Executive

Order which, amongst other things, provided that "members who pay union dues will receive certain benefits and services, and unions - while they serve the interests of all workers in bargaining units they represent - cannot be forced to provide full benefits of membership to those who do not pay for them". Oregon has NOT done that. In Oregon, unions have an obligation under current Oregon law to provide services to non-member employees. The unions are bound by the duty of fair representation: it must represent all employees covered by its Collective Bargaining Agreement equally, regardless of whether they are dues paying members or not. Therefore, employers should still involve the union, as they would have previously, in CBA matters regarding all covered employees.

If you have any questions regarding your Janus obligations, please email our labor lawyers, Diana Moffat and Mark Wolf.



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