

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	6 - 2 - 1
Yeas:	Barker, Bonamici, Flores, Komp, Read, Macpherson
Nays:	Cameron, Whisnant
Exc.:	Krieger
Prepared By:	Matt Kalmanson, Counsel
Meeting Dates:	3/29, 4/30

WHAT THE MEASURE DOES: Establishes that public high school student journalists have the right to exercise freedom of speech and press in school sponsored media. Establishes that school-sponsored media produced by public college student journalists are “public forums for expression by the student journalists” and are not subject to review by school administrators prior to publication. Permits high school and college student-journalists to determine the content of school-sponsored media, unless it is: (1) libelous or slanderous; or (2) constitutes an unwarranted invasion of privacy. Prohibits expression by high school student-journalists that might create a clear and present danger of the commission of unlawful acts on school premises, the violation of school policies, or the material and substantial disruption of the orderly operation of the school. Authorizes students to bring civil actions for damages, injunctive or declaratory relief, for violations of the Act, the First Amendment or Article 1, sec. 8 of the Oregon Constitution. Permits awards of \$100 in damages to a prevailing plaintiff.

ISSUES DISCUSSED:

- Censorship of school-sponsored media
- Importance of an independent student press
- Role of journalism teachers and advisors
- Federal and state free expression law
- Uncertainty of Oregon free expression doctrine because cases become moot
- Needs of schools to protect students and preserve educational mission
- Editorial control of private newspapers

EFFECT OF COMMITTEE AMENDMENT: Deletes provision permitting student control over content of advertising. Deletes allowance for attorney fess in civil remedies provision. Deletes immunity for school officials or school boards for expression published by student journalists in school sponsored media. Permits awards of damages in civil remedies provision. Clarifies that college journalists may not publish content that is libelous or slanderous, or constitutes an unwarranted invasion of privacy.

BACKGROUND: An often-quoted principle of constitutional law is that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 506 (1969). This principle has limits, however. The Supreme Court also has concluded that schools have legitimate interests in deterring disruptive forces within the school environment and ensuring that students do not interfere with the school’s basic educational mission, thus the expressive rights of students are not the same as the rights of adults in other settings. *See, e.g., Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988); *see also Ali Jamshidnejad v. Central Curry School District*, 198 Or. App. 513, 522 (2005). In addition, schools may “dissociate” themselves from student expression – put differently, not “promote” particular speech – if their actions are reasonably related to a legitimate educational concern. Thus a school may exercise editorial control over a school newspaper to ensure that it is not biased or prejudiced, vulgar or profane, or unsuitable for immature audiences, without running afoul of the First Amendment. HB 3279 A would limit a school’s authority to exercise editorial control over school-sponsored media more than is required by the First Amendment.

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This summary has not been adopted or officially endorsed by action of the committee.