

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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**Action:** Do Pass as Amended and Be Printed Engrossed

**Vote:** 3 - 2 - 0

**Yeas:** Prozanski, Walker, Burdick

**Nays:** Beyer, Kruse

**Exc.:** 0

**Prepared By:** Matt Kalmanson, Counsel

**Meeting Dates:** 5/29, 5/30

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**WHAT THE MEASURE DOES:** Establishes that public high school and college student journalists (“student journalists”) have the right to exercise freedom of speech and press in school-sponsored media. Permits student journalists to determine the content of school-sponsored media, unless it is: (1) libelous or slanderous; (2) constitutes an unwarranted invasion of privacy; (3) violates federal or state statutes, rules or regulations or state common law; or (4) might create a clear and present danger of the commission of unlawful acts on or off 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 and licensing law
- Uncertainty of Oregon free expression doctrine because cases become moot
- Needs of high schools and colleges to protect students and preserve educational mission

**EFFECT OF COMMITTEE AMENDMENT:** Deletes provision establishing 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. Deletes prohibition on firing or disciplining a student media adviser for failing to suppress the protected expression of students. Permits regulation of speech that violates federal or state statutes, rules or regulations or state common law. Permits regulation of speech of college journalists that might create a clear and present danger of the commission of unlawful acts on or off school premises, the violation of school policies, or the material and substantial disruption of the orderly operation of the school.

**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 determined that schools have legitimate interests in deterring disruptive forces within the school 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 B would limit a school’s authority to exercise editorial control over school-sponsored media.

6/7/2007 9:09:00 AM

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