

HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

May 15, 2003 Hearing Room E
1:30 PM Tapes 60 - 61

CORRECTED COPY
AUG. 19, 2003

MEMBERS PRESENT: Rep. Dan Doyle, Chair
 Rep. Linda Flores, Vice-Chair
 Rep. Laurie Monnes Anderson, Vice Chair
 Rep. Vic Backlund
 Rep. Phil Barnhart
 Rep. Betsy L. Close
 Rep. Joanne Verger

STAFF PRESENT: Cara Filsinger, Administrator
 Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: HB 3130 – Public Hearing and Work Session
 HB 3627 – Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
Tape 60, A 004	Chair Doyle	Calls meeting to order at 1:33 p.m., announces order agenda items will be considered, and opens a public hearing on HB 3130.
<u>HB 3130 – PUBLIC HEARING</u>	Chair Doyle	Advises members that the HB 3130-1 amendments are before the committee (EXHIBIT A).
	Joe Gilliam	Oregon Grocery Industry Association. Explains that the flavored malt beverages are different than beer, wine, or other kinds of alcohol. The federal government has advised the Oregon Liquor Control Commission (OLCC) that these beverages may not be in compliance with state statutes. They are looking for a resolution as the federal government considers a new regulation to be used nationwide. It will only be a guideline on the states; it will be the market rule. They are looking for a solution to get through the time until the federal government will act to propose a new rule. They will then come back to ask that the standard be adopted. This will keep the products on the shelves until that happens. States they do not know when the rule will be adopted and have reached an agreement with others (EXHIBIT B), and states that the amendments should be arriving from Legislative Counsel shortly.
040	Mark Nelson	7-11 and Anheuser Busch. Notes that his clients are in conflict over this issue. Submits list of definitions (EXHIBIT C) and states after review by OLCC and the federal government they have determined there is a violation of the definition of alcoholic beverage. States they are faced with removing the products from the stores. Their goals was to find a way to allow malt-based products to be sold in the grocery store and at the same time establish and continue to establish the very clear line of what is distilled spirits and what is not. States that the federal

		rulemaking controls federal taxation. Comments on enforcement. States they have come to an agreement on the December 31, 2004 date. States that 7-11 supports that date and Anheuser Busch wants to make it clear that they are willing to comply with OLCC statute that requires them to reformulate their product to bring it below one-half of one percent so it is a malt beverage. States they will support this in the Senate unless an amendment is added that would affect the compromise.
084	Rep. Monnes Anderson Nelson	Notes the discrepancy in the date on the HB 3031-1 amendments.
		Explains that their proposed amendment has not arrived; the date will be December 31, 2004.
098	Chair Doyle	Closes the public hearing on HB 3101 and asks the committee to stand at ease at 1:42 p.m.
101	Chair Doyle	Reconvenes the meeting at 1:52 p.m. and opens a work session on HB 3130.
<u>HB 3101 – WORK SESSION</u>		
118	Chair Doyle	Advises members that the new amendments will not be completed by Legislative Counsel today and that the committee will go forward with a conceptual amendment to the HB 3130-1 amendments to change the date.
128	Rep. Flores	MOTION: Moves to SUSPEND the rules for the purpose of conceptually amending the HB 3130-1 amendments.
130		VOTE: 7-0-0
	Chair Doyle	Hearing no objection, declares the motion CARRIED.
130	Rep. Flores	MOTION: Moves to AMEND the HB 3130-1 amendments in lines 11 and 12 by deleting “July 1, 2005” and inserting “December 31, 2004”.
142		VOTE: 7-0-0
	Chair Doyle	Hearing no objection, declares the motion CARRIED.
143	Rep. Flores	MOTION: Moves to ADOPT HB 3130-1 amendments dated 5/5/03 AS AMENDED.
146		VOTE: 7-0--
	Chair Doyle	Hearing no objection, declares the motion CARRIED.
148	Rep. Flores	MOTION: Moves HB 3130 to the floor with a DO PASS AS AMENDED recommendation.
155	Rep. Barnhart	Asks what happens if the federal government comes up with their rules before December 31, 2004.
158	Gilliam	Responds they don’t know what the date will be. Comments on what the federal government might do.
169	Rep. Monnes Anderson Mark Nelson	Asks what the tax is on malt and alcoholic beverages.
		Explains there are state and federal taxes. Explains how taxes are applied to different products.
200		VOTE: 7-0-0
	Chair Doyle	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.

205	Rep. Doyle	MOTION: Moves HB 3130 be placed on the CONSENT CALENDAR.
	Chair Doyle	VOTE: 7-0-0 Hearing no objection, declares the motion CARRIED.
211	Chair Doyle	Closes the work session on HB 3130 and opens a public hearing on HB 3627.
<u>HB 3627 – PUBLIC HEARING</u>		
217	Sen. Frank Morse	District 8. Testifies in support of HB 3627. Cites statistics on spending increases from 1992-2000 and the ranking of state and local spending in Oregon with other states
260	Sen. Morse	States that the increases have come to haunt us today. Asks what should drive our fiscal decisions---resources and revenues, or demand. It is a combination of both. We are looking at changing that dynamic of current service level funding to what funds are available and working within the context of those funds.
280	Sen. Morse	Comments on shift of funding sources for schools. K-12 was making decisions without knowing what their resources were going to be. The intent of HB 3627 is to change that dynamic so the programs are operating with the resources that are available.
300	Sen. Morse	Comments on commitments and agreements that have been made during a time of declining revenues; it has been business as usual. This bill would still allow and provide for collective bargaining, but it would be in the context of what is available from the state. States it is a policy shift.
320	Rep. Monnes Anderson	Comments that smaller school districts cost more and believes the most expensive are in the rural areas.
354	Rep. Flores	States that Sen. Morse said that Oregon ranks 49 th highest in spending. Ask which state was higher.
	Sen. Morse	Responds that he will provide excerpts from the study.
370	Rep. Backlund	Comments that the bill would mandate that the contracts not be longer than two years.
	Sen. Morse	Responds that it would take some time to get into a cycle but cannot understand how commitments can be made before they know what they will get from the state. States there are issues in collective bargaining agreements that can extend beyond two years and he does not see this bill as a way to undermine collective bargaining.
420	Rep. Verger	Comments it is unfair to the schools because they try to run the schools like a business. When they don't know what they are going to have, it makes it difficult for them to look efficient and then they are criticized. Comments on piecemeal legislation and states there are declining school enrollments in some schools and growing enrollments in others and is very much in favor of letting schools know what they have to spend.
459	Sen. Morse	States he shares Rep. Verger's frustration.
TAPE 61, A 014	Rep. Backlund	States the bill pertains to state government and school districts. Asks if Sen. Morse deliberately excluded counties, cities, and special taxing districts.
	Sen. Morse	States he did intentionally exclude those units because they do not have the degree of dependence upon state financing.

	Chair Doyle	Asks Sen. Morse what he envisions a school district doing under this bill.
033	Sen. Morse	States he does not know how the collective bargaining process works and understands it would create a hardship by all the districts being in the same cycle; there would be some adjustments and challenges to manage this. A host of things can be done but before the final decisions are made the resources should be known.
051	Rep. Barnhart	Comments that a number of districts have deferred compensation programs. Asks how this bill would affect those programs.
	Sen. Morse	States he does not know. Comments the districts that have those commitments will honor them.
078	John Marshall	Oregon School Boards Association (OSBA). Testifies in opposition to HB 3627. States that they appreciate Sen. Morse's efforts to try to get a handle on the question that schools face every two years when the legislature is in session, i.e. having to balance a budget without knowing what the legislature's decision will be on school funding. Believes the driving factor behind how school districts operate from a budgetary sense is the requirement that they have a balanced budget and the budget must be in place by July 1.
098	Marshall	States that most collective bargaining agreements have provisions that allow them to adjust based on the realities of existing revenue. State that in the bargaining process the question asked is what if the funding doesn't come in at the level they are anticipating. They generally agree to have a provision in the contract to go back and reconsider that.
118	Ron Wilson	Director of Human Resource Development, OSBA. States that the funding clause in a contract is a technical term for a variety of clauses that allows either party to reopen an agreement and renegotiate. That is common in contracts renegotiated over the last couple of years. The most common funding adjustment mechanism has been to have contract duration of two, three, and sometimes four years, but the economic provisions are not that long. Part of the agreement is that there will be an annual or every other year negotiation of the economics. Those re-openings are not uncommon. Explains there are a variety of mechanism that unions, management, and school districts have been able to use to adjust to this.
143	Wilson	States that HB 3627 would require contracts to be for two years. The bargaining process could take 9 to 12 months. The impact of having to do all contracts every two years at the same time is staggering. There could be 356 or more contracts being negotiated simultaneously in the state. The bill would stretch resources for negotiating contracts quite thin.
189	Wilson	Presents paper on recent settlements (EXHIBIT D) .
245	Chair Doyle	Asks why the bill would limit contracts to two years.
	Wilson	Responds it is in Section 2(3). States they could not negotiate an agreement before the biennial appropriation by the legislative assembly to the Department of Education.
	Chair Doyle	Comments that Sen. Morse indicated that some issues in agreements do not spend funds or do not rely on state funds. Asks if those things could be negotiated in advance for more than two years.

272	Wilson Rep. Doyle	Responds that the language does not reflect that. Asks if the term “related to wages or benefits” would satisfy the concern.
	Wilson	Responds that the same kind of language is in the agreements now. Explains how contracts are written containing contingencies.
	Chair Doyle	Comments on advantages of having resolutions of bargaining agreements.
	Wilson	Comments that the legislature sets the rules and they follow them.
390	Rep. Flores Wilson	Asks if “negotiate” and “execute” are different. Responds yes. Believes “execute” would mean ratify and sign the agreement.
	Rep. Flores	Asks if they object to negotiations beginning prior the final appropriated funds.
	Wilson	Responds no. Comments on timing of negotiations and the need for flexibility.
461	Marshall	Comments that the idea of separating the economic and non-economic issues would be resisted. Comments on the bargaining process.
TAPE 60, B 005	Tricia Bosak	Oregon Education Association (OEA). Testifies in opposition to HB 3627. Supports testimony by OSBA and states that collective bargaining agreements can run for varying durations, two to four years. They also feel that HB 3627 would put them in a perpetual bargaining situation. The tradeoff between economic and non-economic issues is a very important dynamic at the bargaining table. They also believe the bill would force a two-year agreement, and everybody could be in a crisis if all the agreements are due at one time. States that the bill also further complicates the requirement for districts to adopt the budget by June 30. The districts would not know what they were going to fund in the bargaining agreements. Comments on changes affecting the pay and benefits of teachers.
068	Tricia Smith	Oregon School Employees Association (OSEA). Testifies in opposition to HB 3627. States she agrees with everything that has been said. Adds that school employees all over the state have been stepping up to the plate every since the economy went south, particularly classified employees. These people work two and three jobs to pay the rent; they do not have excessive salaries. Thinks this would be complicated for everyone.
093	Mary Botkin	American Federation of State County and Municipal Employees (AFSCME). Explains that Ken Allen will speak for AFSCME.
108	Ken Allen	AFSCME Executive Director. Submits flow chart of collective bargaining process (EXHIBIT E). Comments that he has been bargaining contracts in the public and private sectors for 29 years and has been the AFSCME spokesperson for all state government contracts since 1992. Comments on history of contracts with the state. States that laws should be drafted for the good times and bad times. Reaching settlements is more of an art than a science.
	Allen	States that he is the leader in negotiations and he has been preparing members for a settlement that does not include wage increases. Thinks a settlement prior to June 30 can help the state

agencies and this body come to what needs to be done about funding. This would create a barrier where, unless there is a guarantee that all agency budgets are decided before June 30, they could not make an early settlement. AFSCME has only had one agreement beyond two years since 1977. Believes long-term agreements are good. Contracts with the state all expire on June 30.

180 Allen States that after the previous five-year wage freeze, many classifications were significantly behind. Comments on recruitments of employees by other states. If there is another couple years of a wage freeze there will be some classifications that will have significant recruitment and retention problems because the market will not have gone through the same wage freeze that state workers will have gone through.

197 Rep. Close Asks what pay increases the private sector was offering during the 1990s when the state was offering three percent.

206 Allen States they represent about 1,000 private sector workers and is therefore only aware of those. States they have had no increase larger than three percent; they have averaged two to two and one-half percent, but there was five years of zero increase.

215 Rep. Barnhart Asks if Allen can comment on the interaction of economic and non-economic issues.

Allen Responds that non-economic issues do not cost anything and those are bargained first. Things such as rest breaks are economic items and paid time off is an economic item. States since they are going to end up with a wage freeze they are going to try to improve their contract language, which has a non-economic cost to the employer but provides more security to the employees.

Rep. Barnhart Comments that no money changes hands, but there is a cost in productivity.

Allen States the issues could cross over and save money. States they are also very active on health issues and that reduces the workers' compensation costs.

230 Rep. Flores Asks if AFSCME also represents the prison employees.

Allen Responds that they represent all the prison employees except the physicians. Adds that they only organize the Mental Health physicians.

Rep. Flores Asks what the salary is of the physicians that are being recruited by Idaho.

Allen Responds they were at about \$80,000 a year several years ago, and are at about \$120,000 a year. It is a low figure for psychiatrists compared to what they could get outside state service, but they don't have to pay medical liability insurance.

Rep. Flores Asks if a benefit package is attached to the compensation.

Allen Responds that the only thing tied to their wages is their PERS benefit.

270 Rep. Verger Comments that AFSCME was the most cooperative when their municipality reached hard economic times. Asks what the difference is between having the money in hand and knowing the ball park figure.

281 Allen States that local governments usually do not have their budgets done until May or early June so they don't know their exact

291	Botkin	figure. Adds that parties that are used to working together can work out collective bargaining settlements even though the exact figure is not known if all parties are reasonable. Comments that most of their budgets have not had a current service level figure to work with for about three or four biennia. Comments on efforts last session to recapture savings in the budgets to keep service available to the inmates and staff as much as possible.
312	Chair Doyle	Closes the public hearing on HB 3627 and adjourns meeting at 3:02 p.m.

EXHIBIT SUMMARY

A – HB 3130, HB 3130-1 amendments, Rep. Doyle, 1 p

B – HB 3130, enforcement options, Joe Gilliam, 1 p

C – HB 3130, definitions, Mark Nelson, 1 p

D – HB 3627, settlement data, Ron Wilson, 4 pp

E – HB 3617, flow chart on bargaining process, Ken Allen, 1 p