

HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

May 22, 2003 Hearing Room E
1:00 PM Tapes 64 - 65

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: Introduction of Speaker-Approved committee bill – Work Session
 Speaker-approved drafting requests – Work Session
 HB 3328 – Work Session
 HB 2931 – 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 64, A 004	Chair Doyle	Calls meeting to order at 1:10 p.m., announces order agenda items will be considered, and opens a work session for introduction of Speaker-approved drafting requests.
<u>SPEAKER-APPROVED DRAFTING REQUESTS – WORK SESSION</u>		
011	Rep. Flores	MOTION: Moves that the committee approve LC DRAFTING REQUESTS (EXHIBIT A) and (EXHIBIT B).
021	Chair Doyle	VOTE: 6-0-1 EXCUSED: 1 - Rep. Close Hearing no objection, declares the motion CARRIED.
022	Chair Doyle	Closes the work session on Speaker-approved drafting requests and opens a work session on introduction of Speaker-approved committee bill.
<u>INTRODUCTION OF SPEAKER-APPROVED COMMITTEE BILL</u>		
025	Rep. Flores	MOTION: Moves LC 3631 BE INTRODUCED as a committee bill.
029	Rep. Barnhart	Asks if this measure would establish a program like PEBB for education. Comments he likes the chance to consider the measure.
033	Chair Doyle	VOTE: 6-0-1 EXCUSED: 1 - Rep. Close Hearing no objection, declares the motion CARRIED.
034	Chair Doyle	Closes the work session on introduction of Speaker-approved committee bill and opens a public hearing on HB 2931.

HB 2931 – PUBLIC HEARING

035	Larry Niswender	Legislative Fiscal. Submits information on vacant positions in state government (EXHIBIT C). Explains the information he has presented.
052	Chair Doyle	Explains the reason the bill was introduced. Explains reports that were provided during the interim. States the legislature is getting information that shows that a number of vacancies exist. Questions what the legislature should do as policy, whether the position should be abolished and removed from the budget after a period of time for purpose of budget management and truth in budgeting.
077	Niswender	Explains that the vacant positions are often used for unbudgeted expenses. States their office is currently going through a detailed process of reviewing vacant positions that currently exists and budgeted in 2003-05 to see which ones will be recommended to be eliminated. Explains the review being done by the Ways and Means subcommittees in review of the agency budgets.
097	Niswender	States that HB 2931 would provide a structure that would abolish a vacant position and funding for the position after four months. Explains that the allotment is the method used by the Department of Administrative Services (DAS) to let agencies know how much of their budget they can spend.
102	Chair Doyle	Comments that one of the big concerns with this bill is that federal funds might be linked to the positions.
	Niswender	States there are workload fluctuations. If there are federal funds the match can be 50-60 percent. If positions were abolished when the funding and workload exists, it would require some kind of action.
125	Rep. Monnes Anderson	Gives examples of vacant positions in local governments and the time needed to recruit to fill the positions. Asks if this bill would abolish a position while recruitment is being done to fill the position.
	Niswender	Responds that positions could be abolished while a lengthy recruitment is going on; it may increase instances where the agencies would have to come to the Emergency Board during the interim.
160	Rep. Barnhart	Asks for description of how a position comes into being and goes away without this bill.
	Niswender	Explains the process of agencies requesting positions in budgets that are approved by the legislature. Comments on limited duration positions approved in the interim by the Emergency Board.
	Rep. Barnhart	Asks how positions go away.
	Niswender	Responds it is by budget; the interim Emergency Board can only approve the creation of temporary positions; they cannot abolish positions.
201	Rep. Barnhart	Asks how funds can be used for something other than what they were appropriated for, and what kinds of reports are made.
	Niswender	Explains that when agencies submit their biennial budget requests, budget history is also provided. It is a matter of what detail is wanted beyond what is in the budget notebook.
251	Rep. Close	Comments that the reports shows about 20,500 positions are subject to the hiring freeze and other positions are not subject to the hiring freeze because they are "other funds." Asks if that is

	Niswender	correct. Responds affirmatively. States that when the hiring freeze was established in June by the governor it was for positions that were either General Funded, lottery funded, or by some portion of those funds.
	Rep. Close Niswender	Comments there are a lot of positions being advertised. Responds that is correct, and the agencies have to apply certain criteria when deciding whether they are subject to the freeze or able to hire.
306	Rep. Close Niswender	Asks Niswender to talk about double fills. Explains shifting of staff and having more than one staff assigned to the same position.
302	Rep. Close Niswender	Asks how many double fills there are. Responds that at end of January there were approximately 200 double fills statewide.
	Rep. Monnes Anderson Niswender	Asks what "executive department" means. Comments on lack of physicians and nurses in Corrections. Reads definition of executive department; Corrections would be included.
342	Rep. Backlund Niswender	Asks if there are more vacancies now than years ago. Responds that generally there is about a one percent statewide vacancy factor. The hiring freeze and reduction of the General Fund were factors, and there were a number of retirements; it is higher than normal.
371	Chair Doyle Cindy Becker	Explains that he requested Niswender to be here to provide background only, not as a proponent or opponent of the measure. Department of Administrative Services. Testifies in opposition to HB 2931. Believes the bill will have the opposite effect of what is intended. If agencies feel they are going to lose a position, they will fill it. With combination of the hiring freeze, layoffs, and people leaving due to PERS changes, agencies are not able to do planning. The larger issue is changing the system and how we do business. This bill takes away any flexibility by agencies to manage the system.
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022	Rep. Flores Becker	Asks what effect the reduction is having on the workload. Comments on herself filling three positions. People have to assume responsibilities and get the bare minimum done. People with extensive knowledge are leaving. People come to work with the best of intentions to get the work done. They are trying to figure out what fire to put out and that is not the way they want to manage state government.
042	Rep. Flores Becker	Asks if there is a decrease in efficiencies and the level of service. Responds that we must separate the people and the system. People are putting everything they possibly can toward their jobs. Thinks there are some antiquated systems and some paper intensive systems that people are trying to wade through.
052	Chair Doyle Becker	Comments on agencies requesting positions to get money to be used for something other than the actual FTE. Asks how that should be dealt with. Responds that she does not believe than anyone consciously requests positions they know they are not going to use. Adds that agencies are given things that they are not given funding for.

075	Mary Botkin	Cites the lack of funding for collective bargaining and overtime. American Federation of State County and Municipal Employees (AFSCME). Comments that the vacancies at the Corrections Department are rank and file correction officers and program staff. Existing officers are being asked to work double shifts and most do not want to work double shifts because they are not together mentally and physically by the end of the second shift. Vacancies in the State Police are non-uniform staff. Asks how it would be handled if the vacancies are cut unilaterally.
	Chair Doyle	Comments on vacancies at the Military Department. Asks how they are using the money that is being set aside for these positions.
	Botkin	Responds she thinks it is being used for the overtime that is being forced on those who are working. Agencies leave positions vacant and the money is eaten up in a different way.
170	Chair Doyle	Asks if a bill like this would cause the agencies to be more truthful on their overtime issues.
167	Botkin	Responds that she thinks the agency was being straightforward about their overtime needs.
247	Rep. Close	Comments that the number of vacancies in public safety equal 20 percent of the vacancies, yet those agencies are only about 12 percent of the General Fund. Education has two percent of hiring freeze vacancies and they are 58 percent of General Fund. States there are inequalities and public safety has been targeted. It seems more is going on than a budget problem; a political decision is being made. Asks Botkin to respond to her comments.
271	Botkin	Responds she would rather think of it as an omission rather than a political target.
279	Rep. Barnhart	Comments he thinks Rep. Close makes a good point. States that the numbers are only for state employees, not school districts. States that we should be comparing the Department of Education to their General Fund budget, which is about one-third of one percent of the total General Fund budget. The layoff of school teachers is not reflected.
273	Botkin	Comments that bills on collective bargaining will be sent to this committee. States that those bills will complicate the collective bargaining process and yet three positions at the Employment Relations Board (ERB) have been eliminated.
301	Chair Doyle	Closes the public hearing on HB 2931 and opens a work session on HB 3328.

HB 3328 – WORK SESSION

316	Rep. Linda Flores	District 51. Reports back for the workgroup which she chaired. Lists participants and interest groups that participated in the work group. Submits the HB 3328-4 amendments (EXHIBIT D). Ask that Ted Reutlinger, Legislative Counsel, review the proposed amendments.
392	Ted Reutlinger	Legislative Counsel. Explains the HB 3328-4 amendments (EXHIBIT D).
436	Reutlinger	Reviews Section 3 of the proposed amendments (EXHIBIT D).
461	Rep. Verger Rep. Flores	Asks why the group wanted to make the change in Section 3. Reminds Rep. Verger about the testimony that the spouse of a fireman could not attend a dinner without paying, while a girlfriend of a fireman could.

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023	Rep. Verger	Asks if this change would encompass more than the fireman-spouse type of activity.
	Rep. Flores	Responds it does. Suggest that one of the workgroup participants address Rep. Verger's question.
039	Reutlinger	Reviews new language on pages five and six of the amendments (EXHIBIT D) .
073	Reutlinger	Reviews new language on pages 9 and 10.
074	Chair Doyle	Asks if adding the spouse of the person would have a limit of \$100 total or \$100 per person.
	Reutlinger	Responds he thinks it would be \$100 per person.
090	Reutlinger	Explains new language on page 13 of the amendments.
106	Reutlinger	Notes the new language in lines 24 and 25 on page 13 on public records, and explains that the same language is on page 18 because the statute must be double amended.
114	Reutlinger	Explains language starting on page 21, line 27, of the amendment.
129	Reutlinger	Explains new language in Section 8 on page 22 of the amendments.
152	Reutlinger	Explains new language in lines 8 and 9 on page 23.
163	Rep. Monnes Anderson	Asks if all lobbyists have to register.
	Reutlinger	Explains the requirements for registering as a lobbyist.
176	Rep. Monnes Anderson	Asks what is involved when a lobbyist registers.
	Reutlinger	Responds the requirements are in Section 10 on page 23; explains the requirements.
289	Rep. Monnes Anderson	Asks if lobbyists must pay a fee when registering.
	Reutlinger	Responds that the legislature passed a lobbying fee but the court ruled that to be unconstitutional.
194	Reutlinger Chair Doyle	Explains the new language on page 25 of the amendments. Asks that Reutlinger comment on executive sessions being exempt from disclosure as public records and how this amendment relates.
210	Reutlinger	Explains provisions in Sections 11 and 12 and on page 26 in line 12.
234	Chair Doyle	Comments that if there is a complaint about an executive session, the reporting would go to the commission and the information would not be allowed to be disclosed.
238	Reutlinger Rep. Close	Responds that is the way he understands this would work. Asks if caucus meetings are considered executive sessions and would that mean that caucus meetings would be electronically recorded.
	Reutlinger	Responds he does not think the caucuses would be required to be recorded. States the legislature is subject to different rules for public meetings because those requirements are in the Constitution.
	Reutlinger	Explains new language on pages 26, lines 24 through 27.
258	Reutlinger	States that the new language on pages 27, 28, and at the top of page 29 are technical changes.
267	Reutlinger	Notes the amendments has an emergency clause and would be effective on passage, however, the new lobbyist registration

		provisions would not become operative until January 1, 2004 and the people would have until February 1 to register.
295	John DiLorenzo	States he is not representing any client and does not have any cases pending before the Government Standards and Practices Commission. Reports that the workgroup came to an agreement. States he fully endorses the product. Many of the provisions are compromises. The compromises were made in good faith and made after significant discussion. States that the items of most importance to him were rulemaking, cell phone, phone, and frequent flier policies. Comments on provisions in the amendments relating to each issue, and equal treatment of relatives.
	DiLorenzo	Thanks Rep. Flores for her leadership as chair of the workgroup, and the Legislative Counsel staff.
428	Genoa Ingram	Special Districts Association of Oregon. Comments on positive and productive workgroup. Submits prepared statement (EXHIBIT E) .
487	Ingram	Comments that there may be opposition to the recording of executive sessions.
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028	Rep. Barnhart Ingram	Asks what the history is of the \$100 limit. Comments on situations involving the \$100 limit and not in others.
048	Rep. Close	Asks if DiLorenzo agrees with the Legislative Counsel opinion about caucus meetings (EXHIBIT F) .
049	DiLorenzo	Responds that he has not had an opportunity to research it, but the legislature is controlled by constitutional authority and a statute would not control whether the legislature can provide for its own rules. States it does not seem to him that the caucus meetings are executive sessions; they are a matter of House and Senate rules.
061	Christy Monson	League of Oregon Cities (LOC). Thanks Rep. Flores for her leadership. States that LOC is in support of the bill.
072	Candice Haines	City Attorney, McMinnville. Comments on the amicable process and the issues that are included that were of importance to the cities because the ethics code was a trap for the weary. The issues were non-remunerative benefits of being able to use internet access and cell phones; administrative personnel involvement in his/her own salary setting; and restriction on gifts from those without a legislative interest.
126	Dave Moss	Member, Government Standards and Practices Commission. States his goal was to provide flexibility and accountability at the local level. Under the amendments, if there is going to be an allowance for some of the non-remunerative issues, then it will be done through an official action of the local body and the local body will be answerable to its local constituents. The second goal was to improve common sense compliance and reduce the small complaints. The third goal was to improve the commission work process itself. Believes the amendments do a good job of looking out for the public interest and the practical interest of how it is implemented.
147	Moss	States that rule making will be a change for the commission.
147	Rep. Barnhart	Asks if it has been the practice of the commission to issue letters on interpretation of the statute.

	Moss	Responds that the commission would issue broad-based advisory opinions. Explains opinions.
179	Chair Doyle	Thanks Rep. Flores and the participants for the product they have come up with. Asks that the work group continue to work on the bill on the Senate side.
192	Rep. Flores	MOTION: Moves to ADOPT HB 3328-4 amendments dated 5/19/03.
	Rep. Verger	Comments she thinks this clarifies some things and thinks in some instances it softens it a bit. States that perception is everything in public life and if someone perceives the person is using the system to their advantage, it is very harmful to the person and the entire body.
214		VOTE: 6-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Rep. Close The motion CARRIES.
	Chair Doyle	
219	Rep. Flores	MOTION: Moves HB 3328 to the floor with a DO PASS AS AMENDED recommendation.
224	Rep. Flores	Comments there was considerable discussion about Rep. Verger's point on perception and every entity represented was concerned about perception and wanted to make sure safeguards are in place. Thanks Chair Doyle for the opportunity to have worked with the group.
239		VOTE: 7-0-0 AYE: In a roll call vote, all members present vote Aye. The motion CARRIES. REP. FLORES will lead discussion on the floor.
	Chair Doyle	
228	Chair Doyle	Closes the work session on HB 3328 and adjourns meeting at 2:50 p.m.

EXHIBIT SUMMARY

- A – Drafting Request, drafting and introduction request, staff, 5 pp**
- B – Drafting Request, drafting and introduction request, staff 3 pp**
- C – HB 2931, position vacancies, Larry Niswender, 6 pp**
- D – HB 3328, HB 3328-4 amendments, Rep. Flores, 31 pp**
- E - HB 3328, prepared statement, Genoa Ingram, 3 pp**
- F – HB 3328, Legislative Counsel letter, staff, 2 pp**