

# HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

June 10, 2003 Hearing Room E  
1:00 PM Tapes 76 - 77

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

**MEMBER EXCUSED:**        **Rep. Linda Floes, Vice Chair**

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

**MEASURE/ISSUES HEARD:** **HB 3000 – Public Hearing**  
                                 **SB 552 B – Public Hearing and Work Session**  
                                 **SJR 19 B – Public Hearing and Work Session**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 76, A</b> 004	Chair Doyle	Calls meeting to order at 1:04 p.m., announces order agenda items will be considered and postponement of work sessions HB 3611 and HJR 54, and opens public hearings on SJR 19 B and SB 552 B.
<b><u>SJR 19 B AND SB 552 B – PUBLIC HEARINGS</u></b>		
	Sen. Metsger	District 26. Testifies in support of SJR 19 B and SB 552 B. Explains that the measures address a problem with the election process since Oregon has moved to the vote-by-mail system. States that under the current law if a candidate who is running for election in a partisan office dies prior to the election, the deceased's party is entitle to replace the deceased candidate. States that cannot be done now because the elections are almost three weeks long. If someone dies during the vote-by-mail window, the party is allowed to replace the candidate but there is no provision to return the ballots of everyone who has voted. Gives example of how the current law works. SJR 19 B provides the authority for the Secretary of State to hold a special election. The reason is that Legislative Counsel has interpreted the language in the Constitution to say the General Election must be on the second Tuesday in November. This would clarify that a special election might take place sometime other than the second Tuesday in November.
061	Sen. Metsger	Submits news article from <u>Register Guard (EXHIBIT A)</u> . Explains that SB 552 B is the implementing language for SJR 19 B and says if a candidate for a state office dies within 30 days of the election date, the race would be declared void. On election day the county clerks would not tally the votes. The party of the

		deceased candidate would replace that person. A special election would be held no sooner than January 2 but no later than before the date the legislators are seated on the second Monday in January. It allows the elector to vote for the candidate. It closes a loophole in the vote-by-mail system. States that the county clerks support the measures, the Secretary of State made some changes on the timelines, these are companion measures and should move together, and there is no fiscal impact so SB 552 B should not need to go to Ways and Means.
106	Rep. Barnhart	Compliments Sen. Metsger for his efforts to fix the election laws.
117	Rep. Backlund	Asks if a governor could continue to hold office for up to two years even with term limits.
	Sen. Metsger	Responds affirmatively.
125	Sen. Verger	Comments on historic election where the candidate was committed to an institution, won the election while institutionalized, and then appointed a person to the Department of Health who had the authority to let him out of the institution.
138	Sen. Metsger	Comments that the original bill dealt with mental incapacity and other issues came up, and that Sen. Verger's comment may be why the measures are limited to the death of a candidate.
145	Rep. Close	Asks if the opponent of a dead candidate who wins the election would have to start over because the votes would not be counted.
148	Sen. Metsger	Explains that if the candidate of a major party dies in the 30 day window, the election is not held. A candidate would be named by the party to replace the dead person.
	Rep. Close	Restates her question.
	Sen. Metsger	Responds that the candidate would be on the ballot 30 days later running against the replacement candidate.
171	Chair Doyle	Asks if the election is not almost sixty days later.
	Sen. Metsger	Explains that if someone dies within 30 days of the election date, then the provisions of SB 552 B take effect. If the candidate dies prior to October 4, the old rules take effect because the county clerk still has an opportunity to change ballots to send out. This is only in the narrow window of time when the voting process is under way in Oregon's vote-by-mail process.
187	Chair Doyle	Comments the election would be in January.
	Sen. Metsger	States the party would have to name their replacement within five days and the election would be scheduled for no sooner than January 2. Agrees the election would be two months after the original election, but the election must be held prior to seating of the legislature on the second Monday of January.
200	John Lindback	Secretary of State's office, Director of Elections Division. Testifies in support of SB 552 B and SJR 19 B. Explains that under the current system voters could be faced with a ballot containing the name of a deceased candidate. They believe the voters would like to not have a deceased candidate on the ballot.
220	Rep. Monnes	This would make it clear that the candidates are very much alive. Comments on election of a dead candidate in the Midwest. Asks if the replacement would be named in Oregon without this bill.
	Anderson	Explains that under the current system, there would be a special election if a candidate had died but won. If the dead candidate did not win, the winner would take office.
	Lindback	
232	Rep. Barnhart	Asks if this affects federal elections.

248 Lindback  
Chair Doyle Responds negatively.  
Closes the public hearings on SB 552 B and SJR 19 B and asks committee to stand at ease at 1:21 p.m.

228 Chair Doyle Reconvenes the meeting at 1:25 p.m. and opens a work session on SB 552 B.

**SB 552 B – WORK SESSION**

250 Rep. Backlund **MOTION: Moves SB 552 B to the floor with a DO PASS recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.**

251 **VOTE: 5-1-1**  
**AYE: 5 - Backlund, Barnhart, Monnes Anderson, Verger, Doyle**  
**NAY: 1 - Close**  
**EXCUSED: 1 - Flores**  
Chair Doyle **The motion CARRIES.**  
**REP. BACKLUND will lead discussion on the floor.**

261 Chair Doyle Closes the work session on SB 552 B and opens a work session on SJR 19 B.

**SJR 19 B – WORK SESSION**

265 Rep. Backlund **MOTION: Moves SJR 19 B be sent to the floor with a BE ADOPTED recommendation.**

276 **VOTE: 5-1-1**  
**AYE: 5 - Backlund, Barnhart, Monnes Anderson, Verger, Doyle**  
**NAY: 1 - Close**  
**EXCUSED: 1 - Flores**  
Chair Doyle **The motion CARRIES.**  
**REP. BACKLUND will lead discussion on the floor.**

284 Chair Doyle Closes the work session on SJR 19 B and opens a public hearing on HB 3000.

**HB 3000 – PUBLIC HEARING**

261 Rep. Tootie Smith District 18. Testifies in support of HB 3000 with the HB 3000-4 amendments (**EXHIBIT B**).

317 Sen. Roger Beyer District 9. States that he has the HB 3000-3 amendments (**EXHIBIT G**) but supports HB 3000 with the HB 3000-4 amendments (**EXHIBIT B, pages 2-5**). Explains the amendments are similar to a bill that died at the Speaker's desk in 1999 upon Sine Die. This a more important bill today because school districts need to know what they can expect when they go into negotiations. The school board and the unions need to understand how much money there is and how much should be allocated to salaries. This bill gives both sides some certainty on what is available during collective bargaining. Adds that the bill almost mirrors Executive Order 15 (EO-15) signed by Governor Kitzhaber in 1999 after the bill died at the Speaker's desk.

414 Shawn Cleave Senate Republican Office. Presents a slide presentation in support of HB 3000 with the HB 3000-4 amendments (**EXHIBIT C**).

**TAPE 77, A**

010 Cleave Continues presentation (**EXHIBIT C**).

0	Rep. Close	Asks if there is any stipulation that if a school district had increasing costs and wanted to have reductions in salary, a freeze would not be allowed.
080	Cleave Rep. Close	Responds he would default to Revenue to answer the question. Asks if the growth factor is automatic—does it always go into effect—could there be salary freezes with this bill.
087	Cleave	Responds that it allows one to start with the allowable growth factor and the school board can budget at a lower percentage of growth. They can also budget at a higher percentage of growth than the allowable growth factor. If that happens, a fiscal report would be issued.
100	Sen. Beyer	States he believes the bill is speaking to the entire K-12 budget. Explains offsets considered by Ways and Means so that each student gets the same amount.
103	Rep. Close Sen. Beyer	Asks how this bill would fit in if there is property devaluation. Responds that he believes the allowable growth factor developed by DAS would be a negative number.
117	Rep. Close  Sen. Beyer Rep. Close	Asks if the total compensation in Section 4 includes all the retirement costs. Responds that he does not know. States that Linn County has looked at that in preparing the county budget, trying to say that the total package has to include those costs.
129	Rep. Backlund Rep. T. Smith  Rep. Backlund Rep. T. Smith  Rep. Backlund	Ask why the five years was chosen. Explains the purpose is to give the school districts stability in their planning and budget process. States that the allowable growth factor can change every year with the economic conditions. Asks if it would include five years from July 1, 2003 to July 1, 2008. Responds it would be January and would extend out every year for the next five years. Comments that it would be in perpetuity.
152	Rep. Monnes Anderson Rep. Smith	States the numbers could go up or down. Responds affirmatively.
154	Rep. Barnhart  Rep. Smith	Asks whether the factor this year would have been wildly off if they had put out an allowable growth factor last year. States it would be adjusted every year and it would not have been off because they would have made a projection for 2002.
170	Chair Doyle	States it would be a rolling five years.
185	Chair Doyle  Sen. Beyer Rep. Barnhart	Asks if this is not the model used since the issuance of EO-15 in 1999. Nods affirmatively. Asks for a copy of the Executive Order 15.
200	Richard Leonetti	Researcher, Oregon Tax Research. Comments that the numbers presented on teacher salaries and benefits are wildly wrong; they do not match the figures from the Department of Education. They are way low. Submits and speaks to outline of comments and graph on Total Expenditure per Student 2001 dollars <b>(EXHIBIT D).</b>
264	Leonetti	Continues presentation <b>(EXHIBIT D).</b>
328	Rep. Close	Asks why the CPI is an over estimate.

	Leonetti	Gives example of his first computer costing \$5,000 and the same computer costing about \$699 today. Adds that 99 out of 100 economists will say the CPI understates the cost of living significantly, particularly this last year.
323	Rep. Barnhart	Comments that the CPI means “cost of living index” and is based on what it actually costs or is at least an estimate of what it costs a family to live. We are talking about what it costs a school district to buy the things it needs to run the schools. Asks if the school districts have an index, and if not, how can one be devised.
360	Leonetti	Comments that the CPI is a flawed index. Believes the cost of living is a relevant number as far as school costs. Seventy-five percent of school districts costs are wages and benefits.
406	Leonetti	Comments on wages in the Portland School District. States that this bill may not work the way the legislature wants it to. The school districts will still be on the doorstep. States that if a number is set in stone, it may be harder for them to get on the doorstep and get a hearing.
422	Rep. Monnes Anderson	Asks what is wrong with paying \$48,000 to a teacher who has been in the system for 25 years and produces a product that goes out into society.
437	Leonetti	States that Portland teachers earn roughly \$10,000 in salary and \$10,000 more in benefits than teachers at Catlin Gable, Jesuit, and the Episcopal School. The tradeoff is off what you would like to pay them and can pay and the children end up with short school years and very large class sizes. Suggests that teachers perhaps are paid more than they need to be.
<b>TAPE 76, B</b> 001	Brian Reeder	Speaking for Susan Castillo, Superintendent of Public Instruction, Oregon Department of Education. Testifies in opposition to the HB 3000-3 amendments ( <b>EXHIBIT E</b> ). States he will say the superintendent also opposes the HB 3000-4 amendments for the same reasons as opposing the HB 3000-3 amendments. States that the HB 3000-4 amendments are not similar to EO-15; there is a critical difference between the HB 3000-3 and HB 3000-4 amendments and EO-15. The difference is that EO-15 has very clear criteria upon which the allowable growth factor is based, which is current service level. Troubling is the provision that does not allow for bargaining if the factor is offered. This moves the state a whisper away from state-wide collective bargaining. The needs are different in different parts of the state.
046	Reeder	States that the provision in the HB 3000-4 amendments that allows the districts to end collective bargaining by offering salary and benefit increases that are up to the level of the allowable growth factor is troubling to the superintendent. Explains that in the situation today where the state budget for schools has declined dramatically, if the allowable growth factor were adjusted to reflect that, they may be looking at minus 10 percent in which case the district could cut the salaries and benefits of their employees by 10 percent and no negotiations would be allowed.
058	Reeder	States that this moves Oregon a whisper’s breath away from state-wide collective bargaining. The superintendent believes

061	Tricia Smith	<p>those issues belong at the local level.</p> <p>Oregon School Employees Association (OSEA). Testifies in opposition to the HB 3000-4 and HB 3000-3 amendments and states she believes the committee is considering the HB 3000-4 amendments. The HB 3000-4 amendments are a way of eliminating collective bargaining by allowing school districts to make and implement an offer based on an arbitrary growth factor in lieu of negotiating with their members, which they find to be an unjustified and unwarranted attack on their ability to bargain with their employers over wages, benefits, and working conditions.</p> <p>The HB 3000-4 amendments also eliminate their ability to bargain other issues, and carries forward issues from the prior contract into the next contract without discussion. They believe those issues should be negotiated each time. The collective bargaining is the mechanism to discuss working conditions and changes in the conditions and they see no justification for changing that mechanism. States that if the legislature wants to talk about collective bargaining or modifying the collective bargaining laws, they would like to have a more full discussion of the issue and would like to discuss a straight up bill rather than this back door approach.</p>
105	Smith	<p>States they are also concerned about DAS establishing the allowable growth factor without any criteria in the bill. It would worry them that DAS's ability to forecast five years into the future determines the members' ability to make a living today.</p>
108	Tricia Bosak	<p>Oregon Education Association (OEA). Testifies in opposition to the HB 3000-3 and HB 3000-4 amendments. Agrees with Reeder that the amendments are vastly different than the EO. Thinks the EO was more descriptive about what went into the factor as opposed to what is in the HB 3000-4 amendments.</p>
132	Chair Doyle	<p>Asks if the EO is not being followed because they are not using the current service level as a factor.</p>
	Bosak	<p>States there is more meat in the EO than in the bill.</p>
	Bosak	<p>States they also have concern about the five-year forecast and putting DAS in that position of making the decisions for the school districts. This bill focuses on compensation and not other costs that school districts may incur, some of which they have no control over. The allowable growth factor contrasted with looking at what local school boards determine is local need and local priority limits some of those decisions.</p>
162	Bosak	<p>States the HB 3000-4 amendments give undue advantage to school boards and gut the bargaining process and go strongly against the purpose of the Public Employee Collective Bargaining Act. Wording in the amendment "in lieu of negotiating" would stop all bargaining on all issues, not just economic issues. The petitioning to the Employment Relations Board (ERB) will be constant. States that a similar scheme was put in several years ago in Wisconsin and lead to repeated and constant litigation.</p>
	Bosak	<p>Asks committee to contrast the policy statements in the collective bargaining act and this amendment.</p>
	Rep. Barnhart	<p>Asks what the witnesses think of the original bill.</p>

199	Chair Doyle Rep. Barnhart	Advises that the original bill is not up for consideration. Comments that he thinks what we have heard suggests this is a very complex area and needs evaluation and study that is not within the resources of this committee in the time limitation.
124	Rep. Verger	Comments she believes everyone wants the same thing. Ask what needs to be done to straighten out the current situation if not the HB 3000-4 amendments.
247	Smith	Comments that she has difficulty moving past the assumption that school employees are overpaid, and does not believe the cost of wages is too much in schools. Agrees that costs in education are skyrocketing; HB 3639 is a bill they believe will hold down costs. Believes it is appropriate for the legislature and school districts to look at everything and to determine the costs that are appropriate. They do not believe the HB 3000-4 amendments do that.
285	Rep. Verger	Asks if wages and salaries are not the driving costs, whether the costs are in other areas, such as retirees, not those who are working.
300	Smith Rep. Monnes Anderson	Responds negatively. States she has real issues with the HB 3000-4 amendments regarding the growth factor, and that she has been hearing from school board members that so much of their time is spent in bargaining, particularly with the benefits portion that is skyrocketing. States she would like to see time limits put on the amount of time for bargaining.
325	Bosak	Responds there are timelines in the laws and believes both parties play some role in lengthening those.
345	John Marshall	Oregon School Boards Association (OSBA). Testifies in support of the HB 3000-4 amendments. States that he believes the fundamental issue that school boards face in collective bargaining negotiations is similar to what the legislature faces every two years—that is, how to allocate limited resources amongst very valuable yet competing needs. The issues that school boards face is trying to strike a balance between the salary and benefit packages, which amounts to 80 to 85 percent of school district budgets, against the 15 to 20 percent of the school districts' budgets that are available for programs. The issue is how to allocate resources so that they can limit the amount of dollars that go to existing salaries and benefits while preserving some resources for the other areas.
372	Marshall	States they believe the HB 3000-4 amendments get to assisting school boards in dealing with the fundamental question of dealing with the collective bargaining process and budgeting in general.
388	Marshall	States he thinks there has been some confusion surrounding the HB 3000-4 amendments and the EO that created the school revenue forecast committee. He served on the committee. The purpose of that committee was to try to give school districts some estimate of revenue that, using the terms of the EO, “reasonably expect to receive over a period of time.” It was essentially a current service level approach—what would a current service level budget for schools look like a couple of years down the road given the anticipated growth in local resources, state general

413	Marshall	<p>funds and lottery resources as well as a general fund budget relating to the cost drivers of personnel, materials and supplies, etc. It was an anticipation of revenues that hopefully school districts could have in hand and use when they made long term budgeting decisions—those that extend longer than a year. States that the HB 3000-4 amendments are strictly to look at compensation. Compensation includes salaries and a broad range of benefits. Notes the definition of “total combined compensation” on page 1 of the HB 3000-4 amendments. The amendment suggests DAS would calculate based on the best information they have about estimates in growth of the overall economy, salaries and wages, benefits on the PERS side and health insurance, etc. to come up with a growth factor over the next five years, probably on an annual basis, with some educated estimate of what compensation should be.</p>
448	Marshall	<p>The factor is given to the school districts by the first of the year so they have it when they go into collective bargaining. It allows the local school boards to have the allowable growth factor in hand. Believes school boards may exceed the allowable growth factor for various reasons.</p> <p>States he has been impressed with the work DAS, using Legislative Fiscal, Legislative Revenue, and the Department of Education, has done relative to the revenue forecast committee in coming up with revenue. States he does not question their ability to also bring a group of people together from all parties to look at the cost drivers of compensation. The factor is given to school districts by January 1 of each year so that when school districts go into the budgeting process or begin collective bargaining between the first of the year and the end of the fiscal year on June 30 they have the information before them.</p>
463	Marshall	<p>States that what is different in the HB 3000-4 amendments is that they grant some leverage to the local school boards. It allows, not demands, local school boards to have the allowable growth factor in hand and if the school board believes that the demands from the unions on compensation exceed what DAS suggest is a reasonable level of growth as well as the anticipated growth for both state and local revenue to school districts, the board can say negotiations are over and they are proposing unilaterally the contract that fits within the allowable growth factor, a reasonable level of growth in total compensation. States a board may exceed that allowable growth factor because they are competing with neighboring districts for staff or they want to retain good people that may require some tradeoffs on the compensation side. The amendments do not suggest that the local board has to impose compensation within the allowable growth factor; the amendments allow them to use it.</p>
<b>TAPE 77, B</b>		
034	Marshall	<p>States that his testimony explains the bill and page 2 includes arguments (<b>EXHIBIT F</b>).</p>
054	Rep. Monnes Anderson	<p>Asks for a better explanation of the growth factor that would fit all schools.</p>
065	Marshall	<p>Notes language on page 2 of the HB 3000-4 amendments, starting on line 11, the definition of total compensation. States if</p>



		there is a significant increase in the number of students and it becomes necessary to add staff they could do that without affecting the allowable growth factor for compensation. Adds that if there were a decline in the number of students, they would not be forced to make a reduction.
076	Marshall	Adds that they are proposing a broad statewide average guideline that school districts may or may not use. If they decide to exceed the allowable growth factor, they have to say why they did it.
083	Rep. Monnes Anderson	Comments that EO 15 has a growth factor. The only difference between the EO and the HB 3000-4 amendments is the school districts are required to report to the ERB.
097	Marshall	States that the EO that is already in place provides school districts with an estimate of revenue growth over a three-year period. This focuses strictly on an acceptable allowable growth factor for compensation. The HB 3000-4 amendments require that the allowable growth factor for compensation fit within forecasted revenue; the provision is on page 2, line 19.
124	Rep. Close Marshall	Asks how Oregon's salaries compare among the 50 states. Responds he does not have the data in front of him, Oregon may be in top 10-20 in total compensation. States that one study indicated the personnel costs are higher than many other states.
125	Rep. Close	Asks how long contracts are for in Oregon and how that compares nationwide.
	Marshall	Responds the average is maybe 2 to 2 ½ years.
145	Rep. Close Marshall	Asks how many days are in the contract per year. Responds that he does not have that information.
149	Rep. Close	Asks if they have figures on the cost per child by state, compared to Washington, California, and Idaho.
152	Marshall	Responds they did a study of K-12 spending in Oregon that was released last summer and contains the information but he does not know.
160	Rep. Close	Asks if they have information about what the percentage across the nation is for salaries and benefits.
	Marshall	Responds negatively.
166	Rep. Verger	Asks how hiring a replacement administrator at a higher salary fits into the growth factor.
	Marshall	Responds he cannot answer the question.
180	Rep. Barnhart	Asks if the way the growth factor is calculated in Section 3 would lead to a reduction in the growth factor because marketing conditions and revenue have declined in the last couple of years.
192	Marshall	Responds he believes intent of the market condition language was to somehow reflect personnel costs, the competitive nature of school districts in attracting and retaining quality education personnel and a variety of factors that may contribute to the cost of school districts to get people to come into the education profession and stay there.
198	Rep. Barnhart	Asks if the language in line 21 on page 2 of the HB 3000-4 amendments would affect the growth factor.
215	Marshall	Responds he believes it would cause DAS to use a current service level approach—that is, anticipated growth in revenue and anticipated growth of K-12 appropriation, and anticipated growth in local revenues to try to get a handle on what the anticipated available resources to school districts might be in that five-year

226	Rep. Barnhart	period. Notes that it is anticipated they would give an allowable growth factor for each of the next five years, and would include state and local revenues. States that if this were in effect, presumably it would have a negative effect on the current forecast of revenues and on the allowable growth factor. Asks if we could end up with a negative allowable growth factor.
	Marshall	Responds that in a very unusual situation of deflation, he believes it could.
250	Rep. Barnhart Marshall	Asks where the language on page 2 lines 14-22 came from. Responds it is language proposed in 1999 and served as the basis for the EO. Believes it is broad. States he is assuming that if this bill passes and DAS has the responsibility, they will put together a work group of all the parties and certified smart folks and interpret what this means in as reasonable and rational way as possible.
273	Chair Doyle	Closes the public hearing on HB 3000 and announces the committee will revisit the issue in the near future.
277	Chair Doyle	Comments on future meeting times of the committee and adjourns meeting at 2:54 p.m.

### **EXHIBIT SUMMARY**

- A – SB 552, news article, Sen. Metsger, 1 p**
- B – HB 3000, prepared statement and HB 3000-4 amendments, Rep. T. Smith, 5 pp**
- C – HB 3000, copies of slide presentation, Shawn Cleave, 2 pp**
- D – HB 3000, outline of comments and graph, Richard Leonetti, 2 pp**
- E – HB 3000, prepared statement, Brian Reeder, 2 pp**
- F – HB 3000, prepared statement, John Marshal, 2 pp**
- G – HB 3000, HB 3000-3 amendments, Rep. T. Smith, 5 pp**