

SENATE COMMITTEE ON GENERAL GOVERNMENT

April 02, 2003
3:00 pm

Hearing Room B
Tapes 31-34

MEMBERS PRESENT: Sen. Tony Corcoran, Chair
Sen. John Minnis, Vice-Chair
Sen. Bruce Starr
Sen. Vicki Walker

STAFF PRESENT: Mark Ellsworth, Committee Administrator
Heather Gravelle, Committee Assistant

MEASURE/ISSUES HEARD: HB 2004 A – Public Hearing
HB 2005 A – Work Session
SB 494 – Public Hearing
SB 860 – Public Hearing
SB 861 – Public Hearing
SB 693 – 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 31, A		
005	Chair Corcoran	Calls the meeting to order at 3:05 p.m. Opens public hearing on HB 2004 A.
<u>HB 2004 A – PUBLIC HEARING</u>		
010	Dave Hendricks	Senior Deputy, Legislative Counsel. Explains the memo he distributed (EXHIBIT A) which provides information on the -18, -19 and the -20 amendments to HB 2004 A.
050	Chair Corcoran	Asks about the -24 amendments to HB 2004 A.
055	Hendricks	Responds and states he has not received the -24 amendments yet.
060	Chair Corcoran	Asks Greg Hartman to testify regarding the -18, -19, and the -20 amendments to HB 2004A. (EXHIBITS B, C, & D).
065	Greg Hartman	PERS Coalition. Begins with Section 20, which is the expedited appeal section. States he feels there is uniform agreement between all parties involved. Adds getting a determination on both the constitutionality and contract rights related to any legislative enactment as quickly as possible is in every one's best interest.
075	Hartman	States what the differences is between the -20 amendment and the one that will be proposed, is the question of whether there will be an exclusive remedy to the Supreme Court. Explains he has substantial concerns because it may make the provision inconsistent to the Oregon Constitution.
105	Hartman	Expresses the Supreme Court will decide the big picture issues, in the direct appeal mechanism.
110	Chair Corcoran	Inquires if there are any other substantial changes in the proposed amendments.
115	Hartman	Explains in more detail the changes within his proposed amendment. States it still needs to go to Legislative Counsel to

150 Chair Corcoran be drafted.
States the committee has heard testimony regarding the complexity that will be brought forth to the Supreme Court. Wonders if someone appeals the decisions the PERS Board makes, will it delay the entire process.

170 Hartman States it's clear if the legislature does nothing, and the Lipscomb decision is affirmed on the actuary issue, the matter would need to go to the PERS Board for implementation, and they would decide the best route. Adds whoever didn't like the decision may follow up with legal action.

215 Hartman Suggests in more detail the possibility of making HB 2004 A the exclusive remedy to resolve the issue, this would take away the concerns of whether Judge Lipscomb was right or wrong on the issue. Urges to make it the policy choice to resolve the issue.

265 Sen. Minnis Comments the PERS Board already has the statutory authority to implement current updated actuary tables under existing law. Expresses he feels HB 2004 A should not move forward. Explains the bill doesn't merit the attention. Adds he feels the PERS Board has failed to implement the actuary tables under existing law, and that is the issue that should be resolved by the courts.

285 Chair Corcoran Articulates the actual savings to the system are real.
300 Sen. Minnis Reiterates the PERS Board has failed in its duty to implement the updated actuary tables. Adds he doesn't see anything in statute that tells him otherwise.

310 Chair Corcoran Expresses not moving forward on HB 2004 A at this point. Closes the public hearing on HB 2004 A. Opens a work session on HB 2005 A.

HB 2005 A – WORK SESSION

315 Mark Ellsworth Committee Administrator. Provides an overview of HB 2005 A. Explains the –A7 amendments to HB 2005 A. **(EXHIBIT E).**

320 Sen. Minnis **MOTION: Moves the adoption of the –A7 amendments, dated 3/31/03, to HB 2005 A.**
VOTE: 4-0

325 Chair Corcoran **Hearing no objection, declares the motion CARRIED.**
345 Sen. Minnis **MOTION: Moves HB 2005 A to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 4-0

Chair Corcoran **Hearing no objection, declares the motion CARRIED.**
SEN. STARR will lead discussion on the floor.

365 Chair Corcoran Closes the work session on HB 2005 A. Opens a public hearing on SB 857. Closes the public hearing on SB 857, explains that the amendments are still in production and are not ready for consumption. Opens a public hearing on SB 494.

TAPE 32, A

SB 494 – PUBLIC HEARING

005 Mark Ellsworth Committee Administrator. Provides an overview of SB 494.
020 Tim Nesbitt President, Oregon AFL-CIO. Testifies in support of SB 494. Explains position. Describes two principals that are often violated by State employers. State and Federal law recognize the right of employees to organize freely and bargain collectively, those laws are often ineffective to protect that right.

045 Nesbitt Adds public employers and publicly funded programs collect and

		use tax payer funds to provide services to the public. Feels that is inappropriate and a diversion of funds, especially when funds are so scarce. Explains SB 494 will ensure public employers and publicly funded employers are not diverting funds to engage in those types of activities.
065	Ken Allen	Executive Director, Oregon AFSCME Council 75. Testifies in favor of SB 494. Provides written testimony (EXHIBIT F). States they represent over 22,000 workers throughout Oregon. Explains the National Labor Relations Board and the Oregon Employment Relations Board were established to provide protection to workers that sought to have union representation. Adds Federal and State law make it illegal to discriminate over employees who are developing and joining unions.
075	Allen	Comments that SB 494 is in response to a troubling trend that they have seen in Oregon the past ten years. Explains tax revenues are paid to organizations, both public and private, to provide services to clients. Explains some of those organizations use those dollars to fight unionization of their employees. Adds SB 494 will put an end to the public funding of anti union campaigns.
100	Sen. Minnis	Points out section two, subsection 1, line 7. States the language seems too broad. Comments if you have a good employer who treats the employee well, and provides benefits outside of the union contract, that may be construed as anti-union. Asks for clarification as to their intention.
115	Allen	Responds and explains a good employer, who wants to remain neutral on the issue, will put out a letter that states there is a union organizing attempt in progress, and ensure the employees do have the right to join if they desire.
125	Allen	Explains an employer who is anti-union, will put out a letter that states half truths and lies regarding unions and is literally attempting to intimidate and coerce the employees not to join the union.
125	Sen. Minnis	Expresses concern over the language “any attempt.” States the verbiage seems too broad. Adds it is a freedom of speech issue, if an employer wants to publish specific views or the concept of the value of unionizing. Asks if he feels the issue is covered by the first amendment.
135	Allen	Responds and explains SB 494 clarifies the employers cannot utilize public funds to express those views.
140	Sen. Starr	Inquires how this will work in hospitals who receive Federal Medicaid funds.
145	Allen	Explains they can’t divert public funds to pay for an anti-union campaign.
155	Nesbitt	Declares the prohibition applies to the public funds. Adds in the case of a hospital, if those were Medicaid funds, they would have to ensure they were not utilizing those specific funds to engage in anti-union activities. States they would be free to use other funds if they chose to.
170	Sen. Walker	Comments in the case of the hospitals, the funds become comingled, you can trace how much money is received from each source, but how will you be assured they aren’t using Medicaid funds.
172	Nesbitt	Responds there is an ability to segregate funds but not

185	Sen. Minnis	necessarily a non co-mingling capability. Questions if they have provided testimony with actual examples of anti-union published materials.
195	Tia Ray	Registered Nurse, Providence Milwaukee Hospital. Testifies in support of SB 494. Speaks about the anti union campaigns of her own experience at the hospital. Explains the anti union campaign began by her management after the nurses had submitted there union cards seeking an election. Adds the management responded by holding anti-union meetings throughout the day, and nurses and other staff were highly encouraged to attend.
250	Ray	Explains the staff was told the meetings were mandatory and staff was paid to attend. Expresses the focus of the meetings was to communicate how good the nurses had it and they didn't need a union. States the meetings also consisted of how bad the unions were and how they would destroy the family atmosphere at the hospital. Adds many employees began receiving flyers at home mailed from the hospital reflecting anti union propaganda.
270	Claudia LeMar	Shangri-La Employee. Testifies in support of SB 494. Provides written materials (EXHIBIT G). Relates her own experience when staff at Shangri-La attempted to look into becoming part of the union. Explains management mandated attendance to anti-union meetings. States they also mailed out anti-union flyers and other propaganda to their homes. Adds many employees including her felt threatened they may lose their jobs if they continued on the path to become unionized.
330	Sen. Walker	Inquires about the provided testimony. Wonders if they are actual materials received by employees at Shangri-La.
345	LeMar	Answers yes.
355	Sen. Walker	Expresses being appalled that management would send anti-union materials to their employees at their residences.
TAPE 31, B		
025	Melinda Huddleston	Unit Secretary, Good Samaritan Hospital. Testifies in support of SB 494. Provides written testimony (EXHIBIT H). Expresses in the fall of 2001, the staff at Good Samaritan Hospital began organizing with the SEIU Local 49 union. States the reasons they sought to join the union was because they were concerned about working conditions that affected their abilities to deliver the best possible patient care. Explains there is a significant fear factor involved in this issue, and many are in fear of losing their jobs.
055	Huddleston	Communicates that during their efforts many of the employees were subject to one on one anti-union meetings with management. States in addition, there were mandatory anti-union meetings on work time and a hostile and intimidating work environment, all of which lead to losing their election by a very close vote.
080	Chair Corcoran	Inquires about the re-election in the fall of 2002.
085	Huddleston	Explains they appealed the last election outcome to the National Labor Relations Board and they overturned the election based on the following grounds: <ul style="list-style-type: none"> ➤ The hospital administration created an intimidating atmosphere for employees. ➤ The election was tainted because of unlawful denial of access of union representatives.

- The hospital administration and managers denied employees the right to talk about unionization and to distribute materials regarding the union.
- 105 Huddleston Declares in September 2002, they held a second election and won by a 2 to 1 margin. Adds SB 494 will ensure that health care workers and all employees in Oregon will not be forced to endure anti-union campaigns on work time, funded with our own taxes.
- 138 Ben Nelson Organizer, Laborers Local 483. Testifies in support of SB 494. Explains position. Provides details on his own experience. States he has seen strong anti-union campaigns utilizing public dollars. Adds captive audience meetings that were mandatory on company time. Mentions the one and one meetings out in the field to hold the anti-union meetings on company time. States wide distribution of anti-union materials at work and mailed to employees homes.
- 265 Chair Corcoran Closes the public hearing on SB 494. Opens a public hearing on SB 860 & SB 861.

SB 860 & SB 861 – PUBLIC HEARING

- 275 Janice Thompson Executive Director, Money and Politics Research Action Project. Testifies in support of SB 860 & SB 861. Provides written testimony (**EXHIBIT I**). States these bills reflect analysis of lobbying spending disclosure and ethics regulations in other states. Adds many states have far more rigorous regulations than those currently found in Oregon.

TAPE 32, B

- 020 Sen. Minnis Asks for the intent behind SB 860 & SB 861.
- 025 Kappy Eaton Government Chair, League of Women Voters. Testifies in support of SB 860 & SB 861. Provides written testimony (**EXHIBIT J**). Addresses the question posed by Sen. Minnis. States SB 860 is a bill for the public's right to know. Adds the only way to access what kind of influence is being exerted by lobbyists on the legislature, is to look at the disclosure information that goes to the Standards and Practices Commission.
- 045 Sen. Minnis Clarifies the goal is to increase the availability and frequency of reporting.
- 050 Eaton Agrees.
- 070 Eaton States the League has been a long supporter of an ethics commission in Oregon. Adds the Government Standards and Practices Commission are funded by the Legislature. Feels SB 861 will provide an independent revenue stream and will cover the activities of the Commission.
- 085 Dave Moss Chair, Government Standards and Practices Commission. Testifies as neutral on SB 860 & SB 861. States there are over 11,000 elected officials in Oregon.
- 140 Chair Corcoran Asks what the order of complete investigations that yielded fines or penalties.
- 155 Pat Hern Executive Director, Government Standards and Practices Commission. Testifies as neutral on SB 860 & SB 861. States the majority of the Commissions work involves public officials at the local level.
- 185 Sen. Minnis Wonders what the salary level is for the investigators.
- 190 Hern Answers it is approximately \$3,800 per month, plus benefits.
- 200 Chuck Bennett Capitol Club. Testifies in opposition of SB 860 & SB 861.

215 Chair Corcoran Explains main concern is to deluding an under funded agency with additional activities. Adds there would a need for a substantial amount of additional staff if SB 860 & SB 861 were to pass. Expresses there just aren't the funds to make the requested changes to the Commission.
Closes the public hearing on SB 860 & SB 861. Opens a public hearing on SB 693.

SB 693 – PUBLIC HEARING

TAPE 33, A

005 Mark Ellsworth Committee Administrator. Provides an overview of SB 693.
015 Sen. Roger Beyer District 9. Testifies in opposition of SB 693. Explains as a farmer, he doesn't believe local governments should be regulating pesticide use. Adds it would be too difficult to have separate requirements in each jurisdiction. States pesticides are regulated by the Federal Government. Finishes by stating the bill as drafted would be a complete reversal of our preemption rules which are important to the farmers in the State of Oregon.

035 Martin Taylor Sierra Club. Testifies in support of SB 693. Explains his position. States the committee needs to ask themselves the question: is it reasonable, for a person who has a health condition where they will have an adverse reaction to the pesticide, to be notified from their neighbor or a commercial company when they will be exposed to a pesticide. Adds SB 693 does not prevent someone from utilizing the pesticide, it just simply requires individuals to give adequate notice.

045 Sen. Minnis Comments current law has a statewide standard. Asks what is deficient with the standard.

055 Polly Lind Regional Pesticide Coordinator, Northwest Coalition of Alternatives to Pesticides. Testifies in support of SB 693. Provides written testimony (**EXHIBIT K**). Explains the current state level restrictions don't allow communities to address specific needs. Provides examples.

075 Sen. Minnis Asks what prevents the State regulators from enacting rule for the specific jurisdictions.

085 Lind Responds she feels they could if they wanted to go through the time and development. States the costs involved would be significant. Comments she feels if it was enacted by the State, regulation would have to be completed by the State. Adds there will most likely be opposition to non-uniform regulations across the State.

090 Sen. Minnis Counters he doesn't think it is a uniformity issue, it is a preemption of jurisdictions. Asks if Lind or others have contacted the Department of Agriculture to determine if they would create a rule regarding the issue.

105 Lind Comments no one has contacted the Department of Agriculture to her knowledge.

125 Sen. Minnis Feels it may be in the best interest to contact the Department before proceeding.

165 Lind States these are very complicated issues and SB 693 provides a simple solution.

175 Robin Denburg Resident, Portland, Oregon. Testifies in support of SB 693. Provides written testimony (**EXHIBIT L**). Expresses his own experiences. Explains there is a tree nursery close to where he lives. States every time the owners spray pesticides, his dogs get

199	Chair Corcoran	sick and other animals around the immediate area get sick. Feels this issue is a significant concern to the community. Inquires if the tree nursery was there when Denman moved into the home.
205	Denburg	Understands and appreciates the point. Mentions the tree nursery owners spray almost every other week. Adds he didn't think he had to be concerned about major health issues when he moved in the community.
220	Sen. Minnis	Asks if he would be content if the Department of Agriculture would develop specific rules.
225	Denburg	Feels skeptical the Department would follow through. States he would be happy to receive some notification as to when and where the spraying of pesticides was going to occur, so he could take the necessary precautions.
260	Sen. Walker	States this issue is very important for the health and well being of children, animals, pets and anyone living in the community where the spraying of pesticides occurs.
300	Sen. Minnis	Responds there should be a statewide standard to address this issue.
325	Taylor	States the goal of notification needs to be reached. Adds it may be easier to have the local jurisdictions take control of the issue.
350	Terry Witt	Executive for Oregonians for Food and Shelter. Testifies against SB 693. Explains the organization oppose any weakening of the State preemption statutes. Comments notification is a regulation on the use of pesticides. Adds when there is an ordinance that deals with notification, there is a mandatory pre-notification of two days before the spraying occurs. Feels this would be a mechanism to deter the use of pesticides.

Tape 34, A.

005	Sen. Walker	Asks why Witt feels the issue can't be turned over to the local jurisdictions.
010	Witt	Wonders why the jurisdictions would be the best alternative.
025	Sen. Walker	Responds and states specific reasons why.
065	Lisa Hanson	Assistant Director, Oregon Department of Agriculture. Testifies in opposition of SB 693. Provides written testimony (EXHIBIT M). Opposes allowing local entities setting regulations regarding notification of spraying of pesticides. Mentions all concerns expressed by the public are investigated.
090	Chair Corcoran	Closes the public hearing on SB 693. Adjourns the meeting at 5:00 p.m.

EXHIBIT SUMMARY

- A – HB 2004 A, written testimony, Dave Hendricks, 2 pp**
- B – HB 2004 A, -A18 amendments dated 3/21/03, Staff, 1 p**
- C – HB 2004 A, -A19 amendments dated 3/26/03, Staff, 1 p**
- D – HB 2004 A, -A20 amendments dated 3/26/03, Staff, 1 p**
- E – HB 2005 A, -A7 amendments dated 3/31/03, Staff, 2 pp**
- F – SB 494, written testimony, Ken Allen, 2 pp**
- G – SB 494, written materials, Claudia LeMar, 4 pp**
- H – SB 494, written testimony, Melinda Huddleston, 1 p**

I – SB 860 & SB 861, written testimony, Janice Thompson, 4 pp

J – SB 860 & SB 861, written testimony, Kappy Eaton, 5 pp

K – SB 693, written testimony, Polly Lind, 1 p

L – SB 693, written testimony, Robin Denburg, 1 p

M – SB 693, written testimony, Lisa Hanson, 1 p