

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE ON CIVIL LAW

January 15, 2001
8:00 am

Hearing Room 357
Tapes 1 and 2

MEMBERS PRESENT: **Rep. Cherryl Walker, Chair**
 Rep. Vic Backlund
 Rep. Kathy Lowe
 Rep. Charlie Ringo
 Rep. Lane Shetterly

STAFF PRESENT: **Andrea Shartel, Administrator**
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2042 Public Hearing and Work Session**
 HB 2043 Public Hearing
 HB 2044 Public Hearing
 HB 2045 Public Hearing
 HB 2046 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.

TAPE/#	Speaker	Comments
TAPE 1, A		
004	Chair Walker	Calls the meeting to order at 8:07 a.m.
		<u>HB 2042 PUBLIC HEARING</u>
012	Greg Chaimov	Legislative Counsel Testifies in support of HB 2042, relating to contracting authority of directors of legislative service agencies.
034	Chair Walker	Closes the public hearing and opens work session on HB 2042.
		<u>HB 2042 WORK SESSION</u>
038	Rep. Shetterly	MOTION: Moves HB 2042 to the full committee with a DO PASS AS AMENDED recommendation. VOTE: 4-0-1 EXCUSED: Rep. Lowe
038	Chair Walker	Hearing no objection, declares the motion CARRIED.
040	Chair Walker	Closes the work session on HB 2042 and opens the public hearing on HB 2046.
		<u>HB 2046 PUBLIC HEARING</u>
047	Greg Chaimov	Legislative Counsel Submits testimony and testifies in support of HB 2046 relating to procedures for challenges to explanatory statements (EXHIBIT A).
091	Bradd Swank	State Court Administrator's Office Testifies in support of HB 2046.

132	Rep. Shetterly	Asks how the court would read this in terms of consequences for failure to file.
143	Swank	Answers that he does not know.
153	Rep. Shetterly	Points out that he considers the statute to be jurisdictional.
158	Swank	Agrees that it may be looked upon as jurisdictional, but doesn't know.
163	Rep. Shetterly	Proposes a change in words at the end of line 9 on page 1.
176	Swank	Says that it could say "or consider arguments, as appropriate".
180	Rep. Ringo	Asks if he was offering suggestions to what the consequences might be.
183	Swank	Responds that he has not had a chance to talk to the legal counsel in the Supreme Court's office.
203	Rep. Ringo	Asks if there is a definition of the method of service in the statute.
206	Swank	Answers that he believes service is provided under the Oregon Rules of Civil Procedure and probably addressed under the Oregon Appellate of Procedure.
210	Rep. Shetterly	Asks Chaimov about interpretation of statute.
222	Chaimov	Says yes.
223	Rep. Shetterly	Wonders if they need to take a look at statute.
230	Chaimov	Agrees that there could be alternate readings of the statute.
232	Rep. Shetterly	Suggests that they make further amendments.
253	Chaimov	Proposes that he prepare amendments to address the service and oral argument issues.
260	Chair Walker	Says that would be appropriate. Closes the public hearing on HB 2046 and opens a public hearing on HB 2044 and HB 2045.

HB 2044 and HB 2045 PUBLIC HEARING

290	Greg Chaimov	Legislative Counsel
		Submits testimony and testifies in support of HB 2044 which designates as not confidential certain records of Legislative Counsel more than 12 years old and HB 2045 relating to confidentiality of records of the Legislative Counsel (EXHIBIT B).
344	Rep. Ringo	Asks if this has been an issue.
348	Chaimov	Responds that there are occasional requests to open drafting files.
360	Rep. Backlund	Asks why they chose 12 years to make drafting files available to the public.
364	Chaimov	Responds that files are kept in the Legislative Counsel's office for 10 years and then shipped to the State Archives.
375	Rep. Lowe	Asks if LC's files include candid comments.
385	Chaimov	Answers ordinarily not.
390	Rep. Lowe	Asks if these informal notes would be a part of the public record.
432	Rep. Shetterly	Wonders what kind of things might be in these files.
434	Chaimov	Describes what is typically in a drafting file on a bill.
466	Rep. Shetterly	Talks about balancing an attorney/client process with regards to drafting legislation. Asks if a level of confidentiality is necessary.
502	Chaimov	Answers that a degree of confidentiality is needed.
TAPE 2, A		
035	Rep. Lowe	Expresses her concern about the time limit of 12 years.
050	Chaimov	States that LC is not taking a position on either of these bills. Explains again why 12 years was chosen.
063	Rep. Shetterly	Advises that they defer action on the bill today.

088	Rep. Backlund	Thinks length of time may be too short.
099	Rep. Lowe	Comments that frankness with the drafters would slow down the process.
121	Counsel Shartel	Asks what happens now to files that go to archives.
123	Chaimov	Answers that only the people from his office can request the files.
128	Rep. Ringo	Thinks being too confidential may erode public confidence in our government.
141	Rep. Lowe	Asks if unusual requests have come to LC.
148	Chaimov	Says he would rather not answer that question.
150	Rep. Lowe	Recommends that they respect the confidentiality expectation.
169	Rep. Shetterly	Talks about getting bills drafted just to show a constituent that their idea won't work.
191	Chair Walker	Closes the public hearing on HB 2044, 2045 and opens the public hearing on HB 2043.

HB 2043 PUBLIC HEARING

201 **Greg Chaimov**

Legislative Counsel

Submits testimony and testifies in support of HB 2043 relating to Legislative Counsel (**EXHIBIT C**).

241 Rep. Shetterly

States that this is not the amended language, but the existing statute. Asks if they have seen pre-session-filed bills dropped by outgoing members.

251 Chaimov

Explains that in the House that's true.

257 Rep. Lowe

Asks question about amendment in relation to the Joint Interim Judiciary Committee.

267 Chaimov

Suggests addressing her question to Rep. Shetterly.

272 Chair Walker

Asks about language of "oversight" used in amendment.

277 Chaimov

Says he cannot answer that.

289 Chair Walker

Inquires how the Judicial Department can interpret something that they helped prepare.

297 Rep. Shetterly

Responds that the Judicial Department is an administrative agency and the bills they file are uniformly administrative in nature. Says that he does not think it's a constitutional issue.

314 Rep. Lowe

Questions bill and constitutionality.

329 Chaimov

Maintains that he does not see any constitutional problem with the Executive Department or Judicial Department proposing legislation for your consideration. States that the bill allows pre-session filing by the Judicial Department is to relieve one of your interim committees of some work.

340 **Bradd Swank**

Oregon Judicial Department

Testifies as neutral to HB 2043 stressing that the Judicial Department does not have a position on this bill and that most legislation for the Judicial Department is administrative. Comments that they do not weigh in on the big policy issues of the Legislature.

381 Chaimov

Discusses Section 2 of HB 2043.

TAPE 1, B

014 Rep. Shetterly

Asks if the Governor should be included in second sentence of Section 2 so that the Governor can initiate his own requests.

030 Chaimov

Says that's an excellent suggestion. Continues to discuss HB 2043, Section 3. Describes Sections 4-6.

065	Rep. Shetterly	Asks if the rules of confidentiality that apply to Legislative Counsel also apply to Revenue and Fiscal.
076	Chaimov	Answers not that he is aware of.
080	Rep. Shetterly	Questions Sections 5 and 6. Asks if the requestor can get that information.
087	Chaimov	Says yes. Discusses Section 7 dealing with copyright. Discusses Section 8.
132	Rep. Shetterly	Asks question regarding Sections 5 and 6, relating to disclosure.
148	Chaimov	Doesn't see it as a waiver in any case.
150	Rep. Shetterly	Asks about disclosure to a party outside attorney/client relationship.
152	Chaimov	Answers that the Legislative Fiscal Officer (LFO) and Legislative Revenue Officer (LRO) are sufficiently close to the LC as to make disclosure to them.
167	Rep. Lowe	Wonders why they shouldn't say it is not a waiver.
178	Rep. Ringo	Comments that they would be implying that everything that has occurred to date has not been privileged. Suggests that they wouldn't want to create that impression.
182	Chair Walker	Asks about the amendment (Section 8) that repeals the law that requires LC to help write statewide initiatives.
185	Chaimov	Answers that LC refers prospective petitioners to their Representative.
201	Rep. Lowe	Explains that if people knew about the provision in the law that allows LC drafters to help write initiative measures, then maybe they would be written more clearly.
215	Chaimov	Agrees, but explains that some petitioners want their help and others do not.
225	Chair Walker	Wonders why they would delete a provision that is part of our state government process of governing by the people.
238	Chaimov	Responds that LC does not have a strong feeling on this issue one way or the other.
250	Rep. Lowe	Comments that the removal of this section is an issue of policy and removal of these rules should be carefully considered.
271	Chaimov	Says that they could prepare an amendment to take those statutes out of Section 8.
278	Chair Walker	Asks if there are any other changes to be made to the bill.
282	Rep. Shetterly	Wants "the governor" in Section 2 to be amended.
284	Chaimov	Says he will request the amendments.
285	Rep. Shetterly	Asks for another amendment regarding disclosure of a confidential draft measure to LFO and LRO.
328	Chair Walker	Closes the public hearing on HB 2043.
333	Rep. Shetterly	MOTION: Moves to SUSPEND the rules for the purpose of reopening the work session on HB 2042 to allow Rep. Lowe to cast her vote.
		VOTE: 5-0
333	Chair Walker	Hearing no objection, declares the motion CARRIED.
343	Rep. Lowe	Votes "aye" on HB 2042.
347	Counsel Shartel	Introduces herself as counsel to House Judiciary Civil Subcommittee.
404	Chair Walker	Adjourns the meeting at 9:25 a.m.

Submitted By,

Reviewed By,

Ann Martin,
Committee Assistant

Andrea Shartel,
Administrator

EXHIBIT SUMMARY

A – HB 2046 with 1 conceptual amendment, written testimony submitted by Greg Chaimov, Legislative Counsel, dated 1/15/01, 2 pgs.

B – HB 2044, 2045, written testimony submitted by Greg Chaimov, Legislative Counsel, dated 1/15/01, 1 p.

C – HB 2043, written testimony submitted by Greg Chaimov, Legislative Counsel, dated 1/15/01, 2 pgs.