

HOUSE COMMITTEE ON RULES, REDISTRICTING, AND PUBLIC AFFAIRS

January 19, 2001
1:30 PM

Hearing Room D
Tapes 5-6

MEMBERS PRESENT: Rep. Carl Wilson, Chair
Rep. Richard Devlin
Rep. Dan Doyle
Rep. Dan Gardner
Rep. Bill Garrard
Rep. Steve March
Rep. Joanne Verger
Rep. Cheryl Walker

MEMBER EXCUSED: Rep. Bruce Starr

STAFF PRESENT: Cara Filsinger, Administrator
Jennifer Goodman, Administrative Support

MEASURE/ISSUES HEARD: HCR 2 – Public Hearing and Work Session
HB 2028 – Work Session
HB 2030 – Work Session
HB 2031 – Work Session
HB 2034 – Work Session
HB 2097 – Public Hearing and Work Session
HB 2096 – 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 5, A		
005	Chair Wilson	Calls the committee to order at 1:32 p.m.
010	Ramona Kenady	Chief Clerk of the House. Describes consent calendar rule and process.
054	Rep. March	Asks if there are only 2 days to file an objection after committee action.
056	Kenady	Answers that a member has three days after committee action, and two days after it appears on the blue sheet.
075	Chair Wilson	Opens the public hearing on HCR 2.
<u>HCR 2 – PUBLIC HEARING</u>		
077	Judy Tuttle	Deputy Chief of Staff for Mayor Vera Katz. Submits (EXHIBIT A) and testifies directly from the exhibit in support of HCR 2. Requests the support of the committee in adopting House Concurrent Resolution 2.
104	Chair Wilson	Closes the public hearing and opens a work session on HCR 2.
<u>HCR2 – Work Session</u>		
107	Rep. Gardner	MOTION: Moves HCR 2 be sent to the floor with a BE ADOPTED recommendation.
		VOTE: 8-0

109	Chair Wilson	EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED. GARDNER will lead discussion on the floor.
113	Chair Wilson	Closes the work session on HCR 2 and opens a work session on HB 2028.
<u>HB 2028 – WORK SESSION</u>		
115	Rep. Devlin	MOTION: Moves HB 2028 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on School Funding And Tax Fairness Committee/Revenue.
		VOTE: 8-0
120	Chair Wilson	EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
120	Chair Wilson	Closes the work session on HB 2028 and opens a work session on HB 2030.
<u>HB 2030 – WORK SESSION</u>		
122	Rep. Devlin	MOTION: Moves HB 2030 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on School Funding And Tax Fairness Committee/Revenue by prior reference.
		VOTE: 8-0
128	Chair Wilson	EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
128	Chair Wilson	Closes the work session on HB 2030 and opens a work session on HB 2031.
<u>HB 2031 – WORK SESSION</u>		
130	Rep. Devlin	MOTION: Moves HB 2031 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on School Funding And Tax Fairness Committee/Revenue by prior reference.
		VOTE: 8-0
135	Chair Wilson	EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
135	Chair Wilson	Closes the work session on HB 2031 and opens a work session on HB 2034.
<u>HB 2034 – WORK SESSION</u>		
136	Rep. Devlin	MOTION: Moves HB 2034 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on School Funding And Tax Fairness Committee/Revenue.
		VOTE: 8-0
144	Chair Wilson	EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
144	Chair Wilson	Closes the work session on HB 2034 and opens a public hearing on HB 2097.
<u>HB 2097 – PUBLIC HEARING</u>		
152	Scott Taylor	Department of Corrections. Submits (EXHIBIT B) and testifies in support of the bill. States that current law giving authority for directing medical care to minors is unclear and that HB 2097 would clarify that the Oregon Youth Authority and the Department of Corrections may provide the care

172	Rep. Walker	Asks if a service for minors is currently being provided.
174	Taylor	Answers yes, but that the department's responsibility is not clearly stated.
177	Rep. Devlin	Asks if most minors are held by the Oregon Youth Authority.
180	Taylor	Responds that the answer is yes.
182	Kathy Osborn	Senior attorney with the Juvenile Rights Project. Testifies in support of HB 2097. States that juveniles are receiving care, however there is no legal backing for this. Continues that a current health study showed that juveniles require different needs than adults and offers a copy of the health study.
211	Chair Wilson	Closes the public hearing on HB 2097 and opens a work session on HB 2097.

HB 2097 – WORK SESSION

216 Rep. Devlin

MOTION: Moves HB 2097 to the floor with a DO PASS recommendation.

VOTE: 8-0

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Starr

The motion CARRIES.

218 **Chair Wilson**
230 Rep. Devlin

MOTION: Moves HB 2097 be placed on the consent calendar.

VOTE: 8-0

EXCUSED: 1 - Starr

Hearing no objection, declares the motion CARRIED.

233 Chair Wilson
240 Chair Wilson

Closes the work session on HB 2097 and opens a public hearing on HB 2096.

HB 2096 – PUBLIC HEARING

245 Nick Armenakis

Department of Corrections. Submits (**EXHIBIT C**) and testifies that the department is concerned with the execution process and supports HB 2096. Explains that specific procedures for the administration of an execution is in accordance with Oregon statutes, including the access and conduct of guests, but this was struck down by the Supreme Court.

325 Chair Wilson
326 Jeff Van Valkenburg

Asks for background on court cases.

Department of Justice. Explains that after 1997 the media challenged the department's rules regarding:

- Prohibiting witnesses from identifying the staff
- Preventing certain steps up to the actual injection from being viewed by the witnesses.

Explains that the Court of Appeals upheld the Department of Corrections' rules, but the Oregon Supreme Court reversed that decision, and that is why the department is here today.

383 Chair Wilson

Asks what the department's concern is about having cameras at executions.

388 Armenakis

Replies that the department is concerned about cameras and the witnesses viewing the steps to the execution.

400 Chair Wilson

Asks why there is concern over viewing the steps to an execution and who is present.

404 Armenakis

Explains that the execution team is assembled to prepare the person for execution and that they are volunteers from the department. Entertains the idea that if an inmate being led to execution did not want to go there could be some trouble and

perhaps these people would encounter problems when going back to their regular jobs.

TAPE 6, A

009	Chair Wilson	Asks if there is concern over the effect on inmate population if person going to execution does not go willingly.
011	Armenakis	Responds that there is.
015	Rep. Garrard	Asks if the volunteers are cautioned about the media.
024	Armenakis	Answers that they are. Explains that the rules have changed because it is not just the actual execution but the events leading up to it.
029	Rep. Devlin	Reviews a past committee bill he covered. Asks when they will have to face process again.
045	Armenakis	Comments that there is a long process waiting for execution, however they can happen quickly if the inmate declines all the appeals.
057	Rep. Devlin	Asks if employees are exempt from disclosure.
061	Van Valkenburg	Responds that records are exempt from disclosure if any harm can come from it. Staff can now be left out of the public record.
078	Rep. Devlin	Asks about monitors and whether the statute is permissible enough to allow viewing.
091	Van Valkenburg	Responds that the department has the ability to allow anyone at the execution.
100	Rep. Devlin	Asks if there is a court ruling regarding filming the execution.
100	Van Valkenburg	Responds that he is almost certain that filming is not allowed in prisons or executions. Notes that federal law states that the media has no greater right in a prison than does the public.
120	Rep. Walker	Asks if the execution staff are daily regular employees.
124	Armenakis	Responds that they are.
127	Rep. Verger	Asks if new rules could be written under this bill.
136	Van Valkenburg	Answers that it is open ended and the Department of Corrections would have the right to write the rules for viewing an execution.
146	Chair Wilson	Asks about the accountability issue and whether it is only the Department of Corrections, or if anyone outside is allowed to watch.
153	Van Valkenburg	Answers that only the Department of Corrections staff is allowed.
167	Arwen Bird	Survivors of Crime. Opposes the bill because she does not want government to restrict the right of people to witness executions.
186	Chair Wilson	Asks if she believes that witnesses should be able to view all steps leading to, and including, the execution.
190	Bird	Responds that the government should not restrict viewing.
203	Andrea Meyer	Legislative Director of the American Civil Liberties Union. Submits written testimony (EXHIBIT D) and testifies in opposition to HB 2096.
325	Rep. Verger	Asks if this is a question of principle.
329	Meyer	Replies that the people's right to know and view is fundamental to her argument.
333	Rep. Verger	Asks if the point is the viewing of the particular event that is of importance.
339	Meyer	Answers that the execution viewing by the public is to assure it is done humanely and knowingly.
357	Rep. Verger	States that the awesome power of the government is in fact the

		power of the people.
369	Meyer	Answers that the government carries out the will of the people and that the entire viewing is part of this.
411	Chair Wilson	Asks how many states allow the complete viewing of an execution.
416	Meyer	Answers that she does not know the answer.
420	Chair Wilson	Asks if there is any concern regarding the safety of the staff with full disclosure.
TAPE 5, B		
001	Meyer	Asks if he is referring to television.
003	Chair Wilson	Responds that he means television and taping audio.
004	Meyer	Responds that the administrative rules that allow the media to be present are the same rules that limit the media's behavior.
016	Rep. Walker	Asks if there have been any reports on the people who carried out an execution.
023	Meyer	Answers that she does not have an answer. However, there will always be staff who will have to deal with the emotions as long as we legalize executions. Points out that staff can wear disguises.
042	Rep. Doyle	Asks whether her position is that the identity of the staff person is not part of full disclosure.
047	Meyer	Answers that she will leave that to the media. Notes that the safety within the room, including identity, is what she is concerned about.
060	Rep. Garrard	Asks if the volunteers are compensated.
062	Meyer	Responds that she does not know.
072	Brian DeLashmutt	Association of Oregon Correction Officers. Discusses policy issues and testifies in support of HB 2096. Explains that surgical masks do not work to hide the staff's identity. Expresses concern regarding worker's safety.
147	Rep. Garrard	Asks if volunteers are aware of the danger.
152	DeLashmutt	Responds that this was not an issue in the past and that volunteers will not be so willing to do this if it is made public.
170	Rob Priewe	Represents Corvallis Gazette Times. Submits and reads written testimony (EXHIBIT E) .
214	Rep. Doyle	Asks what Priewe would consider an accurate report of an execution.
219	Priewe	Responds that he considers it the time the prisoner is led to his demise.
230	Rep. Doyle	Asks whether this includes the entire day leading up to his demise.
237	Priewe	Responds that that is not practical.
239	Rep. Doyle	Asks why the line is drawn by Priewe at the time of injection.
245	Priewe	Responds that this is the time when the government is carrying out the people's wishes.
250	Rep. Doyle	Asks about the press' editing and whether the media is obliged to tell all.
259	Priewe	Responds that he is not representing all media, just his paper.
265	Rep. Verger	Asks if he considers the execution to be just from the point of injection.
243	Priewe	Responds that he considers the last walk and injection the entire execution.
279	Rep. Walker	Asks about the ethics of the media in general and how we control the tawdry stories.

285	Priewe	Responds that he cannot control other media. States that they cannot legislate to the lowest common denominator.
325	Rep. Walker	Questions what he considers to be real dangers. Explains that dangers to her involve the staff and their families.
343	Priewe	Agrees.
350	Dave Fiskum	Oregon Association of Broadcasters. Testifies that HB 2096 is not routine. States that he wants assurance that the media is not barred from executions and that they would like to be part of the decision making process.
401	Bill Johnstone	President, Oregon Area Association of Broadcasters. Explains that the media are the eyes of the public and that there are already rules guiding the media in relation to the Department of Corrections. States that HB 2096 should also have these specific rules included.
TAPE 6, B		
001	Johnstone	Reviews the current rules of conduct for media at executions. Expresses concern over the open-ended wording and whether the conditions will be changed.
042	Rep. March	Asks if there is room to work with the Department of Corrections on the wording of the bill.
050	Fiskum	Answers that working together on the language could be helpful.
069	Tom Gallagher	Oregon Newspaper Publishers Association. Reviews history of Oregon executions. Reviews past court rulings regarding media and viewing and disclosure.
114	Steve Smith	Editor, Statesman Journal. Explains that the issue is not about media access but about citizen access. Explains that at present there are no independent disinterested observers present throughout the execution.
147	Chair Wilson	Asks how many states allow full disclosure from the last meal forward.
158	Armenakis	Answers that there are none with full disclosure. Notes that the normal procedure is from the time the inmate is ready to receive the injection.
167	Rep. Devlin	Asks what steps the Department of Corrections takes to protect the execution staff.
173	Armenakis	Responds that internally the staff is known to the department, but that currently the Department of Corrections is protecting their staff from outside disclosure.
184	Rep. Walker	Asks why the media is not directly referred to in HB 2096.
192	Van Valkenburg	Responds that media is not statutorily entitled to attend executions However, the media has always been included.
203	Rep. Verger	Expresses concern about the open-endedness of media's rights in HB 2096.
219	Armenakis	Responds that it has to be open-ended.
230	Rep. Devlin	States that the dilemma is the rights verses the protection of agents of the government.
256	Rep. March	Asks if a meeting to work out a compromise would be helpful.
260	Armenakis	Answers that they are not opposed to that suggestion.
266	Chair Wilson	States that the committee will wait to take action on the bill. Closes the public hearing on HB 2096 and adjourns the committee at 3:21 p.m.

Submitted By,

Reviewed By,

Jennifer Goodman,
Committee Assistant

Cara Filsinger,
Committee Administrator

EXHIBIT SUMMARY

- A – HCR 2, written testimony, Judy Tuttle, 2 pp.**
- B – HB 2097, written testimony, Scott Taylor, 1p.**
- C – HB 2096, written testimony, Nick Armenakis, 1 p.**
- D – HB 2096, written testimony, Andrea Meyer, 3 pp.**
- E - HB 2096, written testimony, Rob Priewe, 1 p.**