

HOUSE COMMITTEE ON RULES, REDISTRICTING, AND PUBLIC AFFAIRS

June 5, 2001
8:30 AM

Hearing Room D
Tapes 128, 129, 130

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

MEMBER EXCUSED: Rep. Dan Gardner

STAFF PRESENT: Cara Filsinger, Committee Administrator
Jim Stembridge, Committee Administrator
Megan Palau, Committee Administrator
Marilyn Odell, Committee Administrator
Pamela Johansen, Committee Assistant

MEASURE/ISSUES HEARD: HB 3742 Work Session
SB 470A Work Session
SB 487 Work Session
SB 423B Public Hearing
SB 872 Public Hearing
SB 416 Public Hearing
SB 417A Public Hearing and Work Session
Committee Rule Changes, Work Session

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 128, A 003	Chair Wilson	Calls the meeting to order at 8:35 a.m. and opens a public hearing on SB 416.
<u>SB 416 PUBLIC HEARING</u> 020	Jim Stembridge	Committee Administrator. Gives an overview of the bill.
035	Mylia Wray	Administrator, Public Employees Benefit Board (PEBB). Testifies in support of the bill. Submits and refers to written testimony (EXHIBIT A). States this bill will: <ol style="list-style-type: none">1. Clarify the source and use the Public Employees' Revolving Fund.2. Extend the time during which the Public Employees' Benefit Account may accumulate a balance sufficient to meet expenditures.3. Remove language that restricts benefits contracts to one or two years and replaces it with reference to Legislative

		criteria set forth in ORS 243.135.
095	Dr. John Santa	Chair, PEBB Plan Design Committee. Testifies in favor. Submits and refers to written testimony (EXHIBIT B). Comments self-funding would allow PEBB to: <ol style="list-style-type: none"> 1. Maintain full control over reserves, including maximization of interest income. 2. Pursue innovations and options that promote competition, quality, and geographic solutions. 3. Undertake options to decrease administrative costs.
143	Chair Wilson	Comments that insurance appears to be an unstable market at this time. Expresses concern for self-funding insurance and the risk factor in a down market. Asks what would happen if we lost money
156	Santa	Comments that the self-insurance will still require diligence and prudence on the part of PEBB. States that the self-funding entity will still have the responsibility to have in reserve as much or more to be prepared for such occurrences.
167	Dan Hartman	Administrator, Risk Management, Department of Administrative Services (DAS). Explains the need for self-insurance if absolutely necessary for property, tort liability and workers compensation. Discusses risk control and risk management. Gives a brief history of self-insuring in the state.
224	Rep. Devlin	States if this were to put into statute would offer an opportunity to evaluate this as an option. Asks if they do decide to self-insure would the claims process be contracted out.
236	Hartman	Comments this would allow a number of administrators within the state to compete for administrative business.
245	Rep. March	Asks if there are any other large employers or public employers currently self-insuring.
250	Wray	Responds that nationally 68% of employers with 500 or more employees self-insure their health plans. Comments that PEBB remains one of the few public groups without a clearly defined option to do so.
257	Chair Wilson	Asks if there is a fiscal impact on the –1 amendments at this time.
260	Wray	Responds there is not a fiscal at this time. Comments that the intent is to have this option considered in 2002 for the 2003 plan year.
279	Santa	Comments that PEBB dollars go to benefits, risk and administration. Explains in a self-funding operation there would be a reallocation of funds between these three responsibilities.
288	Rep. Walker C.	Asks what are the options and programs they are proposing to expand.
297	Santa	Responds that self-funding pilots around services like vision coverage or drug coverage.
310	Rep. Verger	Asks for clarification on catastrophic levels.
330	Hartman	Comments they forced to self-insure for tort liability because they could not find competitive insurance. Explains the process of self-insuring. States that self-insuring is the most efficient by savings of \$15 million dollars a year by self-insuring compared to commercial insurance.
340	Mark Nelson	Association of Oregon Faculties, Oregon Clinical Social. States he has just received the –1 amendments and has not had an

opportunity to review them. Comments that if PEBB self-insures they may not be required to follow the mandates. States their main concern is the mental health, alcohol and drugs mandate currently in statute.

- 400 John Howell Regence Blue Cross/Blue Shield of Oregon. Expresses concern that the OMIP assessments would apply to the lives that would be taken out of the insured market. Comments this is how insurance companies are assessed based on their market share for the deficit created by the high- risk pool.
- 420 Chair Wilson Closes the public hearing on SB 416 and opens a public hearing on SB 872.

TAPE 129, A

SB 872 PUBLIC HEARING

- 030 Megan Palau Committee Administrator. Gives an overview of the bill.
- 051 Roger Martin Confederated Tribes of the Umatilla Indian Reservation. Testifies in support of the bill. Submits and refers to the written testimony (**EXHIBIT D**). Comments that conservation easements are a way for landowners to transfer land use or development rights or interests to an eligible holder such as a governmental body or charitable corporation, association or trust thus protecting an important conservation value of the property for public benefit.
- 086 Rep. Verger Asks if this brought forward for one specific transfer of a conservation easement.
- 092 Martin States that this has come about to address an issue on the John Day River. Comments the presence in the law would allow this to be used for other cooperative efforts between landowners and the tribes located near affected rivers.
- 102 Rep. March Asks if the easements are voluntary.
- 105 Martin Comments this is a cooperative effort and for those who want to participate on a voluntary basis.
- 108 Chair Wilson Asks for a brief definition of the term wildlife easement.
- 111 Martin Comments that he cannot give him an example at this time, but will get a brief description back to the committee.
- 127 Chair Wilson Closes the public hearing on SB 872 and opens a work session to consider committee rule changes.

COMMITTEE RULE CHANGES - WORK SESSION

- 132 Rep. March Comments that any districts being proposed in amendments or minority reports should have the information available to them through an electronic data file for public record.
- 154 **Rep. March** **MOTION: Moves to AMEND the Committee Rules with addition of the memo from Sen. Steve Harper and Rep. Carl Wilson dated 6/5/01 (EXHIBIT E).**
- VOTE: 8-0**
- EXCUSED: 1 – Gardner**
- 163 **Chair Wilson** **Hearing no objection, declares the motion ADOPTED.**
- 165 Chair Wilson Closes the work session and opens a work session on HB 3742.

HB 3742 WORK SESSION

- 170 Cara Filsinger Committee Administrator. Gives an overview of the bill.
- 174 Dawn Phillips Legislative Assistant to Rep. Hill, House District 5. Submits and refers to –5 amendments (**EXHIBIT F**).
- 224 Greg Kimsey Auditor, Clark County Washington. Comments that Washington

has relied on postmarks for their absentee and vote by mail ballots for more than 20 years. Addresses concerns of campaigns contacting voters after 8:00 p.m. Discusses illegible postmarks and how the amendments should resolve that issue. States these changes should not increase the Oregon Election Clerks workload and are in the best interest of the people.

267 Chair Wilson Asks why redesign the envelopes and who would pick up the cost for this change.

275 Phillips Comments the Secretary of States office is currently working with the post office to redesign for more uniformity. States she is unaware of how the cost will be distributed for the design work. Responds that counties currently cover the cost of their envelopes. Refers to the –5 amendments to give them more authority to address and implement these changes.

293 Rep. March Asks Mr. Kimsey how long he has been the Clark County Auditor.

296 Kimsey Comments he was elected in 1998 and serving since 1999. States that the Election Administrator has been in office for 21 years.

300 Rep. March Asks if there is a time factor for voting on election day.

306 Phillips Responds that is the importance of the disclaimer.

312 Rep. Walker Asks if this process would delay election results.

320 Kimsey Responds that Washington a law was passed that would require counties to publish their results on the 3rd and 8th day. Comments that the general election in Multnomah County it took 10 days to finalize their votes. Comments in Clark County they were able to count 99% of all ballots by the Friday following the election.

359 Rep. Verger Compliments Dawn Phillips on her efforts on the bill. Asks what are the lines of Clark County.

365 Kimsey Comments that Clark County is immediately north of Multnomah County across the Columbia River. States the city of Vancouver is the County Seat with a population of 345,000 people.

377 Rep. Verger Asks if he is familiar with the newspaper article addressing the issue of urging voters to come out and vote **(EXHIBIT G)**.

387 Kimsey Comments that this was a one-time occurrence and the results were unchanged by that effort.

398 Rep. Verger States it is unfair if it is setting a trend in the voting.

408 Kimsey Comments the initial primary results are released throughout the day while in a close race you will not the see final results until it is certified which is 15 days after the election.

TAPE 128, B

012 Rep. Verger Concurs with the premise that the County Clerks workload should not be placed in the forefront. States the County Clerks in her district are opposed to this bill and feel this will delay final results. Communicates the concerns of the County Clerks.

022 Kimsey Responds that 92% of all ballots on election day and the remaining 8% come within the 3 days after election day. States the delay in counting ballots is a function of the people and equipment that are in the election office and the commitment that the Election Administrator has to promptly process and count those ballots.

059 Rep. Garrard Asks if someone walked into the County Clerks office to vote after 8:00 p.m. would they be allowed to vote.

064	Kimsey	Responds they would not be allowed to vote.
065	Rep. Garrard	Asks if they went to a Post Office would they be allowed to vote.
066	Kimsey	Comments they would only count the vote if they find a Post Office that would accept and postmark the envelope before midnight on the day of the election.
093	Rep. Starr	Comments that this proposal would provide a convenience for a wide range of individuals.
112	Rep. Devlin	MOTION: Moves to ADOPT HB 3742-5 amendments dated 6/5/01.
		VOTE: 6-2
		AYE: 6 - Devlin, Doyle, Garrard, Starr, Walker C., Wilson
		NAY: 2 - March, Verger
		EXCUSED: 1 - Gardner
	Chair Wilson	The motion carries.
136	Rep. Devlin	MOTION: Moves HB 3742 be sent to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-2
		AYE: 6 - Devlin, Doyle, Garrard, Starr, Walker C., Wilson
		NAY: 2 - March, Verger
		EXCUSED: 1 - Gardner
135	Chair Wilson	The motion Carries.
		REP. STARR will lead the discussion on the floor.
138	Rep. Devlin	Comments that the vote by mail process has provided more convenience to the general public. States that if we are going to have vote by mail elections then we need to take away as many impediments as possible to that process. Says this bill is an opportunity to remove some of those roadblocks.
186	Chair Wilson	Comments that the committee has made many efforts to improve the election process. Expresses frustration that the election establishment finds fault with almost every effort put forth to change this process.
223	Chair Wilson	Closes the work session on HB 3742 and opens a work session on SB 487.
<u>SB 487 WORK SESSION</u>		
272	Rep. Doyle	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on SB 487.
		VOTE: 8-0
		EXCUSED: 1 - Gardner
275	Chair Wilson	Hearing no objection, declares the motion CARRIED.
278	Rep. Doyle	MOTION: Moves to RECONSIDER the vote by which SB 487 was sent to the floor with a DO PASS recommendation".
		VOTE: 8-0
		EXCUSED: 1 - Gardner
280	Chair Wilson	Hearing no objection, declares the motion CARRIED.
282	Chair Wilson	Closes the work session on SB 487 and opens a work session on SB 470.
<u>SB 470A WORK SESSION</u>		
276	Megan Palau	Committee Administrator. Gives an overview of the bill. Discusses the –A11 amendments (EXHIBIT H).
288	Bob Castagna	Oregon Catholics Conferences. Comments that the new –A11

		amendments address their concerns from the previous A-Engrossed version of SB 470. States they are in support of the bill with the –A11 amendments.
324	Rep. Doyle	Asks if the amendments address the issues with the Department of Land Conservation and Development Commission (DLCD).
326	Bob Castagna	Comments they have conferred with DLCD and both are in agreement on the –A11 amendments.
330	Rep. Walker C.	Asks if he is familiar with the land use case in Jacksonville.
340	Bob Castagna	Comments that he was only familiar with the case through the media coverage. States he was involved with the Sunnyside Methodist Church in Portland where the hearing officer by order imposed a limit of 70 people to attending church services. Says the –A11 amendments will reduce the potential number of incidents where churches have to become involved in litigation.
392	Rep. Devlin	Asks if Bob Rindy with Department of Land Conservation and Development (DLCD) is neutral on the bill.
370	Bob Rindy	Policy Advisor, DLCD. Comments the –A11 amendments remove any concerns of how it would affect their program and are neutral on the bill.
382	Rep. Verger	Expresses frustration that the state is constantly invading local government authority. Comments she cannot support another preemption.
403	Chair Wilson	Comments that from the point of view of the consumer his experience has not been pleasant. States that occasionally administration needs to take into consideration the results of what they do to communities.
442	Rep. Garrard	States he is in agreement with Rep. Verger and the intrusion and the overriding of local decisions that are made at the state level. Comments this is prevalent at the county level as well.
TAPE 129, B		
038	Chair Wilson	Recesses the work session to discuss constitutional issues.
042	Chair Wilson	Reconvenes the work session.
047	Rep. Starr	MOTION: Moves to ADOPT SB 470-A11 amendments dated 6/5/01.
051	Rep. Devlin	Refers to a letter from 1000 Friends of Oregon (EXHIBIT I). Comments he feels this is a good bill and will be voting in favor of the bill.
073	Rep. March	Comments he will be supporting the amendments but in light of the recent change in federal law feels the bill is unnecessary and will not be supporting the bill.
080	Rep. Walker C.	Comments she has had much discussion on this bill because Jacksonville is in her district and those citizens were very upset about this issue because the church in question has purchased the land prior to the subdivision being built. States that churches are an integral part of the community and add a lot to the neighborhood. Says she will be voting for the amendments and a courtesy yes for the bill.
		VOTE: 7-1
		AYE: 7 - Devlin, Doyle, Garrard, March, Starr, Walker C., Wilson
		NAY: 1 - Verger
		EXCUSED: 1 - Gardner
095	Chair Wilson	The motion Carries.
104	Rep. Starr	MOTION: Moves SB 470A to the floor with a DO PASS AS

AMENDED recommendation.

VOTE: 6-2

AYE: 6 - Devlin, Doyle, Garrard, Starr, Walker C., Wilson

NAY: 2 - March, Verger

EXCUSED: 1 - Gardner

The motion Carries.

REP. DOYLE will lead discussion on the floor.

110 Chair Wilson

116 Chair Wilson

Closes the work session on SB 470A and opens a public hearing on SB 417A.

SB 417A PUBLIC HEARING

125 Megan Palau

Committee Administrator. Gives an overview of the bill.

137 Bob Rindy

Policy Advisor, DLCDC. Testifies in support of the bill.

Comments that SB 417A was brought forward to extend the time frames for local governments to complete the periodic review process.

161 Chair Wilson

Discusses section 2 and the changes from 180 days to an extension of 1 year. Comments this is a large change. Asks Mr. Rindy to expound on the reasoning behind this change.

162 Rindy

Comments this would happen when the periodic review has been reached and an appeal filed. States the appeal may result in a local government being sent back to do work. Comments that local governments have stated on numerous occasions that 180 days does not give them enough time to respond.

179 Chair Wilson

Asks if the bill contains anything that would slow service time to the general public on issues related to the land use process.

183 Rindy

Responds that the timelines have been extended for the purpose of mediation. States this may slow some things down but this is the minimum time necessary to resolve issues.

193 Rep. Devlin

Concurs with Mr. Rindy. States that to do the public process well he feels this time line extension is appropriate.

209 Rindy

Responds that prior to SB 543 there were no time frames and these are just minor adjustments to that bill.

226 Art Schlack

Association of Oregon Counties (AOC). Comments that Linda Ludwig of League of Oregon Cities (LOC) supports this bill. Testifies in support of the bill. States that section 2 and 3 of the amendments are a participation of AOC and LOC.

Explains the specific changes to these sections.

276 Chair Wilson

Asks if anything in these amendments will slow the level of service to members of the public.

283 Rep. Garrard

Asks Mr. Schlack to describe the penalty of enforcement is to cities and counties.

288 Schlack

Gives details of the penalties of non-compliance.

309 Chair Wilson

Closes the public hearing on SB 417A and opens a work session.

SB 417A WORK SESSION

312 Rep. Walker C.

MOTION: Moves SB 417A to the floor with a DO PASS recommendation.

VOTE: 6-0

EXCUSED: 3 - Gardner, Starr, Verger

Hearing no objection, declares the motion CARRIED.

REP. GARRARD will lead discussion on the floor.

316 Chair Wilson

325 Chair Wilson

Closes the work session on SB 417 and opens a public hearing on SB 423B.

SB 423B PUBLIC HEARING

332 Marilyn Odell Committee Administrator. Gives an overview of the bill. Discusses the –B8 amendments (**EXHIBIT J**) and the –B9 amendments (**EXHIBIT K**).

387 Bob Alexander Tobacco Tax Program Manager, Oregon Department of Revenue. Explains the process of cigarette taxation. Comments that there is a significant non-compliance problem. States that the revenue generated by the stamp taxation was \$371 million in the 1997-1999 biennium but for September 2000 the forecast was \$275 million. Says this bill will update the civil and criminal penalties, which have not been reviewed since 1969.

TAPE 130, A

015 Chair Wilson Asks how can you beat the system.

018 Bob Alexander Comments most cigarettes travel through the legal distribution system. Gives an overview of how the tax is being avoided through illegal sales and trafficking.

034 Rep. Garrard Comments this is a very real concern in the Klamath area. Says that some sales have been on tribal land. Asks if this has been a problem in other areas.

039 Alexander Responds that it is a significant problem in the Washington area. Says that Oregon has a revenue sharing agreement for the sales that occur on reservation lands.

049 Rep. Garrard Comments that if illegal sales were happening on tribal land there is a probability it may not involve the tribe.

054 Rep. Devlin Asks if they attribute any loss in revenue to a decline in tobacco usage.

057 Alexander Responds that there is a reduction in usage nationwide but not all of it can be attributed to that.

064 Rep. Devlin Asks what is the tax in Washington.

067 Alexander Comments that the tax is .86 to .88 cents in Washington compared to Oregon tax of .68 cents.

075 Rep. Devlin Asks if there is evasion of taxes on the retail side.

084 Alexander States they feel that the bulk of these cigarettes are going through retailers. Comments that a loss of approximately \$45 million dollars a year and considering a tax of .68 cents per pack the numbers are too large for the loss to be attributable to individual sales.

098 Chair Wilson Comments that an increment of 60,000 was mentioned.

100 Alexander Responds that 60,000 cigarettes are the thresholds that California, Washington and the federal government use for establishing the felony penalties.

106 Chair Wilson Asks what time frame is considered on the distribution of fewer than 60,000 cigarettes.

107 Alexander Responds that a semi-truck load of cigarettes entering into the black market would be counted and if more than 60,000 would be subject to Class C Felony.

107 Rep. March Asks what will happen with the proceeds from the taxes and fines.

113 Alexander If seized by the Department of Revenue they will be held for 60 days to let the owner of the cigarettes come forward and pays the taxes and a 100% penalty to redeem the cigarettes. Says that revenue will go to different programs such as the Oregon Health Plan, city and county cessation programs and others. Comments that one of the amendments will treat this revenue as receipts for

		the cigarette tax program.
139	Jim Gardner	Representing Phillip Morris Company. Testifies in support of the bill with the –B8 amendments. Submits and refers to written testimony (EXHIBIT L). Discusses the –B8 amendments.
169	Bill Lindon	R. J. Reynolds Tobacco. Testifies in support of the bill. Discusses the –B8. Comments that the –B9 amendments require this bill to be averted to the Ways and Means committee and to keep the bill moving would support the bill with the –B8 amendments.
196	Rep. March	Asks if this section is addressing the possibility of a citizen’s arrest.
197	Lindon	Comments that it is targeted at those who manufacture, distribute or sell cigarettes and who sustains a direct economic or commercial injury as a result of a violation may bring an action.
209	Gardner	Responds that this is contemplating a temporary restraining order or preliminary injunction this is a civil action relief from the prohibitive behavior.
215	Rep. March	Asks would the distributor be able to use this law if they were at fault.
217	Gardner	Responds they would be responsible to show in court that there had been a violation of substantive law and show that damage was sustained as a result that action.
231	Diana Vitolins	Assistant Attorney General, Organized Crime Section for the Oregon Department of Justice. States that the –B8 amendments provide for forfeiture of any proceeds or instrumentality’s of a violation of SB 423. Comments the same language is inserted in HB 3642, which is the new criminal forfeiture statute. Says the –B8 amendments ensure that each statute is in line with the other. Expresses concern that the –B9 amendments will affect the distribution of criminal forfeiture proceeds. Details specific concerns.
258	Rep. Devlin	Asks the status of HB 3642.
260	Vitolins	Responds that it will be before the full house on Thursday and still needs to be considered by the Senate.
265	Chair Wilson	Asks if Ms. Vitolins could cite an example of forfeiture.
269	Vitolins	Refers to counterfeiting of tax stamps. States in a criminal forfeiture scenario the equipment could be seized and forfeit ownership of any instrumentality such as the semi-truck driven.
278	Chair Wilson	Asks for clarification of fund distribution.
285	Vitolins	Responds that 40% would go to the law enforcement agency that participated in the seizure, 40% to drug treatment. Discusses the distribution conflicts with the –B9 amendments.
292	Rep. Devlin	Asks to resolve the issue with the –B9 amendments criminal forfeitures would have to be excluded.
296	Vitolins	Concurs that criminal forfeiture should be excluded from the –B9 amendments.
304	John Valley	Oregon Health Leadership Against Tobacco (OHLAT). Testifies in support of the bill with the –B9 amendments. Submits and refers to written testimony (EXHIBIT M). Comments that the –B9 amendments will help fund the program and bring OHLAT back up to nationally recommended procedures for a comprehensive program for tobacco prevention education.
356	Chair Wilson	Asks if Mr. Valley could address the concerns of the Oregon Department of Justice on the issue of criminal forfeiture.

360	John Valley	Expresses concern that in the discussion he saw no mention of allocating funds for tobacco prevention. States it should be included in the breakdown and recommends the committee add tobacco prevention to the –B8 amendments.
383	Chair Wilson	Refers to a memo from the Senate Judiciary Committee that expresses concern that the –B9 amendments would necessitate the bill be sent to Ways and Means (EXHIBIT N).
397	Chair Wilson	Closes the public hearing on SB 423 and adjourns the meeting at 10:35 a.m.

Submitted By,

Reviewed By,

Pamela Johansen,
Committee Assistant

Cara Filsinger,
Committee Administrator

EXHIBIT SUMMARY

- A - SB 416, written testimony, Mylia Wray, 2pp.**
- B - SB 416, written testimony, Dr. John Santa, 1p.**
- C – SB 416–1 proposed amendments, Staff, 3pp.**
- D – SB 872, written testimony, Roger Martin, 1p.**
- E – Rules Change, written testimony, Sen. Steve Harper and Rep. Carl Wilson, 7pp.**
- F – HB 3742-5 proposed amendments, Staff, 22pp.**
- G – HB 3742, newspaper article, Secretary of States Office, 2pp.**
- H – SB 470-A11 proposed amendments, Staff, 1p.**
- I – SB 470A, written testimony, 1000 Friends of Oregon, 2pp.**
- J – SB 423-B8 proposed amendments, Staff, 3pp.**
- K – SB 423-B9 proposed amendments, Staff, 1pp.**
- L – SB 423B staff measure summary, Jim Gardner, 1p.**
- M – SB 423B, written testimony, John Valley, 1p.**
- N – SB 423, memo, Sen. John Minnis, 1pp.**
- O – SB 416, statute cited, Staff, 1p.**
- P – SB 470, Fiscal Analysis, Staff, 1p.**