

HOUSE COMMITTEE ON HUMAN RESOURCES

January 28, 1999 Hearing Room E

1:00 PM Tapes 12 -13

MEMBERS PRESENT: Rep. Jeff Kruse, Chair

Rep. Kitty Piercy, Vice-Chair

Rep. Betsy Close, Vice-Chair

Rep. Tim Knopp

Rep. Jerry Krummel

Rep. Mike Lehman

Rep. Bill Morrisette

Rep. Jackie Taylor

Rep. Jackie Winters

STAFF PRESENT: Janet L. Carlson, Administrator

Diane M. Lewis, Administrative Support

MEASURE/ISSUES HEARD: HB 2171 Public Hearing and Work Session

HB 2067 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 12, A		

003	Chair Kruse	Opens the meeting at 1:05 PM and updates the committee on subcommittee meetings and room assignments.
038	Chair Kruse	Opens a public hearing on HB 2171.
<u>HB 2171 PUBLIC HEARING</u>		
039	Janet Carlson	<p>Committee Administrator, provides the committee with bill background. Explains that both bills on the agenda establish a Department of Human Resources (DHR) Children's Ombudsman in order to resolve complaints concerning DHR. HB 2171 transfers the Office of Children's Ombudsmen from the State Commission on Children and Families to DHR. HB 2067 establishes a DHR Ombudsman with the authority to investigate and resolve complaints and establishes a legislative specialist position.</p> <p>Provides the committee with information on the Citizen Representative Office (CRO) established prior to Governor Goldschmidt's administration. States that a version of HB 2067 was heard in the 1997 session's House Committee on Children and Families. HB 2171 has been proposed by DHR.</p>
095	Bob Mink	Deputy Director, Department of Human Resources, introduces Gin Denison, , Governor's Advocacy Director and Children's Ombudsman, DHR, and presents testimony in support of HB 2171. Explains that DHR has an interagency agreement with the State Commission on Children and Families to provide ombudsman services since November 1997. States that HB 2171 puts into law what is now an interagency agreement and clarifies duties to be covered by a DHR Children's Ombudsman.
091	Gin Denison	Director, Governor's Advocacy, Children's Ombudsman and Dispute Resolution Office DHR, submits and discusses written testimony in support of HB 2171 (EXHIBIT A) .
128	Rep. Morrisette	Asks about the authority of the ombudsman in a complaint situation.
130	Denison	Replies that the DHR Ombudsman Office has access to all electronic data within the divisions of DHR. When a citizen who is already receiving services contacts the Ombudsman Office, his or her records are available to assist the ombudsman in learning about the client's situation. Explains that often the complaint is as easily resolved as explaining a benefit package to a client that misunderstood. The ombudsman office also has access to the grievance processes of all DHR divisions and will explain these to clients. Indicates that her office will explain to clients their rights and how to apply for and participate in hearings.
148	Chair Kruse	Asks about a specific area or agency where the most problems are occurring.
155	Denison	Responds that Adult and Family Services (AFS) shows a high number of contacts in EXHIBIT A , because the statistic includes contacts regarding child support. States that child support issues have since gone to the Department of Justice.

166	Chair Kruse	Asks about the process the ombudsman puts into place when a client voices a complaint or makes a contact.
174	Denison	<p>Walks the committee through the process once a call comes into her office.</p> <ul style="list-style-type: none"> • Ombudsman goes to the computer for information on the client's case history and status. • If the computer status isn't current, a call goes out to the worker in the field. • Wait periods are one working day. • Counsels clients to keep copies of every piece of paper they receive and send out.
213	Chair Kruse	Asks about the relationship that the ombudsman office has with the Department of Justice regarding child support complaints.
216	Denison	Responds that if an urgent call comes in regarding child support, the ombudsman office will work the case even though the Department of Justice is handling child support issues. If the situation is not urgent, all the information is transferred to the Department of Justice. States that the ombudsman office continues to track the case to insure that the client was given a response.
224	Chair Kruse	Asks how the ombudsman office learns of complaints that have been made directly to an agency.
229	Denison	States that if a complaint is made directly to an administrative office, the ombudsman office probably won't hear about it.
235	Chair Kruse	Comments that during the interim his office received many complaints regarding state agencies. Although he was able to provide solutions to many, he is concerned that the ombudsman office is not receiving complaints that are being voiced directly to legislators and agencies, therefore giving the ombudsman only half the picture of the problems being faced by DHR and the public.
248	Denison	Responds that when food stamp inquiries and complaints escalated, the ombudsman office learned a great deal regarding the problems being faced by regional branch offices and the changes that some of those offices needed to make in order to better serve clients in those regions. States that it is concerning that the ombudsman may not always get the full picture of the problems that DHR clients are having. Limited staff availability plays a role in this dilemma.
264	Rep. Winters	Refers to EXHIBIT A and asks Denison to comment on the problems Services to Children and Families (SCF) has faced regarding child foster care, child protective issues, and child placement issues and what actions SCF took to handle these problematic areas.
274	Denison	Responds that regarding the child foster care issue, parents and grandparents were calling to find out what was happening with their children in foster care, complaints were made regarding shortened or cancelled visitation periods, and concerns were expressed regarding abuse issues in the foster care home. States

		that abuse complaints are taken very seriously.
300	Rep. Winters	Asks if the ombudsman office is seeking the kind of independence that allows the ombudsman to carry out its work regardless of who is in the governor's office or director's office.
309	Denison	Replies that the ombudsman office has enjoyed the luxury of having a very supportive director and deputy director. Responds that she is not sure how her office would be affected if the relationship of the ombudsman and the director were different. Discusses her three year experience working in the Governor's Office and states that it reinforced her belief that a knowledge base of continuity is the key to providing the kind of services that the ombudsman is directed to provide.
330	Rep. Winters	Asks if there are cases that take Denison outside DHR.
336	Denison	Responds affirmatively. Explains that the ombudsman office in DHR has worked with workers' compensation issues, corrections, and transportation. States that her office coordinates extensively between agencies.
352	Rep. Winters	Asks if the ombudsman office is contacted by attorneys looking for assistance.
358	Denison	Responds affirmatively. Explains that if an attorney calls it will usually be an SCF issue.
375	Bob Mink	Deputy Director, DHR, explains that the ombudsman office brings attention to issues that the director's office would not usually get from the divisions. Explains that when calls come into the department he goes to the ombudsman for computer information and assistance in finding out what both sides are saying. States that the ombudsman provides the directors with the information needed to create a framework that can be taken back to division administrators for the purpose of finding solutions. States that autonomy and independence are important, but who is in the director's seat and the governor's office will still have an impact on how the ombudsman functions. Believes this idea needs continued discussion.
405	Rep. Winters	Asks what happens to the ombudsman if a supportive director and governor leave their positions.
415	Mink	Responds that these unanswered questions are why a statutory basis for the ombudsman office is important.
423	Mickey Lansing	Deputy Director, Oregon Commission on Children and Families, testifies in support of HB 2171. States that moving the ombudsman office makes sense because most of the questions and complaints that the ombudsman handles have to do with agencies and divisions within DHR.
435	Piercy	Asks if there have been complaints about the lack of autonomy facing the

		ombudsman office or lack of response by the ombudsman.
440	Denison	Replies that she has not received any complaints.
433	Rep. Piercy	Asks where complaints regarding the ombudsman would be handled.
440	Mink	Responds that the director or deputy director will handle complaints regarding the ombudsman. States that complaints regarding the ombudsman are mostly from clients who are unsatisfied with the results of a case. States that often everything that could be done to facilitate a client's case was done, and the client is very unhappy to hear that there are no more steps in the process of their case.
TAPE 13, A		
007	Rep. Lehman	Refers to sections 7-15 of HB 2171, and asks if this is all new language.
017	Chair Kruse	Replies that sections 7-15 are new language directing the transfer of the Children's Ombudsman from the State Commission on Children and Families to the Department of Human Resources.
021	Rep. Lehman	Comments that he is comfortable with the language in the first couple of sections that direct the transfer, but it raises some flags for him when it takes 9 sections of legal rhetoric to direct what seems to be a simple move. Asks why it takes so much language to move the ombudsman from one location to another.
024	Mink	Replies that there were some issues of ombudsman duties in this last biennium that weren't handled quite right and the language in sections 7-15 assures that the transfer will be handled legally and appropriately.
030	Rep. Piercy	Asks for clarification of the history of the Governor's Advocacy office and the Children's Ombudsman office.
040	Denison	Explains that in 1993 Denison went to DHR and began the Governor's Advocacy office. Because SCF was a DHR division, the advocacy office provided services on SCF complaints. In 1996 the advocacy office was asked to absorb the functions of the Children's Ombudsman office. The Governor's Advocacy office was provided with funds to hire additional staff.
052	Chair Kruse	Asks why the office is being called Children's Ombudsman office when the duties of the office run the full spectrum of DHR.
053	Denison	Responds that the only piece in statute is the Children's Ombudsman office. The Governor's Advocacy office is an executive decision.
058	Chair Kruse	Asks why there hasn't been a request to change the name in statute that would

		more appropriately reflect the duties of the ombudsman office.
060	Mink	Responds that HB 2171 only transfers the Children's Ombudsman office. Explains that Denison will play two roles in the advocacy office. Her job will continue to incorporate all the services she currently provides.
070	Chair Kruse	Comments that this legislation is incomplete and deals with only half of the duties of Denison's office.
087	Liz VanLeeuwen	Former State Representative, House District 37, testifies that there are a few holes in HB 2171. Believes that the bill amendments (dated 1-27-99) address some of the pieces missing from HB 2171. Discusses the importance of providing client rights and agency procedures in writing to the client. States that people are in a heightened emotional state when they turn to the ombudsman's office. Memory is a difficult thing to rely on in stressful circumstances. Indicates that the bill needs to direct the ombudsman to make the public more aware of their services. Also, believes that the report to be provided by the ombudsman to the DHR director should also be given to the President of the Senate and Speaker of the House.
135	Rep. Lehman	Asks if it is VanLeeuwen's intention that all persons contacting the ombudsman receive information in writing.
142	VanLeeuwen	Responds affirmatively. States that it should be a simple task for any agency to have client rights and other relevant material available in writing. Comments that this would also be very helpful for legislators when they are asked to respond to a constituent's complaint.
176	Chair Kruse	Opens a public hearing on HB 2067.
<u>HB 2067 PUBLIC HEARING</u>		
183	Rep. Winters	Asks how long term care fits into HB 2067.
187	VanLeeuwen	Responds that HB 2067 directs DHR ombudsman to refer any long term care complaints to the Long Term Care Ombudsman.
195	VanLeeuwen	Explains that HB 2067 is a checks and balances piece of legislation, created to facilitate a better process for families who are in need of help and guidance. States that this legislation is needed for families that have neither the money nor expertise to hire legal counsel or represent themselves in litigation with agencies.
250	Rep. Taylor	Asks if this bill is the same that was heard in the 1997 session.
252	VanLeeuwen	Responds that this bill has a few word additions, otherwise it is the same.

256	Rep. Taylor	Asks if there was a fiscal impact on the bill from the 1997 session bill.
258	VanLeeuwen	Explains that the funds for HB 2067 come from a \$1 fee on original filing or duplication of birth certificates, adoption filing, and divorce filing.
266	Rep. Taylor	Asks if additional FTE are needed for HB 2067.
268	VanLeeuwen	Responds affirmatively. A Legislative Specialist position is created in HB 2067.
274	Rep. Winters	Asks why overseeing functions were split between DHR and Legislative Counsel.
276	VanLeeuwen	Explains that last session there were concerns from DHR and a couple members of the 1997 House Committee on Children and Families regarding who was overseeing the duties of the ombudsman.
289	Rep. Winters	Asks if statutory language included in HB 2067 could achieve the same result that the inclusion of Legislative Counsel is trying to achieve. Asks if the ombudsman could accomplish all it's set up to accomplish without splitting up the duties between DHR and Legislative Counsel.
293	VanLeeuwen	Responds affirmatively. States that combining ombudsman duties under one umbrella and adding clear statutory, regulating guidelines is possible.
296	Rep. Lehman	Comments that if the ombudsman office becomes completely independent, the agency's accountability is compromised. Asks how independence and agency accountability can co-exist in the ombudsman office.
311	VanLeeuwen	Responds that the ombudsman office must be as accountable to the Legislature as a legislator is to his constituents.
318	Rep. Krummel	Asks if HB 2171 is providing protections and guidelines for the agency, and HB 2067 is providing similar protections and guidelines for the public.
328	VanLeeuwen	States her concerns that the public will decide that the people they are complaining about are the same people policing the agencies.
335	Rep. Morrisette	Asks if these bills are responding to significant problems currently existing between the public and the agency.
340	VanLeeuwen	Explains that she has spoken with many concerned members of the public who feel that the agencies are their own police and the public has no neutral advocate.
352	Rep. Piercy	Comments that the ombudsman's role is about giving people support and moving

		them through the process without making judgements of guilt or innocence.
364	VanLeeuwen	Responds that Rep. Piercy is correct that the ombudsman role is non-judgmental, neutral support. Explains that public perception does not always see it that way, and when their advocate is appointed and overseen by the same agency that they are having a problem with, trust is diminished and is sometimes lost altogether.
375	Rep. Winters	Clarifies that the ombudsman does more than facilitate. The ombudsman's responsibilities are also to mediate, investigate, and make recommendations. The ombudsman is responsible for reporting patterns of problems, maintaining partnerships with agencies, and is often pressed into making judgement calls about what would most benefit clients. Comments on the dangers of having an ombudsman closely connected to a director's office. Problems have occurred in the past when directors have changed, and the new staff brings different ideas of what the ombudsman's role should be and how that role should be carried out. States that the ombudsman office works best as an independent entity.
TAPE 12, B		
015	Taylor	Comments that a dilemma exists for the ombudsman if she is expected to enact some kind of change for a client who is in the wrong and has exhausted all avenues in the grievance process.
026	VanLeeuwen	Responds that the ombudsman is going to tell a client the same thing that will have been reported by the agency. States that when a client hears a decision from an independent advocate like the ombudsman, they are more likely to trust in the fairness of the outcome.
033	Rep. Taylor	Comments that the location of the ombudsman office is not as important as the role that the ombudsman plays. States that the ombudsman's role is not as an advocate for the agency or for the disgruntled client. It is to report status of a case and the recourse a client has before them.
047	VanLeeuwen	Responds that the ombudsman should be doing exactly what Rep. Taylor has described, however HB 2067 is a reaction to the public's perception of an ombudsman office that answers to an agency, i.e., "the fox guarding the hen house."
056	Karen Brazeau	Deputy Director, Oregon Youth Authority, submits written testimony in regard to HB 2067 (EXHIBIT B). Opposes OYA being included in section 10 of HB 2067. Explains that the Governor's Safety Advocate handles OYA complaints and concerns. This advocate is not employed or accountable to OYA and is considered a neutral source of public support. Discusses an example of how the Governor's Safety Advocate was used by parents whose children have been accused of committing a crime and are now in the criminal justice system.
098	Rep. Winters	Asks what happens if a citizen is not satisfied with the findings or solutions that the safety advocate comes up with.

105	Brazeau	Explains that within the governor's office there isn't a higher authority to turn to if the final word of the safety advocate is not acceptable. The next step for the public would be to seek legal counsel.
132	Mink	Provides testimony in regard to HB 2067. Comments on the provisions of the legislative specialist. States his concern about citizens having to go through a legislative specialist and the need this would create for a coordinated effort between DHR and Legislative Counsel. Supports the comments of Rep. Winters and believes that statutory language can be placed in the bill in place of the need for a legislative specialist.
154	Rep. Piercy	Asks about HB 2171's amendments dated 1/27/99 and asks if it is the current practice to provide clients with rights and procedures in writing.
158	Denison	Responds affirmatively. Explains that rights and procedures are put into writing when it's apparent that there is a lack of clarification. States that when a child is taken into care, the agency provides the family with written material regarding rights and procedures. The ombudsman does not replace written material that an agency has given to a client except on an as needed basis.
174	Rep. Piercy	Asks about the current practice for creating a written report.
176	Denison	Replies that a report is written on June 30 at the end of the program year. This report goes to the director and deputy director.
180	Rep. Piercy	Asks if it would be more burdensome for the ombudsman office to create reports every 3 months as specified by HB 2717's amendments dated 1/27/99.
183	Denison	Responds affirmatively. States that additional staff would be required if a report had to be generated every three months.
188	Rep. Piercy	Asks how well known the ombudsman office is to the public.
190	Denison	Discusses the outreach that is done by her office. Provides the committee with an example of how the ombudsman office is expanding the awareness of the Hispanic community of the ombudsman's office, i.e., broadcasting on local Spanish-speaking radio stations, putting out flyers. Speaks to concerns around the closure of Fairview Hospital and how her office has worked with the Department of Mental Health to let clients and their families know about the ombudsman office. Discusses how the ombudsman office is talking to local community safety nets to find out what is being provided to children in the level 5, 6 and 7 categories. States that the ombudsman must stay on top of what is and isn't working in communities in order to make positive, supportive connections for clients.
221	Chair Kruse	Notes that dollars are making a lateral move with the ombudsman to DHR and asks what would be cut to accommodate one additional FTE.

230	Denison	Replies that the governor's advocacy office was already in existence with 2 staff when the interagency agreement was made. With the additional funding, and computer and telephone systems already in place, the office was able to fund three limited duration positions. Explains that the present staff situation will be able to handle the additional responsibilities of the children's ombudsman.
241	Rep. Morrisette	Asks if section 10 of HB 2067 that speaks to the legislative specialist is current practice.
259	Mink	Explains that Denison's office does not supply support to any legislative office. If the ombudsman receives a call regarding a constituent's concerns from a legislator the ombudsman will do her best to provide adequate information pertaining to the situation.
284	Rep. Winters	The language in section 10, HB 2067 creates statutorily what does not exist.
295	Rep. Taylor	Asks if Denison is an attorney.
300	Denison	Responds negatively. Explains that the statute in HB 2067 calls for the legislative specialist to be an attorney with a background in family law. States that staff in the ombudsman office have backgrounds in social work and law enforcement.
302	Rep. Krummel	Asks for a definition of "limited duration funded position."
313	Mink	Explains that positions can be "limited duration" for up to two years. If a position is to become permanent it must be reclassified.
333	Rep. Krummel	Asks about the continuity of a program that is staffed with limited duration positions.
348	Mink	Responds that the legislature funds the number of permanent positions an agency can have. Agencies will create half-time positions, job-share positions, and limited duration positions to meet additional staff needs.
356	Brazeau	Provides the committee with an example of an OYA information system approved by the 1997 legislative session. OYA was given the authority to hire a limited duration staff person to set up the information system. When the system is completed, OYA will let the staff person go with no liabilities or special personnel action.
380	Chair Kruse	Asks Mink if DHR is in agreement with HB 2171's amendments.
385	Mink	Responds affirmatively.

390	Chair Kruse	Closes the public hearings on HB 2067 and HB 2171 and opens a work session on HB 2171.
<u>HB 2171 WORK SESSION</u>		
405	Rep. Piercy	MOTION: Moves to ADOPT HB 2171-1 amendments (EXHIBIT C) dated 01/27/99.
410		VOTE: 8-0 EXCUSED: 1 - Rep. Taylor
420	Chair Kruse	Hearing no objection, declares the motion CARRIED.
425	Chair Kruse	Closes the meeting at 2:30 PM

Submitted By, Reviewed By,

Diane M. Lewis, Janet L. Carlson,
Administrative Support Administrator

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EXHIBIT SUMMARY

A ñ HB 2171, written statistics for Governorís Advocacy, Childrenís Ombudsman, and Dispute Resolution Office Program Year 7/1/97-6/30/98, Gin Denison, 4 pp.

**B ñ HB 2067, written information regarding Oregon Youth Authority, Karen Brazeau,
2 pp.**

C ñ HB 2171, -1 amendments dated 1/27/99, Rep. Jeff Kruse, 1 p.