

HOUSE COMMITTEE ON RULES, ELECTIONS, AND PUBLIC AFFAIRS

March 18, 1999 Hearing Room D

3:30 P.M. Tapes 20 - 23

MEMBERS PRESENT: Rep. Mark Simmons, Chair

Sen. Charles Starr, Chair

Rep. Richard Devlin, Vice-Chair

Sen. Randy Miller, Vice-Chair

Rep. Bruce Starr, Vice-Chair

Sen. Kate Brown

Sen. Neil Bryant

Rep. Jason Atkinson

Rep. Chris Beck

Rep. Roger Beyer

Rep. Randall Edwards

Rep. Kevin Mannix

Rep. Kitty Piercy

Rep. Jim Welsh

Rep. Max Williams

MEMBER EXCUSED: Rep. Dan Gardner

Sen. Lee Beyer

STAFF PRESENT: Cletus B. Moore, Jr., Administrator

Brian Smith, Administrator

Kevin E. Wells, Administrative Support

MEASURE/ISSUES HEARD: Public Hearing 2648

TAPE/#	Speaker	Comments
TAPE 20, A		
004	Chair Simmons	Calls the meeting to order at 4:00 p.m. Opens Public Hearing HB 2648. Asks for staff summary.
<u>PUBLIC HEARING HB 2648</u>		
013	Cletus Moore	Administrator. Explains HB 2648; prohibits state agencies from lobbying the legislature, with certain exceptions. Reviews history of legislation.
029	Sen. Verne Duncan	District 12. Testifies in opposition to HB 2648. States that all three branches of the government need information and need to communicate with one another freely. Suggests that it is an insult to agencies to prohibit their participation in the legislative process.
075	David Frohmyer	Opposes HB 2648. Relates personal experience concerning the issue. Notes that some honored and practical personnel would be prohibited from attending legislative floor sessions.
125	Frohmyer	States that HB 2648 is anti-whistleblower legislation. Explains that HB 2648 makes any discussion with legislators "lobbying." Notes that indirect lobbying is prohibited. Concludes that the definition of "lobbying" is too broad.
183	Chair Simmons	Explains that ñ2 amendments resolve some of the issues raised.
190	Rep. Beck	Asks what has made HB 2648 necessary. Asks what the legislature can do to inspire the public's confidence in state government.
213	Frohmyer	Comments on social changes since the early 1970s. Stresses that exchange of information between branches of government is essential. States that disclosure is the answer rather than prohibition, which impinges on other values.
255	Rep. Mannix	Asks if it would be more effective to be direct and tell agencies that they have too many people lobbying.
270	Frohmyer	States that such messages are very clear.
275	Rep. Mannix	Asks if informal liaisons would be allowed under HB 2648. Explains informal means of communication are important. Expresses concern about erecting barriers to communication.

295	Frohmyer	Agrees that informal communications are very beneficial. States that the committee needs to be careful not to stifle communication.
325	John DiLorenzo	Attorney, Portland. Supports HB 2648. Outlines involvement with the issue. Explains HB 2648 (EXHIBIT A) .
380	DiLorenzo	Continues explaining history of HB 2648 and the bill itself.
TAPE 21, A		
004	DiLorenzo	States that the government's ability to lobby itself propagates the growth of government. Reviews statistics relating to lobbying by government agencies (EXHIBIT A) .
050	DiLorenzo	Points out that HB 2648 refers the bill to the people for approval. Outlines the sections of the bill. Notes exemptions in the bill.
100	DiLorenzo	Continues to discuss exemptions to prohibitions of HB 2648. Stresses HB 2648 is not intended to infringe on free-speech rights of employees. States the bill cuts the number of agency lobbyists paid with public funds. Emphasizes HB 2648 will slow the growth of government. States it is wrong to use taxpayers' money to advance programs that cause increases in taxes.
141	Joe Gilliam	National Federation of Independent Business; and Chair, Oregon Small Business Coalition (OSBC). Supports HB 2648. Discusses the history of the legislation (EXHIBIT B) . Explains the Governor's executive order (XO) relating to lobbying by agencies (EXHIBIT C) . Notes that the guidelines do not conflict with HB 2648.
190	Gilliam	Reports that 225 lobbyists are paid by taxpayers; approximately 125 are paid by state agencies. States the XO guidelines are insufficient. States HB 2648 agrees with the XO.
250	Rep. Beck	Asks DiLorenzo who he is representing on HB 2648.
254	DiLorenzo	Explains he represents Oregon Litigation Reform Coalition.
264	Rep. Beck	Asks if two lobbyists per agency is adequate for large agencies.
282	DiLorenzo	Explains why two lobbyists per agency is sufficient. Explains the provision that allows unlimited number of lobbyists to be appointed by the Governor. States that the bill centralizes administrative actions under the Governor.
303	Rep. Beck	Asks if agency lobbyists can contribute to political campaigns.

307	DiLorenzo	Stresses that everyone is allowed to contribute to political campaigns.
316	Rep. Beck	Asks if lobbyists can make contributions on behalf of their agency.
317	DiLorenzo	Explains that agencies are not permitted to make campaign contributions.
322	Rep. Beck	Notes that private lobbyists contribute millions of dollars to political campaigns. Asks if that is disproportionate in terms of influencing the Legislature.
337	DiLorenzo	States legislators represent people not agencies; agencies are not constituents. Explains agencies need to have their lobbying limited.
363	Sen. Brown	Notes that most ballot initiatives have resulted in government growth. Asks if voters play a role in the growth of government.
378	DiLorenzo	Agrees that voters play a role, but voters are supposed to play a role in their government while agencies should not lobby for themselves.
395	Sen. Brown	Asks if agencies ever have good intentions in seeking funding.
409	DiLorenzo	Agrees that agencies do have good intentions. Underscores that HB 2648 allows agencies to lobby, but limits the number of lobbyists.
TAPE 20, B		
012	Sen. Brown	Asks if government growth is due to lobbyists.
015	DiLorenzo	States that growth results from agencies trying to right societal wrongs.
020	Sen. Brown	Asks if private lobbyists propose government programs.
023	DiLorenzo	Acknowledges that private lobbyists do propose new programs.
033	Rep. Edwards	States support for previous legislation (1997). Disagrees with Gilliam's testimony that the XO is insufficient. Asks what evidence substantiates this testimony.
053	Gilliam	Relates instances where the guidelines have proved insufficient. States that state lobbyists are not registering properly. Explains that OSBC is not against agencies lobbying the legislature, but that agencies should lobby only when it is a priority item.

090	Rep. Edwards	Reiterates concern that the guidelines have not been given a chance and that they show promise of working as intended.
111	Gilliam	States that 20% non-compliance is too high and would elicit attention from an agency if it was the private sector not complying.
121	Vice-Chair Devlin	Asks if the two lobbyists per agency is too simplistic of an approach.
135	DiLorenzo	Restates that the provision is intended to funnel agencies through the Governor's office and ensure that those who lobby are high level officials working on priority issues.
152	Vice-Chair Devlin	Asks if there will be a need for the Governor to increase his staff.
165	DiLorenzo	Suggests that the governor would most likely take staff out of agencies to work on issues he believes to be important.
173	Sen. Miller	Comments on the imbalance between agencies and divisions as regards the proposed limit on the number of lobbyists employed. Asks if legislators can contact state employees if needed.
179	DiLorenzo	States that legislators can contact as many employees of agencies as needed for information.
183	Sen. Miller	Comments on the XO. Asks how it limits government growth.
195	DiLorenzo	States the XO does not limit growth due to its shortcomings.
208	Rep. Piercy	Asks if a review of how the XO is working is more appropriate than a referral at this point in time. States that the XO has enforcement authority and clear guidelines for appropriate behavior.
221	Gilliam	Restates that there are valid reasons to limit the number lobbyists employed by state agencies.
237	Rep. Piercy	Asks for a current example that shows the XO does not work.
240	Gilliam	Relates how Department of Administrative Services (DAS) to date has not complied with the XO.
252	Rep. Piercy	Asks if DAS is the only example he can offer. Asks if the issue can be reviewed to see if it warrants further action.

259	Gilliam	Explains that there are bigger problems.
270	Chair Simmons	Explains how the hearing will proceed.
283	Shawn Miller	OSBC. Supports HB 2648. States that agency lobbyists are good people, but that there are too many. Explains that he represents as many people as are employed at Oregon Department of Transportation.
333	Don McIntyre	Gresham. Supports HB 2648. Reviews the historical nature of the problem. Discusses the excessive growth of government.
383	Rep. Beck	Asks if McIntyre has every worked with agency lobbyists or officials.
405	McIntyre	Acknowledges that he has had conversations with officials and state-paid lobbyists, but not professionally.
TAPE 21, B		
008	Rep. Beck	Asks if he can give examples of the problem if he has not worked with agency officials or state-paid officials.
011	McIntyre	Describes situations he observed.
019	Miller	States that agencies are trying, in good faith to reduce the number of lobbyists, but they are not succeeding. Relates personal experiences that support the assertion that the XO does not work.
046	Rep. Beck	Asks what specific actions by agencies are wrong.
058	Miller	Restates that these lobbyists are paid by the public, which is a problem intrinsically.
069	Rep. Beck	Asks "So what!"
071	Miller	States that it is an issue of fairness that an agency sized similar to his organization has more lobbyists.
080	McIntyre	States that the "historical accumulation of bigger government" is a problem. Stresses that growth of government at a cost to citizens is wrong.
095	Rep. Mannix	Asks if there are ways of exerting low level, informal pressure on agencies, so as to avoid creating "lobby police," an enforcement bureaucracy.

113	McIntyre	Explains that HB 2648 permits lobbying, with tighter rules.
120	Rep. Welsh	Asks if anyone would be offended by legislators asking agency heads to testify, before citizens are called to testify, before a committee.
140	McIntyre	Responds that he would not be offended.
145	David Schuman	Deputy Attorney General, Department of Justice. Neutral on HB 2648 (EXHIBIT D) . Expresses concern over particular provisions of the bill. Discusses the definition and activities of lobbying. Reviews activities that are illegal under HB 2648.
200	Schuman	Continues to discuss results of HB 2648.
230	Rep. Beck	Asks if conversations are permitted under HB 2648.
233	Schuman	Responds that it would be lobbying, but is unsure if it would be prohibited or not. Suggests that clarification is needed on the issue.
240	Rep. Beck	Asks if other legislators can ask agencies to speak with other legislators.
248	Schuman	States that he does not know the answer to the question.
253	Rep. Edwards	Asks if there are potential free-speech issues involved.
262	Schuman	Explains that there is no clarity on the issue, but that prohibition of indirect lobbying may be unconstitutional. States that constitutional issues are raised by HB 2648. Notes that ñl amendment deals with some of the possible issues.
282	Rep. Edwards	Asks if the provision that prohibits discussing proposed legislation is potentially unconstitutional.
288	Schuman	Explains that the provision concerns employees only while they are on the job, not employees on their own time, so it may not be a constitutional issue.
318	Chris Dearth	Legislative Director, Governor's Office. Submits written testimony (EXHIBIT E) . Examines history of the issue (EXHIBIT F) . Acknowledges that there is a problem that needs to be addressed. Explains how the Governor has approached the problem of too many state paid lobbyists.
370	Dearth	Discusses what is defined as an "agency." Notes that the definition would allow double the number of lobbyists currently employed by state agencies. Emphasizes that such lobbyists have been restricted.

420	Dearth	Describes instances where restrictions have gone too far. Concludes that the problem of contract lobbyists and "free lance" state employees have been dealt with adequately through the XO.
TAPE 22, A		
020	Rep. Atkinson	Asks why more than one or two lobbyists per agency are needed.
035	Dearth	Explains that complex issues require more people to work on them.
042	Rep. Atkinson	Asks if HB 2648 limits the number of people that can work on behalf of the Governor. Asks if all agencies work on behalf of the Governor.
046	Death	States that agencies do work on behalf of the Governor, but not always. Explains that the provision in question only allows those who are on the Governor's staff to lobby legislators without restriction.
052	Rep. Edwards	Asks for a description of the XO process.
056	Dearth	Explains how people are to register and behave as lobbyists.
070	Rep. Edwards	Asks what an XO is, when they are issued and how they work.
073	Dearth	States XO's are direct orders from the Governor to administrative agencies, that they have binding authority.
078	Rep. Edwards	Asks if there are sanctions or enforcement authority.
083	Dearth	Explains that enforcement is implied in all XO's.
086	Rep. Edwards	Asks if there is something that could be done to enhance the enforcement authority of XO's.
095	Rep. Piercy	Asks what happens when someone does not follow the guidelines.
097	Dearth	Defers to Susan Clausterman.
100	Susan Clausterman	Assistant Director for Communications, DAS. Explains how the XO was designed and implemented. Discusses some of the details of the XO. Comments on lobbyists not on the roster. Stresses that strict controls are in place and effective thus far.

144	Rep. Piercy	Asks how they handle complaints.
148	Clausterman	Comments on common complaints. Notes that large divisions are treated as separate agencies and keep the average per agency down.
180	Tony Van Vleet	Corvallis. Opposes HB 2648. States that the bill is a handicap for term-limited legislators by restricting the information available to them. Notes that legislators have influence on the number of lobbyists.
225	Van Vleet	Stresses that agencies have to carryout legislative mandates, which means that they must have access to the Legislature. States that the precedent of prohibiting lobbying is dangerous. Supports the Governoris XO.
275	Van Vleet	States that agencies should not employ outside lobbyists to lobby on their behalf. Suggests that issue should be taken up in a separate bill.
287	Rep. Mannix	Asks if the Governoris XO could work with further refinement and putting it into statute.
300	Van Vleet	Suggests that the XO should be given time to work before it is changed legislatively. Comments that the XO appears "tight" already.
320	Jerry Bieberle	Oregon Fryer Commission (OFC). Neutral on HB 2648.
323	Paul Rains	Manager, OFC. Neutral on HB 2648. Discusses OFC's work.
331	Bieberle	Explains that commissions are in an awkward position. Expresses concern that HB 2648 could adversely impact their activities.
345	Chair Simmons	Explains that the committee will answer their questions and concerns.
350	Bieberle	States that their whole concern is whether their assessments are considered public funds or not.
355	Chair Simmons	Explains that Legislative Counsel will answer their question.
365	Lee Hazelwood	Legislative Coordinator, Governoris Commission. States the HB 2648 is unnecessary.
400	Hazelwood	Asks why more people cannot be involved in the legislative process.
TAPE 23, A		

010	Hazelwood	Discusses the difficulties agencies encounter in testifying before legislative committees. Concludes that they need to examine the need for HB 2648.
025	Chair Simmons	Notes that agency employees can testify if committee requests their testimony.
033	Hazelwood	Reiterates that concerns do exist and are legitimate.
051	Rep. Tim Knopp	District 54. Supports HB 2648. States that this is a priority bill for him. Explains that the question is if the legislature is going to limit state paid lobbyists, as legislators are limited. States that there is nothing to fear in passing the bill. States that bureaucrats have advantages over legislators and HB 2648 levels the playing field.
105	Rep. Knopp	Stresses that voters should be allowed to decide the issue. Suggests that it is an issue of credibility and accountability. Urges support of HB 2648.
150	Rep. Knopp	Suggests that agencies' access to pre-session filing of measures should be limited.
160	Chair Simmons	Closes Public Hearing HB 2648. Adjourns 6:40 p.m.

Submitted By, Reviewed By,

Kevin E. Wells, Cletus B. Moore, Jr.,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2648, written testimony, John DiLorenzo, 22 pp.

B ñ HB 2648, written testimony, Joe Gilliam, 3 pp.

C ñ HB 2648, information packet, Joe Gilliam, 5 pp.

D ñ HB 2648, written testimony, David Schuman, 2 pp.

E ñ HB 2648, written testimony, Chris Dearth, 2 pp.

F ñ HB 2648, information packet, Chris Dearth, 28 pp.