

## HOUSE COMMITTEE ON RULES, ELECTIONS, AND PUBLIC AFFAIRS

July 6, 1999 Hearing Room D

8:00 A.M. Tapes 133 - 134

**MEMBERS PRESENT:** Rep. Mark Simmons, Chair

Rep. Richard Devlin, Vice-Chair

Rep. Bruce Starr, Vice-Chair

Rep. Roger Beyer

Rep. Randall Edwards

Rep. Dan Gardner

**MEMBER EXCUSED:** Rep. Kevin Mannix

**STAFF PRESENT:** Pat Zwick, Policy Analyst

Brad Daniels, Administrative Support

**MEASURE/ISSUES HEARD:** SJR 6 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 133, A		
004	Chair Simmons	Opens the meeting at 8:20 p.m. Opens the public hearing on SJR 6.
<u><b>SJR 6 WORK SESSION</b></u>		
009	C.L. "Butch" Otter	Lieutenant Governor, Idaho. Notes that some people in Idaho would like to eliminate the office of Lieutenant Governor. Reviews his background as a

		legislator and businessman and his ascendancy to Lieutenant Governor. States that the two prior Lieutenant Governors viewed the office as unnecessary.
053	Otter	Explains the two primary duties of a Lieutenant Governor in Idaho: 1) to assume the Governor's responsibilities when he/she is absent 2) to act as President of the Senate. Elaborates on the importance of succession to office and the need for a Lieutenant Governor to respect the election of the Governor. Indicates that his preference is to bundle the Governor and Lieutenant Governor on the same ticket to prevent mischief and to ensure that implementation of the Governor's philosophy is not impeded.
120	Otter	Describes the responsibilities of the Lieutenant Governor. Cites the constitutional description of these responsibilities. Discusses his role in international trade, stressing that a statewide elected official has greater legitimacy to negotiate with foreign officials.
179	Otter	Notes the importance of the world economy and the need for a full-time officer to coordinate trade. Adds that Idaho's international trade has increased dramatically under his stewardship. States that he has been involved in interstate tax and transportation agreements.
230	Otter	Emphasizes his role in managing trade and the importance of cooperation in economic development. Indicates that he serves as acting Governor for about 55 days per year. Provides examples of the benefits of having this power, including the declaration of disaster areas and the meeting of international economic missions.
320	Rep. Gardner	Asks if he can vote in the Senate at any time.
321	Otter	Replies that he is only allowed to cast tiebreaking votes. Relates the frequency with which this happens.
340	Rep. Gardner	Asks about the extent of his responsibilities as acting Governor.
348	Otter	Replies that he has signed laws, vetoed bills and extradited prisoners.
357	Rep. Gardner	Asks if he would be able to vote for and sign a bill into law.
364	Otter	Replies yes. Explains how this might be possible. Stresses that SJR 6 does not speak to the Lieutenant Governor's power in the Senate. Clarifies his position as an officer of the executive and legislative branches.
420	Rep. Gardner	Asks if the Governor and Lieutenant Governor should be elected together, much as the President and Vice President are.
425	Otter	Replies that he has not considered this possibility. Notes that Governors and Lieutenant Governors should run together as a team after the primary elections.

TAPE 134, A		
016	Rep. Gardner	Asks about the possibility of people switching parties.
023	Otter	Responds that reasonable people will do the right thing. States that he accepts these types of disruptions.
037	Rep. Edwards	Asks how many constitutional offices are provided for in Idaho.
039	Otter	Replies that there are seven.
040	Rep. Edwards	Asks if the office of Lieutenant Governor was founded along with the original state.
041	Otter	Replies yes.
043	Rep. Edwards	Discusses the tradition of statewide offices in Oregon and the difficulty of creating a new position. Questions whether or not the possible benefits of a new constitutional office provide compelling enough arguments to overcome tradition.
072	Otter	Acknowledges the risks involved in requesting larger government from the voters. Stresses the importance of reducing the federal government's involvement in state matters. Emphasizes the benefits of having a Lieutenant Governor.
109	Rep. Edwards	Asks if a Lieutenant Governor must be on call to assume the duties of Governor.
112	Otter	Replies that the Governor simply must notify the Lieutenant Governor.
121	Rep. Beyer	Asks if Idaho has a secretary of state.
127	Otter	Replies yes. Lists the constitutional offices in Idaho.
132	Rep. Beyer	Asks if the Governor of Oregon can declare emergencies, etc. even if he is not physically present in the state.
136	Sen. John Lim	District 11. Replies yes.
138	Rep. Devlin	Asks if a Lieutenant Governor has ever become Governor in Idaho.
142	Otter	Replies that the Lieutenant Governor has been elected three times and has

		succeeded the Governor three times.
154	Rep. Devlin	Asks about the current balance of the legislature in Idaho.
157	Otter	Replies that, of the 105 legislators, 16 House members and 4 Senate members are Democrats.
177	Chair Simmons	Asks if his tiebreaking vote is similar to the Vice President's power in the United States Senate.
178	Otter	Replies that it is slightly different because, in the event of an evenly divided legislature, he has power to name committee chairpersons, etc.
185	Rep. Edwards	Asks if he presides over the Senate full time.
187	Otter	Replies that he is in the Senate every day that he is not acting as Governor.
194	Rep. Gardner	Asks about the line of succession after the Lieutenant Governor.
197	Otter	Explains the line of succession.
201	Rep. Gardner	Asks if this succession is provided for in SJR 6.
203	Sen. Lim	Replies that the bill provides for this contingency.
217	Chair Simmons	Asks Otter if he has bill filing authority.
218	Otter	Replies no. Adds that he is treated the same as any citizen of Idaho.
224	Rep. Beyer	Asks if the Idaho legislature has a bill printing committee, which judges the merits of each bill before it is sent to a substantive committee.
231	Otter	Replies that that committee was discontinued about 8 years ago.
234	Chair Simmons	Asks if more worthless bills get printed now than would have been printed before.
235	Otter	Replies no. Stresses that it depends on the merits of the bill.
242	Chair Simmons	Acknowledges the importance of international relations. Asks about particular challenges in handling international trade.

255	Otter	Replies that the recent NAFTA negotiations concerning artificial trade barriers were difficult. Reports that another difficulty occurs when a state finds itself in conflict with the federal government.
315	Chair Simmons	Asks if relations with Asian countries are more difficult.
320	Otter	Describes the two-fold nature of states' relationships with foreign countries: While the federal government establishes the diplomatic relationship, the daily interactions with foreign officials are managed by the states.
361	Chair Simmons	Adjourns the meeting at 9:15 a.m.

Submitted By, Reviewed By,

Brad Daniels, Pat Zwick,

Administrative Support Policy Analyst

#### **EXHIBIT SUMMARY**

**No exhibits**

## HOUSE COMMITTEE ON RULES, ELECTIONS, AND PUBLIC AFFAIRS

July 6, 1999 Hearing Room D

3:00 P.M. Tapes 135 - 136

**MEMBERS PRESENT:** Rep. Mark Simmons, Chair

Rep. Richard Devlin, Vice-Chair

Rep. Bruce Starr, Vice-Chair

Rep. Roger Beyer

Rep. Randall Edwards

Rep. Dan Gardner

Rep. Kevin Mannix

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

Pat Zwick, Policy Analyst

Brad Daniels, Administrative Support

**MEASURE/ISSUES HEARD:** SB 369 Work Session

HB 3635 Work Session

SB 723A 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 135, A		
004	Chair Simmons	Opens the meeting at 3:35 p.m. Opens the work session on SB 369.
<u><b>SB 369 WORK SESSION</b></u>		

006	Chair Simmons	States that he would like to move the contents of HB 2415A into SB 369.
009	Rep. Starr	<b>MOTION: Moves to AMEND SB 369 by inserting the contents of HB 2415A into the bill.</b>
		<b>VOTE: 4-0</b> <b>EXCUSED: 3 - Edwards, Gardner, Mannix</b>
	Chair Simmons	<b>Hearing no objection, declares the motion CARRIED.</b>
011	Rep. Beyer	Asks if the committee is adopting a conceptual amendment.
012	Chair Simmons	Replies yes.
014	Rep. Beyer	States that five members are needed to suspend the rules.
015	Chair Simmons	Agrees with Rep. Beyer. Acknowledges that the vote was invalid. Suspends the work session on SB 369. Opens a work session on HB 3635.
<b><u>HB 3635 WORK SESSION</u></b>		
027	Rep. Ron Sunseri	House District 22. States that the bill was brought forward at the request of the former mayor of Gresham, Gussie McRobert ( <b>EXHIBITS A, B &amp; C</b> ).
033	Toni Sunseri	Legislative Aide to Rep. Sunseri. States that the HB 3635 is a response to a problem with a unregulated in-home care business. Indicates that the purpose of the bill is to bring in-home care businesses under the supervision of the Department of Human Resources in order to prevent sub-standard care.
052	Rep. Sunseri	States that HB 3635 has no fiscal impact.
057	Chair Simmons	Suspends the work session on HB 3635. Reopens the work session on SB 369.
<b><u>SB 369 WORK SESSION</u></b>		
067	Rep. Starr	<b>MOTION: Moves to SUSPEND the rules for the purpose of making conceptual amendments to SB 369.</b>

		<b>VOTE: 5-0</b> <b>EXCUSED: 2 - Edwards, Gardner</b>
	Chair Simmons	Hearing no objection, declares the motion CARRIED.
071	Rep. Beyer	<b>MOTION: Moves to AMEND SB 369 by inserting the contents of HB 2415A into the bill.</b>
		<b>VOTE: 5-0</b> <b>EXCUSED: 2 - Edwards, Gardner</b>
	Chair Simmons	Hearing no objection, declares the motion CARRIED.
075	Chair Simmons	Comments that, on page 23, line 2 of HB 2415A, some discussion has occurred concerning the start date and whether it should be 2000 or 2001.
079	Rep. Devlin	Indicates that the date could be moved to 2000 and adjusted later depending on the Governor's response. Adds that he does not agree with the Governor's prior veto of the bill and will communicate with the Governor to find an acceptable solution. Notes that part of the reasoning behind the bill was to alleviate voter confusion.
102	Rep. Devlin	<b>MOTION: Moves to AMEND SB 369 on page 23, in line 2 of the original HB 2415A delete "1999" and insert "2000".</b>
		<b>VOTE: 5-0</b> <b>EXCUSED: 2 - Edwards, Gardner</b>
	Chair Simmons	Hearing no objection, declares the motion CARRIED.
106	Rep. Beyer	<b>MOTION: Moves SB 369 to the floor with a DO PASS AS AMENDED recommendation.</b>



		<p><b>VOTE: 5-0</b></p> <p><b>EXCUSED: 2 - Edwards, Gardner</b></p>
	Chair Simmons	<p><b>Hearing no objection, declares the motion CARRIED.</b></p> <p><b>REP. DEVLIN will lead discussion on the floor.</b></p>
118	Chair Simmons	Closes the work session on SB 369. Reopens the work session on HB 3635
<b><u>HB 3635 WORK SESSION</u></b>		
120	Cletus Moore	Committee Administrator. Explains the licensing fee structure and the lack of a fiscal impact.
142	Rep. Sunseri	States that the intention was to create a self-sustaining program with no fiscal impact.
148	Chair Simmons	Asks about the duties and functions of in-home care providers.
152	Kathleen Smail	Health Division, Department of Human Resources. Discusses the difference between home health agencies and in-home care agencies; home health agencies provide skilled nursing and rehabilitative services while an in-home care agency focuses on chronic maintenance care such as help with housekeeping and bathing ( <b>EXHIBIT D</b> ).
169	Rep. Starr	Expresses concern about creating another responsibility for another state agency and expanding the scope of government. States that legal remedies are available to people with complaints.
183	Rep. Sunseri	Replies that, without licenses, in-home care providers' abilities are in question, and they serve a population that may not utilize the court system to remedy errors. Adds that licensing power offers a method to control the quality of care.
202	Rep. Starr	Acknowledges the issues addressed by Rep. Sunseri; however, questions the efficacy of passing this bill to rectify minor problems.
217	Toni Sunseri	Replies that the bill addresses sub-standard care rather than simple billing questions. Lists some violations that occurred in the care of McRobert's husband. Stresses that in-home care, like home health care, should be regulated. Adds that, without background checks, there is no method of ensuring that in-home care providers are hiring responsible employees.

254	Rep. Edwards	Asks about the definition of in-home care services.
258	Smail	Describes in-home care agencies and their contracted employees.
267	Rep. Edwards	Asks if private individuals who care for relatives or friends would be included. Agrees with the intent of the bill, but questions the ability to enforce its provisions.
278	Smail	Replies that the enforcement measures would mirror those for home health agencies, including the power to issue and revoke licenses.
286	Rep. Edwards	Asks about the agency's ability to regulate in-home care providers across the state.
295	Smail	Answers that the number of effected agencies is unclear.
305	Chair Simmons	Asks about other care alternatives.
308	Toni Sunseri	States that McRoberts received information on her husband's particular provider in the hospital lobby.
321	Chair Simmons	Asks about the number of competing in-home care businesses.
329	Toni Sunseri	Expresses uncertainty.
333	Rep. Gardner	Asks if SB 1169 (licensing home care providers) was also passed this session.
342	Rep. Devlin	Asks if the Health Division considered regulating the in-home care industry prior to the introduction of HB 3635.
355	Smail	Replies that discussions on this topic have occurred. Adds that last session's HB 2905 addressed a similar topic but did not receive a hearing.
370	Rep. Devlin	Asks if concerns have been raised concerning providers' affiliation with hospitals.
381	Smail	Replies that a bill was introduced last session aimed toward home health agencies and their interaction with hospitals. Adds that the federal government now requires hospitals to provide a list of home health agencies to discharged patients.
400	Rep. Starr	Asks how many complaints are made against home health agencies.

406	Smail	Answers that six complaints were received last year and four have been received this year, adding that all have been investigated.
414	Rep. Starr	Asks about the number of home health and in-home care agencies.
415	Smail	Replies that there are 83 home health agencies at this time. Adds that there is no firm number for in-home care agencies, but approximately 150 will apply for licenses.
427	Rep. Starr	Asks why in-home care agencies can not be regulated with home health agencies now.
<b>TAPE 136, A</b>		
006	Smail	Responds that there are fundamental differences between home health agencies and in-home care agencies, including the level of care and the referral of physicians. Elaborates on the care provided by in-home care agencies.
028	Grant Higginson	State Health Officer. Relates the experience he has had with home health services and in-home care as well as the difference between the two levels of care.
050	Catherine White	Oregon Developmental Disabilities Council. States that the bill applies to businesses who provide employees or contract employees for in-home care and does not apply to respite or small fiduciary organizations that happen to provide some support to individuals.
072	Rep. Beyer	<b>MOTION: Moves HB 3635 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 3 - Gardner, Mannix, Simmons</b>
	Rep. Starr	<b>The motion CARRIES.</b>  <b>REP. SUNSERI will lead discussion on the floor.</b>
077	Rep. Starr	Closes the work session on HB 3635. Opens the public hearing on SB 723A.

**SB 723A WORK SESSION**

083	Steve Delaney	<p>Public Employees Retirement System (PERS). States that PERS has not taken a position on the bill. Outlines some concerns that the PERS board (board) has about the bill:</p> <ul style="list-style-type: none"><li>• As the board itself does not do any investing, it is inappropriate to require the public members to have investing experience.</li><li>• A conflict of interest occurs when a board member serves on both the board and the Oregon Investment Council.</li><li>• A re-composition of the board will not have any impact on the legal, fiduciary responsibilities of the committee members.</li><li>• The loss of elected officials may dilute the representation afforded to the general public (<b>EXHIBIT E</b>).</li></ul>
126	Rep. Edwards	Asks for an overview of the PERS board and its duties.
130	Delaney	Describes the PERS board's composition, functions, directive powers, and the members who serve on the Oregon Investment Council.
153	Rep. Edwards	Asks if the board follows the legislature and the law and does not set the level of benefits.
158	Delaney	Replies yes.
165	Rep. Gardner	Asks about the rationale behind the reduction of the public members of the board.
169	Delaney	Replies that the concern was about the members' outlook. Stresses that the legal responsibility of board members will not be changed by the bill.
180	Rep. Devlin	Asks for clarification concerning changes in the last session.
185	Delaney	Discusses the changes enacted by the last legislature. Cites lines 11 and 30-32 of SB 723A, contrasting the current law with the provisions of the bill.
203	Rep. Edwards	Inquires about fiduciary responsibilities.
207	Delaney	Replies that the board has been advised of their responsibilities to public employees. Stresses that federal law is clear: PERS must benefit its recipients.
222	Rep. Starr	Asks if there has been a problem with having too many public employee members.
225	Delaney	Replies no. Adds that records of the voting have shown that votes have not been

		split along public and private lines.
234	Rep. Starr	Asks if the board meets under the open meetings law.
235	Delaney	Replies yes.
236	Rep. Devlin	Asks how often the board meets. Asks for a description of the board's actions at a typical meeting
245	Delaney	Replies that the board meets 10 times per year. States that the board's actions can vary from confirming contested case hearings to reviewing PERS staff actions.
273	Pat Zwick	Policy Analyst. Introduces a letter from Maria Keltner in support of SB 723A ( <b>EXHIBIT F</b> ).
278	Mary Botkin	American Federation of State, County and Municipal Employees (AFSCME). Opposes SB 723A. Stresses the scope of the board members' fiduciary responsibility. Reviews the history of the board. Adds that, as the board has changed, they have learned to work together and not split along private, public and union lines. Acknowledges that the representatives from the private sector have been beneficial members of the board.
335	Botkin	Emphasizes the complex, esoteric nature of the PERS program and the danger of leaving a gap in the knowledge of the board. Notes that the board hires the actuary and that there are 11, not 12, members of the board.
390	Bob Livingston	Oregon State Firefighters Council. Opposes SB 723A. Emphasizes that the origin of current problems is not in the configuration of the current board; it was a rare phenomenon. Outlines the legislative history of changes in the PERS board, especially the expansion decided upon in 1987 ( <b>EXHIBIT G</b> ).
<b>TAPE 135, B</b>		
025	Livingston	Notes that the administrators answer questions from members. Supports the current board system as opposed to the bill.
041	Rep. Edwards	Cites page 2, line 1-5 of SB 723A. Asks about the rationale for this section.
046	Livingston	Expresses uncertainty.
054	Botkin	Emphasizes the basic differences in the sectors of government.
072	Michelle Smith	Oregon Public Employees Union. Opposes SB 723A. Reviews the reasons for her opposition to the bill ( <b>EXHIBIT H</b> ).

090	Tricia Bosak	Oregon Education Association. Opposes SB 723A. Stresses that the bill is unnecessary. Indicates that the PERS board is not atypical compared to other states. Urges the promotion of stability on the board. States that separate sectors act to improve responses to recipientsí needs ( <b>EXHIBIT I</b> ).
121	Tricia Smith	Oregon School Employees Association. Opposes SB 723A. Discusses <b>EXHIBIT F</b> , stressing that the boardís function is to ensure that benefits and information are provided to recipients. Emphasizes that it makes sense to have PERS recipients on the board.
158	Rep. Starr	Adjourns the meeting at 4:40 p.m.

Submitted By, Reviewed By,

Brad Daniels, Cletus B. Moore, Jr.,  
Administrative Support Administrator

Reviewed By,

Pat Zwick,  
Policy Analyst

#### **EXHIBIT SUMMARY**

**A ñHB 3635, written testimony, Rep. Sunseri, 2 pp.**

**B ñHB 3635, letter, Rep. Sunseri, 1 p.**

**C ñHB 3635, letter, Rep. Sunseri, 1 p.**

**D ñHB 3635, written testimony, Kathleen Smail, 2 pp.**

**E ñSB 723A, written testimony, Steve Delaney, 1 p.**

**F ñSB 723A, written testimony, Maria Keltner, 1 p.**

**G ñSB 723A, written testimony, Bob Livingston, 1 p.**

**H ñSB 723A, written testimony, Michelle Smith, 1 p.**

**I ñSB 723A, written testimony, Tricia Bosak, 1 p.**