

SENATE COMMITTEE ON RULES AND ELECTIONS

February 16, 1999 Hearing Room B

4:30 p.m. Tapes 15 - 16

MEMBERS PRESENT: Sen. Charles Starr

Sen. Randy Miller

Sen. Lee Sen. Beyer

Sen. Kate Brown

Sen. Neil Bryant

MEMBER EXCUSED:

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: SJR 10 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 15, A		
000	Chair Starr	Opens meeting at 4:35 p.m. and opens public hearing on SJR 10.
<u>SJR 10 PUBLIC HEARING</u>		
015	Sen. Thomas Wilde	Senate District 8, primary sponsor of the bill. States, after Ballot Measure 65, it would be good to have a public hearing to determine if there is compliance with legislative intent when changing administrative rules. Comments that, at this time in Oregon, there is no method for dealing with administrative rules. States

		the volumes of administrative rules have a potential impact on businesses, commerce, and government. States his primary concern about SJR 10 is to start the discussion about whether Oregonians like or dislike the legislature's ability to question administrative rules. States, through different committees, administrative rules are examined, but the committees do not have the ability to reject those rules. Describes how the Workers' Compensation Division (WCD) had issues interpreting state statutes and misapplying statutes while creating their rules. States SJR 10 would determine whether statutes have been interpreted correctly.
059	Sen. Beyer	Asks if his intent regards any existing rules or only new ones.
061	Sen. Wilde	States his intent regards any administrative rule. States he wanted the ability to examine pre-existing rules. States, politically, examining pre-existing rules may not be possible.
071	Sen. Beyer	Asks how he reacts to the comment that the legislature has the ability to review administrative rules every two years and change any rules at will.
074	Sen. Wilde	States the legislature has every ability to deal with administrative rules. States that once a rule is established, correct or not, the Governor's signature is required. States the Governor is in the position of authority to have rules change.
093	Sen. Beyer	Asks if he is concerned primarily with administrative rules not consistent with adopted laws, or rules implemented because the legislature passed them.
098	Sen. Wilde	States he is concerned with administrative rules not complying with legislative intent.
108	Vice-Chair Miller	States there is opposition to SJR 10 from public interest groups. Asks why public interest agencies/groups are worried about involving the public with the legislature in reviewing rules.
121	Sen. Wilde	States he does not know. Explains the need for separation of power, and the need for balance and procedures. States SJR 10 is a reasonable solution.
152	Vice-Chair Miller	Comments the adamant opposition of SJR 10 by public interest groups is baffling. States there is a limited scope in overturning rules unless the rules are outside of the statutory intent.
182	Sen. Wilde	Explains that what most special interest groups say to him is inconsequential. States, in SJR 10, there is a requirement to keep the rule changes to a single subject and, if eliminating a rule, there should be a public hearing and a vote on the Senate floor.
223	Vice-Chair Miller	Asks if a citizen could, by themselves, cause a rule to be reviewed or changed.

233	Sen. Wilde	States the citizen would need to go out and petition.
239	Sen. Brown	Asks for specific examples of agency rules that have exceeded the agency's statutory authority or inconsistencies with statutes the agencies were supposed to implement.
244	Sen. Wilde	States the Workers' Compensation Division was not complying with statutory authority and, within their rule making, WCD was going outside of the compliance needs. States anyone can petition the legislature to deal with the statute. States the ability to deal with a department and question an interpretation of a statute is more difficult and convoluted.
272	Sen. Brown	Asks if he approached the chair of the Legislative Counsel Committee to challenge the agency's rules.
280	Sen. Wilde	States the ability to accept a rule is different from rejecting it. States the legislature has the ability to reject a department's administrative rule. States the process is left to the legislature. States that questioning a rule does not negate the rule.
302	Sen. Brown	Recalls that during interim, every agency that came before the senate proceeded to make a rule change to comply with the concerns of Legislative Counsel.
314	Vice-Chair Miller	Recalls the agencies were cooperative and acted favorably toward legislative concerns.
324	Sen. Brown	Asks, if agencies are interpreting legislative statutes broadly, if the statutes should be written more clearly and narrowly.
330	Sen. Wilde	States that it is his opinion they should be written more clearly and narrowly. States he is being told he is too picky and the statutes should be broader. Disagrees and believes there needs to be a narrow focus so that agencies know the legislative intent.
349	Sen. Brown	States, page 2 of SJR 10 requires a challenged rule to be submitted for the vote in the Senate. Asks if this challenged rule would not be submitted for a vote in the House.
357	Sen. Wilde	Believes that to be voted on in the Senate, SJR 10 must go through a committee. States that if it were to fail in the Senate, it would not make sense to vote for it in the House.
374	Sen. Brown	Asks, if challenged rules pass in the Senate, will they be voted on in the house.
380	Sen. Wilde	States if it does pass the Senate it will go to the House. States SJR 10 does not specifically state the Senate and the House votes, but that issue would be a good addition to SJR 10.

392	Sen. Beyer	States, line 27 states if anything does not make it through both houses, it dies. States conflicts are created because an administrative body cannot act on any legislation passed unless it is clear it affects a person's money or life, or unless there is a rule in place. Asks if there is the potential to eliminate a statute until the legislature acts.
TAPE 16, A		
013	Sen. Wilde	States that the statute would not be eliminated until the rule was accepted or denied. States SJR 10 would alter the procedures put into place surrounding statutes.
033	Sen. Beyer	Asks, if a rule is subjected to a vote, if the agency would adopt another rule while the current rule is being voted on. Asks, if an administration agency is running wild, if the best reaction to the procedure would be to cancel the rule that would be subject to a vote and adopt a new rule.
046	Sen. Wilde	States, in SJR 10, if a substantially similar rule is adopted following the vote to eliminate the rule, the new rule would be submitted again without the petition process so the agency will not submit or create an identical rule.
056	Sen. Beyer	States there are loopholes in SJR 10. Explains that lines 14 and 15 state that any petition can relate to only one subject. States, in most rules, each section is a separate rule. States, for example, if someone were to object to the Land Conservation and Development Commission (LCDC) rules, he/she would need to pass 20-30 petitions in order to get the objections taken care of. Asks if, in order to change one rule, all rules must be changed.
074	Sen. Wilde	States Sen. Beyer is correct. States the intent is to challenge only one rule. States when taking on an administrative rule, there is a specific rule selected with a specific title.
093	Sen. Beyer	States OSHA was adopting a new set of rules for which there was considerable objection. States concern that the public would not be able to object to the whole body of OSHA's rules, but they would need to file one petition per rule.
103	Sen. Wilde	States Sen. Beyer is correct. States that once rules are written and in place, the rules must comply with the intent of the existing statute.
137	Chair Starr	States many people have signed up to testify for SJR 10. Asks for anyone who signed up to return at a later date. States he is not sure if the bill will be heard again. States SJR 10 will not be moved today in this form or any other form.
157	Chair Starr	Closes the public hearing on SJR 10.
165	Sen. Brown	Asks if there are any planned further public hearings on SJR 10.

167	Chair Starr	States he does not plan any further public hearings on SJR 10.
176	Chair Starr	Reopens the public hearing on SJR 10.
179	Lois Kenagy	Farmer, Albany Oregon. States the citizens are in touch with what goes on in Oregon. States the attorney general's office rules state when changing rules there needs to be 14 days notice by a commission. Believes that if SJR 10 passes it would be a waste of money. States she is not a paid lobbyist and rules can be passed in minimal amounts of time. Urges the committee to defeat SJR 10.
234	Vice-Chair Miller	Comments that every rule is reviewed by the legislature.
243	Kenagy	Believes the real purpose for SJR 10 is to overturn the LCDC rules.
263	Vice-Chair Miller	States there is the need for the rules to comply with the intent of the legislature.
265	Chair Starr	Closes the public hearing on SJR 10. Asks how many executive appointments there are for future meetings.
266	Brian E. Smith	Committee Administrator. States there are approximately 23 and he is scheduling 10-15 appointments.
290	Chair Starr	States he does not foresee too many conflicts for the appointees.
313	Chair Starr	Adjourns the committee meeting at 5:25 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ No Exhibits