

**HOUSE COMMITTEE ON EDUCATION**

**February 19, 1997 Hearing Room E**

**08:15 AM Tapes 31-32**

**MEMBERS PRESENT:**

**Rep. Dennis Luke, Chair**

**Rep. Terry Thompson, Vice-Chair**

**Rep. Roger Beyer**

**Rep. Ryan Deckert**

**Rep. Bob Jenson**

**Rep. Ron Sunseri**

**MEMBER EXCUSED: Rep. Charles Starr**

**STAFF PRESENT:**

**Bryan Boehringer, Administrator**

**Joan Diaz, Administrative Support**

**MEASURE/ISSUES HEARD:**

**HB 2464 - Public Hearing**

**HB 2566 - 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 31, A</b>		
006	Chair Luke	Opens meeting at 8:20 a.m. Opens public hearing on HB 2464.
<b><u>HB 2464 - PUBLIC HEARING</u></b>		
		Represents District 50 in Medford. Explains request to draft bill was

010	Rep. John Watt	brought to him by a constituent, Marty Holstein, who works as a mechanic. Comments that a teacher in a local district had been dismissed due to distribution of drugs. Mr. Holstein wondered why teachers weren't drug tested when he, as a mechanic, had to be tested.
087	Rep. Thompson	Asks if constitutional issues were considered before drafting bill. Asks what other states are doing with regard to random drug testing.
094	Rep. Watt	Responds that he has no knowledge of other states' procedures.
096	Rep. Jenson	Inquires why only teachers are named and shouldn't this legislation also include random drug testing for others, such as legislators.
108	Rep. Watt	Responds that the bill could include others and comments that this was a constituent's request.
134	Betsy Earls	Representative, Associated Oregon Industries, testifies AOI has no position on this bill but she presents information on drug testing policies of several Oregon companies.
138	Mitzi Williams	Occupational Health Nurse, Mitsubishi Silicon, testifies that she is providing information only and not speaking for or against the bill. Distributes policy and referral agreement from Mitsubishi Silicon <b>(EXHIBIT A)</b> .
329	Williams	Responds to Chair's question that notification of random drug testing is accomplished by sending a notification form to current employees who then have to return a signed acknowledgment.
334	Rep. Sunseri	Asks what is the number of employees tested at one time and who pays for it.
	Williams	Responds 30-40 employees are tested at one time and the company pays for it. Comments that her company does test for reasonable suspicion.
	Chair Luke	Asks how was a condition of employment changed by random drug testing of current employees.
349	Williams	Continues discussing the types of employees who are tested.

TAPE 32, A		
003	Williams	Continues testimony.
007	Rep. Thompson	Asks if office staff are drug tested.
	Williams	Responds all are tested including a couple of scientists from Europe who were recently hired.
013	Rep. Thompson	Asks why would office staff who are not in a safety situation need testing.
019	Williams	Responds if they handle confidential data and are impaired, bad judgments could result.
040	Earl	Calls committee's attention to document from Nabisco which explains that company's policy ( <b>EXHIBIT B</b> ).
046	Jon Egge	Small business owner, Portland, presents information only and does not speak in favor or against bill. Comments that he volunteers on a hospital board and is aware of drug testing in that environment also.
125	Laurie Wimmer	Legislative Representative, Oregon Education Association, represents 40,000 employees. Speaks against HB 2464 ( <b>EXHIBIT C</b> ). Comments that she believes random drug testing will be found unconstitutional. Explains it's an invasion of privacy as someone has to observe a person urinating. Current law now states that a school principal can immediately remove a teacher from the classroom with reasonable suspicion.
219	Rep. Thompson	Asks for statistics on teacher testing.
222	Wimmer	Responds that any numbers she gives would be speculative.
226	Chair Luke	Indicates that he would like to see exact numbers before putting any statistics on the record.
236	Rep. Deckert	Asks how many states have a drug testing policy.

	Wimmer	Responds that she is not sure.
265	Maria Keltner	<p>Director, Local Government Personnel Institute, testifies that she is bringing information to the committee's attention and is not speaking for or against the bill. Highlights of random sampling of counties and cities in Oregon:</p> <ul style="list-style-type: none"> <li>* Federal law requires commercial drivers license to be tested.</li> <li>* Some local laws require testing.</li> <li>* Applicants don't have same level of protection as current employees.</li> <li>* Some test all applicants; some test only safety sensitive positions.</li> <li>* One city tests police employees assigned to drug units.</li> <li>* Reasonable suspicion would be if a person appears to be impaired in some way.</li> <li>* If positive results, person is given a last chance agreement which provides for follow up testing after drug rehabilitation.</li> </ul>
353	Wilma Wells	Legislative Assistant, Confederation of School Administrators testifies against HB 2464 ( <b>EXHIBIT D</b> ).
<b>TAPE 31, B</b>		
003	Wells	Continues testimony.
017	Rep. Beyer	Asks if school bus drivers are tested.
019	Wells	Responds if they test commercial drivers, bus drivers are also tested.
021	Chair Luke	Asks about safety workers in school system.
022	Wells	Comments anyone working in a kitchen with steam kettles would be in a safety sensitive position.
024	Rep. Beyer	Asks if custodians are considered safety workers.
029	Wells	Comments that she doesn't believe so.

030	Chair Luke	Comments maybe bill is drawn too narrowly
055	David Fidanque	Executive Director, American Civil Liberties Union (ACLU) of Oregon comments that he is not a lawyer and is testifying against HB 2464. <b>(EXHIBIT E)</b> . Testifies that the U.S. Constitution protects us from government intruding on our privacy. When testing is carried on by government, it's considered "search". Explains history of 4th Amendment to US Constitution, (which protects citizens from unreasonable search and seizure). Oregon's Bill Of Rights contains a similar provision.
177	Fidanque	Comments that urine testing is intrusive as testified here previously. US Supreme Court has been closely divided on the procedures for testing of urine. Testifies that he believes this bill would be found unconstitutional.
213	Rep. Thompson	Asks if this bill passes, would ACLU take it to court.
217	Fidanque	Responds that Oregon Education Association (OEA) would be first to take it to court; ACLU would probably be a friend of the court. Questions motives of the legislators.
230	Chair Luke	Responds that questioning the motives of the legislators is inappropriate.
247	Chair Luke	Comments in response to committee's questions that staff will find out about private schools and find out from Legislative Counsel their opinion of the constitutionality of the bill. Asks Wells to find out if there are any collective bargaining agreements that indicate policy.
263	Jim Green	Representative, Oregon School Boards Association, indicates he had not planned to testify but gives committee answers to questions asked of others.
279	Rep. Beyer	Asks what is the cost of drug testing
283	Green	Responds cost depends on which lab is used, but ranges from \$30-\$65.
288	Chair Luke	Comments on drug test procedures that a local bank uses for new employees.

297	Green	Continues testimony. Comments he is neutral on this bill but issues of constitutionality are there for Oregon School Boards Association.
367	Chair Luke	Closes public hearing on HB 2464.
<b>TAPE 32, B</b>		
003	Sandy Cargill	School Principal, Burns, testifies in response to chair's question, that illegal drug use is a concern of everyone including citizens in small towns.
010	Chair Luke	Asks how mill shutdown has affected schools and the economy in Burns.
017	Cargill	Continues discussion and relates employment situation in Burns.
035	Rep. Thompson	Asks for information on drug use in schools.
041	Cargill	Discusses a town hall meeting where violence and illegal drug use were the topics.
	Chair Luke	Opens public hearing on HB 2566.
<b><u>HB 2566 - PUBLIC HEARING</u></b>		
062	Rep. Liz VanLeeuwen	Representative, District 37, explains this bill was reviewed last session but failed in the Senate. Reads changes into the record, specifically line 14-20 and line 29.
094	Rep. Thompson	Asks what constitutes "reasonable physical force" referenced in line 15.
096	Rep. VanLeeuwen	Responds whatever it takes to control student and remove student from the situation.
103	Rep. Thompson	Asks if perhaps a lawsuit would ensue unless there is a clearer definition.

105	Rep. VanLeeuwen	Responds that this bill hopefully would reduce the chance of lawsuits.
116	Rep. VanLeeuwen	Comments this bill gives school employees more authority to deal with disruptive students. Comments further that the Confederation of School Administrators (COSA) supports this bill.
	Chair Luke	Asks staff to check with Legislative Counsel what constitutes reasonable force and supply that information to committee and Rep. VanLeeuwen.
125	Wimmer	Testifies Oregon Education Association is neutral on this bill. Comments their attorney was consulted and that both Oregon Administrative Rule and Department of Education policies cover this topic. OEA has a problem if overly broad language remains in the bill <b>(EXHIBIT F)</b> .
185	Rep. Jenson	Comments that when OEA has defended a member on use of force, it was stated union was successful. Asks if there is a possibility that language in this bill precludes having to defend those individuals.
199	Wimmer	Responds OEA's attorney doesn't think this bill would add anything to current law. Comments that OEA needs to make their members more aware that there is a law that supports them.
251	Chair Luke	Asks if these issues are already covered under Administrative Rules and Department of Education policy.
260	Green	Responds that there are policies in place but will check policy department to determine if there is a requirement to have a policy in each district or if it's optional.
266	Chair Luke	Asks if most school districts have a policy.
	Green	Responds that approximately 50% of the districts have a policy but will check and get back to the committee.
284	Rep. VanLeeuwen	Comments that in listening to today's testimony, it doesn't represent what teachers have related to her.
		Superintendent of West Linn district testifies that this bill includes

313	Roger Wall	school volunteers. Comments that it is a questionable choice to include school volunteers. Comments that he is concerned with term "physical force."
	Chair Luke	Asks if there were any lawsuits regarding use of unreasonable force?
	Wall	Responds that there were.
	Chair Luke	Asks if the district prevailed.
	Wall	Responds that it did.
370	Chair Luke	Comments that the committee still has questions on both bills and will look forward to receiving the information requested. Notes for the record that Rep. Starr has been excused. Adjourns meeting at 10:05 a.m.

Submitted By, Reviewed By,

Joan Diaz, Bryan Boehringer,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - HB 2464, written materials, Mitzi Williams 8 pp**

**B - HB 2464, written materials, Betsy Earls 3 pp**

**C - HB 2464, written testimony, Laurie Wimmer, 5 pp**

**D - HB 2464, written testimony, Wilma Wells, 1 pg**

**E - HB 2464, written testimony, David Fidanque, 4 pp**

**F - HB 2566, written testimony, Laurie Wimmer, 1 pg**