

HOUSE COMMITTEE ON GENERAL GOVERNMENT

March 17, 1997 Hearing Room

D

1:00 P.M. Tapes 46 -

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MEMBERS PRESENT:

Rep. Ken Strobeck, Chair

Rep. **Dan Gardner, Vice-Chair**

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Kurt Schrader

Rep. Liz VanLeeuwen

Rep. Tom Whelan

STAFF PRESENT:

Jeri Chenelle, Administrator

Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD:

HB 2402 - Public Hearing

HB 2591 - Work Session

HB 2447 - Work Session

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For complete contents, please refer to the tapes.

Tape/# Speaker Comments

Tape 46, A

003 Chair Strobeck Calls meeting to order at 1:10 p.m., announces the committee will not

hear HB 2379 today, and opens the public hearing on HB 2402.

HB 2402 - PUBLIC HEARING

013 Rep. Bill Markham District 46, testifies in support of HB 2402.

_ reviews provisions of bill

022 _ According to 1993 report, 120,000 California attorneys filed 293

million sheets of paper in the courts in one year.

_ Oregon has approximately 10,000 active attorneys and assuming

they file papers compared to California, 24,877 sheets are filed in

Oregon courts each year.

031 _ Additional paper is used by the state courts themselves.

_ Some state courts purchase recycled paper; many have not.

036 Sen. Randy Miller Testifies in support of HB 2402. Measure is long overdue, and

in
terms of impact on environment this would be the right way to
go.

Issues discussed:

053 _ Whether there would be alternatives if recycled paper is not
available.

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_ Courts in other states have no way of enforcement.

_ Equipment is not **available to microfilm both sides at once.**

076 _ Whether consideration has been given to requiring electronic filing
with the courts.

087 _ Whether the mandates of HB 2402 can be accomplished
practically.

_ Time frame for accommodating legislation; current technology
does not allow immediate compliance, but it should remain the
target.

_ Lack of money by courts.

106 Chris Taylor Oregon State Public Interest Research Group (OSPIRG), introduces
himself and Mike Reynolds.

114 Mike Reynolds OSPIRG, test)ifies in support of **HB 2402 ((EXHIBIT A).**

164 Reynolds Continues presentation, including explanation of proposed
amendments **(EXHIBIT A, page 2).**

190 Rep. Montgomery Comments the second amendment is telling people they have to do
something, but they don't have to do it if they don't want to.

192 Reynolds Explains the intent of the proposed amendment is to ensure no one
would be denied justice simply because the paper was not recycled
paper. Adds the notion is that lawyers are sworn under oath to uphold
and obey the laws of the state, are a fairly law-abiding group and
assume they can be trusted, by and large, to follow the policy, but there
are probably a lot of people in the public who would feel it extreme to
have their case dismissed simply because the paper was not recycled
content.

Issues discussed:

206 _ issues of quality of paper. capability of office machines, and legal
turns

229 _ whether other states have included the proposed language

241 Rep. Hill Referring to the list of papers in testimony, notes only one paper in the
list meets the requirements.

Taylor Explains how the list was compiled and offers to provide additional
information if the committee desires.

261 Rep. Hill Asks how the court is to know the paper is recycled.

269 Taylor Responds it is his belief, and from experience in other states, lawyers
will abide. Agrees there is no way to tell if the paper is recycled or the
percentage of recycled content.

Issues discussed:

- 304 _ market value of recycled paper based on availability and demand
- _ electronic filing of court documents as alternative
- _ whether the definition of recycled paper is still operable
- _ federal government, through executive order, adopted policy of 20

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percent post-consumer for 1995, and raising to 30 percent
post

consumer a couple years after. Explains that is why most
paper is

marked to be between 20 and 30.

359 Brad Swank Of fice of the State Court Administrator, submits and summarizes

a

prepared statement (EXHIBIT B), and requests the double sided
and

refusal to accept provisions be deleted from the measure if the
committee should choose to proceed. Advises the issue was
raised

before the Uniform Trial Court Rules Committee last year;

copies of

their proposed rule has been submitted (EXHIBIT F).

TAPE 47, A

030 Swank Adds that the law says and the policy adopted by DAS says you

buy

recycled paper when it is economically feasible, the adopted rule
includes a price differential within which they expect agencies to

buy

and use recycled paper. In bulk buying, the difference between
virgin

and recycled paper is not always within the price differential.

Issues discussed.

046 _ required number of copies required to be filed with the courts

062 _ process and time frames for microfilming documents

_ the courts are trying to change **as quickly as they can**

082 Brad Higbee Metro, introduces Lisa Naito.

087 Lisa Naito Metro Councilor, testifies that Metro does handle the solid waste

and

believes this is a good idea. Urges committee to work with the

courts

to make it work.

100 Brad Higbee Metro, testifies in support of HB 2402:

Metro has internal policy requiring double sided copies.

_ Metro is working with consultants to work with law firms to come up with ways to recycle that which would be effective.

_ Metro saves upwards of \$28,000 per year out of a total budget of \$90,000 by using double-sided documents.

_ Consultants indicated there might be some in the legal community

and court system who find the double sided copies difficult

to use

if they are clipped at the top.

136 Rep. Montgomery Asks if Metro would pay 53 percent more for their paper.

Higbee Responds they have a 10 percent requirement; they are allowed

to go

10 percent over the bid to obtain recycled paper. Adds that

programs

like this would encourage generation of the supply needed.

144 Chair Strobeck Asks if the policy requires 20 or 30 percent postconsumer.

Higbee Responds he recalls 20 percent as the requirement.

Chair Strobeck Asks if Metro gets involved in the collection of recycled paper.

156 Higbee Explains responsibility of Metro, and that it would be up to the

local

jurisdictions to work with their haulers.

164 Chair Strobeck Asks if there is enough of an incentive to make recycling

worthwhile.

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169 Rep. Hill Comments he talked to a hauler and was advised there is no market for recycled paper.

179 Judy Crockett Association of Oregon Recyclers, introduces David Allaway.

195 David Allaway Harding Lawson Association, and representing the Association of Oregon Recyclers, testifies in support of HB 2402 (EXHIBIT C).

240 Allaway Continues presentation.

280 Allaway Continues presentation.

316 Rep. Montgomery Asks why the proponents would not single out professional groups other than attorneys.

306 Allaway Responds they have not surveyed any one profession. Adds their survey showed 47 percent of the law offices use recycled paper in their copy machines and it is possible other professions use less, and would see no reason why amendments could not be made to the bill to affect

other trades and groups as well.

344 Chair Strobeck Asks how one can tell whether the paper is recycled.

Allaway Responds one cannot tell from looking at the paper.

Chair Strobeck Asks how the courts could reject a document based on looking at the document.

355 Judy Crockett Comments she believes the amendment offered by OSPIRG to make "failure to have used recycled paper not be the sole grounds for rejecting a document" might assist with the problem.

347 Allaway Gives example of ethical responsibility of the lawyer to say it is submitted on recycled paper.

375 Paul Cosgrove American Forest and Paper Association (AFPA), talks about market issues and the Uniform Trial Court Rule process.

_ Proposed rule resulted in a statement of strong encouragement

_ Paper industry contended it is virtually impossible to tell the difference between virgin and recycled paper.

_ Industry suggested a major problem was getting enough recycled fiber to make the paper.

415 _ Industry high grade typically found in offices is highly valuable; it makes recyclers money.

_ Technology exists to make paper with higher percentage, but it is a matter of getting enough sources of supply to have a **consistent** ability to make the paper.

TAPE 46, B

009 Cosgrove _ Suggests people recycle so the industry has the paper to process.

016 _ Rep. Markham has given permission to have amendments drafted; will be proposing amendments if the committee wishes to proceed.

Issues discussed:

025 _ Paper recycling procedures and values

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048 _ Impact of double-sided printing on court system

061 Bob Oleson Oregon State Bar, submits letter from the law offices of James B.

Griswold outlining the Oregon State Bar Procedure and Practice Committee's policy on HB 2402 (EXHIBIT D).

_ Oregon State Bar Procedure and Practice Committee supports the goal of the bill, but does not think it is appropriate at this time to have this mandate.

_ Believes ultimate Oregon State Bar position would be to agree with Rep. Markham, i.e. that he wants to see the courts and legal system move as far as they can until the Chief Justice says they can go no further.

Issues discussed:

096 _ Impact if an amendment were made to say, "the court shall allow, or shall accept documents double sided."

106 Chair Strobeck Closes public hearing on HB 2402 and opens work session on HB 2591. i

HB 2591 - WORK SESSION

114 Chenelle Reviews provisions of HB 2591.

121 Chair Strobeck Explains Rep. Gardner has had the HB 2591-1 amendments drafted (EXHIBIT E).

129 Rep. Gardner Explains the HB 2591-1 amendments:

_ Most gift certificates have no identifying number.

_ Identification of purchaser on the certificate would allow a lost certificate to be returned.

_ If certificate is never used, current law says the windfall goes to the state after five years and the state has no way of tracking who purchased the certificate.

_ Deleting gift certificates from the statute would make a windfall for the business.

_ Question is when is the transaction complete: at the time of purchase, or when the gift certificate is used.

_ Amendment says if the Division of State Lands finds someone in noncompliance, they would send a notice giving them 90 days to get into compliance; there is no penalty.

_ After three years during which the business operates off the money, the money would go to the Division of State Lands and the division would send out a notice to the purchaser they can get their money back. Division will not find all people; therefore it would be a program that would fund itself.

181 Rep. Whelan Asks if there is consideration of what the restaurant would have to put into providing the service.

185 Rep. Gardner Responds the amendments have a provision to exempt any discount or promotional certificate.

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184 Rep. Gardner Advises they have surveyed other states, that 28 deal with gift certificates as abandoned property, and that the time varies from three to five years; all states conclude the purchaser is the payee.

198 Chair Strobeck Comments he believes the issue in deciding whether to adopt the -1 amendments is where the committee believes the transaction is completed. Adds if a \$20 restaurant gift certificate is recognized at 60 percent face value, after the cost of processing a business letter by the Division of State Lands, recording, etc. Oregon would not be getting a lot of value.

230 Rep. Gardner Agrees with Rep. Strobeck, and comments that somebody had to earn the money to purchase the certificate.

235 Rep. Gardner MOTION: **Moves to ADOPT HB 2591-1 amendments dated 03/17/97.**

238 Rep. Montgomery Comments he will be a no vote because a gift certificate is a contract, and does not believe there is any reason why the legislature should get involved in that kind of business practice. Adds that the person who receives the certificate should be the one to get the money.

249 Rep. VanLeeuwen Clarifies that HB 2591 would remove gift certificates out of the law; if the committee adopts the -1 amendments, then gift certificates would be included.

259 Rep. Gardner Explains that gift certificates can be from restaurants, Nordstrom, J. C. Penney--any form from a retailer.

VOTE: 3-4

AYE: Reps. Gardner, Schrader and Whelan

NAY: Reps. **Hill, Montgomery, VanLeeuwen and Strobeck**

Chair The motion FAILS.

282 Rep. Hill MOTION: Moves HB 2591 to the floor with a DO PASS recommendation.

285 Rep. Gardner Comments 28 states already deal with gift certificates as abandoned property, does not see a need for changing current law, and will be a no vote.

285 VOTE: 5-2

AYE: Reps. **Hill, Montgomery, Schrader, VanLeeuwen, and Strobeck.**

NAY: Reps. **Gardner and Whelan**

Chair The motion CARRIES.

REP. STROBECK will lead discussion on the floor.

(Note: **Following the meeting, Rep. Gardner gave notice to staff of**

a Minority Report and was joined by Rep. Whelan.)

302 Chair Strobeck Closes the work session on HB 2591 and opens work session on HB 2447.

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HB 2447 - WORK SESSION

294 Chenelle Reviews provisions of HB 2447.

323 Chair Strobeck Notes the committee has not received the Revenue Impact statement, and asks the committee to stand at ease while staff checks with Legislative Revenue.

353 Chair Strobeck Calls meeting back to order and announces that the Revenue Impact Statement is not available, announces the bill will be rescheduled, and adjourns the meeting at 2:32 p.m.

Submitted By, Reviewed By,
Annetta Mullins, Jeri Chenelle,
Administrative Support Administrator
i,

EXHIBIT SUMMARY

A - HB 2402, **prepared statement, Mike Reynolds, 10 pp**

B - HB 2402, **prepared statement, Brad Swank, 5 pp**

C - HB 2402, **prepared statement, David Allaway, 2 pp**

D - HB 2402, **prepared statement, Bob Oleson, 3 pp**

E - HB 2591, HB 2591-1 **amendments, Rep. Gardner, 3 pp**

F - HB 2402, **proposed rules, Brad Swank, 15 pp**

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