

HOUSE COMMITTEE ON LABOR

March 18, 1997 Hearing Room E

8:00 A.M. Tapes 40 - 41

MEMBERS PRESENT:

Rep. Steve Harper, Chair

Rep. Mike Fahey, Vice-Chair

Rep. Chris Beck

Rep. Dan Gardner

Rep. Bill Markham

Rep. John Minnis

Rep. Ron Sunseri

MEMBER EXCUSED:

STAFF PRESENT:

Cara Filsinger, Administrator

Linda Spaulding, Administrative Support

MEASURE/ISSUES HEARD:

HB 2187 Public Hearing and 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 40, A		
003	Chair Harper	Calls the meeting to order at 8:02 a.m. Opens public hearing on HB 2187.
<u>HB 2187 - PUBLIC HEARING</u>		
011	Nancy Crandall	Plan Administrator, Deferred Compensation, Public Employees Retirement System (PERS)
	Linda	

023	Haglund	Equities Investment Officer, Oregon State Treasury
030	Cynthia Byrnes	Assistant Attorney General, Department of Justice HB 2187 creates trust structure in compliance with federal law; continues voluntary participation within state government. Describes structure to create the trust modeled after PERS Fund in State of Oregon.
035	Haglund	Explains HB 2187 converts assets of State of Oregon Deferred Compensation Program to a trust bringing it into compliance with federal law (EXHIBIT A). Presents background of Deferred Compensation plan: * voluntary for state and participating local government employees * plan is self-supporting
044	Haglund	Presents overview of legislative history of Deferred Compensation plans for State of Oregon employees (EXHIBIT A, p. 2).
093	Haglund	Provides overview of HB 2187 (EXHIBIT A, p. 3), explaining bill does not alter the plan, but creates a trust structure.
116	Rep. Markham	Asks Ms. Haglund to repeat last paragraph of written testimony.
118	Haglund	Reads from (EXHIBIT A, p. 4).
124	Rep. Sunseri	Asks liability to the state.
125	Byrnes	States two primary areas of state liability: * breach of contract * federal and state securities law liabilities
136	Rep. Sunseri	Asks if state is responsible for performance of plan.
137	Byrnes	Replies statutes impose performance duty. Oregon Investment Council (OIC) treats funds as any other investment funds as prudently and productively as possible. PERS administers the plan and develops rules to comply.
147	Rep. Sunseri	Asks if there is responsibility on state for minimum investment performance.
150	Byrnes	Answers employee has recourse only if OIC intentionally commits fraud.
178	Haglund	Adds that program does not guarantee a particular return; state is obligated to pay only what investment earns for participant.
184	Rep. Markham	Asks clarification that PERS guarantees minimum of eight percent; deferred compensation carries some risk.
		Agrees; describes state's duties associated with trust law required by

190	Haglund	federal trust structure.
222	Haglund	Explains clarifying amendments under HB 2187-2 (EXHIBIT A, pp. 5, 6).
241	Chair Harper	Requests confirmation that clarifying amendments are incorporated in -2 amendments.
243	Haglund	Answers affirmatively.
251	Rep. Minnis	Asks why there are -2 and -3 amendments.
254	Cara Filsinger	Committee Administrator, explains the three sets of amendments (EXHIBIT E) (EXHIBIT F).
261	Haglund	Comments that original bill was a result of changes at federal law level in August, 1996. Explains timing issue for preparation of amendments.
295	Haglund	Expresses support and urges committee approval of HB 2187-2.
300	Rep. Markham	Asks state's penalty if legislature does nothing.
304	Haglund	Replies state would lose tax deferred status of the plan; money becomes taxable to employee.
326	Rep. Minnis	Asks clarification that federal law mandates funds segregated into trust, and what does bill offer in addition to what is compelled by federal law.
338	Haglund	Answers nothing; bill creates trust structure. Bill spells out mechanics for inclusion of local governments.
358	Rep. Minnis	Asks for definition of commingling of funds.
369	Byrnes	Answers creates trust, declaring assets of the state employees compensation plan are placed into trust. Explains OIC invests funds on behalf of the plan; assets become separate investment fund whereby commingled funds are added to lists of investments.
421	Chair Harper	Asks if one can drag the other one down.
424	Byrnes	Answers no; investments are similar to Oregon Public Employees' Retirement Fund (OPERF).
432	Rep. Sunseri	Asks what happens to corporations when they commingle funds.
441	Byrnes	Answers monies should be accounted for separately; HB 2187 provides for separate accounting. OIC is responsible for developing investment policies.
TAPE 41, A		
043	Rep. Sunseri	Confirms opportunity for investment is created; investor makes choices.
047	Byrnes	Agrees, assets are commingled in that they go into investment fund, but accounted for separately.
	Rep.	Suggests pictorial presentation to explain current status of deferred

052	Minnis	compensation.
066	Chair Harper	Says committee will re-open discussions on deferred compensation next meeting.
068	Rep. Markham	Suggests charting nine areas of investment speculation.
072	Rep. Fahey	Asks clarification that commingling of funds means using same investment managers.
078	Haglund	Answers affirmatively; provides analogy of Fidelity Magellan.
104	Rep. Markham	Asks if annuities through private companies are eliminated.
104	Haglund	Answers no.
105	Rep. Markham	Asks for dollar amount in fund.
107	Crandall	Answers \$370 million. Submits testimony (EXHIBIT D) .
112	Rep. Sunseri	Asks reasoning for repealing ORS Chapter 243 and adding it back in -3 amendments.
124	Chair Harper	Says -3 amendments will be discussed.
126	Rep. Markham	Asks for management service fees.
127	Crandall	Replies management fees are multi-layered depending on type of investment.
140	Rep. Markham	Asks who is record keeper.
141	Crandall	State Street Bank and Trust Company who charge 30 basis points.
200	Byrnes	Explains how HB 2187 was developed transferring assets to a trust rather than owned by the state (EXHIBIT B) . Submits comparison of federal and state securities fraud liability (EXHIBIT C) .
287	Haglund	Explains the difference between -2 and -3 amendments. Says drafters support -2; -3 is for committee consideration.
328	Rep. Sunseri	Asks for illustration how state's liability is affected if -3 amendments are included.
335	Byrnes	Presents scenario to illustrate consequences of participant losing investment.
381	Chair Harper	Asks if state laws apply to PERS.
383	Byrnes	Replies under PERS there is some risk of state securities law liability.
394	Rep. Minnis	Asks if private investment portfolios are subject to state and federal laws.

399	Byrnes	Answers affirmatively; issue before committee differs between individual investor and state.
414	Haglund	Says difference exists between private and public because people representing the plan receive no sales commission.
TAPE 40, B		
024	Rep. Sunseri	Asks if -3 is more secure for investor.
027	Haglund	Answers participant security is the same under the -2 and -3 amendments. Says difference is if something goes wrong.
043	Rep. Markham	Asks for definition of self-insured fund.
046	Byrnes	Answers every state agency is assessed an amount similar to an insurance premium. Recovery to a plaintiff is paid out of that self-insurance pool.
053	Rep. Markham	Asks dollar size of self-insurance pool.
054	Haglund	Says she does not have the answer; state securities law claim sets recovery limit at \$500,000.
059	Crandall	Clarifies every agency is assessed \$2,000 minimum each biennium; maximum of \$100,000 is payable to any individual and \$500,000 on class action suits.
066	Chair Harper	Asks why Treasury objected to -3 amendments.
070	Haglund	Answers legislative intent was to limit liability to state; drafters tried to be consistent with limiting state liability.
080	Rep. Beck	Asks if there is concern of frivolous law suits under -3 amendments.
088	Haglund	Answers thresholds under state securities fraud are different than federal securities fraud. Says opportunity for frivolous suit is higher under state than federal provisions.
102	Rep. Beck	Confirms state has more protection under -2 amendments.
103	Haglund	Agrees; State of Oregon has less liability exposure under -2 amendments than under -3.
106	Rep. Sunseri	Comments no greater risk for frivolous law suit under -3 than in private sector.
117	Rep. Minnis	Asks if complaints would fall under state's liability limitation.
125	Haglund	Answers yes, with maximum recovery at \$500,000.
131	Byrnes	Explains difference between federal and state definition of frivolous law suit.
		Division of Insurance and Finance, Department of Consumer and Business Services

147	Jim Harlan	Clarifies points of previous testimony: * state is subject to both state and federal securities law violations under current deferred compensation plan and -3 amendment * -2 amendment removes state liability
186	Haglund	Agrees; explains trust law raises state liability.
188	Rep. Sunseri	Compliments Ms. Haglund, Ms. Byrnes, and Ms. Crandall on presentation; understands intention for committee to have enough information to make prudent decision.
192	Rep. Markham	Asks why Staff Measure Summary says bill protects agencies from Oregon Securities Law.
204	Haglund	Explains trust law requires state liability; measure removes state from State Securities Fraud provisions.
214	Byrnes	Explains existing statutes present conflict; unclear how intent to operate this plan at no expense to state works with securities laws.
223	Rep. Sunseri	Clarifies discussion; says -2 amendments add exemption, but -3 amendments remove exemption.
235	Chair Harper	Closes public hearing on HB 2187. Opens work session on HB 2187.
<u>HB 2187 - WORK SESSION</u>		
242	Rep. Minnis	MOTION: Moves to ADOPT HB 2187-2 amendments dated 03/17/97.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Harper	The motion CARRIES.
254	Rep. Minnis	MOTION: Moves to ADOPT HB 2187--3 amendments dated 03/17/97.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Harper	The motion CARRIES.
289	Chair Harper	Closes work session on HB 2187. Adjourns the meeting at 9:15 a.m.

Submitted By, Reviewed By,

Linda Spaulding, Cara Filsinger,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2187, written testimony, Linda Haglund, 6 pp

B - HB 2187, written testimony, Cynthia Byrnes, 6 pp

C - HB 2187, written testimony, Cynthia Byrnes, 1 p

D - HB 2187, written testimony, Nancy Crandall, 3 pp

E - HB 2187, -2 amendments, staff, 35 pp

F - HB 2187, -3 amendments, staff, 2 pp