

**HOUSE COMMITTEE ON RULES AND ELECTIONS**

**June 27, 1997 Hearing Room E**

**8 A.M. Tapes 113-116**

**MEMBERS PRESENT:**

**Rep. Lynn Snodgrass, Chair**

**Rep. Peter Courtney, Vice-Chair**

**Rep. Lee Beyer**

**Rep. Bill Markham**

**Rep. Ken Messerle**

**Rep. Kitty Piercy**

**Rep. Jim Welsh**

**STAFF PRESENT:**

**Janet Adkins, Policy Analyst**

**Valerie Luhr, Administrative Support**

**Erik Dietz, Administrative Support**

**Kellie Shoemaker, Committee Clerk**

**MEASURE/ISSUES HEARD:**

**SB 1115 Work Session**

**Introduction of Committee Bill**

**SB 500 Work Session**

**SB 853 Work Session**

**HB 3502 Work Session**

**HB 3742 Work Session**

**SJR 2 Work Session**

**SB 880 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
<b>TAPE 113, A</b>		
004	Chair Snodgrass	Opens the meeting at 8:12 a.m. Opens work session on SB 1115B.
<b><u>SB 1115B - WORK SESSION</u></b>		
010	Rep. Markham	<b>MOTION: Moves SB 1115B to the floor with a DO PASS recommendation.</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Courtney</b>
	Chair Snodgrass	<b>The motion CARRIES.</b>  <b>REP. MARKHAM will lead discussion on the floor.</b>  Closes work session on SB 1115B. Announces the committee will introduce the sine die resolution.
<b><u>INTRODUCTION OF COMMITTEE BILL</u></b>		
032	Rep. Snodgrass	<b>MOTION: Moves LC 4445 BE INTRODUCED as a committee bill [EXHIBIT K].</b>
	Chair Snodgrass	Reads the draft text at the request of Rep. Markham.
		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 - Courtney</b>
	Chair Snodgrass	<b>Hearing no objection, declares the motion CARRIED.</b>  Closes work session on LC 4445 and opens work session on SB 500
<b><u>SB 500 - WORK SESSION</u></b>		
054	Rep. Beyer	States he has a question of legal counsel.
056	Chris Crean	Legislative Counsel, introduces himself.
	Rep. Beyer	Comments there has been on discussion on the -A12 amendments ( <b>EXHIBIT A, 06/24/97 meeting</b> ), the annexation amendment. Asks if adding this amendment to the list of powers of the Land Conservation and Development Commission (LCDC) gives them authority to overrule a local vote and order an annexation.

064	Crean	Responds. In the final analysis, probably. There would be many intermediate steps; explains.
	Rep. Beyer	Asks if they can do that over the objection of local voters.
	Crean	Responds. An enforcement order carries with it certain penalties for noncompliance; explains.
087	Rep. Beyer	Says LCDC's strongest power is to impose a building moratorium.
	Crean	Responds. Under statutes at issue here, LCDC has authority to withhold funds from a local government; it does not have authority of its own volition to order a building moratorium; refers to ORS chapter 197.
100	Rep. Beyer	Explains this one specifically says, "has engaged in a pattern or practice of annexation decisions," page 2, subsection 11, -A12 amendments. Asks if they need to find a pattern of building activity.
	Crean	Responds. Is added as a new subsection and reflects the language of subsection 6; comments on circumstances when LCDC can take action.
	Rep. Beyer	Explains subsection 6 says the same thing as subsection 11.
	Crean	Concurs. Subsection 10 was added separately because subsection 6 speaks to a pattern or practice of land use decisions. Annexations are not land use decisions.
114	Rep. Beyer	Says they couldn't do it in just one, because they have to engage in a pattern or practice of annexation decisions.
	Crean	Concurs. The way it is drafted the first annexation decision following enactment of this bill would not fall under the statute. The second could constitute a pattern or practice.
120	Rep. Beyer	Says that if some called the practice into question, it seems like LCDC would be going back to a jurisdiction and saying that it doesn't appear to us you are able to implement your land use plan and then ask them to change it.
	Crean	Does not understand the question.
127	Rep. Beyer	Says violating the goals that this speaks to is that the acknowledged plan made certain assumptions about how they would meet population and housing needs. In an annexation decision, it would be challenged that since you are denying your annexations, LCDC would have to tell the city or county they do not have a desire to implement their goals. How are you going to change your plans to address those.
	Crean	Concurs. Comments this scenario was in mind when he drafted the language.
145	Rep. Beyer	They could say it appears that this is not going to work. You are changing your mind about your plan. How are we going to do it another way. This is what LCDC would pose to the jurisdiction.

149	Crean	Prefaces this by saying, LCDC could order a local government to either annex or accept the consequences that exist in statute following an enforcement order.
158	Rep. Piercy	Asks where the appeal of the enforcement order be made.
	Crean	To the Court of Appeals.
164	Rep. Beyer	Asks if enforcement would come from the Court of Appeals.
	Crean	Responds. Comments on the power of a court over a decision.
179	Rep. Messerle	Expresses his concern about the liability involved for a piece of property that might have a comprehensive plan and the owners and developers are moving ahead with the plan. If at some point a vote to annex passes; where does that leave the city, county or landowner.
190	Crean	States his understanding of the scenario. The developers in the scenario would have to take it back to the ballot and their investment would be uncertain.
202	Rep. Messerle	States his concern that they have moved ahead in good faith with the community's goals in mind, and then the game plan changes. Asks if there is any liability involved.
	Crean	Responds. Does not believe liability is involved; explains.
223	Chair Snodgrass	There are other folks in the audience who can provide more specifics.
241	Rep. Beyer	Asks Bob Rindy if the amendments were adopted, what would happen to LCDC's authority.
244	Bob Rindy	Policy Specialist, State Agency Coordinator, Department of Land Conservation and Development, concurs with legislative counsel's testimony. Says it would be unusual for LCDC to get to a point of ordering an annexation. Comments on LCDC's authority in an enforcement proceeding.
	Rep. Beyer	Says LCDC generally does not order a specific action. They find a community in violation of their plan and ask then them to come into compliance.
270	Rindy	Concurs. Comments on a community's action to bring the plan into compliance and what LCDC will do.
	Rep. Beyer	Says they might be able to do it within the boundaries of the city. Says it is a long and drawn out process.
	Rindy	Concurs. Says hopefully it won't take years.
288	Rep. Piercy	Asks if cities can continue to annex during the time courts are deliberating if an enforcement order is appealed.
	Rindy	They can continue.
295	Rep. Messerle	Referring to his question on liability, asks what this would do to the process of planning commissions and city councils' adoption of the plans and how this would affect the process.

	Rindy	Responds. If an enforcement order is brought against a community, it proceeds separate from actions a city normally processes. Commission could ask for a change in a process. Comments on what happens when a land owner acts on zoning on his property. Comments on LCDC's concern that the procedure drastically alters the assumption they have had in the planning process.
336	Rep. Beyer	Referring to the letter Jon Chandler gave to committee members, "except for the eight cities that have charter amendments requiring the vote of the citizens of the city on any annexation," all other cities when an annexation is proposed that action is a land use action. As a land use action, it may be appealed to the Land Use Board of Appeals (LUBA). If this amendment is adopted, does this mean an annexation is denied the developers could file an appeal directly with LUBA
351	Jon Chandler	Oregon Building Industry Association, tries to clarify his understanding of Rep. Beyer's question.
358	Rep. Beyer	Says if I own 50 acres adjacent to a city boundary and I wanted to annex it and the city councils says no, I would have the right to go to LUBA and appeal that. It is in their land use plan and I don't think they have the right to deny my annexation. Is the same standard applied to the eight cities that have charter amendments.
	Chandler	Responds. Same standard is not applied to the eight cities. Referring to the Oregon State Bar "Continuing Legal Education" publication, explains annexations are land use decisions. Says the amendments bring the eight jurisdictions under the same enforcement umbrella; they do not make them a land use decision for purposes of appealing to LUBA.
<b>TAPE 114, A</b>		
002	Rep. Beyer	Comments Chandler's position could be one of frustration. If you didn't mean you were really going to use this land on which to build houses, we want you to tell us where you were going to build houses.
	Chandler	Concurs. There is fear LCDC is going to overturn votes. Does not believe they have that authority. Issue isn't so much annexation, it is whether there is a goal problem.
	Rep. Beyer	Says to Chandler he is addressing more the goals.
021	Chair Snodgrass	Asks Rep. Beyer if he wants to address the -A15 amendments <b>[EXHIBIT A]</b> .
	Rep. Welsh	Requests to have someone address the -A15 amendments.
	Rindy	Comments. The amendments they sought to -A13 amendments were with respect to the land use process. Comments on the 120-day clock for building permits in a farm zone. Clarifies the 30-day clock does not start until the approval under the land use process is

		done.
	Rep. Beyer	Asks where that is in the -A15 amendments.
041	Mark Nelson	Responds page 4, lines 10-16. Comments on the language.
048	Chair Snodgrass	Says there has been talk that a jurisdiction would wait until everything came in before the clock started ticking. Asks Nelson if he anticipates that.
	Nelson	Responds. On page 4, lines 5 through 9, of the -A15 amendments, comments on waivers. Believes the concurrent review can continue.
076	Chair Snodgrass	Referring to the -A13 amendments, page 1, line 13, "by rule shall establish the pilot program," says the particular language was left out of the -A15 amendments.
	Nelson	Says the -A15 amendments have been an attempt to reach an accord with building officials. Building officials did not want the time line subject to rule making by the Building Codes Division.
091	Chair Snodgrass	Is concerned the word "pilot" is not used any more.
	Nelson	Responds. Refers to the -A15 amendments, page 1, line 6.
099	Chair Snodgrass	Says the committee needs to make some decisions on SB 500A. We have the -A12 and -A15 amendments. The -A15 replace the -A13 amendments. The committee has already adopted the -A7 amendments.
108	Cara Filsinger	Committee Administrator, the committee has a revised fiscal on the -A15 amendments and a fiscal on the -A12 amendments.
114	Rep. Welsh	Asks if the committee wants to hear from any of the other building groups to see there are any problems they see.
	Chair Snodgrass	Asks Rep. Welsh whom he would like to call.
	Rep. Welsh	Asks Fred VanNatta if he has had a chance to review the -A15 amendments.
123	VanNatta	Oregon Building Industry Association, has not reviewed -A15. Has reviewed the -A13. The -A15 improve the -A13 amendments.
	Rep. Welsh	Asks VanNatta if he sees any complications in the process that would cause problems outside the three-county area.
133	VanNatta	Says he will answer carefully. There are some building code work plans that provide for a 14-day turn around time. There is concern the standard will become 30 days. He was a major proponent of the 120-day rule for subdivisions. The legislation addresses a serious problem; comments.
165	Rep. Welsh	Asks if there has been enough time to see results from SB 35 in the 1995 session.
		Says SB 35 gave the Building Codes Division more authority and

	VanNatta	oversight over local jurisdictions. There has not been enough time to fully implement or see if it will be effective.
184	Rep. Welsh	Says SB 35 should be able to address issues outside the tri-county area. The -A15 amendments take care of issues within the tri-county area.
	VanNatta	Concurs.
190	Rep. Messerle	Says the fiscal report indicates 22 cities are involved at a cost of \$1.5 million. Can you quantify how big the problem is with the 22 cities.
	VanNatta	Responds. Is not qualified to second-guess the fiscal analysis. Is fair to say in the metropolitan area, some major cities are slow in issuing building permits. Does not have timelines for the 22 cities.
212	Rep. Messerle	Comments this seems to be a management issue. Asks VanNatta for his thoughts.
	VanNatta	Responds. We deal with management issues on this level all the time. Is not troubled by this body establishing standards for local jurisdictions. It is a state program carried out by local jurisdictions.
232	Chair Snodgrass	The chair wants action from the committee or pass the bill as it is now with the -A7 amendments.
236	Rep. Welsh	<b>MOTION: Moves to ADOPT SB 500A-12 amendments dated 06/24/97.</b>
234	Rep. Beyer	Comments on his concern and respect for the citizens of the cities that have adopted charter amendments. He would not be for this if it interfered with their rights. This legislation requires cities to fulfill their planning responsibilities.
258	Rep. Piercy	States her objections. Needs a more thoughtful airing at another time.
266		<b>AYE: 5 - Beyer, Markham, Messerle, Welsh, Snodgrass</b> <b>NAY: 1 - Piercy</b> <b>EXCUSED: 1 - Courtney</b>
	Chair Snodgrass	<b>The motion CARRIES.</b>
272	Rep. Welsh	<b>MOTION: Moves to ADOPT SB 500A-15 amendments dated 96/25/97.</b>
	Chair Snodgrass	Clarifies the -A15 amendments were suggested by Rep. Beyer.
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Courtney</b>
	Chair	<b>Hearing no objection, declares the motion CARRIED.</b>

	Snodgrass	
279	Rep. Markham	<b>MOTION: Moves SB 500A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Courtney</b>
	Chair Snodgrass	<b>The motion CARRIES.</b> <b>REP. BEYER will lead discussion on the floor.</b>
294	Chair Snodgrass	Closes the work session on SB 500A. The committee is in recess, 9 a.m.
297	Chair Snodgrass	Reopens the meeting at 1:41 p.m. and opens work session on SB 853.
<b><u>SB 853B - WORK SESSION</u></b>		
290	Janet Adkins	Committee Administrator, SB 853B was rereferred to the committee in session this morning. Reviews the -B3 amendments <b>[EXHIBIT B]</b> .
	Chair Snodgrass	This amendment will allow is to qualify with the federal court.
328	Adkins	Says the B-engrossed bill would not preclude the federal appeal. It expedites the state court appeal.
339	Vice-Chair Courtney	Asks that if the committee passes these amendments, is there still the right or ability to go to state courts on this issue.
	Adkins	Responds.
344	Vice-Chair Courtney	Asks if we pass these amendments, is the ability to go to federal court created.
	Adkins	Does not create the ability, but there is the ability.
	Vice-Chair Courtney	Says he cannot understand why we are doing this.
351	Chair Snodgrass	Says she understands that the ability to challenge this needs to go through federal court. Thinks these amendments allowed that to happen.
	Vice-Chair Courtney	Asks don't you also want to make a run at the state courts.
	Chair Snodgrass	Says the committee did not discuss that.
	Vice-Chair Courtney	Comments on what happened in California. Says he is looking for information as to what is going on here. We will be asked questions on the floor.
386	Rep. Courtney	<b>MOTION: Moves to ADOPT SB 853B-3 amendments dated 06/26/97.</b>



392	Rep. Piercy	Asks where the amendments came from.
	Chair Snodgrass	Responds. It was suggested we go this route in this bill to expedite the process through the federal system.
405	Rep. Beyer	Says that takes it out and leaves the filing changes.
409	Adkins	Says it just applies to the 1998 primary election.
419		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Markham</b>
	Chair Snodgrass	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>TAPE 113, B</b>		
001	Rep. Courtney	<b>MOTION: Moves SB 853B to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Markham</b>
	Chair Snodgrass	<b>The motion CARRIES.</b> <b>REP. SNODGRASS will lead discussion on the floor.</b>
015	Chair Snodgrass	Closes work session on SB 853B; opens work session on HB 3502.
<b><u>HB 3502 - WORK SESSION</u></b>		
036	Janet Adkins	Committee Administrator, reviews the provisions of the -2 and -3 amendments. The -2 amendments replace the original bill. The change in the -3 amendments is in the summary.
062	Rep. Welsh	<b>MOTION: Moves to ADOPT HB 3502-2 amendments dated 06/25/97.</b>
064	Rep. Beyer	Comments on his understanding of the difference between the amendments.
	Rep. Piercy	Says she brought the -3 amendments on behalf of Diana Godwin. Language is almost identical to the language used to describe Measure 16. This summary language uses the repeal and is the same as voted on by the public the first time.
081	Rep. Markham	Comments. May not be repealing it; may be reaffirming it.
083	Rep. Piercy	Comments. The language says the measure repeals the law.
087	Chair Snodgrass	Says the committee previously discussed the language in the -2 amendments and put in physician-assisted suicide.
096	Rep. Piercy	Comments. Understands the language in the summary of the -2

		amendments did not have input from the opposing viewpoint.
106	Chair Snodgrass	Asks if the summary language in the -3 amendments had all parties involved.
107	Rep. Piercy	Says it was a response to bring the other viewpoint forward. Uses same language previously accepted by the Secretary of State.
	Rep. Beyer	Comments. The only difference is the summary. Would make sense to use the same language used in the voters' pamphlet the first time.
117	Rep. Beyer	<b>MOTION: Moves to AMEND the motion (Moves to ADOPT HB 3502-2 amendments dated 06/25/97) by replacing the HB 3502-2 amendments with the HB 3502-3 amendments dated 06/25/97.</b>
125	Chair Snodgrass	Explains the motions before the committee to Rep. Markham. Expresses her concern with the -3 amendments. Puts into perspective that the people who brought the original language forward were trying to negotiate with the Attorney General to get a ballot measure passed. Explains the -2 amendments are more specific.
143	Rep. Beyer	Comments. That was the language in the original ballot.
	Chair Snodgrass	Understands.
	Rep. Beyer	Comments. If we are referring this back to the voters, it makes sense to pose the same question as the first time.
147	Chair Snodgrass	Comments on the negotiating process two years ago.
160		<b>AYE: 3 - Beyer, Courtney, Piercy</b> <b>NAY: 4 - Markham, Messerle, Welsh, Snodgrass</b>
	Chair Snodgrass	<b>The motion FAILS.</b>
	Chair Snodgrass	The motion on the table is to adopt the HB 3502-2 amendments.
168		<b>AYE: 5 - Courtney, Markham, Messerle, Welsh, Snodgrass</b> <b>NAY: 2 - Beyer, Piercy</b>
	Chair Snodgrass	<b>The motion CARRIES.</b>
178	Rep. Welsh	<b>MOTION: Moves HB 3502 to the floor with a DO PASS recommendation.</b>
181		<b>AYE: 5 - Courtney, Markham, Messerle, Welsh, Snodgrass</b> <b>NAY: 2 - Beyer, Piercy</b>
		<b>The motion CARRIES.</b>

	Chair Snodgrass	<b>REP. MESSERLE will lead discussion on the floor.</b>
191	Rep. Beyer	Clarifies. This does allow for challenge.
	Chair Snodgrass	Concurs. Comments on why the language was changed. Closes work session on HB 3502; opens work session on HB 3742.
<b>HB 3742 - WORK SESSION</b>		
213	Janet Adkins	Committee Administrator, reviews the provisions of the HB 3742-12 amendments [ <b>EXHIBIT E</b> ]. Reminds the committee the -3 amendments were adopted at a previous meeting. If the committee adopts the -12 amendments, they would have to replace the -3 amendments.
243	Chair Snodgrass	Clarifies. This leaves it blank what measures are going to be on the ballot.
	Adkins	Responds. No, it does not leave it blank. Only blank remaining in the bill should be a chapter number.
<b>251</b>	<b>Rep. Beyer</b>	<b>MOTION: Moves to ADOPT HB 3742-4 amendments dated 06/13/97.</b>
	Beyer	Says the -4 amendments encourage the Senate to pass vote-by-mail.
268	Chair Snodgrass	Comments. Instead of sending to this measure over to the Senate as an authorization and appropriation, you want to include a vote-by-mail consideration.
	Rep. Beyer	Responds. Does not change the basic bill; just adds vote-by-mail to it.
280	Adkins	Clarifies. The -4 amendments do not add vote-by-mail referral to the November special election. They say HB 3742 creation of the November special election will not happen unless HB 3086 passes or is referred to the voters.
	Rep. Beyer	Comments. It's a hostage.
<b>294</b>	<b>Rep. Welsh</b>	<b>MOTION: Moves to REPLACE the HB 3742-4 amendments dated 06/13/97 with the HB 3742-12 amendments dated 06/25/97.</b>
		Discussion on the amendments and motions.
307	Rep. Welsh	<b>MOTION: RESCINDS his motion to REPLACE the HB 3742-4 amendments dated 06/13/97 with the HB 3742-12 amendments dated 06/25/97.</b>
	Chair Snodgrass	Explains the committee will vote on the motion made by Rep. Beyer.
<b>316</b>		<b>AYE: 3 - Beyer, Courtney, Piercy</b> <b>NAY: 4 - Markham, Messerle, Welsh, Snodgrass</b>
	Chair	

	<b>Snodgrass</b>	<b>The motion FAILS.</b>
325	Chair Snodgrass	Explains the committee needs to deal with the -3 amendments they adopted, because of complications if the committee does the hand-engrossed -12 amendments
	Adkins	Explains that by the motion, the committee is replacing the -3 amendments with the -12 amendments.
339	<b>Rep. Welsh</b>	<b>MOTION: Moves to ADOPT HB 3742-12 amendments dated 06/25/97 with the understanding they replace the HB 3742-3 amendments dated 06/12/97.</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
	<b>Chair Snodgrass</b>	<b>The motion CARRIES.</b>
356	<b>Rep. Welsh</b>	<b>MOTION: Moves HB 3742 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>AYE: 5 - Markham, Messerle, Piercy, Welsh, Snodgrass</b> <b>NAY: 2 - Beyer, Courtney</b>
	<b>Chair Snodgrass</b>	<b>The motion CARRIES.</b> <b>REP. MARKHAM will lead discussion on the floor.</b>
377	Rep. Beyer	Serves notice of possible minority report.
381	Vice-Chair Courtney	States his position on the bill and the minority report.
390	Chair Snodgrass	Closes work session on HB 3742; opens work session on SJR 2.
<b><u>SJR 2 - WORK SESSION</u></b>		
393	<b>Rep. Beyer</b>	<b>MOTION: Moves to ADOPT SJR 2A-9 amendments dated 06/25/97 [EXHIBIT F].</b>
407	Adkins	Explains the -A9 amendments replace the original SJR 2, which would have decreased the number of signatures required to propose initiative laws and increase the number for amendments to the constitution. It would instead propose an amendment to the Constitution that all elections in the state be conducted vote-by-mail. That paragraph is added to the Constitution. The second paragraph refers this resolution for a constitutional amendment to the voters at either the next biennial primary election or at the next statewide special election, whichever occurs first.
<b><u>TAPE 114, B</u></b>		
007	Chair Snodgrass	The chairs calls for a two-minute recess, 2:24 p.m. Reopens at 2:25 p.m.
008	Rep. Beyer	Says this provides an opportunity for the Senate to vote on vote-by-mail.

	Rep. Welsh	Asks if the committee had passed out another bill that provided safeguards in case we go to a full statewide primary and general election vote-by-mail
	Chair Snodgrass	Responds. It is what we talked about in the -4 amendments of the previous bill. This particular amendment is aimed at vote-by-mail. Senate did not concur on SB 224; anticipates a conference committee.
	Adkins	Comments. Unlike HB 3086, this is a constitutional amendment. HB 3086 put vote-by mail requirement in the statutes.
	Rep. Beyer	Comments. This is the only vehicle we had, not necessarily a preference.
040	Rep. Markham	Comments. The other had a requirement of a statewide computer system.
	Chair Snodgrass	Comments. HB 3086 included that.
	Adkins	Explains. HB 3086 made voting booths available and had a number of educational provisions.
	Rep. Markham	Asks what happens if they both pass.
		Discussion on Rep. Markham's question.
	Adkins	Explains. This is a constitutional amendment; would be consistent with HB 3086. Both would be referred to voters.
	Chair Snodgrass	Explains the motion before the committee.
		<b>AYE: 6 - Beyer, Courtney, Markham, Messerle, Piercy, Welsh</b> <b>NAY: 1 - Snodgrass</b>
	Chair Snodgrass	<b>The motion CARRIES.</b>
068		<b>AYE: 6 - Beyer, Courtney, Markham, Messerle, Piercy, Welsh</b> <b>NAY: 1 - Snodgrass</b>
	Chair Snodgrass	<b>The motion CARRIES.</b> <b>REP. PIERCY will lead discussion on the floor.</b>
072	Chair Snodgrass	Closes work session on SJR 2A. Recesses the committee at 2:30 p.m. for a call of the house.
074	Chair Snodgrass	Reopens the meeting at 7:30 p.m. Explains floor session is going on and some committee members are carrying bills. Opens public hearing on SB 880.
<b><u>SB 880B - PUBLIC HEARING</u></b>		
	Bryan	

081	Boehringer	Committee Administrator, reviews provisions of SB 880B.
095	Sen. Neil Bryant	State Senator, Senate District 27, submits the -B16 amendments <b>[EXHIBIT G]</b> . Explains the amendments are essentially the revised SB 650. Started the day today with the -7 amendments. The Senate committee took 10 hours of testimony divided equally between those in favor and against. Reviews the provisions of the amendments.
145	Sen. Bryant	Continues testimony.
195	Sen. Bryant	Continues testimony.
245	Sen. Bryant	Continues testimony.
289	Rep. Messerle	Asks how the measure deals with the assistant superintendents and other administrators.
	Sen. Bryant	Comments on the three-year rolling contracts for administrators, other than the superintendent. You can immediately go to fair dismissal on any educator if the board feels it is appropriate. The process is still in place. Comments on fair dismissal.
317	Rep. Markham	Asks for further information on the site council.
	Sen. Bryant	Responds. Oregon law requires site councils. They are designed to provide input on programs in individual schools. Comments on bargaining units controlling the site councils. Comments on changes to allow flexibility.
336	Chair Snodgrass	Expresses her concern that the bill does not do more on the accountability of administrators, principals specifically, and how they deal with teachers they oversee.
	Sen. Bryant	Responds. You won't find it in the bill. It is up to the individual school district; comments on provisions that are in the bill.
369	Chair Snodgrass	Is in agreement. Asks how do you know if the principal is doing their job. Principal needs to be a very integral part of the classroom. Is not addressed strongly enough in the measure.
	Sen. Bryant	Comments it is not in the bill. Discretion is with the school district. The measure makes it easier to get rid of a principal who is not doing a good job.
388	Rep. Piercy	Asks why we are taking out mandatory evaluations if we are trying to hold everyone accountable.
	Sen. Bryant	Responds. Still will be a need to have evaluations of teachers. Testimony addressed that you know your good teachers are performing well, and administrators need to spend their time elsewhere. Comments on the committee's decision to allow the principal and the school district to decide how they are going to spend their time.

408	Rep. Piercy	Explains it doesn't make sense to make a decision every two years whether one gets to be a teacher and yet remove the evaluation process.
	Sen. Bryant	Responds. To nonrenew a teacher, you have to put them on the program of assistance and do evaluations; otherwise you would lose your case at Fair Dismissal Appeals Board (FDAB).
<b>TAPE 115, A</b>		
002	Rep. Piercy	Comments. Setting up teachers for not getting an evaluation early on to identify problems when they are small.
	Sen. Bryant	Comments. Says that is a valid concern. Hope is with this law through the plans of assistance and the nonrenewals, it is a wake-up call for teachers and administrators that are not performing well.
016	Rep. Piercy	Refers to testimony on moratorium of grievances on both sides. There is nothing in the language now that says the district cannot grieve.
	Sen. Bryant	Explains the districts don't have the right to grieve.
	Rep. Piercy	Explains they can build a case during the period.
	Sen. Bryant	Responds. Concern is would this be used as an harassment tool. Comments on plans of assistance.
	Rep. Piercy	Explains there needs to be some protections built in there.
	Sen. Bryant	Comments he hopes this testimony will provide that.
042	Chair Snodgrass	Refers to page 12 of -B16 amendment and explains her understanding of the current way of dealing with dismissal cases, somebody besides the teacher can appeal a decision. Asks if that has changed in this language.
	Sen. Bryant	Responds. Depends on collective bargaining agreements; explains.
	Chair Snodgrass	Refers to page 23, asks when a position becomes available, how is it determined whether a teacher can fill the role if the person has not taught the subject matter or grade level for a while.
065	Sen. Bryant	Responds. The statute says that a collective bargaining agreement in the future cannot waive competence in the way it has been waived in the past. In deciding who remains, says you have to look at qualifications; not just seniority. Comments on the provisions of Section 8.
085	Chair Snodgrass	Is still concerned about that particular direction. Just because I've been in the library for 15 years, it doesn't mean I can't teach math. I just may need to be brought up to date. Asks how to prove qualifications.

	Sen. Bryant	Definition of "qualified" is ability to teach particular grade level and subject matter.
	Chair Snodgrass	Comments. It is up to the school district to determine how long I get to prove whether I can teach that subject matter.
	Sen. Bryant	Responds. The school district would be involved. You could have collective bargaining agreement that develops a criteria. Cannot be based solely on seniority or licensure.
	Chair Snodgrass	Comments on the opportunity to bargain for that is still available.
108	Sen. Bryant	Is in agreement. Explains other criteria can be developed. It is the limitation on what you can't bargain away.
	Chair Snodgrass	Comments on site councils. Is nervous about what was said. Asks Sen. Bryant to explain into what the site councils will have input.
	Sen. Bryant	Explains the authority of site councils was not expanded. They can suggest modifications to the school board. Reasonable compromise if it doesn't deal with the mandatory subject of bargaining, then the site council does not need union's authority. If it is a mandatory subject of bargaining, the union can waive it. School board is also involved in decision.
	Chair Snodgrass	Asks if there are teacher representatives on the site council.
	Sen. Bryant	Yes. If it is mandatory, you have to bargain it.
133	Chair Snodgrass	Asks if any of the ORS suggest that site councils give references or input into the administrative part. Expresses disappointment there is not more about administrators in the bill.
	Sen. Bryant	Responds. They do have input. The site council will have the ear of the school board and the superintendent as far as putting pressure on an administrator who is not doing a good job
	Chair Snodgrass	Comments they currently cannot do evaluations. That is what she is getting to--an evaluation procedure the site council would have to review. Asks if the Senate looked into that.
	Sen. Bryant	That was not looked into.
142	Rep. Piercy	On lines 16-18 [EXHIBIT G, page 25], comments this would override ORS 672.280. There is the potential someone could not be a teacher if convicted of something when they were 18 years of age.
	Sen. Bryant	Responds. This is current law; it was not changed.
165	Rep. Piercy	Clarifies. Refers to page 25, line 31, and page 26, line 1 of the - B16 amendments.
	Sen. Bryant	Responds. That is new language.



	Rep. Piercy	Is concerned there is conflict in this language that would make it so that someone convicted at a very young age could not teach.
	Sen. Bryant	Responds. Depends on what the felony conviction is. Class C felonies can be expunged; sexual offenses are the exception.
	Rep. Piercy	Asks Sen. Bryant if he sees that as a potential problem.
	Sen. Bryant	Responds. It is a policy decision.
	Rep. Piercy	Asks if the only ones who fit into the Class A and B felonies are sexual offenses.
190	Sen. Bryant	Speaks to expunging of records.
209	Rep. Piercy	Asks what does "program shall not be technically construed" mean?
	Sen. Bryant	Comments on what happens if the evaluation and programs of assistance are grieved or go to the fair dismissal process. Does not want decisions overturned because of a technical mistake; it has to be substantive. Gives an example.
226	Rep. Piercy	Asks if a program of assistance was full of errors or unfair, the teacher can't use that to overturn a dismissal unless the teacher can prove the teacher suffered a substantial and prejudicial impairment to comply with standards.
	Sen. Bryant	Responds. Comments on what would happen if the program of assistance has been flawed and you haven't been given a fair chance.
247	Chair Snodgrass	Comments on unsubstantiated claims being left in files
	Sen. Bryant	Responds that has been removed [ <b>EXHIBIT H, page 8, subsection 7</b> ].
	Chair Snodgrass	Clarifies. If a parent is upset for whatever reason, can the disciplinary action be as little as an apology to the parent.
	Sen. Bryant	Responds. Does not think that would be disciplinary action.
267	Chair Snodgrass	Comments the file goes with the teacher from district to district.
	Sen. Bryant	Responds. The teacher needs to agree to release the file. The teacher is entitled to a copy of own personnel record.
	Chair Snodgrass	Asks if I don't request the file, but apply somewhere else, do I need to release the file to my new employer.
	Sen. Bryant	Responds. The employee needs to release it.

297	Rep. Beyer	Asks is the former employer required, if requested, to release the file.
	Sen. Bryant	Responds. Two things could happen. The applicant could offer a copy of their personnel record. The school district does not send a copy of the record unless authorized to do so by the teacher.
308	Rep. Beyer	Comments he would never advise an employer to send a personnel file.
	Sen. Bryant	Responds. The legation frequently incurred is what is said or not said in the letter of recommendation.
	Chair Snodgrass	Asks Rep. Harper about the bill.
	Rep. Harper	Good bill; should pass.
310	Roger Bassett	Education and Work Force Policy Advisor to Governor Kitzhaber, testifies on behalf of the Governor. The Governor would sign SB 880 with the-B16 amendments, but there are many areas for improvement that could be made. The Governor hopes those areas and suggestions for improvement would be considered by the committee and the body.
344	Rep. Beyer	Asks who is going to articulate those areas of improvement from the Governor's perspective.
	Bassett	Responds. Governor has articulated some of those to Sen. Bryant and others. Says it is not the only version of a bill the Governor would sign.
	Rep. Beyer	Asks from the Governor's perspective, what are the areas he believes could be improved.
	Bassett	Responds. Does not have a list to provide tonight. Governor is asking you don't reject any suggestions that would make the bill better.
360	Rep. Tom Whelan	State Representative, House District 32, will ask some colleagues to file a minority report. Does not believe the committee will be able to conduct a substantive investigation into this alleged problem. Does not believe there will be any deliberative consideration of the merits of the bill. Believes it is not a good way to make public policy.
407	Rep. Beyer	Comments Rep. Whelan mentioned there may be better ways to deal with this through the standard employment relations board.
	Rep. Whelan	Comments on garnering public support for public education by doing away with tenure.
<b>TAPE 116, A</b>		
025	Sen. Bryant	Explains he had conversations with David Fidanque, Ingrid Swenson and the School Board Association and would be willing to delete the language dealing with the prohibition of a felon receiving a license [EXHIBIT H, page 23, line 31, and page 26,

		<b>line 1]</b> . There is protection elsewhere.
045	Laurie Wimmer	Government Relations Consultant, Oregon Education Association (OEA), Oregon Association of Classified Employees, says the OEA wants on record that they have been negotiating compromise language for better than five months. OEA stands in opposition to the bill as is being considered with the -B16 amendments. They have prepared their own version of what they consider a fair, equitable, expedited means of getting rid of the bad teachers. Asks the committee to consider these as amendments, rather than a minority report. The -B11 amendments <b>[EXHIBIT H]</b> are in the possession of Rep. Piercy.
079	Chair Snodgrass	Asks Wimmer to highlight pieces in the -B16 amendments that are of greatest concern. The committee does not have the -B11 amendments.
	Wimmer	Explains the current process of fair dismissal under Oregon law is time consuming. The -B16 amendments make the process more convoluted; comments.
101	Wimmer	Continues testimony. Comments on establishing the fairness of dismissal or nonrenewal actions. The burden of proof has shifted from the district to the subject teacher. It represents a loss of due process rights.
		Comments on the unfairness of the plans of assistance. An extremely high threshold has been introduced in <b>[EXHIBIT H, page 12, lines 26-27; page 8, lines 20-22]</b>
		Section 13, inadequate time lines to prepare for a dismissal proceeding <b>[EXHIBIT H, page 13]</b> .
157	Chair Snodgrass	Referring to the 30-35 days to get to the hearings process, asks if that is after the notification to begin with.
	Wimmer	Responds. Is from the day of notice you are not going to be dismissed.
	Chair Snodgrass	Says prior to dismissal, there has been a plan of assistance and then notification. There has been some preliminary warning of what might happen.
164	Wimmer	Responds. That is correct. Thinks it is the intent of all sides that plans of assistance not be solely exit ramps, but they are truly corrective action. Thirty days is inadequate for lawyers on either side.
		Concerns about the list of reasons under fair dismissal, Section 10, subsection d <b>[EXHIBIT H, page 8]</b>
		Have concerns about removing the mandatory nature of annual or biannual evaluations.
208		Moratorium on grievances and plans of assistance is unworkable. Compromise language in the -B11 amendment is preferable.
		Personnel files, mandating retention of charge-related documents

		takes away a potential management tool with employees. Compromise language is in the -B11 amendments.
240		Says reduction in force and recall section is one of the most contentious of all. The -B11 amendments offer compromise language.
278		The definition of "competence" is muddled. Prefers "qualifications." Offers compromise in the -B11 amendments.
		Section 6 on financial accountability (the "blank check clause") <b>[EXHIBIT H, page 3]</b> . Represents poor financial management. Will officially ask for a fiscal on this.
317		Section 17, unrestricted investigative powers language is problematic <b>[EXHIBIT H, page 25]</b> .
		Omit emergency clause. DOE believes their remedy is simple, straightforward, and more cost effective. Addresses the problems the proponents of SB 650 used to sell it on the Senate side.
348	Chair Snodgrass	Comments that on page 3 where Wimmer referred to Section 6 as a blank check, the copy she has says "may reimburse" not "shall." Asks if SB 650 were here, would the -B16 amendments be a gut and stuff to that.
	Wimmer	Responds. In effect, yes.
		Discussion on the amount of language that is new.
378	Chair Snodgrass	Asks Wimmer what she does like in the -B16 amendments.
	Wimmer	Responds. The peer assistance program. Spelling out plans of assistance. Not objecting to removal of permanent status and going to a two-year contract. Probationary period language.
403	Chair Snodgrass	Asks Wimmer if they like the site council piece.
	Wimmer	Responds they are fine with that.
412	Chris Dudley	Executive Director, Oregon School Boards Association, testifies in support of the SB 880-B16 amendments. School districts and public education are embarking on significant challenges with increased standards and changes in the financial system. SB 650 as passed by the Senate was a good piece of legislation and should have been enacted.
<b>TAPE 115, B</b>		
025	Dudley	Continues testimony. Comments on the provisions of ground for dismissal in the -B16 amendments, which they believe is preferable.
060	Rep. Beyer	Asks Dudley for his professional opinion about the difference between binding arbitration and the process through Fair Dismissal Appeals Board. They seem very similar. Comments on dismissal.
		Is not in agreement. Studies have been done of the arbitration list.

066	Dudley	Very few of those people have management background. If you are an arbitrator, you have to continue to get hired.
077	Rep. Beyer	Comments on the Fair Dismissal Appeals process.
117	Rep. Beyer	Asks if there is an appeal process of the FDAB decision.
115	Dudley	Responds. It is a contested case hearing under the Administrative Procedures Act and appeal goes to the Court of Appeals.
125	Rep. Messerle	Referring to Section 6, asks how the superintendent's reimbursements would be prioritized <b>[EXHIBIT H, page 3]</b> .
123	Dudley	Responds. Sees it as the State Superintendent may, but doesn't have to, reimburse all or part of the cost of a school district if they ultimately prevail. It is an interesting provision. Could be a self-selecting process.
142	Rep. Piercy	Asks Dudley if he has seen the -B11 amendments.
143	Dudley	Responds. He saw the amendments just before he walked up here.
	Rep. Piercy	Comments in the -B11 amendments rights are waived to court appeals, and in the -B16 amendments there are court appeals. That seems much more expensive.
	Dudley	Responds. Expense is one issue and quality of decision is another; discusses.
169	Ozzie Rose	Confederation of Oregon School Administrators (COSA), they supported SB 650 when it was first introduced with ideas for amendments, which were adopted. The amendment required both administrators and teachers have three-year annually renewable contracts. States that administrators have the same rights as teachers. Opposes the requirement that things stay in the file forever. Is okay with the program of assistance. States COSA's support for the -B16 amendments.
COSA)	Rose	In response to comments by the Chair about holding principals accountable, agrees they should be in the classroom more. Explains that teachers should be evaluated equally. States it is difficult to review teachers with the staffing decline that has taken place over the years. Has no problems with biennial reviews.
248	Rep. Piercy	States that in her experience as a teacher she found the district did not have a problem getting rid of bad teachers. The challenge is getting rid of mediocre teachers. Asks what needs to be done so the teachers have the tools to do the best they can.
284	Rose	Does not disagree that teachers need regular evaluations. Explains that it is tough with as many staff members that there are in schools.
290	Rep. Piercy	States that if teachers need to be better they need to have what it takes to do their jobs.
307	Dudley	SB 650 was almost at-will employment. SB 880 offers an adjusted program with the two-year contract; comments.

340	Rep. Piercy	Does not want something punitive to happen to teachers. Suggests putting some things in for the teachers that have not reached their full potential.
	Rep. Messerle	Asks about the average length of a superintendent contract.
352	Rose	Responds about two or three years and rarely have contracts as long as five years. States that the superintendents are not covered in SB 880. Clarifies the title of superintendent.
	Rep. Messerle	Asks Rose what he means by "restricts."
371	Rose	Explains under the current law, some districts will not be able to write five-year contracts for superintendents, only three-years contracts. They can be successive. Explains fair dismissal.
	Messerle	Asks if any districts have single-year contracts.
	Rose	Responds he thinks they do.
	Rep. Messerle	Is concerned they still have that option.
	Rose	This legislation puts a maximum on it. In this measure superintendent means anyone who has the title superintendent. Anyone below that level will be covered as an administrator. Discusses fair dismissal provisions.
<b>TAPE 116, B</b>		
010	Rose	Continues testimony.
011	Rep. Markham	Asks Rose and Dudley what type of contracts they are under.
013	Rose	Responds last year he was under a three-year contract. Now he is under a five-year contract.
016	Dudley	Responds he is under no contract. Works at the will of the board.
019	Rep. Piercy	Refers to line 31 [ <b>EXHIBIT G, page 25</b> ] and asks Rose and Dudley what they think.
	Rose	Does not know why the language is there. Believes people can be rehabilitated.
035	Chair Snodgrass	Referring to evaluations, has concerns about the language being taken out. For the record, if it is taken out then it gives more flexibility to a district to do an evaluation from different perspectives. Is disappointed administrators are not carefully dealt with in this measure.
060	Dudley	Comments that changes that apply to the administrator create a responsibility on a school board to reward risk. Explains there will be more teacher evaluations in the future.
073	Chair Snodgrass	Concerning burden of proof, asks when a teacher is in the process of plan of assistance, can the teacher ask for union representation.

080	Dudley	Responds yes. Comments on relationship problems between some school districts and unions. Says the proposed statute does not change the burden of proof.
110	Chair Snodgrass	Is concerned that if there is a shorter window of time, the teacher can have professional advice.
120	Chair Snodgrass	Closes public hearing on SB 880B and opens work session on SB 880B.
127	<b>Rep. Piercy</b>	<b>MOTION: Moves to ADOPT SB 880B-11 amendments dated 06/12/97.</b>
136	Rep. Messerle	Asks if the Governor has seen the -B11 amendments.
	Chair Snodgrass	Comments on Roger Bassett's earlier testimony.
		<b>AYE: 2 - Beyer, Piercy</b> <b>NAY: 4 - Markham, Messerle, Welsh, Snodgrass</b> <b>EXCUSED: 1 - Courtney</b>
	<b>Chair Snodgrass</b>	<b>The motion FAILS.</b>
162	<b>Rep. Welsh</b>	<b>MOTION: Moves to ADOPT SB 880B-16 amendments dated 06/27/97.</b>
164	Chair Snodgrass	The Chair would be happy to take the motion. There was a suggestion we strike some language.
167	Boehringer	Explains the language is in Section 18, subsection 1, (c), "No teaching or administrative license shall be issued to any person convicted of a felony" [EXHIBIT G, page 25, line 31 and page 26, line 1].
	Chair Snodgrass	Asks Rep. Welsh to withdraw his motion or including the language in it.
174	Rep. Welsh	Withdraws his motion.
177	<b>Rep. Welsh</b>	<b>MOTION: Moves to ADOPT SB 880B-16 amendments dated 06/27/97 and that the measure be FURTHER AMENDED on page 25, line 31, by deleting "(c) No teaching or administrative license shall be issued to any" and on page 26, line 1, by deleting "person convicted of a felony."</b>
		<b>VOTE: 7-0</b> <b>EXCUSED: 1 - Courtney</b>
	<b>Chair Snodgrass</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
191	<b>Rep.</b>	<b>MOTION: Moves to ADOPT SB 880B-16 amendments dated</b>

	Welsh	06/27/97 as amended.
		<b>AYE: 4 - Markham, Messerle, Welsh, Snodgrass</b> <b>NAY: 2 - Beyer, Piercy</b> <b>EXCUSED: 1 - Courtney</b>
	Chair Snodgrass	The motion <b>CARRIES</b> .
202	Rep. Welsh	<b>MOTION: Moves SB 880B to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-2</b> <b>AYE: 4 - Markham, Messerle, Welsh, Snodgrass</b> <b>NAY: 2 - Beyer, Piercy</b> <b>EXCUSED: 1 - Courtney</b>
	Chair Snodgrass	The motion <b>CARRIES</b> . <b>REP. HARPER will lead discussion on the floor.</b>
212	Rep. Piercy	Serves notice of possible minority report.
219	Chair Snodgrass	Closes work session on SB 880; adjourns meeting at 9:30 p.m.
		Written testimony [ <b>EXHIBIT I</b> ] from Joe Brewer on SB 500 submitted into the record. Written testimony [ <b>EXHIBIT J</b> ] from Sen. Cliff Trow on SB 500 submitted into the record.

Submitted by, Reviewed by,

Valerie H. Luhr Janet Adkins

Administrative Support Specialist Policy Analyst

Reviewed by, Reviewed by,

Cara Filsinger Bryan Boehringer

Committee Administrator Committee Administrator

**EXHIBIT SUMMARY**

**A - SB 500A, proposed amendments, staff, 6 pp.**

**B - SB 853, proposed amendments, staff, 1 p.**



**C - HB 3502, proposed amendments, staff, 2 pp.**

**D - HB 3502, proposed amendments, Rep. Piercy, 2 pp.**

**E - HB 3742, proposed amendments, staff, 2 pp.**

**F - SJR 2, proposed amendments, staff, 1 p.**

**G - SB 880B, proposed amendments, Sen. Bryant, 35 pp.**

**H -SB 880B, proposed amendments, Laurie Wimmer, 40 pp.**

**I - SB 500, written testimony, Joe Brewer, 2 pp.**

**J - SB 500, written testimony, Sen. Trow, 2 pp.**

**K- Bill Introduction, LC 4445, staff, 1 p.**