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**SENATE COMMITTEE ON EDUCATION**

**March 19, 1997 Hearing Room 343**

**3:00 P.M. Tapes 57 - 59**

**MEMBERS PRESENT:**

**Sen. Tom Hartung, Chair**

**Sen. Marylin Shannon, Vice-Chair**

**Sen. Ken Baker**

**Sen. Susan Castillo**

**Sen. Gary George**

**Sen. Cliff Trow**

**MEMBER EXCUSED:**

**none**

**STAFF PRESENT:**

**Jan McComb, Administrator**

**Shirley Spendal, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 184 - Work Session**

**SB 628 - 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 57, A</b>		
001	Chair Hartung	Opens hearing at 3:02 p.m.
<b><u>SB 184 - WORK SESSION</u></b>		
019	Greg McMurdo	Department of Education.
		( discusses bill modifying definition of alternative school to comply with rules
		( discusses Oregon Education Association's concerns
		( discusses difference between -2 and -3 amendment, -2 would make bill retroactive - discusses Bend lawsuit
		( -3 amendments are included in -2 amendments
054	Sen. Trow	Discusses, questions -2 amendments.
065	McMurdo	( discusses Bend board members retaining private counsel
		( did not have language from attorney general when drafted bill to moot trial court decision
092	Sen. Trow	Asks if pass rest of legislation, this renders court case moot.
093	McMurdo	If pass legislation as introduced, does not technically render the decision before Court of Appeals moot, but a similar case could not be brought.
101	Sen. Baker	Discusses, questions what would be effect if do not pass bill and pass charter school bill.
107	McMurdo	No interplay. This program totally different from type of charter school legislation being considered.
110	Sen. Baker	Asks why different - student rather than program related?
111	McMurdo	Answers yes, and this program still under control of school board. Department supports both -2 and -3 amendments.
116	Jim Green	Oregon School Boards Association. Supports bill and -2 and -3 amendments. Believes amendments would strengthen the bill.
125	Sen. Trow	Question about who sued, issues of lawsuit.
134	McMurdo	Discusses issues. Discusses attorney general opinion. Discusses wanting clarified so there cannot be other suits.
154	Sen. Trow	Discusses existing law - comments don't need a charter school law because you can already do it.

159	Sen. Shannon	Asks about the word "interest."
163	McMurdo	Word used in conjunctive sense - talks about students' educational needs and interests - comfortable with that.
169	Sen. Shannon	<b>MOTION: Moves to ADOPT SB 184-2 amendments dated 2/17/97 (EXHIBIT A).</b>
171	Chair Hartung	<b>VOTE: 4-1</b>
		<b>Aye: 4-Baker, George, Shannon, Hartung</b>
		<b>Nay: 1-Trow</b>
		<b>Excused: 1-Castillo</b>
	Chair Hartung	<b>The motion is CARRIED.</b>
176	Sen. Trow	<b>MOTION: Moves to ADOPT SB 184-3 amendments dated 3/14/97 (EXHIBIT B).</b>
		Asks if needed. Withdraws motion.
180	Sen. Shannon	<b>MOTION: Moves SB 184 to the floor with a DO PASS AS AMENDED recommendation.</b>
182	Sen. Baker	States he has potential conflict of interest
184	Chair Hartung	<b>VOTE: 4-1</b>
		<b>AYE: 4-Baker, George, Shannon, Hartung</b>
		<b>NAY: 1-Trow</b>
		<b>EXCUSED: 1-Castillo</b>
187	Chair Hartung	<b>The motion is CARRIED.</b>
		<b>Sen. Bryant will lead the floor discussion.</b> Closes work session on SB 184; opens work session, SB 628.
<b><u>SB 628 - WORK SESSION</u></b>		
193	Chair Hartung	Discusses staff handout ( <b>EXHIBIT C</b> ); discusses -11 amendment replacing -3 amendment ( <b>EXHIBIT D</b> ).
208	Cindy Hunt	Legislative Counsel. -11 contain -3 amendments with discussions from the committee. Completed items, Exhibit C, are incorporated into -11's. Also incorporated are parts of -5's, -6's, -8's, -9; -10 completely in. Parts of -5's, -8's and -9's technical in nature also incorporated into the -11's. Discusses going down list of items from handout not conclusively determined.
260	Hunt	-11 amendments, page 8, lines 20-30. Termination and review of charter. Discusses language and -9 amendments removing much of language.
263	Jim Green	Discusses state board allowed to overrule local board.

<b>TAPE 58, A</b>		
003	Richard Meinhard	Provision designed to provide protection. Discusses need for appeal.
013	Hunt	Appeal to Marion County Circuit Court or circuit court where parties are located. If lines 29-30 taken out, that's where appeal would go.
020	Greg McMurdo	Oregon Department of Education. Suggest method for appeal to be contested case hearing to go to the Court of Appeals-would expedite.
028	Sen. Baker	Agrees. Concerned if state board wanted to intervene.
034	McMurdo	Discusses on contested cases option for state board to stay or not stay its order. Need express language.
045	Hunt	Have to eliminate lines 29-30 and replace with different language about a contested case hearing.
048	Sen. Trow	Discusses appeal process. Fear is if take out section they cannot make final decision in review process, then will destroy effectiveness of state board being an appeal agent.
063	Chair Hartung	Asks about how many situations go to contested court case.
065	McMurdo	Discusses appeal process; state board acting as hearings officer.
084	Chair Hartung	Asks if committee wants to move in direction outlined. Okay.
086	Hunt	To clarify, starting with line 28 after period and taking out lines 29-30 and replacing with contested case language allowing for appeal.
089	Chair Hartung	That is my understanding of what we want to do.
091	Green	Discusses line 31 to 9 on next page. Not quite sure what this section does.
105	Hunt	Any decision of sponsor could be appealed to state board.
111	Sen. Baker	Discusses -12 amendments ( <b>EXHIBIT E</b> ). Top of page 9, after board of education where it says you can appeal any decision of the sponsor insert, "except decisions of the sponsor on the daily operations of the public charter school."
121	Hunt	-12 are amended into 11's. Notes where language is.
126	Green	That alleviates concerns of OSBA.
128	Chair Hartung	Asks if any objections. We will do that.
129	Hunt	Subsection 5, page 9, -11. Under this sponsor have authority to immediately close down without notice; that decision not appealable.
142	Sen. George	Discusses not having chance to redeem - charter pulled.
144	Sen. Baker	Asks for explanation of health and safety.
146	Green	Where health and safety of children are at issue- out of -9's.
157	Hunt	( discusses had put some of provisions from -8 and -9 amendments into -11

		- easier to cross out than write in
		( discusses asset distribution, subsection 7, lines 13-15
170	Sen. Trow	Asks what do to other assets.
172	Hunt	Discusses non-profit laws applying.
180	Sen. Baker	Discusses line 14, subsection 7. Asks if should say assets should be returned or owned by the school district.
183	Hunt	When charter in operation school district does not necessarily own so have to have some sort of transfer.
189	Sen. Shannon	Change "given" to "transfer."
210	Green	Discusses put in -9's because if school was going to dissolve for a variety of reasons, saying you are expending state dollars with assets having to go somewhere.
216	Sen. Baker	No problem with assets to school district, just language.
218	Sen. Trow	Discusses allocation of debt.
231	Chair Hartung	Asks Cindy Hunt to write language to protect assets of school.
236	Sen. Trow	Asks who is responsible for liabilities if it goes out of business.
237	Chair Hartung	Asks where in -11 liabilities are placed.
242	Hunt	Page 10, lines 18 to 22.
249	Sen. Trow	Asks if charter school is bankrupt, who pays the debts.
251	Green	Would fall back on dissolution of nonprofit organization. Discusses property with liability attached to it.
254	Sen. Baker	Discusses process.
260	Hunt	Discusses application of state tort claims act. Page 9, line 29. -9 amendments says Tort Claims Act should apply
265	Green	Discusses tort claims and tort claims limitations.
<b>TAPE 57,B</b>		
003	Chair Hartung	Asks committee opinion. All right, we will do that.
010	Hunt	Approval process time frame, page 5, -11. Committee discussed charter applicant going to board 180 days before charter school to begin operating. Section 5 says within 90 days of receiving application, sponsor shall hold public hearing. Page 6, lines 19-21, sponsor must approve or state in writing reasons for disapproval within 30 days after public hearing. Page 6, lines 19-21, discusses process if application not approved.
042	Meinhard	Asks why so long. Discusses submitting notification only.
050	Green	Discusses committee debate on 180 days. Discusses process.
059	Sen. Trow	Questions regarding going from one sponsor to another.

065	Green	Lines 29- 31, page 2, spells that out. Discusses end of 120 days go to alternative sponsor.
087	Chair Hartung	Discusses giving notice to other sponsors.
089	Sen. Baker	Discusses filing applications. Likes bottom of page 2, lines 30-31 to top of page 3. Discusses applications not simultaneous.
115	Sen. Baker	Resists notice suggestion. Rather shorten time frame from 180 days to 120 days. Have to have information proposal to evaluate.
122	Hunt	Suggest if shorten that to 120 other time periods should be shortened as well. Can do all that within 120 days. So 120 on page 2, 60 on page 5, line 26.
129	Green	Thinking of small rural school boards who do not meet during summer. If say within 60 days may be able to do that.
142	Hunt	Page 12, -11 amendments, employment status. Discusses subsection 7. Added language, the public charter school shall pay for the cost of continuing any pre-requisites or benefits.
153	Sen. Shannon	Asks if means has to pay PERS if they are public employees.
155	Hunt	Answers yes.
181	Chair Hartung	Line 10, page 12, asks what is typical public charter school governing board, how many schools would govern.
182	Meinhard	Discusses setting up governing board of non-profit corporation. May have to form separate non-profits.
190	Hunt	Answers correct.
193	Sen. Shannon	Asks if classified and licensed protected under this.
194	Hunt	Discusses lines 16-20, page 12.
198	Chair Hartung	Asks to address numbers of teachers - one third, one half.
204	Sen. Baker	Prefers one half but will go with one third.
210	Chair Hartung	Asks if committee comfortable with one third.
249	Sen. Trow	Thinks we should have all certified with little bit of flexibility to use non certified for short periods. Fifty percent better.
258	Meinhard	Concerned about small schools who may struggle.
261	Sen. George	Discusses page 4, line 15.
267	Sen. Shannon	Would like to see 25%.
268	Chair Hartung	Will put 50% in there first time around.

271	Green	Lines 4-9, page 12. Discusses section.
<b>TAPE 58, B</b>		
001	Green	Continues discussion of section.
014	Hunt	Discusses employees of sponsor transferring over to charter school. Suggests creating new subsection 2. Gives language.
022	Green	That would take care of issue.
026	Hunt	Special education issues. Page 13 at bottom. Sen. Baker's amendments combine special education into one section. With committee discussions, school district responsible would be local school district of student. Currently resident school district where parents reside responsible.
037	Chair Hartung	Should be school district where student resides.
039	Green	Created two funding streams. Discusses monitorship by IEP district. Buying a service which may not be 90% of Adm(w)- could be less or more. Problem with sponsor who has large geographic boundaries that cross school district boundaries.
069	Chair Hartung	Have to find way not to create hardship on resident district.
077	Green	Discusses legal liability, making sure student's IEP is met. You are assigning legal and fiscal liability to school district.
087	Sen. Baker	Should use language and move on.
089	Green	Discusses regional programs.
100	Hunt	Page 10, lines 8-10. Discusses section covering that. Discusses transportation, page 13, section 14.
121	Sen. Trow	Questions about transportation, handicapped children.
122	Green	You have assigned responsibility to resident district. Discusses adding significant transportation costs with additional sponsors.
142	Hunt	Page 30, emergency clause.
151	Sen. Shannon	Need emergency clause.
168	Chair Hartung	Asks if have four votes to put emergency clause back in.
172	Sen. Baker	Discusses re-writing emergency clause.
183	Sen. Trow	Asks if could just be an effective date.
184	Hunt	Could put a date in, 30 days after governor signs. Discusses time lines for emergency clause.
196	Greg McMurdo	Bill requires State Board of Education to do substantial rule making, which cannot commence until effective. Estimates 6 weeks on very fast track to get rules adopted. Rules attract extensive hearings.
210	Meinhard	Discusses pilot schools.
220	Chair	Asks if federal monies for charter schools can be available to fund pilot

	Hartung	project.
222	McMurdo	Answers not without amendment to grant. Discusses effective date of this bill should not be concern to present alternative schools.
246	Chair Hartung	Asks about funding.
251	Sen. Shannon	Discusses Brownsville situation.
263	Meinhard	See as self-implementing procedure. No regulations except in funding to clarify ADM(w).
270	Hunt	Three rule areas, funding, grant and loan program, appeals process, charter review process.
272	McMurdo	Page 11, line 6. Also could be other issues.
276	Sen. Baker	Could be doing same time as making charter starters making application. Sees as tied, but not impossible.
283	Chair Hartung	Keep the emergency process.
<b>TAPE 59,A</b>		
002	Sen. Baker	Outlines -12 amendments. Page 1, -11, lines 20-21. Suggests striking after "teachers" on line 20 and all of 21.
023	Committee	Agrees to strike language.
024	Sen. Baker	Page 3, -11's, lines 8-11. Suggests limit to no more than 15% of students enrolled in that school district.
046	Sen. Shannon	Will go with 15%.
055	Chair Hartung	Discusses statistics. Will discuss further on Friday.
060	Sen. Baker	Page 4, line 22, application process.
069	Green	Language comes from SB 290. Discusses language. Can delete "will" and insert "may."
078	Chair Hartung	Line 23, change "will" to "may."
082	Sen. Trow	Asks about discipline in schools.
085	Hunt	Page 4, lines 11-12.
086	Sen. Trow	Asks about provision on discrimination.
088	Hunt	Section 9, added ORS 659.150 and 659.155 that could not be waived. Page 23, added ORS 659.155.
098	Chair Hartung	Adjourns meeting at 5:55 p.m.
		Handout distributed to committee, Caryl Gertenrich ( <b>EXHIBIT F</b> ).

Submitted By, Reviewed By,



**Shirley Spendal, Jan McComb,**

**Administrative Support Administrator**

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**EXHIBIT SUMMARY**

**A - SB 184, -2 Amendments, staff, 1 pg.**

**B - SB 184, -3 Amendments, staff, 1 pg.**

**C - SB 628, Handout, committee, 2 pg.**

**D - SB 628, -11 Amendments, staff, 30 pg.**

**E - SB 628, -12 Amendments, Sen. Baker, 1 pg.**

**F - SB 628, Handout, Caryl Gertenrich, 4 pg.**

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