

PUBLIC HEARING ON SB 346

BILL INTRODUCTION LC 3956

TAPES 061 - 062 A/B

SENATE REVENUE COMMITTEE

FEBRUARY 28, 1997 - 9:00 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING

Members Present: Sen. Ken Baker, Chair

Sen. Neil Bryant, Vice Chair (left at 10:30 a.m.)

Sen. Joan Dukes

Sen. Verne Duncan

Sen. Randy Leonard

Members Excused: Sen. Tom Hartung

Witnesses: Jack Bierwirth, Superintendent, Portland School District

John Osburn, Attorney at Law

Bonnie Hobson, Portland Public Schools

Jim Markee, Equity Steering Committee

Jack W. Stoops, Superintendent, Central School District

Jerry Bennett, Superintendent, Linn-Benton-Lincoln Education

Service District

John Young, Superintendent, Northwest Regional Education

Service District, Clatsop, Columbia, Tillamook and Washington Co.

Staff: Steve Meyer, Economist

Carol Phillips, Committee Assistant

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005 Chair Baker Opened meeting at 9:12 a.m.

OPENED PUBLIC HEARING ON SB 346

019 Jack
Bierwirth Exhibit A - Desegregation in Portland Public Schools.

035 John
Osburn Represents Portland School District and many other districts around the state. Here to inform committee on the law of school desegregation and explain why Portland needs desegregation laws. In 1954 many states maintained separate schools within school districts, and in Topeka, Kansas a court held that laws which segregated black and white students were unconstitutional and federal courts were given authority to desegregate schools with all deliberate speed. In the north there were no separate schools for black and white students, but areas within neighborhoods tended to be black or white.

069 Osburn The fact that school districts might tend to have that pattern due to factors beyond their control, i.e. housing policies, economics, etc., would not mean that a school district was segregated. But it amounted to de facto segregation if there was one more factor - any action on the part of the school district which would tend to perpetuate that situation. The fact that a school district is in balance and has concentrations of black students in particular schools does not mean that the school is guilty of segregation and does not mean de facto segregation. It does mean, however, that if an action is filed in a U.S. district court challenging the make-up of the school district, then the school district is essentially on the defensive to prove that the pattern of geographical concentration of students in neighborhood schools, which tended to be poor and areas of high crime and high unemployment, that those factors were not caused by action of the school district.

085 Chair
Baker Asked if burden of proof is on the district, to which Osburn replied that is correct. Once racial imbalance is established, which is not itself illegal, then the court will look to why that pattern exists and why it continues.

In 1964 Portland School District, in response to concerns about concentration of black students in northeast Portland, particularly the Albina neighborhood, began to address the issue of racial equality in educational opportunity in Portland Public Schools.

- 092 Osburn Primary recommendation after numerous public hearings was to develop a program to encourage white students to attend in black areas and blacks to attend in white areas. Forced busing was not the answer and not allowed by court. Students were encouraged to go to schools with classes that interested them, not just schools in their neighborhoods. Jefferson became a magnet school for the arts, Lincoln and Grant offered languages, etc.
- 145 Osburn Some people believe school desegregation is a thing of the past, but that is not true. U.S. Supreme Court recently released the federal desegregation order that had been in effect in Kansas City, MO since the 1960's. Portland has immediate legal consequences for its failure to maintain its desegregation program. With each year's application for federal funds (Portland gets about \$30 million a year), it must certify to the department that it has a desegregation program, either under court order or voluntary. Should Portland abandon it or cut it back, the district must report that it cannot maintain that program any longer, and funds would probably be cut. Portland has 8,700 black students, or 15% of total student population. That number of students by themselves would constitute a school district greater in size than Albany or Corvallis Public Schools.
- 188 Osburn A recent case by the Second Circuit, which includes New York, found that state officials as well as school district and city officials had potential liability for refusing to act or for taking actions that increased segregation in Yonkers Schools and public housing. Sen. Dukes asked if Portland schools were considering abandoning its desegregation program, to which Bierwirth answered that Portland has a legal as well as moral obligation to keep it in place. Feels that no school district in the state would consider abandoning its legal and moral obligation.
- 223 Bierwirth Familiar with what has happened across the country, and Portland should take great pride that it chose to desegregate voluntarily. This is a moral as well as a legal obligation. Part of the desegregation plan is to have a wide variety of magnets around the school district. As a voluntary magnet program, schools attract students by the classes offered.
- 334 Chair Baker Asked if this program addresses other groupings i.e. Hispanic, Laotian, Viet Nameese, etc.. Bierwirth stated yes and no. The presence of large numbers of limited non-English speaking students is relatively new to Portland the rest of the state. Program will need to be modified over time for that and other reasons. But basic concept of magnet programs pulling students to different schools is "yes" part of answer. As communities evolve, program will continue to evolve. Philosophy behind it is to have magnets attractive to all students, regardless of ethnic origin.

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- 012 Chair Baker Asked Mr. Bierwirth the size of this program and said he had heard it costs the Portland School District about \$6 million a year to run these magnet school programs. Bierwirth answered that if adjusting for inflation and rising personnel costs, the program is actually spending less money today compared with last year. Bierwirth also stated that between one-third and two-fifths of all high students in Portland do not attend their neighborhood high schools.

037 Chair
Baker

Stated that if this committee chooses to go forward with a funding mechanism for desegregation programs, has questions about how to do that. First, has a problem defining what desegregation is versus what a magnet program is. Second, does the legislature look at a grant program to the State Department of Education or identify these programs and take funds out of the base? Bierwirth answered Portland School District is the only one in the state with a voluntary desegregation plan at this time. Any district large enough and diverse enough has this responsibility. Obligations to serve special education students are easily attached to a particular student. Through formula or special grant, it should be the plan which is funded as opposed to students.

109 Osburn

Agreed with suggestion that funding be tied to a desegregation program. Not just a magnet program; it is also early childhood education program. Would be inclined to agree with the notion that it be tied with a formal desegregation program.

121 Chair
Baker

Asked Bierwirth if Portland has a target date to achieve community or school balance to end this type of funding? What if the legislature put a time limit of 8, or 10, or 15 years and then no more funding of this type? It would at least set some goals to meet and perform by. Bierwirth stated that legislature should always be holding school districts' "feet to the fire" in not only solving current problems but also of having less need or no need at some point in the future. Bierwirth further stated that while spending all of his career trying to do away with the need for remedial programs, problems will never go away, and there will never be no problems. Baker asked if this creates an entitlement with these programs. Bierwirth stated no one should be entitled to anything forever. Been pushing for higher standards, and the same standards for all students. In the past communities have accepted different expectations for different students, unfortunately usually along racial and ethnic lines. Portland School District is committed to having exactly same expectations of all students, no matter what high school they attend and no matter what their racial, ethnic, socio-economic background.

CLOSED PUBLIC HEARING ON SB 346

OPENED WORK SESSION

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LC 3956

229 Chair
Baker

MOTION: INTRODUCTION OF LC 3956 (EXHIBIT C) RELATING TO TAXATION OF CERTAIN RIPARIAN LAND.

THERE BEING NO OBJECTION, THE CHAIR SO ORDERED.

CLOSED WORK SESSION

OPENED PUBLIC HEARING ON SB 346

239 Jim Markee Exhibit D - Woodburn School District Demographics. Recognizes Portland School District has unique characteristics, and part of that is driven by large numbers of minority students. However, there are other districts in the state with similar programs and similar problems, although on a smaller scale than Portland. In Woodburn School District 60% of students are Hispanic and 17% Russian. Questions and discussion.

307 Jack Stoops Exhibit E - Central School District 13J data. Urged the committee not to dilute the amount of state school fund money, because in the Central School District, they need every dollar they get. In the 1995-96 school year Central School District was under examination by U.S. Department of Education Office of Civil Rights. The charge was they were not providing adequate English as Second Language, bilingual, and LEP programs. Have entered into an agreement to resolve these issues, and a new ESL program has been expanded to every school in the district. Tarasco Indian students speak non-written dialect, and Spanish is their second language, so English would be their third. Only 10 to 15 of these students, but their needs must be met at well. Cost to comply with Office of Civil Rights requirements last year was \$50,000. Questions and discussion.

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056 Chair Baker Chair Baker stated that Bierwirth proposed we should fund plans rather than students and asked Markee for his opinion. Markee believes large numbers of minority students are beginning to impact smaller districts. Woodburn is an extreme example. They may not be the focus of formal lawsuits or formal plans, but the problems faced by the smaller districts are just as real. The problem should be faced on a statewide basis.

103 Markee Purpose here this morning not to advocate that the problem for Central School District be addressed specifically. Questions and discussion.

147 John Young Education Service Districts in Oregon funded according to tax bases. Through process of Measure 5 and Measure 47 now looking ahead as ESDs are essential to provide services for school districts. The Northwest Region is combining four ESDs, combining tax bases, and then levying those combined tax bases. Important to maintain and increase funding. Questions and discussion.

318 Jerry Bennett Legislature and Senate put forward some strong criteria for ESDs to function under. One was making sure that technology opportunities were provided for all classrooms in Oregon and that is very close to being achieved. Believes ESDs are the biggest teacher improvement entity in Oregon by far.

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040 Chair Baker Adjourned meeting at 10:30 a.m.

Carol Phillips

Committee Assistant

Kim James

Office Manager

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Exhibit Summary:

A. SB 346, Bierwirth, Desegregation in Portland Public Schools, 4 pages

B. SB 346, Osburn, Written testimony 2/28/97, 3 pages

C. LC 3956, Scherzinger, 2/25/97 (DJ/BS/ps), 2 pages

D. SB 346, Markee, Woodburn School District Demographics, 1 page

E. SB 346, Stoops, Written testimony 2/28/97, 4 pages

F. SB 346, Bryant, Memorandum Opinion, Deschutes County, 13 pages