

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

HOUSE COMMITTEE ON
GENERAL GOVERNMENT AND REGULATORY REFORM

February 15, 1995 Hearing Room 357
1:00 pm Tapes 39 - 41

MEMBERS PRESENT:

Rep. Bob Tiernan, Chair
Rep. Mike Lehman, Vice Chair
Rep. Jerry Grisham
Rep. Cedric Hayden (Arrived 1:40 pm)
Rep. Bryan Johnston
Rep. Bill Markham (Arrived 1:46 pm)
Re. Lonnie Roberts (Arrived 1:15 pm)
Rep. Barbara Ross
Rep. Charles Starr
Rep. Ken Strobeck
Rep. Sharon Wylie

MEMBER ABSENT: Rep. Ron Adams

STAFF PRESENT:

Greg Moore, Committee Counsel
Kay C. Shaw, Committee Assistant

MEASURES HEARD: HB 2118 Public Hearing and Possible Work Session
HB 2557 Public Hearing and Possible Work Session
HB 2588 Public Hearing and Possible Work Session
HB 2421 Public Hearing and Possible Work Session
SB 34 Work Session

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TAPE 39, A

006 CHAIR TIERNAN: Calls the meeting to order at 1:12 pm. REPS. HAYDEN, MARKHAM AND ROBERTS ARE ABSENT. Introductory comments and announcements.

CHAIR TIERNAN: Opens work session on SB 34.

SB 34 - WORK SESSION

Witness: Peggy A. Collins, Building Codes Division

GREG MOORE, Committee Counsel: Reviews the Preliminary Measure Summary. Comments about passage out of the Senate and the Subcommittee on Regulatory Reform

with a unanimous DO PASS vote as well as the purpose of the bill. The Preliminary Staff Measure Summary is hereby made a part of these Minutes EXHIBIT A.

CHAIR TIERNAN: What particular area does this \$100 fine apply to now?

COUNSEL MOORE: Explains that it applies to "failure to obtain a permit and violation of a final order."

CHAIR TIERNAN: Is the fine for failing to obtain a permit \$100 currently?

COUNSEL MOORE: That is correct.

CHAIR TIERNAN: Is it \$100 under all situations?

042 MS. PEGGY COLLINS, Code Development & Compliance Manager, Building Codes

Division, Department of Consumer & Business Services: Submits prepared testimony (EXHIBIT B). No. Explains this would allow imposition of up to an \$1,000 penalty in the area of structural, mechanical and one- and two-family dwelling permit violations for someone failing to take out a permit.

CHAIR TIERNAN: If somebody failed to take out a permit, and they did plumbing, electrical, and structural work, would they be subject to a \$3,000 fine or is it \$1,000 for the entire home?

076 PEGGY COLLINS: Explains it depends upon the circumstances. Additionally, the Building Codes Division and Board members are working with the Oregon Homebuilders Association to develop a penalty matrix.

CHAIR TIERNAN: Requests an example of when an \$100 fine would be given to somebody who failed to take out a permit.

MS. COLLINS: Says that currently under the ORS 455.990 statute the situation routinely happens when a contractor, who knows a permit is required, fails to obtain a permit -- that is the maximum amount regardless of the permit value charged and the \$100 limit would apply.

CHAIR TIERNAN: Understands why it would apply for only building a new house, because no house exists, but if there is a "remodel", is electrical, mechanical, plumbing or structural work the only time you need a permit for?

MS. COLLINS: Yes.

CHAIR TIERNAN: There would already be an \$1,000 fine under existing law?

MS. COLLINS: Explains the existing law applies to plumbing and electrical and the fine in those areas is up to \$1,000. Structural/mechanical fines are limited to \$100 unless the local jurisdiction or division charges an investigation fee.

085 REP STROBECK: Comments about the issues and changes as well as that the fine is less than the actual permit cost.

REP. ROBERTS arrives at 1:15 pm.

093 MOTION: REP. WYLIE moves that SB 34 be sent to the Floor with DO PASS recommendation.

095 VOTE: In a roll call vote, REPS. GRISHAM, LEHMAN, ROBERTS, STARR, STROBECK, WYLIE AND CHAIR TIERNAN vote AYE. REPS. ADAMS, HAYDEN, JOHNSTON,

MARKHAM AND ROSS ARE ABSENT. REP. ROSS arrives late and votes AYE (see tape at 112).

105 CHAIR TIERNAN: Declares the motion PASSED.

109 MOTION: REP. LEHMAN moves to reopen SB 34 and suspend the rules to allow REP. ROSS to vote.

110 CHAIR TIERNAN: No objections. Calls for REP. ROSS's VOTE.

112 REP. ROSS votes AYE.

114 CHAIR TIERNAN: Closes the work session on SB 34 and opens public hearing on HB 2421.

Witnesses: Rep. Liz VanLeeuwen
Marvin McConoughey
Liz Frankel

HB 2421 - PUBLIC HEARING

115 GREG MOORE, Committee Counsel: Review Preliminary Measure Summary. Preliminary Staff Summary is hereby made a part of these Minutes (Exhibit C).

CHAIR TIERNAN: Requests an example of how this bill would apply if passed.

COUNSEL MOORE: Provides the example about if the state passed a wetlands bill involving a moratorium on construction.

CHAIR TIERNAN: Requests an example regarding an administrative rule.

138 COUNSEL MOORE: Provides the example about if DEQ adopts a new standard for gasoline pollution when filling a car with gas and the fumes are released into the surrounding air.

146 REP. JOHNSTON: Will staff provide a cost benefit analysis of the bill?

CHAIR TIERNAN: Explains the bill needs a legislative fiscal impact statement before the bill is scheduled for a work session.

166 REP. LIZ VANLEEUVEN (R - District 37): Explains what the bill is designed to do (i.e., requires agencies to prepare a cost benefit analysis for proposed legislation and administrative rules).

197 REP. VANLEEUVEN: Continues testifying in support of HB 2421. Refers to page 2, lines 3 and 4, of the bill (i.e., balance the costs to see if the public purpose is justified or, as an exchange, some means to compensate the property owner).

208 REP. LEHMAN: Is no action taken on this if a cost far outweighs the benefit? In other words, this bill doesn't require anything to happen?

REP. VANLEEUVEN: Responds that it at least requires that to become public

knowledge.

REP. LEHMAN: It doesn't stop that rulemaking or that law from being enacted?

REP. VANLEEUVEN: Doubts that it does. Explains she didn't draft the bill, but supports the principle of the bill.

209 REP. LEHMAN: Does the bill require, for example, that agencies publish the results of the tests?

REP. VANLEEUVEN: Minimally, the results will be available. Cites a similar bill that likely will be tacked onto this bill and that expands the scope of "whether compensation needs to be made for the takings of values of private property."

REP. WYLIE: What was the rationale about situations where both the costs and benefits would be very arguable or very broad?

REP. VANLEEUVEN: Unable to answer, but believes the fiscal analysis will provide input about what is involved.

233 REP. ROBERTS: Why is there an emergency clause on the bill or do you know?

REP. VANLEEUVEN: Doesn't know. Suggests that REP BAUM testify.

242 CHAIR TIERNAN: Reads from page 1, lines 11 and 12. Suggests deleting the language "would have on owners of private property". Comments about the confusion of a cost benefit analysis on anything the Legislature or an administrative agency is going to do regarding a decision made that will affect the public.

REP. VANLEEUVEN: Responds there is no problem with the suggestion.

272 REP. JOHNSTON: Was it your intention to have this cost benefit analysis affect rules as well as legislation?

REP. VANLEEUVEN: Yes, if the rules are an extension beyond the intent of the law. Suggests reserving the question for REP. BAUM.

REP. JOHNSTON: The legislation, as drafted, only affects things introduced to the Legislature, not administrative rules.

CHAIR TIERNAN: Comments that the introduction of the bill, and the summary at the top, state it affects "proposed legislation and administrative rules", but doesn't see where it states "administrative rules" in the bill.

284 REP. LEHMAN: Refers to Section 3.

302 CHAIR TIERNAN: Remarks about drafting problems with the bill and that more work/consultation is needed on the bill.

REP. VANLEEUVEN: Explains her desire to testify about the mandates bill that was listed first on the agenda.

325 MR. MARVIN MCCONOUGH (Benton County Oregon): Testifies in support of

the intent of HB 2421. Agrees with CHAIR TIERNAN's comments. Expresses concerns about the phrase "cost benefits analysis".

352 MARVIN MCCONOUGHNEY: Continues testifying in support of HB 2421. Recommends generating a better definition.

366 MS. LIZ FRENKEL, Oregon Chapter of the Sierra Club: Testifies about HB 2421 and submits (EXHIBIT D). Provides testimony about cost benefit or benefit cost. Reads from an editorial in The New York Times dated February 12, 1995, about a "cumbersome 23-step review".

417 REP. ROBERTS: Comments that the objective is to make it very clear from the outset that "when government makes a decision, they have to stick with the decision."

MS. FRENKEL: Not confident that is what the bill does.

455 CHAIR TIERNAN: Reviews what clarifications to the bill are needed.

TAPE 40; A

035 REP. LEHMAN: Expresses concern about the impact on local governments. Seems this bill doesn't specifically address local governments. Explains there are many regulations, rules, and plans that are formulated/submitted for approval by a state agency. Suggests reviewing at what stage, if any, are those rules adopted by local agencies, subject to the same cost benefit

analysis, because the bill may impose an unfunded mandate on local governmental agencies.

045 REP. ROSS: Reinforces the idea that it will be more difficult than it looks to do. Suggests a product that is practical and workable.

REP. HAYDEN arrives at 1:40 pm.

CHAIR TIERNAN: Announces that REP. JOHNSTON to follow up and report to Committee about those questions raised and about what is a workable standard.

065 CHAIR TIERNAN: Closes the public hearing on HB 2421 and opens public hearing on HOUSE BILLS 2118, 2557, and 2588. Passes Chair responsibilities

to VICE CHAIR LEHMAN in order leave and provide testimony at another hearing.

HOUSE BILLS 2118, 2557 AND 2588 - PUBLIC HEARING

Witnesses: Harold M. Haynes, League of Women Voters of Oregon
John Glascock, AARP
Lynn Schoessler, House & Community Services Dept.
Stephen Kafoury, TWS/ American Fisheries
Dave Nelson, Oregon Seed Council and Oregon Dairy Farmers Association

The Staff Memorandum dated 2-14-95 is hereby made a part of these Minutes (EXHIBIT E).

IRV FLETCHER, President, Oregon AFL-CIO: Submits written testimony in opposition to House Bills 2118, 2557 and 2588. Testimony is hereby made a part of these Minutes (EXHIBIT F).

089 HAROLD M. HAYNES (Forest Grove), Land Use Chair, LEAGUE OF WOMEN VOTERS OF OREGON: Testifies in opposition to House Bills 2118, 2557 and 2558.

Submits (EXHIBIT G). Reads from prepared testimony.

REP. MARKHAM arrives at 1:46 pm.

128 JOHN GLASCOCK (Salem), American Association of Retired Persons (AARP): Testifies in opposition to House Bills 2118, 2557 and 2558. Submits (EXHIBIT H). Reads from prepared testimony.

167 REP. ROBERTS: Are you speaking for AARP in the State of Oregon?

MR. GLASCOCK: Yes. Explains he is a member of AARP's Legislative Committee.

REP. ROBERTS: Was there a vote to determine the feelings of the general membership about this?

MR. GLASCOCK: Explains there is a semi-annual poll of all members concerning various subjects and that is the basis for the information. Positions are not taken on items that are not generally favored by the Oregon members or by the national policy group.

REP. ROBERTS: Asks if he understands that all these bills are an opportunity for the state to exceed federal standards by using a standard test to prove necessity.

MR. GLASCOCK: Yes. AARP still feels there is a problem.

REP. HAYDEN: Says some of the land-use laws which exceed the federal regulations would make it impossible for children/grandchildren to live on property close by. Don't you think AARP's membership would like the opportunity to have children live close by?

MR. GLASCOCK: Agrees that some land-use laws may be onerous; however, AARP disagrees these bills are the solution to the problem. Explains that on an individual basis, laws should be passed to change what is onerous.

208 REP. JOHNSTON: Clarifies his understanding of the bill. Explains the possibility that if some areas of federal regulatory action are removed, that it could result in Oregon being left "defenseless". Is that your position?

220 MR. GLASCOCK: Explains AARP's position that these are uncertain times, there is a mandate for change in certain areas and a perceived mandate to dismantle almost totally some regulatory actions on the part of both the State and Federal Governments. Comments that certain regulations are good for "the common wheel".

230 REP. STARR: Refers to language in HB 2118 and similarly in House Bills 2557 and 2588. Comments that Oregon may desire to establish a more vigorous test, because some regulations are excluded.

MR. GLASCOCK: Cites Section 3. Explains it appears to point to whether or not the state rule complies with any state statute and says that is "a fair test". Disagreement is complying absolutely with federal statutes regardless of whether or not they exist.

258 LYNN SCHOESSLER, Deputy Director, Housing & Community Services Dept.: Testifies in support of the amendments to HB 2118. Expresses concern that some practices do fall outside the spirit of the bills as originally

crafted. Explains about the problem areas and the lack of flexibility under the provisions of HB 2557. Cites an example of a conflict that the Baker project has in competing effectively with a Portland project.

Amendments to HB 2118 are hereby incorporated in these Minutes (EXHIBIT I).

290 MR. SCHOESSLER: Continues testifying in support of the amendments to HB 2118. Focuses on the bond-finance programs. Cites Section 2 of the amendments that allows keeping that "spirit . . . that protection and equity for Oregonians".

307 CHAIR LEHMAN: Is what you are saying is that the Federal Government gives money for housing projects throughout the State of Oregon with certain regulations tied to them?

MR. SCHOESSLER: That is correct; however, "they do not stipulate that we shall distribute them regionally." Suggests distribution on a "first come, first serve basis".

CHAIR LEHMAN: You then adopt specific regulations about how that money is to be distributed in Oregon (i.e., more stringent than the federal standards) so you receive a regional allocation?

MR. SCHOESSLER: That is absolutely accurate.

CHAIR LEHMAN: In other words, if HB 2188, or either of the other bills, is enacted as written you would be in some difficulty being able to establish those more stringent regulations to distribute the money regionally?

MR. SCHOESSLER: That is true.

327 STEPHEN KAFOURY, American Fisheries Society and the Wildlife Society: Explains these are two professional associations of biologists and not advocacy groups. Testifies in support of the amendments to HB 2118. Comments that the amendments in Section 2 wisely use the word "differ from . . . federal" rather than "more stringent than".

365 MR. KAFOURY: Cites a problem and reads from amendments in Section 2(2). Suggests that "unique" is a very difficult standard and although it may appear to be an objective standard, it can be subjective.

373 REP STROBECK: Explains that the word "unique" was included inadvertently.

380 MR. KAFOURY: Reflects on earlier testimony about a local government making a rule different from a state rule.

399 REP. ROBERTS: You don't support making changes just to be number one unless there were some justifications to it?

MR. KAFOURY: Suggests a further amendment in Section 2(2) that where there are special conditions in Oregon that justify the differing rule to make a written finding requirement.

432 REP. ROSS: You also represent the architects?

MR. KAFOURY: Yes.

REP ROSS: Have they looked at this? Do they have any comments?

MR. KAFOURY: Haven't consulted with them.

444 DAVE NELSON, Oregon Seed Council and Oregon Dairy Farmers Association:
Testifies about HB 2118. Presents testimony about the good and bad points.

Says that from a competitive point of view there are state regulations that are more restrictive than in other states.

REP ROSS: Requests more explanation about the dairy products standards they support?

MR. NELSON: Illustrates the milk test called the "sematic cell count".

TAPE 39, B

043 REP. MARKHAM: Asks for a list of the "good sides" to the bill.

MR. NELSON: Responds by commenting about the dairy industry and the broad interest in EPA.

CHAIR LEHMAN: How do we distinguish what is good and what is bad and what shouldn't be allowed?

055 MR. NELSON: Difficult issue. Suggests a "thou shall not do" laundry list.

084 CHAIR LEHMAN: Passes Chair responsibilities to REP. GRISHAM in order to assist REP. STROBECK in presenting the amendments to HB 2118.

072 REP KEN STROBECK (R - District 6): Testifies about amendments. Provides background about the proposed amendments.

091 REP. MARKHAM: Are you speaking to all three of these bills? Were the bills pulled together?

REP. LEHMAN: Explains the task was to draft something that encompassed all three bills.

114 REP STROBECK: Continues testifying about bill amendments. Expresses concerns about the retroactivity problems and explains the rationale for not including the retro portion in the amendments.

CHAIR TIERNAN: Returns at 2:13 pm assumes Chair responsibilities.

122 REP. MIKE LEHMAN (D - District 47): Testifies about the amendments. Explains the three-step approach to the issues.

161 REP. LEHMAN: Continues testifying about the amendments. Identifies the problems in drafting a bill that carried more exceptions than inclusions and how to justify a more stringent standard if we are not "unique".

177 CHAIR TIERNAN: Requests a quick summary of the proposed amendments.

REP STROBECK: Provides a brief summary, including the interest from groups, various operational agreements with agencies and rationale of a prospective look.

207 REP. LEHMAN: Explains two important considerations (i.e., "different"

v. "stringent" and listing all the exceptions).

REP. ROBERTS: Supports the work on the amendments. Re-emphasizes the earlier suggestion of a required written finding. Asks for a reaction to that suggestion.

REP. LEHMAN: Responds that the requirement is not included, because there is uncertainty about the breadth of the problem.

252 REP. HAYDEN: Explains the reason for the bills is that the current regulations are too onerous and the solution is saying that "On July 1, 1996 . . . the federal regulations will become applicable and then we will go on from there." What is your response?

253 REP. LEHMAN: Explains the duty is to review all the laws and regulations enacted previously and change only those that are troublesome.

REP STROBECK: Provides input about the issue that enabled DEQ to write regulations that were "off the wall".

293 CHAIR TIERNAN: Provides an example involving Oregon's standards being more stringent than federal standards. Expresses concerns for the small business person and the interpretation of alleged excessive standards.

352 REP. LEHMAN: Says there may be undesirable rules; however, by using the cost benefit analysis to eradicate all rules/regulations outweighs the benefit of identifying those needing to be changed.

CHAIR TIERNAN: Asks for figures about how many rules, as an agency, agencies promulgate that "push" the federal standard. What would be the difficulty applying Section 3?

370 REP. LEHMAN: Refers to Section 4 that specifically delineates certain agencies.

TAPE 40, B

002 REP STROBECK: Explains why DEQ was selected for the whole process.

CHAIR TIERNAN: Why not have any agency exceeding the standards in the future undergo the same checklist?

REP STROBECK: Could do that.

REP. LEHMAN: Emphasizes the difficulty finding examples other than certain agencies.

021 REP. LEHMAN: Suggests possibly expanding Section 4 of the proposed amendments.

CHAIR TIERNAN: Clarifies the need for rules to be adopted in the future for any agency exceeding the federal standard and the process for compliance.

076 STROBECK: Refers to Section 2 of the proposed amendments and explains the intent.

REP. LEHMAN: Discusses the delicate balance achieved between the liberal urban dweller and the conservative rural dweller.

CHAIR TIERNAN: Did you discuss or consider providing attorney fees for successful challenges to the rules for violating the standards established?

106 REP STROBECK: Didn't think about it.

REP. ROSS: Would Section 2 be the phrase that would cover those business sectors (i.e., dairy farmers and field growers who desire superior products) that have evolved a higher standard?

122 REP. LEHMAN: Says that what's "special" is unclear.

REP STROBECK: Adds that if an industry desires higher standards to sell a product, that might justify the special condition.

138 REP. ROSS: Reads Section 4(B). Does that mean DEQ has to review all rules and process them through the six step program -- is that correct?

152 REP STROBECK: Says the intent was to have them make this list "for any rules henceforth adopted".

152 REP. MARKHAM: Illustrates an example about federal wetlands.

174 CHAIR TIERNAN: Follows up Rep. Ross's question by commenting that nothing prohibits voluntary compliance to a higher standard.

209 CHAIR TIERNAN: Closes the public hearing on House Bills 2118, 2557, and 2588. Opens the work session on House Bills 2118, 2557, and 2588.

208 REP. HAYDEN: Explains the original premise is that the current rules are too onerous. Expresses support for House Bills 2118, 2557, and 2588 and suggests minimal changes.

CHAIR TIERNAN: Requests that Rep. Hayden repeat explanation.

245 REP. HAYDEN: Supports HB 2118 as written, except suggests to "phase in" the repeal or amendment portion to provide people that work with the rules the time to do amendments.

258 REP. ROSS: Requests clarification from Rep. Hayden about whether all state agencies would be affected.

REP. HAYDEN: Equivocal about whether it should apply to all agencies or a selected few.

269 REP. ROSS: Remarks about possibly creating paperwork by the Department of Education and Department of Human Resources that doesn't garner any positive end result.

284 REP. WYLIE: Asks whether passage now invalidates some of the statutory powers of some appointed boards and commissions that develop/approve rules presented by staff? What would this do to the power of commissions when part of the function is oversee the writing of rules by state agencies.

310 REP. LEHMAN: Explains this would be one more rule imposed; however, it becomes more complex if applied retrospectively to all rules and regulations in effect now.

CHAIR TIERNAN: Reads portions of Sections 2 of the proposed amendments to HB 2118 and proposes that when certain conditions happen that an explanation is needed (i.e., complying with Section 3).

373 CHAIR TIERNAN: What of the six questions would it take anybody in a rulemaking procedure more than five minutes to answer?

REP. LEHMAN: Explains that Section 1(2) about the federal requirements is the most difficult and time consuming.

421 REP STROBECK: Explains about possible adoption of a regulation that goes along with the state statute. This bill already authorizes that and they would not need to meet that test.

REP. LEHMAN: Seems advisable to draft the proposed amendment and submit it for more public input.

TAPE 41, A

023 REP. MARKHAM: Says the issue of whether state agencies go beyond the federal requirements is larger (i.e., excessive promulgation of administrative rule).

044 REP. HAYDEN: Requests Committee Counsel discuss what recourse is available to challenge an administrative rule? Can a recourse for challenge be provided?

050 COUNSEL MOORE: Explains about challenging the validity of the rule if the rule exceeds the delegation of authority or is beyond the original enabling legislation. Doubts there is much that can be done.

REP. HAYDEN: Discusses searching for a way citizens can seek regress and force review.

066 CHAIR TIERNAN: Suggests creating a "right of action" to enforce the terms of the bill?

098 REP. JOHNSTON: Asks "So, should an individual or a company decide to be obstreperous and sue on less than a meritorious claim, we bear that burden with no recourse?"

100 CHAIR TIERNAN: Suggests adopting criteria similar to that of tort reform (i.e., under/over \$20,000).

REP. JOHNSTON: Discusses dealing with these bills and the federal corollary to state regulations. Inquires about whether there is a sense of how much of a problem this is and if so, whether the remedy suggested, would adequately cure the problem.

CHAIR TIERNAN: Says there are cases where the situation exists and it shouldn't make a difference how often it happens.

129 REP. JOHNSTON: Talks about remedies created and that the numbers do matter. If the issue is to introduce reason, logic and reasonableness, perhaps the solution is to craft some sort of Swedish ombudsman person for all regulatory agencies (i.e., someone responsible to both the

Executive and Legislative Branch whose task is to find such things during the interim and resolve them).

142 CHAIR TIERNAN: Discusses the result if there is a private right of action.

162 REP. WYLIE: Agrees that Rep. Johnston raises a valid point particularly in light of the calls received from constituents concerned about regulatory agencies not having the resources to enforce clean air/water policies in

Oregon v. the calls received from business people who have been abused by government action or bureaucratic action. There isn't analysis or documentation on the scope of the problem or that the problem is defined correctly. Explains there are anecdotes/mixed messages from the business community. Suggests that more information about what are the problems as well as an evaluation of the scope of the perceived problems are needed before adding new layers of law.

191 REP STROBECK: Agrees with Rep. Lehman that the next step is to take the suggestions heard plus the suggestion of including "any state agency in Section 3 rather than just DEQ", have LC write a formal amendment, and in a couple of weeks return with specific people with the actual regulation cited and show the federal regulation/law that it exceeds. Suggests keeping the distinction separate between the original intent of these three bills of dealing with state rules in relation to federal laws rather than about regulations adopted that go beyond what the State intended.

206 REP. STARR: Comments about the debate and the lack of focusing on the major concern that through legislation and the administrative rule process there are promulgated so many frequently changed rules, regulations and laws that "nobody can seem to comprehend all of the things that they're responsible to follow." Provides the example that about four years ago the State of Washington passed legislative oversight over administrative rulemaking. The feedback is of an instant, automatic reduction in administrative rulemaking by 75% in the State of Washington. Asks how this proposed legislation provides legislative oversight of rulemaking and whether there is a proper mechanism for bringing attention to rules that are onerous?

229 CHAIR TIERNAN: Explains that two proposed bills will address the agencies' promulgation of rules not only presently, but also during the interim, as well as a review of the Legislature's reviewing of those rules for reasonableness in fulfilling the intent of the legislative process. Says there will be one more work session on this issue. Legislative Counsel will be asked to draft three proposed amendment options: (1) As submitted by Reps. Lehman and Strobeck in the current form of proposed amendment, (2) Same proposed amendment; however, that includes Rep. Strobeck's suggestion to subject everybody in Section 3 who exceeds the federal standard to explain by answering questions 1-6, and (3) A proposed amendment to cause a "private right of action" for violation of HB 2118. Asks Rep. Johnston whether attorney fees should be added?

REP. JOHNSTON: Attorney fees would not be appropriate.

CHAIR TIERNAN: Restates proposed amendment that would authorize a "private right of action for the enforcement of HB 2118."

277 REP. HAYDEN: Suggests adding an option for people who couldn't afford the legal fees to be able to go to a Legislative Committee that had oversight (i.e., the "People's Court").

REP. STROBECK: Suggests an option of meeting with counsel to add another three agencies to the list under Section 4(A).

CHAIR TIERNAN: Declares the work session on HB 2118 closed and the meeting adjourned at 3:20 pm.

Submitted by, Reviewed by,

Kay C. Shaw Greg Moore
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

- A - Preliminary Staff Measure Summary on SB 34 -- staff -- 1 page
- B - Prepared Testimony on SB 34 -- Peggy A. Collins -- 2 pages
- C - Preliminary Staff Measure Summary on HB 2421 -- 1 page
- D - The New York Times editorial dated 2/12/95 -- 1 page
- E - Staff Memorandum on HB 2118, HB 2557 and HB 2588-- 2 pages
- F - Prepared Testimony on HB 2118, HB 2557 and HB 2588 -- Irv Fletcher -- 1 page
- G - Prepared Testimony on HB 2118 -- Harold M. Haynes -- 1 page
- H - Prepared Testimony on HB 2118 -- John S. Glascock - 1 page
- I - Proposed Amendments to HB 2118 - Reps. Strobeck & Lehman - 1 page