

HOUSE COMMITTEE ON
GENERAL GOVERNMENT AND REGULATORY REFORM

Hearing Room
Tapes - 84

MEMBERS PRESENT:

Rep. Bob Tiernan, Chair
Rep. Mike Lehman, Vice-Chair
Rep. Jerry Grisham
Rep. Cedric Hayden
Rep. Bryan Johnston
Rep. Bill Markham
Rep. Lonnie Roberts
Rep. Barbara Ross
Rep. Charles Starr
Rep. Ken Strobeck
Rep. Sharon Wylie

MEMBER EXCUSED:

Rep. Bev Clarno

STAFF PRESENT:

Greg Moore, Committee Counsel
Anne Tweedt, Committee Counsel
Kay Shaw, Committee Assistant

MEASURES HEARD:

HB 2104 - Work Session
HB 2390 - Work Session
HB 2752 - Work Session
HB 2056 - Work Session
HB 3010 - Work Session
HB 3366 - Public Hearing
HB 2299 - Public Hearing
HB 2789 - Public Hearing & Work Session

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.

TAPE 81, A

008 CHAIR TIERNAN: Calls the meeting to order at 1:42 PM. REP CLARNO is EXCUSED.

CHAIR TIERNAN: Opens the work session on HB 2104.
> Announcements.

HB 2104 - WORK SESSION

041 ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT A).

CHAIR TIERNAN: Requests explanation of the \$1 fee.

067 REP. HAYDEN: Explains the \$1 was the cost per company and will be added to fees that are already paid.

071 REP. ROBERTS: The \$1 cost is per transaction, not per company. All participants "signed off on it as a good deal."

MOTION: REP. STROBECK moves that HB 2104 be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, REPS. GRISHAM, HAYDEN, JOHNSTON, LEHMAN, MARKHAM, ROBERTS, ROSS, STARR, STROBECK, REP. WYLIE and CHAIR TIERNAN vote AYE. REP. CLARNO is EXCUSED.

CHAIR TIERNAN: Declares the MOTION PASSED. Carrier of the bill is Rep._Roberts.

CHAIR TIERNAN: Closes the work session on HB 2104 and opens work session on HB _2390.

HB 2390 - WORK SESSION

Witnesses: Hazel Ellie Jenny
Ruth McEwen
Kelly Taylor, DMV Branch, Oregon Department of Transportation

098 ANNE TWEEDT, Committee Counsel: Review the Preliminary Staff Measure Summary and the HB 2390-3 amendments. The Preliminary Staff Measure Summary and HB 2390-3 amendments are hereby made a part of these Minutes (EXHIBIT B).

HAZEL ELLIE JENNY: Prepared testimony is hereby made a part of these Minutes (EXHIBIT C).

RUTH McEWEN: Prepared testimony is hereby made a part of these Minutes (EXHIBIT D).

143 REP. MARKHAM: How long is the permit good?

COUNSEL TWEEDT: For four years. The temporary permit added by the subcommittee is valid for 30 days.

REP. MARKHAM: Are they reciprocal in other cities?

COUNSEL TWEEDT: Yes, they are reciprocal.

REP. ROBERTS: Was the definition of "physician" clarified?

COUNSEL TWEEDT: Refers to AG Opinion dated November 6, 1990 (see Page 7) that indicates there is no authority to limit to licensed physicians. The term "physician" is not defined in the Oregon Vehicle Code and when used without further qualification, "physician" should be interpreted to mean "any professional class of persons entitled to use the term under any Oregon statute." Additionally, the subcommittee added "certified nurse practitioner or a certified physician assistant".

CHAIR TIERNAN: Requests a review of the increase in fees.

174 COUNSEL TWEEDT: Reviews the fees:

> Original bill increases fees from \$4 to \$10 for issuance renewal and replacement of individual and family placards.

> Subcommittee amendments changed the fees to \$9 -- DMV would need that amount for administering this program.

> New temporary permit fee was set at \$4.

MOTION: REP. HAYDEN moves that the existing fees be extended without increase (i.e., maintain the original fee at \$4 and the new temporary fee at \$4).

REP. GRISHAM: Concurs with and supports Rep. Hayden's motion "to roll it back to the original \$4."

REP. MARKHAM: Recalls that the Chair of the Disabled Commission agreed to the increased fee. Is that correct?

216 COUNSEL TWEEDT: Yes, from the Oregon Paralyzed Veterans.

209 REP. HAYDEN: Does note that the Oregon Paralyzed Veterans do support the increased fee; however, they are probably a small percentage of the people who use the permit.

REP. STROBECK: Refers to testimony from DMV that the fee "is the true reflection of their costs" and Roger Robinson of Oregon Paralyzed Veterans who says "after conferring with the Motor Vehicle Department it was agreed at the time, \$10 would cover the cost of administering the change and the production of new placards."

CHAIR TIERNAN: How often is the fee paid?

COUNSEL TWEEDT: Every four years.

240 REP. HAYDEN: In a review of the bill previously, questions why it costs more to make a placard that hung from the mirror than one that lay on the dashboard. This is not a new permit.

COUNSEL TWEEDT: It is a new design with different, more durable, material, etc.

CHAIR TIERNAN: How many placards are issued every year?

COUNSEL TWEEDT: Refers to statistical figures in the fiscal statement (page 3).

269 REP. ROBERTS: Suggests using wording such as "collect what it costs" and put "an up to maximum" to allow more flexibility.

REP. GRISHAM: Talks about concern regarding taxes for basic services.

CHAIR TIERNAN: Requests further review of the current fees and asks what are the proposed fees. Do we have a firm number of the placards issued?

315 KELLY TAYLOR, DMV Branch, Oregon Department of Transportation:

Testifies:

> DMV expects to issue (i.e., transaction numbers) over 21,000 original permits and over 47,000 renewals in the 1995-97 biennium. Originals in 1997-99 would be over 24,000 and renewals would be over \$54,000.

> Currently, the original, renewal fee for an individual, temporary, program or family placard is \$4.

> Proposed HB 2390-3 amendments is that program placards (i.e., companies or transportation services to disabled people) would be \$4 for the original, renewal or replacement. An individual's placard would be \$9 for original, renewal or replacement. Temporary permit fee would be \$4 for original or replacement. Family placard would be \$9 for original, renewal or replacement.

365 CHAIR TIERNAN: Refers to the legislative fiscal and reference to "dollars." Didn't you respond in numbers?

MS. TAYLOR: Explains the response in transaction numbers.

CHAIR TIERNAN: Based on a calculation of the figures, it would appear DMV would have much more than listed in the revenues.

MS. TAYLOR: That is the "net revenue" (i.e., what would be left over after DMV costs come out).

TAPE 82, A

005 CHAIR TIERNAN: Describes the options:

> Vote on the bill as is, but it must go to Ways & Means due to an increase in funds.

> Send the bill back to subcommittee to reconsider the fees.

013 REP. HAYDEN Withdraws Motion.

MOTION: REP. MARKHAM moves to return HB 2390 to subcommittee.

CHAIR TIERNAN: Calls for objections.

VOTE: CHAIR TIERNAN hearing no objections declares the MOTION PASSED. REP._CLARNO is EXCUSED.

REP. ROSS: Comments that even though this is a long-term permit, the payment is experienced by that person during one month. For many disabled people, who are on very limited incomes, that \$9 represents a lot of money to them.

CHAIR TIERNAN: Closes the work session on HB 2390 and opens work session on HB 2056.

HB 2056 - WORK SESSION

033 ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure Summary and the HB 2056-1 amendments. The Preliminary Staff Measure Summary and HB 2056-1 amendments are hereby made a part of these Minutes (EXHIBIT C).

CHAIR TIERNAN: Asks for comments about the bill.

064 REP. GRISHAM: Describes the difficulty with the bill. Concern is that the funds dedicated to the elderly and Disabled Special Transportation Fund are to be used in transportation programs. Objects to administrative costs being met by some of these transportation funds.

CHAIR TIERNAN: Opines the objective is to take more funds out of administrative and put them in directed services; however, this bill seems to be going in the opposite direction.

REP. WYLIE: Troubled by different social service programs and the allocation of money. Accountability for funds requires administration while at the same time striving to channel as much money as possible to the direct service. Requests more information about the balance between accountability and providing the services to the people.

110 CHAIR TIERNAN: It is hard to believe ODOT needs a bill to help support 3.5 employees to administer \$12 Million.

MOTION: REP. HAYDEN and MARKHAM move to return HB 2056 to subcommittee.

CHAIR TIERNAN: Calls for objections.

VOTE: CHAIR TIERNAN hearing no objections declares the MOTION PASSED. REP._CLARNO is EXCUSED.

CHAIR TIERNAN: Closes the work session on HB 2056 and opens work session on HB 3010.

HB 3010 - WORK SESSION

Witnesses: Mike Meredith, Oregon Department of Transportation

135 ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure Summary, HB _3010-1 amendments and HB _3010-2 amendments. The Preliminary Staff Measure, HB _3010-1 amendments and HB 3010-2 amendments are hereby made a part of these Minutes (EXHIBIT F).

MOTION: REP. LEHMAN moves that HB 3010-2 amendments be ADOPTED.

VOTE: CHAIR TIERNAN calls for objections and hearing no objections from ALL MEMBERS PRESENT declares the MOTION ADOPTED. REP. CLARNO is EXCUSED.

MOTION: REP. Strobeck moves that HB 3010 as amended be sent to the Floor with a DO PASS recommendation.

CHAIR TIERNAN: Refers to Fiscal Analysis of Proposed Legislation (Page 7).

Who is the "road authority"?

REP. LEHMAN: ODOT, counties and local road authorities.

207 MIKE MEREDITH, Oregon Department of Transportation: Testifies that:
> Intent of HB _3010-2 amendments was at the request of AAA; however, AAA now wants the amendment rescinded.
> ODOT is in the business of issuing self-issued permits and ODOT is concerned the HB _3010-2 amendments may preclude them from issuing those permits.

CHAIR TIERNAN: What is the intent of the amendment?

MR. MEREDITH: HB 3010-2 amendments would specifically prohibit allowing a company with ownership in the permit itself from issuing its own permit.

REP. STROBECK withdraws the Motion.

MOTION: REP. ROBERTS moves that HB 3010-2 amendments be removed.

CHAIR TIERNAN: Calls for objections and hearing no objections declares the MOTION PASSED.

246 MOTION: REP. ROBERTS moves that HB 3010 as amended be sent to the Floor with a DO PASS.

VOTE: In a roll call vote, REPS. GRISHAM, HAYDEN, JOHNSTON, LEHMAN, MARKHAM, ROBERTS, ROSS, STARR, STROBECK, WYLIE and CHAIR TIERNAN vote AYE.

REPS. CLARNO is EXCUSED.

CHAIR TIERNAN: Declares the MOTION PASSED. REP. STROBECK will carry the bill.

CHAIR TIERNAN: Closes the work session on HB 3010 and declares a recess at 2:30 pm for a change of Committee Counsel.

286 CHAIR TIERNAN: Opens the work session on HB 2752

HB 2752 - WORK SESSION

Witnesses: James P. Shannon, Attorney (Portland)

295 JAMES P. SHANNON, Attorney (Portland): Testifies from prepared testimony about HB _2752. Submits (EXHIBIT G). Testifies as follows:

- > Introductory comments.
- > Municipal Debt Advisory Commission (MDAC) background.
- > MDAC's statutory responsibilities.
- > Concerns regarding HB 2752.
- > Explains the three basic types of obligations:

General obligation bonds

Revenue bonds

Lease-purchase or installment purchase agreements.

368 > Discusses certificates of participation:

Neither the State of Oregon nor any other local government in the state has ever issued a COP.

CHAIR TIERNAN: Requests a summary of the testimony and the highlights.

420 MR. SHANNON: Continues testifying. Refers to US Bank's pooled program.
> Certificates are always issued by the person or entity (e.g., US Bank or the owner of the revenue stream) which receives the revenue stream not the municipality and their program would be affected by the bill.

> Discusses issues that should be considered to determine whether it is good public policy to require elector approval for these financing agreements (see Pages 2-3).

TAPE 81, B

012 MR. SHANNON: Continues testifying and discussing the issues.

024 CHAIR TIERNAN: What are the debt limits?

MR. SHANNON: Explains the debt limits:

> State has a constitutional debt limit of \$50,000.

> Counties have a constitutional debt limit of \$5,000.

> Cities have a debt limit in their charters.

> Special districts have a debt limit contained in their enabling legislation.

CHAIR TIERNAN: Is it correct that COPs are outside the county's debt limit of \$5,000?

MR. SHANNON. There is special authorization for cities, counties and the state to enter into lease-purchase transactions. Those debt limits must still be complied with and transactions need to be structured correctly,

033 MR. SHANNON: Continues testifying. Refers to discussions about whether local governments are over utilizing this tool and whether or not limits should be put on the dollar amount or the amount on their operating budgets that are allocated to this method of financing and explains.

CHAIR TIERNAN: Do you feel there should be any limit put on COPs at the local level?

MR. SHANNON: No, not the way they are currently authorized in Oregon.

057 CHAIR TIERNAN: Do you have a problem with a COP for purchasing property or building buildings?

MR. SHANNON: No.

CHAIR TIERNAN: Illustrates a failed bond measure for a school and the school district entered into a COP.

MR. SHANNON: Public may not have approved of the bond issue as not wanting to be taxed additionally for that facility, but by using COPs there is no additional tax -- they are using their existing financial resources to handle that capital improvement.

REP. JOHNSTON: Refers to Chair's example of failed bond measure. What that would mean is that rather than being able raise money with the bonded measure, the district would have to take money out of their current income stream. So, the difference between the two examples is the source of money.

110 REP. MARKHAM: Is it correct that bonds can be issued by a school district outside the ballot Measure 5 restrictions?

MR. SHANNON: Yes, if approved by the voters.

REP. MARKHAM: Can COPs?

MR. SHANNON: No.

REP. LEHMAN: Is it correct that COPs are just one of the methods that school districts can obligate on future budgets?

MR. SHANNON: Yes.

REP. LEHMAN: There is a multitude of things that government bodies can obligate themselves in the future (e.g., labor contracts, lease-purchase agreements, service agreements, and busing agreements)?

MR. SHANNON: Yes.

REP. LEHMAN: Is it correct, this bill only attacks one of those options? Do you see anything in this bill that it applies to labor contracts or services/busing agreements)?

MR. SHANNON: No.

124 REP. GRISHAM: Were you involved in reviewing revenue bonds sold by Metro to finance the "glass cathedral" in downtown Portland?

MR. SHANNON: No.

REP. GRISHAM: Is there a reason you were outside that?

MR. SHANNON: Don't participate in an individual local government's issuance of debt. Assists in overall programs that will assist governments in their debt management practices. Administrative rule requires every local government, when they are about to issue debt, to notify the State Treasurer's Office of the potential debt issuance.

REP. GRISHAM: In your capacity as chairman of the Oregon Municipal Debt Advisory Commission have you noticed that other municipalities or governmental entities has used that creative system of finance?

MR. SHANNON: No, not the one described. Must have a revenue stream extrinsic from an internal accounting system.

> Cites Martin v. Oregon Public Buildings Corporation case.

161 CHAIR TIERNAN: In your estimation would it be a bad idea or plausible idea that if a limit is put on a local jurisdiction's ability to do COPs, that it be 5 or 10% of the budget?

MR. SHANNON: Not a workable solution.

> Haven't seen a problem.

> Putting a percentage limit on budgets doesn't take into account that certain budgets are highly-capital intensive and others are not.

CHAIR TIERNAN: What about if a bond measure or vote of the people rejects a spending measure that COP prohibited?

MR. SHANNON: Not appropriate either, because the measure may have been rejected due to the voters not wanting to pay "extra" for it. In other words, manage resources better and use existing resources in order to handle the capital needs of the municipality.

186 REP. LIZ VANLEEUWEN (R - District 37). Refers to proposed amendments HB

2752-3 (see Minutes of House General Government & Regulatory Reform Committee dated March 22, 1995, Exhibit I).

> Section 1, Lines 3 -9, insert language after Line 9 "that these districts

or local governments would be allowed to get involved in certificates of participation if there were a dedicated revenue stream, for this purpose which would outlast the term of the financial agreement."

> If the entity would need to increase taxes to payoff the obligation, a vote of the people would be required.

REP. HAYDEN: What if they are generally funded and they don't have to increase taxes at all, they just ask the superior body for more money?

REP. VANLEEUWEN: Asks for an example.

REP. HAYDEN: Illustrates if the OHSU has a parking problem.

REP. VANLEEUWEN: Not talking about state entities. Proposal just talks about local entities, special districts and schools.

253 REP. HAYDEN: Quotes from Preliminary Staff Measure Summary.

REP. VANLEEUWEN: Yes, that is the bill as originally written.

> Amended bill takes the state out.

> Opportunity exists to put in a dollar figure whereby they go back to the people.

> Opines that FlexLeases and FlexFund do not come under the category of a certificate of participation.

> Suggests a review of the research in SB 203-A Engrossed.

REP. HAYDEN: Why is the state removed from the bill?

291 REP. VANLEEUWEN: Opines the state was removed from the proposed bill, because there is a close scrutiny on that now and the problem is local entities using certificates of participation without assurance there is a revenue stream to pay for them. Additionally, there is not Senate agreement to leave in the state.

REP. HAYDEN: Opines that it is a matter of equity that people have the right to vote.

338 REP. STARR: Refers to REP. MARKHAM's earlier question about whether this is a debt issue outside of Measure 5. The answer is "No it was not. .

. These agreements entered into are paid for within the revenue stream controlled by the limitation of Measure 5." Doesn't see any abuse by schools, special districts or otherwise as a compelling reason to pursue. Finds no compelling reason to limit a local entity's opportunity to use this method of financing -- they have used it wisely, effectively and for the benefit of the people.

379 REP. WYLIE: Discusses the pledge to not pass on unfunded mandates to local government.

397 REP. LEHMAN: Agrees with both Reps. Starr and Wylie. Opines it is a "solution looking for a problem." The solution is to replace elected local government officials if they are issuing COPs inappropriately -- appears to be an issue of micromanagement.

TAPE 82, B

004 REP. HAYDEN: Sees greater abuse at the state level. It is an unfunded mandate and the goal is balanced budgets. Illustrates a parking garage with a 25-year payoff.

019 REP. STROBECK: Fact is that major investments need to be financed. Agrees this is a potential problem that is already being taken care of appropriately and it should be left alone.

REP. JOHNSTON: Joins Rep. Starr. Opines the bill isn't the way to handle the issue.

045 REP. MARKHAM: Is the intent of this bill about a concern of local governments getting in trouble when there isn't a limit set.

REP. VANLEEUWEN: Agrees.

CHAIR TIERNAN: Comments about issues:

> If the bond or measure actually failed, is the entity now permitted to proceed to fund it with a COP?
> Should local governments advertise or tell the people they are using COPs

to allow input?

> Should there be a limitation of a percentage or gross of the budget of what would be outstanding or should there be a limitation that is similar to the state's.

CHAIR TIERNAN: Closes work session on HB 2752 and opens public hearing on HB 2789.

HB 2789 - PUBLIC HEARING

Witnesses: Peter Deluca, Labor Relations Division, Department of Administrative Services.
Mark Botkin, American Federation of State County Municipal Employees (AFSCME)
Mari Anne Gest, Oregon Public Employees Union/Local 503 (OPEU)
John Danielson, Oregon Education Association (Portland)
Ed Edwards, Oregon School Employees Association

GREG MOORE, Committee Counsel Reviews Preliminary Staff Measure Summary. Submits Preliminary Staff Measure Summary (EXHIBIT H).

087 PETER DeLUCA, Administrator, Labor Relations Division, Department of Administrative Services. Testifies in opposition to HB 2789. Submits (EXHIBIT I).

> Requires "bargaining in the sunshine."
> General concept is good; however, the problem is that frequently toward the end of bargaining sessions things occur almost instantaneously, there is lack of time to plan in advance. HB 2789 would require collective bargaining be a public meeting and issue 24-hour notice prior to holding any bargaining sessions (i.e., eliminate the spontaneity that ordinarily occurs, particularly toward the end of critical bargaining).

REP. MARKHAM: When you say "it might extend it out", can you give us a range of estimates of days that might be involved?

MR. DeLUCA: It isn't a question of extending the bargaining process per se -- more a question that toward the ending of bargaining the process moves quickly. Provides examples. Do have situations now where the public is allowed to come into the bargaining sessions.

CHAIR TIERNAN: The current law does permit closing meetings to the public.

MR. DeLUCA: Law does permit doing that. There is a section in the current redraft version of SB 750 that revamps public employee collective bargaining considerably that deals with whether sessions are open or closed. That bill says the sessions are closed unless the parties open the sessions.

145 CHAIR TIERNAN: Is it fair to say that the concept doesn't bother you and you don't exclude the public now so, with the exception of the spontaneity in the notice posting rule, you don't have a problem with the bill?

MR. DeLUCA: A fair characterization.

148 CHAIR TIERNAN: What would be the problem with posting notice of hearing schedules? Is that an option to take care of that problem?

MR. DeLUCA: Particularly in the beginning of bargaining, that would take care of everything. Illustrates that what happens at the end of the bargaining cycle is similar to what happens at the end of the legislative session -- everything begins to move very quickly and frequently there isn't knowledge 24 hours in advance whether or not there will be a meeting.

185 REP. ROBERTS: Wouldn't the open meetings of negotiations cause a subdued situation with reference to open expressions in dealing with crucial issues?

MR. DeLUCA: Agrees.

REP. WYLIE: Not adverse to open meetings. Many situations it wouldn't work.

231 REP. JOHNSTON: Would it be possible for a negotiator in an open meeting

to make a position that was more for the press than for the other side?

MR. DeLUCA: Explains:

> Much background experience with open meetings in various settings.
> There frequently are a lot of public posturing types of statements when press or audience is present.

230 MARK BOTKIN, American Federation of State County Municipal Employees (AFSCME): Testifies about HB 2789:

> Intended initially to support HB 2789.
> Agrees with Witness DeLuca's there could be a slowdown in bargaining.
> Cites changes in the Senate Chamber.
> Seems the ability to reach some agreements may be hampered.

CHAIR TIERNAN: You don't have a problem with the bill except Witness DeLuca's comments?

MS. BOTKIN: Witness DeLuca's points are well taken and he raises some valid concerns. Anytime you move into a public hearings process, things slowdown.

MARI ANNE GEST, Oregon Public Employees Union/Local 503 (OPEU): Testifies from prepared testimony in support of HB 2789, but opposes the public notice aspect of the bill. Submits (EXHIBIT J).

> Supported "sunshine bargaining" for many years -- very open process at OPEU.
> When invited, absolutely no one has come to bargaining sessions; therefore, unsure about the purpose of the bill.
333 > Mediation should not be part of the open meeting process -- that should be the mediator's call.
> OPEU supports SB 750 provision that eliminates the need that once there is public notice of intent to go into bargaining, that subsequent notice is unnecessary.

REP. ROBERTS: If there was a "sunshine bargaining" situation, wouldn't there still be times when a closed door session is best?

MS. GEST: That is true at certain times.

393 JOHN DANIELSON, Oregon Education Association (Portland): Testifies in opposition to HB 2769:

> Substantial difference between bargaining at the state level and local municipal corporations, particularly school districts,
> Explains bargaining experience.
> Clarifies status of SB 750 in the of Senate.

TAPE 83, A

002 MR. DANIELSON: Continues testifying. Explains the objective for opening a meeting to the public is to cause more accurate flow of information. Serious question as to whether that objective is achieved through open bargaining. Comments about:

> Bargaining process.
027 > Closed bargaining session.
> Misunderstanding/misconception through reporting of the issues.
054 > Some processes are conducive to open public sessions and some that are

not.

> It is a disservice to give only part of the story -- some problems with the press.

> Illustrates bargaining for Redmond District and Lewis & Clark Consolidated School District as examples of someone backing down after an agreement.

083 ED EDWARDS, Director, Government Relations, Oregon School Employees Association: Testifies from prepared testimony in support of HB 2789. Submits (EXHIBIT K). Testifies:

> Issues are about the process called "collective bargaining" and marketing.
> Closed doors in the public area invite suspicion and the exposure to claims by groups that may not be supportive of collective bargaining or employees.
> Doesn't oppose open meetings -- likes the law as is whereby both parties can agree to open the meetings.
> Passage of the bill will result in a major change in the collective bargaining process.

111 REP. STROBECK: Mr. Danielson, did you say that you supported the proposed amendment in SB 750?

MR. DANIELSON: As an alternative to the current law, the first choice is the current law, SB 750 would be the second choice and HB 2789 would be the

third choice. School boards will be reluctant to want to bargain with teachers observing. Becomes "showmanship" rather than "bargaining" if you move into the public arena to do it.

REP. STROBECK: Process is already open, nobody attends and having to give notice would be disastrous. How do people know when to attend?

MR. DANIELSON: Generally, notice is provided when the bargaining is going

to take place. Suggests a waiver regarding the notification requirements.

155 MS. BOTKIN: Much notification is given during OHSU and some larger locals bargaining sessions. Cautions that the public needs to know they are not active participants.

REP. ROBERTS: Potential problem with the bill moving from the Senate that will be in conflict with HB _2789.

191 CHAIR TIERNAN: Explains the process about conflicting bills moving between both houses.

202 CHAIR TIERNAN: Closes public hearing on HB 2789. Opens work session on HB 2789.

HB 2789 - WORK SESSION

REP. LEHMAN: Explains background experience in collective bargaining.
> Suggests the best solution allows either side to request the session be open.

> Cautions about requiring open meetings.
> Encourages an amendment that allows either side to request that the session be open. Else, the session is closed.

MOTION: REP.MARKHAM moves HB 2769 be sent to the Floor with a DO PASS recommendation.

REP. HAYDEN: Supports Rep. Markham. The more open the session is the more democratic it is.

262 CHAIR TIERNAN: Comments why the bill was brought back from last session.

REP. STROBECK: Would you entertain an amendment to shorten the amount of time necessary for notice to eight hours?

CHAIR TIERNAN: What is the notice requirement?

REP. STROBECK: Additionally, would you entertain adding to this provision about open meeting "if either party involved in the negotiation requests"-- that would align it with SB _750?

CHAIR TIERNAN: Describes the problem with that. If either party is allowed to try and opt or select a process, someone has a veto power over the public and the public should have an absolute right to be present when a meeting is taking place.

303 REP. HAYDEN: No problem with an urgency clause. Where normally a 24-hours notice is given, but if both sides agree, a meeting could be scheduled in six or eight hours on an urgency basis -- don't see a problem with that. When there is a break overnight, the meeting could recess for up to 12 hours and another notice would not be required.

REP. LEHMAN: There are two things traditionally done:
> Adjourn or recess the meeting to a later date and announce it at the conclusion of the meeting -- that "stands up as a enough notice of the next meeting."
> If one side or the other recognizes the need for an emergency meeting, that too can be announced at the meeting.

REP. STROBECK: If the language says "only with public notice", that doesn't necessarily require 24 hours notice?

320 CHAIR TIERNAN: Nothing stops holding a series of postings or postponing/continuing the meeting.

REP. ROBERTS: Opines that mediation should not be held in open meetings and talks about problem with public notice requirements.

CHAIR TIERNAN: Refers to Rep. Lehman's comments about a break in the meeting.

372 REP. JOHNSTON: Explains intent to vote "No". Opines that sometimes negotiation cannot be successfully conducted in a "fish bowl." The access into the negotiation can easily prevent the real interests of the parties from "coming out on the table."

VOTE: In a roll call vote, REPS. GRISHAM, HAYDEN, MARKHAM, STARR, STROBECK and CHAIR TIERNAN vote AYE. REPS. JOHNSTON, LEHMAN, ROBERTS, ROSS and WYLIE vote NAY. REP. CLARNO is EXCUSED.

CHAIR TIERNAN: Declares the MOTION FAILED.

430 REP JOHNSTON: In the interest of saving time is willing to change vote and to move this to the Floor.

MOTION: REP. JOHNSTON moves for reconsideration of HB 2789.

CHAIR TIERNAN: Call for objections. Hearing no objections the MOTION PASSED.

MOTION: REP. MARKHAM moves that HB 2789 be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, REPS. GRISHAM, HAYDEN, JOHNSTON, MARKHAM, STARR, STROBECK and CHAIR TIERNAN vote AYE. REPS. LEHMAN, ROBERTS, ROSS and WYLIE vote NAY. REP. CLARNO is EXCUSED. Carrier of the bill is REP. HAYDEN.

CHAIR TIERNAN: Declares the MOTION PASSED.

459 REP. LEHMAN: Serves notice of a MINORITY REPORT.

REP. ROBERTS: Joins Rep. Lehman in filling of a Minority Report.

CHAIR TIERNAN: Opens public hearing on HB 3366 and HB 2299.

TAPE 84, A

HB 3366 and HB 2299 - PUBLIC HEARING

Witnesses: Peter DeLuca, Labor Relations Division, Department of Administrative Services
Jim MacIntosh, Human Resource Management Division, Department of Administrative Services
Rep. Kevin Mannis (D - District 32)

029 GREG MOORE, Committee Counsel Reviews Preliminary Staff Measure Summary on HB 3366. Submits Preliminary Staff Measure Summary (EXHIBIT L).

GREG MOORE, Committee Counsel Reviews Preliminary Staff Measure Summary on HB 2299. Submits Preliminary Staff Measure Summary (EXHIBIT M).

CHAIR TIERNAN: Announcements.

054 PETER DeLUCA, Administrator, Labor Relations Division, Department of Administrative Services: Introductory comments.

059 JIM MCINTOSH, Human Resource Management Division, Department of Administrative Services: Testifies from prepared testimony about HB 3366 and HB 2299. Submits (EXHIBIT L).

> Introductory comments.

> Understands that under the two bills there would be no approval of compensation plan changes or DAS would not have the ability to proceed with

any compensation changes in the interim (i.e., any needs of state agencies would have to wait until the full Legislative Assembly met in session and approved the changes).

CHAIR TIERNAN: Requests a background history from 10 years ago to the present and an explanation of the changes.

MR. MCINTOSH: Provides history as follows:

> Prior to the current statutory language, all individual compensation plan changes were brought to either the Legislative Assembly or the Emergency Board for approval.

> Subsequent Legislative Assembly changes resulted in a process so that the legislature was not as intricately involved in each change of position and then moved to the current type of process.

093 PETER DeLUCA: Testifies from prepared testimony in opposition to HB 2299 and HB 3366. Submits (EXHIBIT O). Testifies:

> About 10 years ago every individual reclassification of a position came before the legislature or the Emergency Board for approval before implementation.

> Illustrates situation involving pending reclassifications.

> Legislature removed itself from approval of individual reclassifications.

Changes in the compensation plan, generally, needed legislative review.

> Difference between the current system and the proposed bills is that legislative approval would be required for all changes in the compensation plan. Additionally, due to the peculiar way it is written and in the past such requests came before the Emergency Board, the changes all now are required to come before the full legislative body.

> Describes the problems the bills create for collective bargaining.

141 CHAIR TIERNAN: Refers to prior legislative session that the legislature had to approve of collecting bargaining agreements prior to that date. Is that accurate?

MR. DeLUCA: Not sure when the change occurred. At one time the legislature was required to approve -- now the legislature only has to review.

CHAIR TIERNAN: If HB 3366 was amended to allow only for bargaining agreements, the contractual agreements, not the movement of the salary plans, and the Emergency Board is given the flexibility to review and approve, would this make it more tenable to you?

MR. DeLUCA: Absolutely, however, it may not solve all of the problems. One problem created that would not be solved is the political maneuvering.

172 MR. MCINTOSH: Primary concern outside of collective bargaining would be solved by being able to continue to go to the Emergency Board.

CHAIR TIERNAN: No problem with either of the suggested changes for the bills. It was not within the scope and meaning of either bill to allow for every compensation change, promotion, transfer, increase in classification, etc.

REP. MARKHAM: Didn't the Secretary of State do an audit on state salaries and determine there was a "whole lot more money spent by each individual manager being able to boost them up without telling anybody?" Do you recall that? There wasn't a tight control on salaries.

MR. MCINTOSH: Familiar with the three audits by the Secretary of State during the interim that relate to the pay system. Unaware of anyway an individual manager in the state system can assign a salary range to a classification that is different than the plan.

207 REP. WYLIE: Are managerial and non-union salaries dealt with in some other part of the law? Is there a reason they are not included?

CHAIR TIERNAN: That's a good point. Doesn't believe either bill spoke to a non-contractual increase, unilateral determination, by the Governor to give his management an increase. Did you see that covered in either of these two bills?

MR. MCINTOSH: Understands that, under HB 3366, it would apply to all categories of state employees. Doesn't read HB 2299 the same way.

224 CHAIR TIERNAN: With respect to the salary plan the word used would include an "across the board increase in management as well."

REP. WYLIE: Requests more clarification. Is it your intent to have the legislature approve general, across the board increases or to approve the salary and classification system or deviation from the system?

CHAIR TIERNAN: It would be the salary plan. There are other bills addressing the system. The intent is to move the system back to the system prior to 1989 with the exclusion that the legislature didn't vote on, unless a problem, every increase or decrease in classification. Simply, the collective bargaining agreements, negotiations or unilateral increases would be approved by the legislature -- allows the legislature to have a handle on general increases.

REP. WYLIE: Are you trying to provide some legislative control over the automatic step increases?

CHAIR TIERNAN: No, doubts this would affect the automatic step increases and bonus/incentive program. Approval would be required for COLAs and general salary increases.

MR. MCINTOSH: That's correct that the law did not affect the step increases before 1989.

REP. WYLIE: From a management standpoint, what kinds of limitations are there on the ability to manage the system under either bill?

MR. MCINTOSH: Might be a couple of different issues in terms of the bargaining process and general issues. Talks about the general issues.

339 REP. KEVIN MANNIX (D - District 32): Testifies in support of HB 2299:
> Provides background facts for the bill.
> Intent was for a positive measure to re-establish the authority of the Legislative Assembly regarding the "power of the purse."
> Opines collective bargaining process is appropriate and should be scheduled in a fashion that collective bargaining agreements are completed and the Executive Branch agencies come to the legislature each session with agreements "in hand" and are subject to ratification by the representatives of the people through the funding process (i.e., the legislature appropriates the funds to implement the collective bargaining agreement).
> Explains the current collective bargaining process.
> Cautions this should not be used as a method to undermine collective bargaining.
> Legislature ought to be providing fair/adequate compensation to government employees as established by collective bargaining agreements as well as the legislature ought to be appropriating those amounts of funds.

418 REP. MARKHAM: Requests clarification. Is it correct that the proposed bill would prohibit moving money from service and supplies over to pay salaries?

REP. MANNIX: That's correct. Modifications to the salary plan or any other such changes in salaries beyond that established as a salary plan first must have Legislative Assembly's appropriate budgetary and personnel action to authorize salary increases that result from a collective bargaining agreement.

TAPE 83, B

003 REP. MARKHAM: Is it correct that the legislature hasn't done that since 10 years ago?

REP. MANNIX: Yes. Concerned about bills pending regarding the collective bargaining process, because of his support of the notion of collective bargaining. Doesn't want his bill connected to that -- this should be a budgetary issue and how the legislature handles the appropriation process.

CHAIR TIERNAN: Focus is on money pulled away to fulfill a collective bargaining agreement. Illustrates an hypothetical situation about a contract that costs the state \$20 Million. Is it correct that DAS can direct funds to pay for salaries ?

REP. MANNIX: DAS does have that option.

042 CHAIR TIERNAN: Points out that if the legislature doesn't allocate the money for a signed contract and the Governor signs the contract, DAS has the opportunity to go behind the legislature and cut from other programs for which the legislature allocated money. Opines that is not the proper balance of powers.

MR. DeLUCA: There is a difference between spending \$50 Million and making a provision for outpost pay.

> Explains the process for contract negotiations and the clause "this is subject to legislative approval."

> Is unaware of anyway that a contract would be negotiated that has a general increase for a wide variety of state employees that would cost the state significant millions of dollars and that would be without some kind of approval criteria.

REP. MANNIX: Discusses public safety personnel where there are arbitration clauses. The Legislative Assembly ought to approve and authorize.

CHAIR TIERNAN: Is "outpost pay" a premium pay (i.e., something in addition to for working in a remote location)?

MR. MCINTOSH: That's correct.

MR. DeLUCA: The core of the issue is about collective bargaining in the context of public safety people. Agrees with Rep. Mannix's identification of the conflicts with the power of the legislature to appropriate money.

086 CHAIR TIERNAN: Summarizes an arbitration award that isn't in the budget.

MR. DeLUCA: DAS would be forced to pay it in some fashion, yes.

094 REP MARKHAM: Does Rep. Mannix's bill, Lines 10-15, fix the issue?

REP. MANNIX: Arbitration situations per se would have to be addressed in other parts of the collective bargaining process although, it is arguable that if this bill passed and it is a more recent statute, then the funds shouldn't be agreed to (i.e., there shouldn't be an arbitration process).

REP. MANNIX: One word should be removed from the bill. Refers to the word "first" on line 13 as being problematic in the bill.

132 CHAIR TIERNAN: Refers to terminology in contracts "that with legislative approval".

MR. DeLUCA: It is called "legislative approval clause."

CHAIR TIERNAN: Continues discussion about contract language.

MR. DeLUCA: Problem with the bill is not legislative oversight/approval of the allocation of dollars.

CHAIR TIERNAN: Suggests an amendment that the "legislature could also accept or reject the arbitrator's award"?

REP. MANNIX: Explains that SB 750 is trying address that issue. Prefers the Senate address the issue of how to handle arbitrator's award in that context.

REP. MARKHAM: Is union ratification required after a bargaining agreement is reached?

MR. DeLUCA: It is.

193 REP. MANNIX: Problem is that the legislature is in a reactive rather than proactive mode.

Suggests other possible changes to the bill.

CHAIR TIERNAN: Nothing prohibits negotiating longer contracts?

MR. DeLUCA: Opines that funds cannot be spent that are beyond the current biennium.

231 CHAIR TIERNAN: Will confer with Rep. Mannix and draft proposed amendments for further discussion.

CHAIR TIERNAN: Adjourns the meeting at 4:50 pm.

Submitted by, Reviewed by, Reviewed by,

Kay C. Shaw Anne E. Tweedt Gregory G. Moore
Committee Assistant Committee Counsel Committee Counsel

EXHIBIT SUMMARY:

- A - Preliminary Staff Measure Summary on HB 2104 -- Staff -- 3 Pages
- B - Preliminary Staff Measure Summary on HB 2390 -- Staff -- 8 Pages
- C - Prepared Testimony on HB 2390 -- Hazel E. Jenny -- 1 Page
- D - Prepared Testimony on HB 2390 -- Ruth McEwen -- 1 Page
- E - Preliminary Staff Measure Summary on HB 2056-1 amendments - Staff -- 5 Pages
- F - Preliminary Staff Measure Summary on HB 3010-2 -- Staff -- 7 Pages
- G - Prepared Testimony on HB 2752 -- James P. Shannon -- 4 Pages
- H - Preliminary Staff Measure Summary on HB 2789 -- Staff -- 2 Pages
- I - Prepared Testimony on HB 2789 -- Peter DeLuca -- 1 Page
- J - Prepared Testimony on HB 2789 -- Mari Anne Gest -- 3 Pages
- K - Prepared Testimony on HB 2789 -- Ed Edwards -- 2 Pages
- L - Preliminary Staff Measure Summary on HB 3366 -- Staff -- 3 Pages
- M - Preliminary Staff Measure Summary on HB 2299 -- Staff -- 2 Pages
- N - Prepared Testimony on HB 3366 -- Jim McIntosh -- 1 Page
- O - Prepared Testimony on HB 2299 and HB 3366 --Peter DeLuca -- 4 Pages