

HOUSE COMMITTEE ON  
GENERAL GOVERNMENT AND REGULATORY REFORM

May 3, 1995      Hearing Room 357  
1:30 pm Tapes 128 - 129

MEMBERS PRESENT:

Rep. Bob Tiernan, Chair  
Rep. Mike Lehman, Vice Chair  
Rep. Bev Clarno (Arrival: 2: 30 pm)  
Rep. Jerry Grisham  
Rep. Cedric Hayden  
Rep. Bryan Johnston  
Rep. Bill Markham  
Rep. Lonnie Roberts  
Rep. Barbara Ross  
Rep. Charles Starr            (Arrival: 2:25 pm)  
Rep. Ken Strobeck  
Rep. Sharon Wylie

STAFF PRESENT:

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

MEASURES HEARD:

HB 2056 Work Session  
HB 2438 A            Work Session  
HB 3389 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 128, A

007      CHAIR TIERNAN: Calls meeting to order at 2:03 pm. REPS. CLARNO and STARR are EXCUSED.  
         > Announcements.

         CHAIR TIERNAN: Opens work session on HB 2438A.

HB 2438A- WORK SESSION

019      GREG MOORE, Committee Counsel: Provides explanation as to re-review by the Committee. Summarizes the bill and Committee work needed.

031      CHAIR TIERNAN: Discusses the status of the bill and recounts a discussion with the sponsor of the bill, Rep. Lisa Naito.

         REP. HAYDEN: Explains support of the original bill and concern regarding revisiting issues.

057 REP. GRISHAM: Reviews prior Committee's vote.

REP. ROSS: Opposed to including anyone besides legislators.

062 REP. STROBECK: References review by Committee Counsel. Did the Committee have these amendments at the time of the original vote? Understands the intent of the vote was to limit it to legislators only.

COUNSEL MOORE: It was exactly. The only problem was the Committee Report attached the wrong amendments; therefore, the printed bill was incorrect.

CHAIR TIERNAN: Polls Committee members as to whether or not any member desires to change his/her position.

085 MOTION: REP. STROBECK moves to conceptually amend HB 2438 A to limit application to legislators only.

COUNSEL MOORE: Explains the motion merely needs to re-pass the bill that the Committee intended to pass the last time. In other words, amend HB 2438A by

conceptually adopting the original bill with the original HB 2438-3 amendments, the amendments that simply took out the cost of living adjustment.

MOTION RESTATED: REP. STROBECK moves the ADOPTION of HB 2438 with the HB 2438-3 amendments to replace HB 2438A.

REP. GRISHAM: Is that correct? Did the Committee pass out the bill with a cost of living adjustment?

REP. STROBECK: The HB 2438-3 amendments delete the cost of living adjustment and limit application to legislators.

CHAIR TIERNAN: Hearing no objection from ALL MEMBERS PRESENT, declares MOTION ADOPTED. REPS. CLARNO and STARR are EXCUSED.

104 MOTION: REP. STROBECK moves HB 2438A, as amended, to the Floor with a  
DO PASS recommendation.

CHAIR TIERNAN: Calls for discussion.

REP. MARKHAM: Requests restatement of the two main points.

COUNSEL MOORE: It is applies to legislators only without a cost of living adjustment. The last sentence of the original bill is deleted.

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

CHAIR TIERNAN: Declares MOTION PASSED. Carrier of the bill is REP. STROBECK.

127 CHAIR TIERNAN: Closes work session on HB 2438A and opens work session on HB 2056.

HB 2056 - WORK SESSION

Witness: Joanie Reed, Oregon Department of Transportation (ODOT)

132 ANNE TWEEDT, Committee Counsel: Summarizes the intent of the bill,

recounts prior testimony by the Oregon Department of Transportation and gives history of Subcommittee on Transportation's and Full Committee's work on the bill.

158 MOTION: REP. GRISHAM moves to TABLE HB 2056.

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

CHAIR TIERNAN: Declares MOTION FAILS.

170 REP. HAYDEN: Requests explanation of Rep. Grisham's motion to table the bill.

REP. GRISHAM: Explains this is the fifth time this bill has been up before the Committee. Confirms his continuous "no" vote, because he has read the bill, had numerous discussions about the bill and received two valued opinions about the bill. The bill is about moving service dollars into administrative; taking small service providers out of the loop and enabling them to contract with the Metropolitan Service District and large service providers; and about building bureaucracy instead of service. Opines the intent is wrong and still intends to vote "no" -- it is not a good idea.

183 CHAIR TIERNAN: Explains rationale for re-visiting the bill.

REP. ROBERTS: What money is used now for the administrative cost? Is it just a question of expanding the administrative cost to seek federal money?

CHAIR TIERNAN: Defers response pending testimony from ODOT.

202 REP. HAYDEN: Recounts history in the Subcommittee on Transportation and the action that resulted. Can the Committee Counsel provide the history in the Full Committee?

COUNSEL TWEEDT: Reviews Subcommittee and Staff Measure Summary history. Says that Rep. Grisham agreed to change his vote from "no" to "yes" for the purpose of moving the bill to Full Committee. The only action taken in Full Committee was for the Committee to re-refer the bill to the Subcommittee on Transportation which passed.

214 REP. WYLIE: Comments about lack of understanding that sometimes administrative costs exist. This bill does "an awful lot of good things and

I don't believe in attacking administrative costs just to be attacking administrative costs. . . . One of the problems with a lot of sources of funds, federal and otherwise, is lack of attention to administrative costs."

235 REP. GRISHAM: Refers to the statute, ORS 391.800, and the complex system of accounts that roll over. There are specific numbers that can be spent for administration (e.g., \$2,000). If the money in that fund then accumulates beyond those specified costs, then they roll over into other funds and into other uses. They are all directed to ensuring that the services are actually provided rather than this huge bureaucracy swelling up and absorbing all that money and then some six paragraphs of specific instruction as to doing that. This would do away with that.

248 REP. HAYDEN: Is the argument in favor that more money will be there for the entire program, because it leverages federal funds at 4-1 or 5-1?

REP. STROBECK: 80-20.

REP. HAYDEN: Is the argument in opposition that it takes money out of the fund for administrative purposes?

REP. GRISHAM: That's part of it.

252 JOANIE REED, Manager, Public Transit Section, Oregon Department of Transportation (ODOT): Testifies this bill will allow ODOT to use the administrative funds that are in the program to leverage additional federal

dollars for elderly and disabled transportation.

> Intent is not to increase ODOT's administrative burden on the program, but to use the monies that are currently limited and restricted only to administer these funds for leveraging additional federal moneys for the local systems. It would also not funnel funding to the larger urban areas only. It would allow ODOT to do regional programs which have been requested from some of the more rural systems thereby allowing them to combine their administration across several counties or regional areas and provide services more effectively.

> Explains the bill is an attempt to reduce layers of administration through this program and to leverage additional federal funding into the overall program.

281 REP. WYLIE: Did I understand you to say that your taking a piece of the existing administrative pot of money for this program and using that money to provide a required match for additional federal money which is then used for direct programs?

MS. REED: Yes.

REP. MARKHAM: What is the amount of money involved? How much does ODOT expect to leverage from the Federal Government?

MS. REED: ODOT doesn't at this point have a specific federal program to target this amendment towards. ODOT has in the past been offered demonstration projects from the Federal Government to test different methods of providing elderly and disabled transportation -- anywhere from \$100,000 to smaller research grants. ODOT has also been offered some planning and research grants that would help the locals in developing their own systems. Those would probably range between \$50,000-100,000. The match for those funds in the federal programs are generally at an 80-20 (i.e., for \$80 of federal money, ODOT would get \$20 of local match required). The match that would come out of the Special Transportation Fund would only be for the administrative portion to get those dollars to the locals. The locals would then use their local funds to leverage the federal dollars at the local level.

318 REP. ROBERTS: ODOT wants to take some state money to chase federal money. How do you identify the programs or grants to ensure a chance to get the money?

MS. REED: Money ODOT would dedicate as match to the program would not be spent until there was a grant from the Federal Government. When the Federal Government provides funding for a program, ODOT is required to provide a contribution to that program.

REP. ROBERTS: ODOT is asking to use the administrative funds for matching funds?

MS. REED: Yes.

339 REP. ROSS: What will happen if this bill doesn't pass?

MS. REED: It will maintain the current practices of how ODOT grants funds to the locals and the locals are then required to administer them locally.

For the projects of regional significance it would mean that ODOT would have to find a local government willing to sponsor that project on behalf of a region -- that has been the difficulty in the past. It means that one

local government then becomes liable for a regional project. Insofar as ODOT's ability to leverage federal funding into the program, ODOT would not

be seeking or applying for those funds. It would maintain the Special Transportation Fund as only a state funded program.

REP. ROSS: Fails to understand Rep. Grisham's opposition. Opines this is another example of "where we are acting as if federal money is 'free money'. We are not really identifying which grant this is going to go after or exactly what it is going to be used for, but we are saying we are going to 'gerrymander' our State money around so that we can get more federal money just because it's there and that, by definition, is a good thing. We are never going to get the federal budget under control if we keep acting this way." Intends to vote "no."

REP. GRISHAM: The bill will allow that the monies can be directed to the provider of transportation. Specific state statutes now existing have been

very careful to prevent this from happening which is why they are now requesting that the law be changed to allow them to do what previous administrations have specifically gone through a lot of work to prohibit them from doing. Refers to the definition of "provider of transportation" on Page 3 of the bill, Lines 38-39. It allows money that is supposed to be spent for actually providing the service that needs to be provided and transfers those funds into Metropolitan Service District and to large organizations that can then spend those funds on supportive service, including but not limited to planning, coordination and risk management of the organization. In other words, "do you want to spend the money on actually transporting somebody or . . . actually planning to do better things in the future?" Opines that is wrong and intends to vote "no."

REP. STARR: Arrives at 2:25 pm.

396 MOTION: REP. WYLIE moves ADOPTION of HB 2056-1 amendments.

CHAIR TIERNAN: Hearing no objection from REPS. HAYDEN, JOHNSTON, LEHMAN, MARKHAM, ROBERTS, ROSS, STARR, STROBECK and WYLIE. REP. GRISHAM objects. REP. CLARNO is EXCUSED.

MOTION: REP. WYLIE moves HB 2056, as amended, to the Floor with a DO PASS recommendation.

REP. ROBERTS: Respects Rep. Ross' statement. Intended to vote "no"; however, in light of the opportunity for matching funds at a 4-1 ratio and the fact that Federal Government will spend it anyway, if not in this state then in another state, he wants to get more of the State's money back from the Federal Government.

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

CHAIR TIERNAN: Declares MOTION FAILS.

REP. CLARNO: Arrives at 2:31 pm.

TAPE 129, A

007 CHAIR TIERNAN: Closes work session on HB 2056 and opens work session on HB 3389.

HB 3389 - WORK SESSION

Witnesses: Bill Sizemore, Oregon Taxpayers United and Northwest Athletic Club Association  
Pat West, Oregon State Firefighters Council  
Cameron Birnie, Department of Administrative Services

010 GREG MOORE, Committee Counsel: Summarizes the bill and explains the proposed, hand-engrossed conceptual amendments to HB \_3389-9 amendments. Proposed, hand-engrossed conceptual amendments to HB \_3389-9 amendments are hereby made a part of these Minutes (EXHIBIT A).

039 REP. ROBERTS: Requests a definition of "subdivision of this state".

COUNSEL MOORE: Reads from Section 1(2) of the proposed, hand-engrossed conceptual amendments to HB 3389-9.

045 REP. LEHMAN: Would an example be Parks and Recreation District wanting to build a swimming pool and inability to do that if an health club says "we can build it?"

053 BILL SIZEMORE, Oregon Taxpayers United and Northwest Athletic Club Association: Testifies that somewhere between unadulterated laissez faire economics and socialisMthere is some limit placed on what government should/should not do. How is it right to tax private sector business and use that money to compete with the very business that were taxed? Continues to explain position on the bill.

REP. LEHMAN: Opines the bill doesn't say what Mr. Sizemore has pointed out. Recounts Mr. Sizemore's testimony that "if local government historically has provided swimming pools as an example . . . so Salem Park and Rec District has never had a swimming pool, but they've been saving for five years to build one and they are now going to build one. Can they build it if . . . private entity comes in and says 'no, we want to build a swimming pool, you will take away our customers'?"

MR. SIZEMORE: If it is an outdoor swimming pool, under this bill, the government is the principal provider of park services. Are you asking that if the specific town has never had a swimming pool before?

REP. LEHMAN: Reads the bill presented to say that if that particular entity has historically provided that service they can continue to do it. However, under Mr. Sizemore's interpretation to say that, if government ever has historically provided that service, then they can continue to do it.

MR. SIZEMORE: Qualifies statement as that they historically have been the principal provider of that service.

REP. LEHMAN: This does not require that the private entity is doing it cheaper or at the same cost? In other words, a public entity could be prevented from doing an \$1.00 lunch program if a private entity said "we want to do that, but it is going to be a \$1.50 lunch".

MR. SIZEMORE: No. Schools, colleges and universities may continue the same or similar services, exclusively providing them to students and school employees.

REP. LEHMAN: Provides the example of an ambulance service. By this bill, even though the public entity can do it cheaper, they would be prevented from doing it by this bill.

MR. SIZEMORE: Says Rep. Lehman is assuming that the public sector is going to offer the same service cheaper. That is not proven.

124 MR. LEHMAN: Does this bill prevent that from happening?

MR. SIZEMORE: Doesn't believe so. If the private sector is offering the service, then there can be competition.

REP. LEHMAN: Where does it say in the bill that that's the case -- that it's competitive?

MR. SIZEMORE: It doesn't.

135 REP. JOHNSTON: Understands Mr. Sizemore to say that government has grown to its penultimate position in its service if its citizenry?

138 MR. SIZEMORE: This bill does not say that.

REP. JOHNSTON: Uses a discovery zone example. If the City of Albany, not currently served by any of those private providers in a discovery zone, decided to provide that for its citizenry at no cost, would this bill allow that?

MR. SIZEMORE: That is a perfect example of the point of this bill which says that the private sector is providing or reasonably could provide that service. If there is a demand for that service, the private sector will fill it; however, government steps in and starts it. Then, five or less percent of the taxpayers actually use the service, but 100 percent of them are forced to finance it.

REP. JOHNSTON: Opines the question requires only a "yes or no" to it. Could the City of Albany do that if they decided to?

MR. SIZEMORE: No.

166 PAT WEST, Oregon State Firefighters Council: Testifies in opposition to HB 3389. The bill, as written, would ban public ambulance services. Explains the bid process that occurs by law every five years.

180 MR. SIZEMORE: This is not an ambulance bill nor incorporates the amendments submitted by Steve Kafoury. The bill exempts fire fighting functions. Yes, if the fire fighters want to expand into competing with the private sector offering a service they do, then they are prohibited.

MR. WEST: Refers to language in the bill that specifies fire fighting and police functions. It does not specify ambulance or medical transport

functions which are part of the fire department, but they are certainly not fire fighting functions.

CHAIR TIERNAN: Understands the bill as including only those services that "you are not in now, but those services you are going to get into." Is that correct?

MR. SIZEMORE: That's correct.

194 MR. WEST: Provides another example about ambulance services and the impact.

CAMERON BIRNIE, Administrator of the Transportation, Purchasing and Print Services Division, Department of Administrative Services: Testifies in opposition to HB 3389, particularly the proposed HB 3389-9 amendments:

> Amendments provide that a public agency could consider only private sector contractors to provide it with the necessary goods and services even

when the lowest external service price for the same goods and services might be less. Competition would be limited to the price disadvantage of public sector users of these needed goods and services.

> Discusses the various tiers of exceptions (e.g., Page 2, Line 16-20) and the potential litigation risk.

> Urges individual public bodies continue to determine on a case by case basis when internal service offerings can be pitted against what it provided on the outside rather than a "sweeping bill" such as this.

241 REP. ROBERTS: Voices concern about when citizens vote on a bonding measure for a community center, etc. How would the bill affect their voting to say "we want to build some swimming pools or basketball courts"?

MR. WEST: Reads the bill to say that if the public entity had not been providing that with the exception if it's an outside pool then they wouldn't be able to provide it.

REP. ROBERTS: That means the State Government would have superseded its choice?

MR. WEST: Correct.

REP. STROBECK: Explains history of the bill in the Subcommittee on Regulatory Reform. Opines the bill was too broad, particularly the language about "any private entity that's providing a similar service, doesn't even say identical but anything similar, or reasonably could provide." So, that basically opens it up to anybody that could ever want to get into any kind of a business. This bill is so broad and all inclusive; it doesn't anticipate the degrees of service; it is a litigators

delight; and it doesn't anticipate anything that might be happening in terms of innovation or new technology. Does not intend to support the bill.

283 REP. HAYDEN: Cites a situation six or seven years ago involving a private ambulance service in the City of Eugene. Does the city or county have the police power to eliminate private competition?

MR. WEST: Explains that in Eugene and Salem the private ambulance providers bid on the process. In Salem on December 31 at "high noon" the private provider said they were pulling out at midnight which resulted in the Salem Fire Department taking over the ambulance service on January 1, ill-prepared. It took 5-7 years to actually build to the current level of service. Eugene's was a similar set of circumstances.



REP. LEHMAN: Refers to the new basketball facility in Salem. Can a school district in town that provides access to their gym and charges \$1 to use the gym allow people to use their facility and pay a fee even though it would cost \$20 to go play at another facility?

MR. SIZEMORE: Under definition of "expanding services" they would be allowed to do it.

327 MOTION: CHAIR TIERNAN moves ADOPTION of the hand-engrossed conceptual amendments to HB 3389-9 amendments.

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

CHAIR TIERNAN: Declares MOTION FAILS.

CHAIR TIERNAN: Adjourns the meeting at 2:55 pm.

Submitted by, Reviewed by, Reviewed by,

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

EXHIBIT SUMMARY:

A - Proposed, Hand-engrossed Conceptual Amendments to HB 3389-9 Amendments  
-- Staff -- 2 Pages