

HOUSE JUDICIARY
SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL ADMINISTRATION

Hearing Room 357
8:30 am Tapes - 46

MEMBERS PRESENT:
Rep. Del Parks, Chair
Rep. Bryan Johnston, Vice-Chair
Rep. Kate Brown
Rep. Chuck Carpenter
Rep. Lisa Naito
Rep. Eileen Qutub

MEMBER EXCUSED:
Rep. Bob Tiernan

STAFF PRESENT:
Milt Jones, Committee Counsel
Sarah May, Committee Assistant

MEASURES HEARD:
HB 2031 - Work Session
HB 2161 - Work Session
HB 3034 - Public Hearing
HB 3098 - Public Hearing and Work Session
HB 3125 - Public Hearing
SB 851 - Public Hearing and 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 , SIDE A

006 REP. JOHNSTON: Calls the meeting to order at 8:38 am.

PUBLIC HEARING ON HB 3125

(HB 3125 prohibits employer from discriminating against employee engaging or participating in political activities during employee's own time while off employer's premises.)

Witnesses: Rep. Floyd Prozanski, District 40
Stephen Morrison, Self
David Fidanque, ACLU
Ellen Lowe, Ecumenical Ministries of Oregon

018 REP. FLOYD PROZANSKI, DISTRICT 40: Testifies and submits written testimony in support of HB 3125. (EXHIBIT A)

045 STEPHEN MORRISON, SELF: Testifies and submits written testimony in support of HB 3125. (EXHIBIT B)

088 DAVID FIDANQUE, ACLU: Testifies and submits written testimony in support of HB 3125. (EXHIBIT C)

154 REP. NAITO: Asks about language on page 1 in subsection 2 of the bill and gives example of problem. Would that example violate this?

165 FIDANQUE: I don't believe that would be effected as long as the employer does not actually take any action against an employee. Discusses Oregon law that would prohibit discriminatory conduct. The original language of the bill was a little bit broader. To eliminate the phrase "or tending to control or effect the political actions of an employee", would permit employers to be involved in the political process and be open about it with their employees, as long as they do not exert undue influence on the employees.

184 REP. JOHNSTON: Asks about section 4a which is the waiver provision.

186 FIDANQUE: This is a section that was added for Sen. Bryant. Discusses and explains language on waiver provision.

205 REP. JOHNSTON: Do you think this bill requires a definition of "politics"?

207 FIDANQUE: We patterned this after the California statute which did not have a definition of politics. We want to extend the protections that public employees have under the constitution. There are some cases that we hope the courts would look to in determining the scope of political activity.

229 ELLEN LOWE, ECUMENICAL MINISTRIES OF OREGON: Testifies and submits written testimony in support of HB 3125. (EXHIBIT D)

284 REP. JOHNSTON: Gives hypothetical situation of drug store chain. Wouldn't this bill prevent the CEO of an organization, which is losing money because of lack of customers, to tell the person involved to stop their political activity?

294 LOWE: This bill would allow that CEO to make their policies clear to the employee. Maybe that would illuminate to the public that there were some differences. In the current climate there is more silence among the people.

310 FIDANQUE: Current law already would prohibit the CEO of that drug store chain from taking action against the person, explains. The reason the statute might get triggered is because that it relates to election campaigns, gives example. If the person has been acting on their own time, if this legislation was passed, it would strengthen the ability of employers to make that case.

350 LOWE: Page 2, lines 5-9 is the boiler plate language that we asked to be included.

PUBLIC HEARING ON HB 3034

(HB 3034 allows counties to develop and sell certain computer software.)

Witnesses: Rep. Tony Cocoran, District 44
Roy Burns, Lane County
Jim Gangle, Lane County

374 REP. TONY COCORAN, DISTRICT 44: Testifies and submits proposed amendment in support of HB 3034. (EXHIBIT E)

434 ROY BURNS, LANE COUNTY: Testifies in support of HB 3034.

TAPE 46, SIDE A

034 JIM GANGLE, LANE COUNTY: Testifies in support of HB 3034.

052 REP. COCORAN: Discusses proposed amendment to HB 3034, EXHIBIT E.

059 REP. CARPENTER: To what extent do you feel that by allowing the county to develop and sell the software, is government competing against the private sector?

063 REP. COCORAN: The data that they develop isn't something that other people would develop for the private sector. It isn't a competitive market situation, explains.

072 BURNS: We have recognized that problem. In the bill we have included requirements for that situation, cites pg. 2, lines 3-5. The intent isn't to compete with the private sector but to aid the private sector in achieving their business needs.

084 REP. CARPENTER: How will you determine the cost that a person has to pay for this information?

090 GANGLE: The first thing is to determine what our costs are in accumulating this product, explains. As with the public records law, we already accumulate those records. Explains costs of processing information.

103 REP. QUTUB: It has been my experience that the private sector is very clever as to what the information is. I am wondering about the county putting time into creating something for the private sector that they can do for themselves. What may happen is that public information, for private entities, will be charged because it will be in the form of software that costs money.

125 REP. COCORAN: There is a current use of software that can be requested that would not be at the cost that the county paid to create that software.

They aren't dealing just with request for data, explains. This bill allows the county to collect the real cost for those types of systems.

134 REP. QUTUB: Under law, they are required now to give something in a form, of not just data, but information to be able to used? I'd like to know what that law is.

142 BURNS: We do not intend to create software and impose the cost on the private sector, that information will still be available. This bill would be for when we designed a specific application for a specific need for the private sector. We would then want the ability to be able to define the costs and get paid for that.

157 GANGLE: Right now, we have an enormous amount of sales information, explains. All I can charge now is the money for paper, etc. We want to be able to charge for the market price for the value of the information.

169 REP. QUTUB: I don't think it is up to the county to do the analysis, because the private sector can get the information. It has been a business for some people to get, manipulate, and sell information that people in the

public want and use. I'm not sure that it is up to the county to do the analyzing.

180 REP. CARPENTER: One problem I have with this is that as we are trying to down size government, and this is a revenue enhancement. I am concerned about charging a market price for the information because people pay taxes to be able to get that information.

199 REP. QUTUB: Gives example of GIS and that it is a way for the government to be able to tell what is going on. I feel that the private sector should be able to come in and get that information and then create that information if they need and want it.

232 REP. JOHNSTON: If the information you have, I could pay someone to get a copy of information and then manipulate it. Under this bill, I could come to you and ask you to manipulate the information for me and how much would it cost? Under this bill, would you have to tell me if someone already provided that information before I paid you to manipulate it for me?

244 REP. COCORAN: Yes. I don't believe that this bill is only for revenue enhancement. I don't think it is a matter of creating these programs to enhance revenue, but simply recovering the actual cost of doing business.

CONTINUATION OF PUBLIC HEARING ON HB 3125

Witnesses Continued: Mary Botkin, American Federation of State, County, and Municipal Employees

273 REP. QUTUB: Is the chaplain who was fired from his job here to speak?

275 REP. PROZANSKI: He is not here. The reason I support this legislation is that I believe we need to have a citizen legislature. We need to make sure that we have individuals express what they believe to be important. We are having people penalized for expressing their true beliefs. We need to do the right thing in protecting all Oregonians to exercise their constitutional right to be part of the political process.

306 REP. CARPENTER: How do you draw the line between someone who is expressing their personal political beliefs, rather than on a business level?

332 REP. PROZANSKI: There are a couple of safeguards in this bill, explains. There is a responsibility on the part of the employer and the employee to set the record straight, gives example. The employer would have the means to require that while a person is on the job they cannot participate in political activity, but off the job the employer does not have the right to regulate their activity.

378 MARY BOTKIN, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES: Testifies in support of HB 3125.

Recess at 9:35 am.

Reopens the hearing at 9:42 am.

TAPE 45, SIDE B

PUBLIC HEARING ON HB 3098

(HB 3098 expands medical data privileged under evidence code.)

Witnesses: Robert Wheeler, Oregon Medical Association
Mike Crew, Oregon Medical Association
Skip Kirkwood, Oregon Health Division
Ed Patterson, Association of Oregon Hospitals

014 ROBERT WHEELER, OREGON MEDICAL ASSOCIATION: Testifies in support of HB 3098.

052 MIKE CREW, OREGON MEDICAL ASSOCIATION: Testifies in support of HB 3098.

062 SKIP KIRKWOOD, OREGON HEALTH DIVISION: Testifies and submits written testimony in support of HB 3098. (EXHIBIT F)

075 ED PATTERSON, ASSOCIATION OF OREGON HOSPITALS: Testifies in support of HB 3098.

083 CHAIR PARKS: Explains his support and why he sponsored this bill.

WORK SESSION ON HB 3098

097 MOTION: REP. JOHNSTON: Moves ADOPT HB 3098 -1 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Tiernan is excused.

100 MOTION: REP. JOHNSTON: Moves HB 3098 AS AMENDED TO THE FULL with a DO PASS recommendation.

COMMITTEE

VOTE: 6-0 MOTION PASSES
AYE: Brown, Carpenter, Johnston, Naito, Qutub, Parks
NO: None
EXCUSED: Tiernan

WORK SESSION ON HB 2031

125 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2031 establishes Board of Trustees of the Children's Trust Fund to replace advisory committee on prevention of child abuse and neglect.

155 CHAIR PARKS: We need to move the bill with the general idea that the money needs to be redirected. This is a ways and means decision. By voting the bill out, we are approving a change of direction that the money needs to go to other activities.

185 MOTION: REP. BROWN: Moves HB 2031 TO THE FULL COMMITTEE with a SUBSEQUENT REFERRAL TO THE WAYS AND MEANS with a DO PASS recommendation.

VOTE: 5-1 MOTION PASSES
AYE: Brown, Johnston, Naito, Qutub, Parks
NO: Carpenter
EXCUSED: Tiernan

WORK SESSION ON HB 2161

(HB 2161 increase unitary assessment. [EXHIBIT G])

199 MOTION: REP. BROWN: Moves to ADOPT HB 2161 -2 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED.

208 MOTION: REP. BROWN: Moves HB 2161 AS AMENDED TO THE FULL COMMITTEE with a SUBSEQUENT REFERRAL TO WAYS AND MEANS with a DO PASS recommendation.

VOTE: 5-1 MOTION PASSES
AYE: Brown, Carpenter, Johnston, Naito, Qutub,
NO: Parks
EXCUSED: Tiernan

PUBLIC HEARING ON SB 851

(SB 851 makes technical changes in Oregon Statutes.)

Witness: Chuck Wilson, Legislative Counsel

228 CHUCK WILSON, LEGISLATIVE COUNSEL: Testifies in support of SB 851.

WORK SESSION ON SB 851

255 MOTION: REP. JOHNSTON: Moves SB 851 TO THE FULL COMMITTEE with a DO PASS recommendation.

259 CHAIR PARKS: The members will have the opportunity to read all of the material on this bill in the next few days.

264 REP. NAITO: I feel comfortable voting on this today.

270 VOTE: 6-0 MOTION PASSES
AYE: Brown, Carpenter, Johnston, Naito, Qutub, Parks
NO: None
EXCUSED: Tiernan

276 CHAIR PARKS: Adjourns the hearing at 10:03 am.

Submitted by, Reviewed by,

Sarah May Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Testimony on HB 3125 - Rep. Floyd Prozanski - 1 page
- B. Testimony on HB 3125 - Stephen Morrison - 2 pages
- C. Testimony on HB 3125 - David Fidanque - 3 pages
- D. Testimony on HB 3125 - Ellen Lowe - 1 page
- E. Proposed Amendment to HB 3034 - Rep. Tony Cocoran - 1 page
- F. Testimony on HB 3098 - Skip Kirkwood - 1 page
- G. Proposed Amendments to HB 2161 - Staff - 12 pages