

SENATE COMMITTEE ON
RULES AND ELECTIONS

Hearing Room 343
Tapes - 102

MEMBERS PRESENT:

Sen. Randy Miller, Chair
Sen. Paul Phillips, Vice-Chair
Sen. Brady Adams
Sen. Shirley Gold
Sen. Dick Springer

STAFF PRESENT:

Kristina McNitt, Committee Administrator
Gretchen Haber, Committee Assistant

MEASURES HEARD:

Executive Reappointment: Joan Smith, PUC
Executive Appointment: Raleigh Lewis, Director, Affirmative Action
SB 1061 - Public Hearing
HB 3448 - Public Hearing and Work Session
HB 3466 - Public Hearing and Work Session
HB 3367 - Work Session
HB 3217 - 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 , A

003 CHAIR MILLER: calls meeting to order at 11:10 AM.

Executive Reappointment - Joan Smith, Public Utility Commission

017 JOAN SMITH, CHAIR, PUBLIC UTILITY COMMISSION: introduces herself.

022 CHAIR: asks Ms. Smith what her position is on SB 1149.

024 SMITH: replies it is her intent that the transition works as well as it can possibly work for the employees and the services they give to the motor carrier industry.

037 CHAIR: asks if Ms. Smith would anticipate anything adverse that would affect SB 1149.

037 SMITH: explains that being a part of the Executive Branch, when the Governor says his concerns are answered, the agency will go forward to make it work as well as possible. Knows of no new information. Primary concern is that the existing expertise of the employees be used by the Department of Transportation.

055 SEN. PHILLIPS: asks Ms. Smith if she might attempt to change the Governor's mind on the bill.

058 SMITH: replies "no".

065 CHAIR: closes public hearing and opens a work session on the reappointment of Ms. Smith to the Public Utility Commission.

067 MOTION: SEN. GOLD moves that the committee recommend to the Senate the confirmation of the reappointment of Joan Smith to the Public Utility Commission.

072 VOTE: In a roll call vote, SENS. GOLD, PHILLIPS AND CHAIR MILLER VOTE AYE. SENS. ADAMS AND SPRINGER ARE EXCUSED.

CHAIR: declares the motion PASSED.

076 CHAIR: closes work session on reappointment of Ms. Smith and opens a public hearing on the appointment of Rawleigh Lewis as Director of Affirmative Action Agency

Executive Appointment of Rawleigh Lewis, Affirmative Action Agency

080 RAWLEIGH LEWIS: agrees with Chair Miller their earlier conversation was

good and believes they have a clear view of what affirmative action is and is not. Interest in working with the Governor is to ensure that all Oregonians are adequately participating in all levels of state government irrespective of their color, gender or whether or not they have a disability.

098 CHAIR: closes public hearing and opens the work session on the Executive Appointment of Mr. Rawleigh Lewis as Director of the Affirmative Action Agency.

098 MOTION: CHAIR MILLER moves that the committee recommend to the the confirmation of the Governor's appointment of Mr. Rawleigh Lewis as Director of the Affirmative Action Agency.

Senate

100 VOTE: In a roll call vote SENS. GOLD, PHILLIPS AND CHAIR MILLER VOTE AYE. SENS. ADAMS AND SPRINGER ARE EXCUSED.

101 CHAIR: declares the motion PASSED.

112 CHAIR: recesses the committee meeting until 11:45 a.m.

145 CHAIR: reconvenes meeting at 1:25 p.m. and announces that HB 3466, HB 3367 and HB 3217 will be considered by the committee at 2:44 p.m.

150 CHAIR: opens public hearing on SB 1061.

Witnesses:
Jeff Johnson, for Sen. Rod Johnson
David Fidanque, American Civil Liberties Union of Oregon

172 JEFF JOHNSON, LEGISLATIVE ASSISTANT TO SENATOR ROD JOHNSON, testifies in favor of SB 1061.

-- Bill creates a Constitutional Defense Council to provide funding should the state decide to challenge the federal government
--Reviews membership and duties of the council
--Would provide opportunity for the states to demonstrate ability to run programs more efficiently than the federal government
--May not be funds available for programs needed in Section 2 of the measure; therefore suggests the section be deleted and allow for acceptance of donated funds

210 DAVID FIDANQUE, EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION OF OREGON: testifies on SB 1061. Does not have a position in favor of or against the measure.

--Assumes that any citizen could be appointed to the council including those appointed by the President of the Senate and Speaker of the House of Representatives
--Finds council powers to be broad in scope
--Notes power of council to hire legal counsel, unlike state agencies who utilize state attorneys
--Possible threat to the sovereignty of Oregonians

273 CHAIR: closes public hearing on SB 1061.

276 CHAIR: recesses committee until 2:44 p.m.

CHAIR: reconvenes the meeting.

279 CHAIR: opens public hearing on HB 3448 A-Eng.

Witnesses:
Rep. Leslie Lewis

283 REP. LESLIE LEWIS: testifies in favor of HB 3448 A-Eng.
--Presents HB 3448-A4 amendments dated 6-1-95 (EXHIBIT A)
--The bill will still give direction to DEQ to explore programs to replace the gasoline powered lawn and garden equipment with zero emission equipment

340 SEN. PHILLIPS: asked about the parking ratio program.

347 REP. LEWIS: explained that it is an important part of the plan, and has improved from original proposals to make the program mandatory.

352 SEN. PHILLIPS: asks about emission reduction credits.

355 REP. LEWIS: responds. Feels the legislature's direction is important.

353 CHAIR PHILLIPS: closes public hearing on HB 3448 A-Eng.

370 CHAIR PHILLIPS: opens public hearing on HB 3466 A-Eng.

Witnesses:
Rosanna Creighton, Citizens for a Drug Free Oregon and Drug Watch Oregon
David Fidanque, American Civil Liberties Union of Oregon
Rep. Jerry Grisham
Paul Snider, Association of Oregon Counties
Jim Arneson, Oregon Criminal Defense Lawyers Association
Kevin Campbell, Oregon Association Of Chiefs Of Police
Bob Smith, Oregon State Police

375 ROSANNA CREIGHTON, DIRECTOR, CITIZENS FOR A DRUG FREE OREGON AND REPRESENTING DRUG WATCH OREGON: testifies in favor of HB 3466 A-Eng.
--Presents written testimony (EXHIBIT B).
--Adults need to set a strong example for children
--Many children in state funded rehabilitation programs are addicted to marijuana

Tape 102, A

020 DAVID FIDANQUE, EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION OF OREGON: testifies against HB 3466 A-Eng.
--Explains strains on judicial system expected by measure
--Would have a significant fiscal impact
--Misdemeanor convictions received in teenage years may prohibit later employment

073 REPRESENTATIVE JERRY GRISHAM: testifies in favor of HB 3466 A-Eng
--Presents packet of letters received (EXHIBIT C).

100 --Will provide a net revenue gain for the state in the long run
--Notes drug use in Portland schools

118 --Notes support in Opinion-Editorial piece in the Statesman Journal (EXHIBIT C)
--Encourages zero tolerance for drugs

124 SEN. PHILLIPS: notes letter from the State Police submitted by Rep. Grisham in favor of the measure.

138 PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES: testifies on HB 3466 A-Eng. Does not take a position on the measure. Is concerned with system impacts.

140 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: testifies on HB 3466 A-Eng.
--Measure creates a Class A misdemeanor without possibility of jail, yet imposes a very substantial fine
--Many issues would need to be resolved, including: whether a person would be entitled to a jury trial, court appointed counsel, whether there could be an arrest for failure to appear
--Feels it would be a mistake, given the scarce resources for indigent defense, to pursue the measure at this time
--Suggests if the committee wishes to pursue the legislation, that recognized description of offenses be used
--If it is going to be a crime, then it should be called a crime so the collateral consequences are
--If it is not going to be called a crime, then treat it as it has been--either an infraction or a violation

185 JAMISON ORION, Salem: testifies against HB 3466.
--Explains personal experience with marijuana
--Has not witnessed any wrongdoing associated with use of marijuana
--Measure would carry significant fiscal impact

250 ORION: cites number of users in the United States. Notes opportunity to use hemp in place of paper, as paper becomes increasingly expensive.

301 KEVIN CAMPBELL, OREGON ASSOCIATION OF CHIEFS OF POLICE: testifies in favor of HB 3466 A-Eng.
--Marijuana is a gateway to further problems
--Relates personal experience with a brother, who began with marijuana use and ended as a cocaine dealer

345 BOB SMITH, OREGON STATE POLICE: testifies in favor of HB 3466 A-Eng.
--Measure is an excellent tool to communicate Oregon's "zero tolerance" for drugs
--Would allow expunging of records, avoiding future employment problems
--Marijuana is a gateway drug

369 CHAIR PHILLIPS: closes public hearing and opens work session on HB 3466 A-Eng..

371 MOTION: CHAIR MILLER moves that HB 3466 A-Eng. be referred to the Committee on Ways and Means with a DO PASS RECOMMENDATION.

338 SEN. SPRINGER: notes that the attempt to refer the measure to the Ways and Means Committee failed in the House of Representatives.

397 CHAIR: responds that the Senate has upheld standards to send such measures to the Ways and Means Committee.

VOTE: CHAIR PHILLIPS, hearing no objection, declares the motion PASSED. All members are present.

Tape 101, B

008 MOTION: CHAIR MILLER moves that the rules be suspended for the purpose of reconsidering the vote by which HB 3367 and HB 3217 were passed by the committee.

013 VOTE: CHAIR MILLER, hearing no objection, declares the motion PASSED. All members are present.

014 CHAIR: opens work session on HB 3367 B-Eng.

021 CHAIR: closes work session on HB 3367 B-Eng. and opens the work session

on HB 3217 A-Eng. and as amended by the committee on June 5 with the -A17, -A18 and -A20 amendments

025 KRISTINA MCNITT, ADMINISTRATOR: explains that the committee has received the HB 3217-A22 amendments are the -A18 and -A20 combined (EXHIBIT

D), and the HB 3217-A23 amendments (EXHIBIT E).

030 CHAIR MILLER: explains that the -A22 amendments will delete the bill and put in (language) with respect to special events where the licensee can

sell the remaining product.

040 MOTION: CHAIR MILLER moves that the HB 3217-A22 amendments BE ADOPTED.

VOTE: CHAIR MILLER, noting the objections of Sens. Gold and Springer, declares the motion PASSED. All members are present.

047 DAVE HEYNDRICKX, LEGISLATIVE COUNSEL: explains that the HB 3217-A23 amendments are directed to a house bill that is on its way to the Governor's desk. It is the bill that created penalties for a person who allowed minors to consume while on real property premises of the owner while the owner is present.

--In the process of amending the statute, the provision that indicated that

under (1) that a person who sold or made available alcoholic liquor to a person physically intoxicated (a Class A misdemeanor) was deleted. The argument can be made that we decriminalize that conduct. There is a savings clause in Chapter 471 that says "any prohibition otherwise provided

for" is a Class A misdemeanor. The new provision is further amended to make it clear that selling to a visibly intoxicated person remains a Class A misdemeanor. The amendment on page 2, in line 1 "(1) or" would accomplish that result.

074 MOTION: CHAIR MILLER moves that the HB 3217-A23 amendments BE ADOPTED.

075 VOTE: CHAIR MILLER, hearing no objection, declares the motion PASSED. All members are present.

076 MOTION: CHAIR MILLER moves that HB 3217 A-Eng., as amended, be sent the Floor with a DO PASS RECOMMENDATION. to

078 VOTE: In a roll call vote, SENS. ADAMS, GOLD, AND CHAIR MILLER VOTE AYE. SENS. ADAMS AND SPRINGER VOTE NO.

085 CHAIR MILLER: declares the motion PASSED.

089 CHAIR: opens work session on HB 3367 B-Eng.

085 CHUCK WILSON, LEGISLATIVE COUNSEL: offers his assistance to the committee.

095 SEN. GOLD: recalls that someone suggested an amendment was needed to make sure that employees subject to collective bargaining were not included

in this.

--Expresses desire to hear from Legislative Counsel that the bill would be amending ORS 240.551

108 WILSON: answers that the bill, in its B engrossed form, would amend the statute referenced.

108 SEN. GOLD: notes there is another section of that same chapter which speaks to the rights of employees who come under collective bargaining and adds that the bill would not change that section.

112 WILSON: Confirms Sen. Gold's understanding.

114 SEN. GOLD: asks if the attempt to clarify the language might confuse things.

116 MR. WILSON: responds that such an amendment might, and suggest the conceptual amendment discussed at the last meeting would not be advisable, necessary or desirable.

128 SEN. GOLD: questions how many employees would be covered by this statute.

129 WILSON: responds he cannot speak to the numbers, but ORS 240.210 says that classified service is defined by exclusion. The people in classified service are those who are not mentioned in 240.200, 240.205, or 240.212.

174 MOTION: SEN. GOLD moves to withdraw the conceptual amendment Section 3) approved in yesterday's meeting. (in

176 VOTE: CHAIR MILLER, hearing no objection, declares the motion PASSED. All members are present.

180 SEN. SPRINGER: concerned that no employees have testified. Does not know how it will be received by employees. Suggests making the program voluntary.

185 CHAIR: responds that the Public Employees Union testified yesterday on the measure.

190 SEN. PHILLIPS: outlines possible options: direct Personnel to draft rules (send a letter along saying it is the intent of this committee that these will be voluntary for employees to opt in or out), or we could write it in the bill, or put a sunset on the bill, or table the bill..

225 CHAIR MILLER: suggests that the sponsor of the bill be requested to react to the options outlined by Sen. Phillips.

244 CHAIR: closes work session on HB 3367 B-Eng.

374 CHAIR: opens work session on HB 3448 A-Eng.

276 MOTION: SEN. ADAMS moves that the HB 3448-A4 amendment BE ADOPTED.

286 VOTE: CHAIR MILLER, noting objections by Sens. Gold and Springer, declares the motion PASSED. All members are present.

294 MOTION: SEN. ADAMS moves that HB 3448-A Eng, as amended, be sent to the Floor with a DO PASS RECOMMENDATION.

296 VOTE: In a roll call vote, SENS. ADAMS, PHILLIPS AND CHAIR MILLER VOTE AYE. SENS. GOLD AND SPRINGER VOTE NO.

304 CHAIR MILLER: declares the motion PASSED.

309 SEN. SPRINGER: serves notice of a possible minority report. He is joined by Sen. Gold.

315 CHAIR: closes work session on HB 3448 A-Eng.

318 CHAIR: reopens the work session on HB 3367 B-Eng.

325 CHAIR MILLER: advises Rep. Tiernan that the committee would like to receive his reaction to a suggestion that employees be allowed to opt in or out under the provisions of HB 3367.

326 REPRESENTATIVE BOB TIERNAN: testifies that he doesn't believe allowing employees to opt out would work because there has to be one pay policy per group of employees.
--Having different policies would cause problems because some employees would have to bring in notes to justify why they were sick and others would not
--Some would have more hours and some would be getting a check
--Making it optional for entire groups working together would be acceptable; it would then work with collective bargaining groups

355 SEN. GOLD: informs Rep. Tiernan that the conceptual amendment has been removed because it was not pertinent to the section being amended.

368 SEN. GOLD: asks if the Department of Administrative Services testified on the House side and how many employees would be involved.

370 REP. TIERNAN: comments he would guess that since about 60-65 percent of the employees are represented that 35 percent are not; 35 percent of 45,000 would mean around 15,000 to 20,000 employees would be affected.

--Suggest represented employees will take advantage of this; the only employees who don't like this policy are the ones who abuse their sick leave

380 SEN. GOLD: asks Rep. Tiernan if he would support a sunset for two years.

385 REP. TIERNAN: answers that two years from the implementation date would be appropriate.

397 SEN. SPRINGER: states that public employees currently have choices of benefit plans now and does not see the conceptual problem with making the program optional.

415 REP. TIERNAN: feels consistency improves administration and common sense of expectations for employees.

Tape 102, B

010 MOTION: SEN. GOLD moves to amend HB 3367 B-Eng. by placing a sunset on the legislation for two years from date of implementation.

015 VOTE: CHAIR MILLER, hearing no objection, declares the motion PASSED. All members are present.

016 SEN. SPRINGER: asks for a more specific date the measure would go into effect. Suggests January 1, 1996 as the date of implementation.

022 REP. TIERNAN: agrees with the suggestion. Says the program could operate in 1996 and through 1997.

038 MOTION: SEN. SPRINGER moves that HB 3367 B-Eng. be amended to have an effective date of January 1, 1996.

041 VOTE: CHAIR MILLER, hearing no objection, declares the motion PASSED. All members are present.

042 MOTION: SEN. PHILLIPS moves that HB 3367 B-Eng., as amended, be sent to the Floor with a DO PASS RECOMMENDATION.

044 VOTE: CHAIR MILLER, hearing no objection, declares the motion PASSED. All members are present.

045 CHAIR: adjourns meeting at 4:20 p.m.

Submitted by,

Annetta Mullins
Committee Assistant

EXHIBIT SUMMARY

A - HB 3448, HB 3448-A4 amendments, Rep. Lewis, 1 p
B - HB 3466, prepared testimony, Roseanna Creighton, 2 pp
C - HB 3466, letters and news clipping, Rep. Grisham, 20 pp
D - HB 3217, HB 3217-A22 amendments, staff, 3 pp
E - HB 3217, HB 3217-A23 amendments, staff, 2 pp