

SENATE COMMITTEE ON
RULES AND ELECTIONS

March 7, 1995 Hearing Room 343
4:00 p.m. Tapes 18-20

MEMBERS PRESENT:

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

MEMBER EXCUSED:

STAFF PRESENT:

Kristina McNitt, Committee Administrator
Adrienne Sexton, Committee Assistant

MEASURES HEARD: SJR10: Public Hearing
 SJR12: Public Hearing
 SB 363: Public Hearing

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TAPE 18, SIDE A

003 VICE-CHAIR Phillips convenes the meeting at 4:05 p.m.

OPENS PUBLIC HEARING ON S.1R 10. SJR12 AND SB 363

Witnesses:

Sen. Randy Miller, District 13
Bill Perry, Oregon Farm Bureau
Bob Carpenter, Drewsey, Oregon
Jack Feder
Ken Medenbach, Captain, Central Oregon Regional Militia
Jim Neely, Assistant Administrator, Adult and Family Services Division,
Department of
 Human Resources ,,
Susan Deitsche, Assistant Administrator, Senior and Disabled Services
Division
Mary Mann, Independent Contractors of Oregon

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Christine Chute, Administrator for Policy, Oregon Employment
Department
John Foote, Deputy Director, Oregon Department of Corrections
John Thomas, Independence, Oregon
Susan Hammond, Diamond, Oregon
Joel Ario, Department of Consumer and Business Services
Liz Frankel, Sierra Club, Oregon Chapter

004 SEN. RANDY MILLER: Presents rationale for the introduction of the
measures.

046 BILL PERRY, Oregon Farm Bureau: Presents testimony in support of SJR10.
(EXHIBIT

A).

-- describes specific agencies' administrative rule adoption and the
Legislative Counsel
Committee review
-- describes federal rulemaking and congressional interaction

going up -- as bill enactment's are going down each session, number of rules are

127 CHAIR MILLER: Asks Bill Perry's preference of SJR10 or SJR12.

PERRY: The Oregon Farm Bureau prefers SJR10, because agencies would have to go to next legislature to "face the music".

144 BOB CARPENTER, Drewsey, Oregon: Speaks in favor of SJR10, and reports on the Secretary of State's Task Force that reported to the 1993 legislature. -- SB 363 "is a waste of time" since future legislatures can change the statute

-- agencies are now lawmaking bodies; most laws are created by the agencies -- prefers SJR10 to SJR12

238 CARPENTER: Continues with rationale in support of SJR10 -- must hold public hearings -- must record testimony -- keeps accountability in legislature

274 CHAIR MILLER: Comments that both SJR10 and SJR12 have hearings requirements.

CARPENTER: Points out that in SJR10 the Legislature can make a determination before the rule is in effect.

303 JACK FEDER: Speaks in favor of a constitutional amendment. -- next to the initiative, the democratic acceptance of administrative rules is vital -- there should be a method whereby the people could call for the review of administrative rules, or any portion of one -- should remove the reference to "substantial effect", leaving it at simply "effect" when requiring hearings -- all existing rules should be reviewed -- all rules should be required to be reviewed periodically -- if a rule is established and is satisfactory to operate the law, should require a super-majority of both chambers to approve -- should be a way of describing the administrative character so they stay under the purview of the legislature, not moved to the judiciary

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TAPE 19, SIDE A

025 FEDER: Continues with supporting testimony.

060 KEN MEDENBACH, Captain, Central Oregon Regional Militia, (a citizens' militia): Speaks in support of SJR10. Cites example of legislative enactment that caused him to lose faith in the legislative process. -- questions how agency rules can have force if the constitution already says that only the legislature and the people can make laws

143 JIM NEELY, Assistant Administrator, Adult and Family Services Division, Department of Human Resources: Testifies in opposition to SJR10, SJR12 and SB 363 (EXHIBIT B). -- points out they do have a lot of rules and rule modifications to respond to federal issues and internal clarifications -- indicates that not many people comment or appear in regard to rulemaking

hearings

-- states SJR10 would be problematic

217 SEN. PHILLIPS: Asks for clarification in comparison to Ballot Measure 5.

NEELY: Responds it is not possible to altogether eliminate public frustration.

.231 SEN. ADAMS: Asks if Mr. Neely shares the frustration that there are too many rules and regulations.

NEELY: Responds "yes". In particular when federal regulations are adopted that he believes over-regulate the state.

246 CHAIR MILLER: Comments: could substitute any businesses name for the agency name in terms of reducing flexibility and efficiency.
-- does not understand the fear of input by the Legislature and the public in rulemaking

NEELY: Responds that his agency seeks, does not fear and sometimes receives, public input.

295 CHAIR MILLER: Comments on the Legislative Counsel process for rule review.

311 SUSAN DEITSCHKE, Assistant Administrator, Senior and Disabled Services Division:
Presents testimony in opposition to SJR10 and SJR12 (EXHIBIT C).

TAPE 18, SIDE B

011 DEITSCHKE: Continues with prepared testimony.

023 CHAIR MILLER: Asks if she resists more review of her agency's rulemaking.

DEITSCHKE: Responds she objects to more layers of review; during the development of legislation the direction of the rules is discussed.

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050 SEN. ADAMS: Asks for clarification of whether she believes the Legislature doesn't have oversight responsibilities after the law is enacted.

DEITSCHKE: Responds with example of "indirect oversight" which resulted in a statutory clarification.

SEN. ADAMS: Asks if it would be cumbersome for the public to have to wait 18 months before a statutory clarification could be made. Asks how many rules her agency has.

DEITSCHKE: Responds.

113 SEN. ADAMS: Asks for details to be provided on how many rules have been enacted or changed

since 1993.

122 CHAIR MILLER: SJR12 would suggest rules would continue to be promulgated with the

opportunity for citizens to bring objections to the Legislature. Asks for the reason for her objection to that process.
DEITSCH: Responds that it would be an increase in staff time requirements, not the process.

Believes her agency is responsive to the public.
165 MARY MANN, Independent Contractors of Oregon: Presents testimony in support of SJR10 and SJR12 (EXHIBIT D).
292 CHAIR MILLER: Comments on her support of retroactive review.

MANN: Responds.

337 CHRISTINE CHUTE, Administrator for Policy, Oregon Employment Department: Presents testimony in regard to SB 363 and SJR12 (EXHIBIT E).
394 CHAIR MILLER: SJR12 would affect those promulgated after the date of the Act.

CHUTE: Responds to his clarification.

TAPE 19, SIDE B

012 CHUTE: Comments that all agencies will be affected by the measure which seems to be intended to address concerns where wide public effect is likely -- asks for consideration of use of electronic and technical means for conducting the required hearings --points out that the Federal Department of Labor directives to the Employment Department are generally adopted as administrative rule to ensure conformity with federal requirements -- says that most of her agency's rulemaking has been in response to concerns of workers and employers -- points out use of Ed-Net to go through rule making with regard to drug and alcohol program to reach more public

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073 JOHN FOOTE, Deputy Director, Oregon Department of Corrections: Presents testimony in opposition to SB 363, SJR10 and SJR12 (EXHIBIT F). -- prefers SJR12 to the others; those affected by department's rules are generally employees and incarcerated persons -- suggests exempting the department from requirements, since their "public" is unique

122 CHAIR MILLER: Comments that perhaps "shall" could be changed to "may" to allow discretion with regard to the requested review.

145 JOHN THOMAS, Independence, Oregon: Speaks to SB 363. Cites his experience with a regulatory agency with regard to water and fish and wildlife issues on his property. -- likes the simplicity of this measure -- legislative oversight is necessary -- suggests striking Section 3

229 SUSAN HAMMOND, Diamond, Oregon: Speaks in support of these measures.

284 JOEL ARIO, Department of Consumer and Business Services: Provides
testimony on
measures (EXHIBIT G, EXHIBIT H and EXHIBIT I).
383 CHAIR MILLER: Asks about his support of SJR12.

ARIO: Points out that there is always an opportunity for the Legislature to
review a rule and enact any corrections into the statute.

410 CHAIR MILLER: Comments that if they are given reasonable direction, the
agencies would
not see a lot of challenges, if the people feel they can make corrections.

TAPE 21, SIDE A

020 ARIO: Continues.

030 LIZ FRENKEL, Sierra Club, Oregon Chapter: Comments she would like to
hear Attorney
General's input on the effect of any of these measures on the Model
Administrative
Procedures Act.

038 SEN. SPRINGER: Indicates that he has asked former Attorney General
Frohnmeier to
provide him with comments on that point.

049 SEN. GOLD: Requests input from Department of Administrative Services at
any future
meeting on these measures.

CLOSES PUBLIC HEARING ON SJR10. SJR12 AND SB 363.

053 CHAIR MILLER: Adjourns the meeting at 6:00 p.m.

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Submitted by, Reviewed by,
Gretchen Haber Kristina McNitt
Committee Assistant Committee Administrator

EXHIBIT LOG:

A - Testimony on SJR10, Bill Perry, 1 page
B - Testimony on SB 363, S.~R 10, SJR12, Jim Neely, 2 pages
C -- Testimony on SJR10 and SJR12, Susan Deitsche, 1 page
D - Testimony on SJR10 and SJR12, Mary Mann, 4 pages
E - Testimony on SB 363 and SJR12, Christine Chute, 2 pages
F - Testimony on SB 363, SJR10, SJR12, John Foote, 3 pages
G - Testimony on SB 363, SJR10, SJR12, Joel Ario, 3 pages
H - Testimony on SB 363, SJR10, SJR12, Virlena Crosley, 3
pages
I - Testimony on SB 363, SJR10, SJR12, Joel Ario, 2 pages
J - Testimony on SB 363. Eugene, Organ, 2 pages
K - Testimony on SJR10, Eugene Organ, 2 pages
L - Testimony on B.B 36~' SJR10, SJR12, Jon Mangis, 1 page
M - Testimony on SB 363, SJR10, SJR12, Robert Meinen, 2
pages

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