

HOUSE COMMITTEE ON GENERAL GOVERNMENT Subcommittee on Government

May 12, 1993 Hearing Room 357 8:30 a.m. Tapes 68 - 69

MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Jim Edmunson Rep. Patti Milne Rep. Sharon Wylie Rep. Cedric Hayden, ex-officio

VISITING MEMBER: Rep. Ken Baker

STAFF PRESENT: Janet Adkins, Committee Administrator Priscilla Boyle, Committee Assistant

MEASURES CONSIDERED: HB 3055 HJR 16 HB 2756 SB 567

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These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation :

TAPE 68, SIDE A

CHAIR PARKS: Calls the meeting to order at 8:45 a.m.

HB 3055 - WORK SESSION

007 JANET ADKINS, COMMITTEE ADMINISTRATOR: Reviews HB 3055, submits expanded agenda (EXHIBIT A)

031 REP MILNE: I do not feel that I have enough information to fully understand future ramifications.

034 ADKINS: Would you like some examples of the kinds of things they intend to do with it?

037 KEVIN HANWAY, SPECIAL DISTRICTS: Introduces Steven Rinkle.

042 STEVEN RINKLE, ATTORNEY AT LAW: A recent encounter that we had involved a rural fire protection district, which owned some undeveloped property that they intended to construct a fire station on, they needed to borrow funds for construction. They did not wish to issue general obligation bonds but rather to engage in lease/purchase financing, which they are presently authorized to do. Unfortunately for the district they were cash poor, and banks etc., were reluctant to loan money, and one way they desire to proceed is similar to what school districts can do, they desire to sell the real property that they presently own, to the bank and then turn around and lease/purchase that property back, they would never lose possession of the property it would always remain with them, the proceeds from the sale or the lease would be used to construct the fire station on the property, and then at the end of the

period they would re-acquire full title to the property after making all the rental payments and they would not only have retained possession of the property but they would also have the right to use the property for other purposes.  
061 HANWAY: The reason for going through the lease-back arrangement rather than a conventional financing is that very often the project involved is such a small expense that the expense of the general obligation bonds is going to be excessive.

071 REP MILNE: So in the example you used, they own the property but in order to obtain financing they are selling it to the bank and back the property?

074 RINKLE: That's correct, the rental payments they would make under the lease agreement include payments for the amounts that go toward construction as well as for the real property that they previously owned.

075 REP MILNE: So fire stations, police building, maybe even a city hall any of those types of things might fall under this?

076 RINKLE: The last two examples you gave would not fall under because this is for special districts.

REP BAKER: Why doesn't the district simply mortgage the property.

089 RINKLE: Simply because bond council in the state is uncomfortable in providing a legal opinion that special districts or other entity have the legal authority to mortgage the property.

REP. BAKER: Are you saying that is not clearly defined in the law?

RINKLE: That's correct, generally in most states in this country local governments do not have the authority to either put a mortgage or a deed of trust on the property.

REP BAKER: Is there a policy for the state of Oregon or is that just a general government policy?

RINKLE: It is a general governmental policy, There is concern about conveyances of real property in general, and that is why you have the restrictions contained in ORS 271.310, which this bill is designed to provide authority notwithstanding that restriction.

108 REP. BAKER: In Portland we have the metropolitan service district, which has spent twenty five million dollars or so to re-hab Sears building, how did they finance that?

111 RINKLE: I am not familiar with that transaction.

113 RINKLE: Certificate of participation and lease/purchase financing which is what this bill address', go hand in hand, a certificate of participation has a lease/purchase agreement as the underlying security.

CHAIR PARKS, MR. RINKLE, REP BAKER AND REP HAYDEN CONTINUE DISCUSSION ON DEFINITION OF CERTIFICATE OF PARTICIPATION

139 REP. HAYDEN: The problem that the legislature has recently addressed is that instead of buying typewriters or irrigation pumps we are building parking garages and large buildings with certificates of participation, and we wonder what the end of this will be.

144 CHAIR PARKS: When you have to get bonding authority from the people that support you, you have to justify what you are doing.

152 HANWAY: Granted, a general obligation offering would require a vote and I know that we didn't offer this as a way to get around this, save money so that we can stay within that

159 CHAIR PARKS: One of the ways I would suspect to address that is if you limit it to small projects, that would suggest some type of limitation, and I think that would address the issue of parking garages etc.

HJR 16 & HB 2756 - PUBLIC HEARING

EXHIBIT B - PROPOSED AMENDMENT EXHIBIT C - FISCAL ANALYSIS

178 PHIL KEISLING, SECRETARY OF STATE: Testifies in opposition to HJR 16 and submits agency fiscal statement (EXHIBIT D). Discusses public concern.

407 REP. EDMUNSON: Why aren't you supporting your original measure.

408 REP KEVIN MANNIX, DISTRICT 32: I can't get it out of committee.

409 REP EDMUNSON: I think there might be a way to get it on the floor.

410 REP MANNIX: The way I got this one set was by proposing an alternative measure which I also believe in, I am a great believer in something that is doable and proceeding with whatever is doable as long as I like what I'm doing.

417 REP EDMUNSON: So you wouldn't have any opposition if the original bill were to somehow make it to the floor?

REP MANNIX: The one that talks about service for legislator's terms?

421 REP EDMUNSON: Twelve years term limits. 422 REP MANNIX: Testifies in support of HJR 16.

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029 REP HAYDEN: I would like Rep Mannix to have the opportunity to look at this hand-out before he pursues.

REP MANNIX: If this committee wants to include legislative offices, I don't have any problem with that.

046 REP EDMUNSON: This second election that your amendments would provide for - would that be a vote by mail?

048 REP MANNIX: No, there is no provision one way or another.

049 REP EDMUNSON: Are you familiar with the fiscal impact statement on this bill?

050 REP MANNIX: No, I have not seen that.

REP EDMUNSON: Reviews fiscal impact. (see EXHIBIT D) - Can we afford your idea?

REP MANNIX: Yes, the question is what price democracy.

REP EDMUNSON: Where are we going to get the money and who is going to have it taken away?

062 REP MANNIX: That challenge is faced with every measure and you must weigh the significance, and the appropriations committee must

070 CHAIR PARKS: The Chair's intention would be that because of the fiscal any action that we take we would recommend that it go to appropriations

REP MANNIX: I think that is legitimate.

REP EDMUNSON: Could we also ask the fiscal office to evaluate the cost of an election under the current law?

076 REP EDMUNSON: What is the fiscal on a traditional walk-in poll election.

083 REP MANNIX: I am challenging the committee to deal with this on a philosophical basis, the appropriations committee can deal with

089 REP HAYDEN: I am taken with the thought that we might never attain a majority vote and it could go on and on.

091 REP MANNIX: That is a false argument and you would have to accept that only if you accept certain false premises. You achieve a majority by counting the number of people who vote for two candidates and one candidate gets more than the other, and the only time you won't have a majority vote is if both of those candidates have a tie.

103 CHAIR PARKS: The administrator points out that the amendment by its terms would just provide for the person that got the highest votes in the run-off.

107 ADKINS: I think Phil Keisling's argument was philosophical in that it could still not be a majority if there are write-ins.

109 REP MANNIX: We can't come up with a perfect system, but a better system.

128 REP HAYDEN: Forget the words majority, run-off election is second election.

145 REP. VANLEEUEWEN, DISTRICT 37: Testifies in explanation of HB 2756 and indicates Superintendent of Public Instruction should not be i

184 REP EDMUNSON: I do not think we can afford these ideas.

216 REP HAYDEN AND REP MANNIX CONTINUE DISCUSSION ON SECTION 1 SUB-SECTION 3

REP MANNIX: The recount provision requires that you demand a recount within a certain time after the general election, after that you will have two candidates left and I suppose one of them could demand a recount.

285 REP VANLEEUEWEN: In essence, by Oregon constitutional law we have a person who fills in for that position and that is probably why

294 REP HAYDEN: Why would we change that sequence?

298 REP MANNIX: It is just a matter of what you think is practical. - I would suggest that the 1994 ballot would be the appropriate time

312 REP VANLEEUEWEN: I have no problem with HB 2756 matching with HJR 16 - 2 in most instances.

SB 567 - PUBLIC HEARING

328 JANET ADKINS: Reviews SB 567 (see EXHIBIT A), submits staff measure summary (EXHIBIT E)

358 REP. BILL MARKHAM, DISTRICT 46: Testifies in support of SB 567.

380 TONY KUHN, EVERGREEN FOREST PRODUCTS, INC.: Testifies in support of SB 567 and submits written testimony (EXHIBIT F).

TAPE 68, SIDE B

051 ADKINS: The expense for hauling in state v. hauling out of state?

KUHN: Is it more expensive? Yes it is.

057 REP HAYDEN: Did I understand you to say that you could not send your product out on a truck that brought a load in and was going empty?

KUHN: Yes.

072 HAYDEN: So you could use a class A carrier to bring your product in but you don't?

KUHN: You could not exist in business in Oregon if you did that there would be no wood products industry in Oregon.

086 REP BILL FISHER, DISTRICT 45: Testifies in support of SB 567.

102 DAN KNIGHT, NORTHWEST PELLET MILLS: Testifies in support of SB 567 and submits written testimony (EXHIBIT G).

189 ALAN SHIELDS, PUBLIC UTILITY COMMISSION: Testifies in support of SB 567 and submits testimony (EXHIBIT H).

206 ADKINS: The three thousand have a class B or a class A?

SHIELDS: Class B.

209 ADKINS: Do you have any idea how many are carrying wood pellets regulated?

SHIELDS: Right now we have three common carriers that have that as a description in their authorities, we have several others that have got the ability to transport them under a broad category of general commodities, and we have several hundred of those carriers and I do notice from reviewing the tariffs that several of those carriers have filed specific rates for wood pellets.

222 REP HAYDEN: If this legislation would pass, the same carriers would be hauling the product. SHIELDS: There are a hundred that have

231 REP HAYDEN: What is the difference between the three carriers that have PUC certificates?

SHIELDS: Through the application process, a carrier has an option of the geographic area that they want to serve as well the products that t want to transport. The term general commodities is a overall generic term that includes almost everything that is not covered by some other type of authority.

256 REP HAYDEN: Can a general commodity carrier haul all the specific things too?

REP HAYDEN: Yes.

MICHAEL GRAINEY, DEPARTMENT OF ENERGY: Testifies in support of SB 567 and submits written testimony (EXHIBIT I).

281 BRUCE ANDERSON, OREGON HEARTH PRODUCTS ASSOCIATION: Testifies in support of SB 567 and submits written testimony (EXHIBIT J).

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039 REP MARKHAM: What was the point you just made?

040 ANDERSON: Would like to insert the term "100% wood pellets".

043 CHAIR PARKS: Are these held together with glue or just by the pressure applied during production?

ANDERSON: The steam brings out the natural resins and they are held together naturally.

REP EDMUNSON: If technology were to permit us to use grass straw, why shouldn't we give the same special break to the grass seed industry?

ANDERSON: What we are talking about is wood pellets, and the reason we feel that this is the correct place to put this language in Oregon Statute, is because this is a wood product.

REP EDMUNSON: I thought we were talking about an Oregon industry, so are you saying that we should say "no" to a non-wood Oregon industry.

REP HAYDEN: This is not a new question.

066 ANDERSON: I am not sure who originally posed the question to the Attorney General in 1978, they examined a product that dissimilar to what we have today.

REP HAYDEN: They're authority said that these were very much like presto-logs.

076 ANDERSON: I would defer that question to the manufacturers.

JANET ADKINS: Do presto-logs come under the current exemption?

ANDERSON: I think the 1978 opinion mention of presto-logs.

090 REP HAYDEN: What has been happening since 1978, have these things been hauled under authority or without?

KNIGHT: Until two and a half years ago that was the first that Northwest Pellet had learned that any special authority was required and we w in the trucking business.

115 KUHN: If we can't find a competitive rate, then I have found that I am forced to sell my product in California and Nevada.

REP HAYDEN: According to the Attorney General's opinion these exemptions are not granted on type of material or on class they are gran willy-nilly, by the legislature.

127 KUHN: The law is so specific that is says these individual items are exempted therefore any other items to be exempted have to be s

REP HAYDEN: So these things have been going through weigh stations and have been stopped by state patrol etc., for fifteen years and nobody has stopped them to say you do not have the right authority to haul?

134 KNIGHT: About two years ago a complaint was filed and it became more monitored.

152 MARSHALL COBA, OREGON TRUCKING ASSOCIATIONS: Testifies in opposition of SB 567. Will prepare testimony and come back next week to tes

ADJOURNED 11:19 AM

Submitted by:

Reviewed by:

Amy Jahnke

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Administrator