

HOUSE COMMITTEE ON GENERAL GOVERNMENT Subcommittee on Transportation

March 29, 1993 Hearing Room 357 8:30 a.m. Tapes 30 - 31

MEMBERS PRESENT: Rep. Chuck Norris, Chair Rep. Ken Baker Rep. Cedric Hayden, Ex-Officio Rep. Carl Hosticka Rep. Lonnie Roberts

STAFF PRESENT: Janet Adkins, Committee Administrator Kimberly Burt, Committee Assistant

MEASURES CONSIDERED: HB 2159 HB 2162 HB 2163 HB 2164 HB 2165 HB 2166 [--- Unable To Translate Graphic ---]

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. [--- Unable To Translate Graphic ---]

TAPE 30, SIDE A

003 CHAIR NORRIS: Calls the hearing to order. (8:40 a.m.)

- Members present: Baker and Norris.

PUBLIC HEARING ON 2159 Witnesses: Darren Q. Bond, Director of Cash Management, Oregon State Treasury, (OST)

009 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2159.

- Rep. Hosticka arrives. (8:42 a.m.)

035 DARREN Q. BOND, DIRECTOR OF CASH MANAGEMENT, OREGON STATE TREASURY, (OST): Testifies in support of HB 2159; submits written testimony and proposed amendment, (EXHIBIT A).

078 REP. BAKER: What is the OST function as far as counseling agencies?

BOND: We keep the accounting for state agencies. - Describes process.

096 REP. BAKER: Various agencies have different investment policies and you advise them regarding those?

BOND: Agencies will have situations where they may possibly have excess cash available and we will advise them in investing those funds.

REP. BAKER: Can certain agencies gain an advantage by investing one way vs. another way so they increase their funds?

BOND: Generally, no. The majority of agencies, the only investment vehicle they have, if any, is the Oregon Short term fund. For the bulk of funds, agencies do not accrue their own interest; interest accrues to the general fund.

118 REP. HOSTICKA: In instance where they have their own funds, like higher education endowment funds, do they manage them through you or on

their own?

BOND: The Department of Higher Education does have a few investments that they manage independently.

127 CHAIR NORRIS: What is the relationship between the treasurers office and the accounting division of the executive department?

BOND: We work closely; there is no formal relationship reporting mechanism other than that established through the mutual operations. We are both the primary central service agencies for the line agencies when it comes to fiscal and financial matters. We work with the executive department hand in hand.

CHAIR NORRIS: If agency "x" has a \$50 million budget, who is keeping track of that, the executive department or you?

BOND: The executive department through the control of accounting division.

145 CHAIR NORRIS: When appropriate money to agencies, we do it on a best estimate of what revenues are going to be; when those revenues materialize are they turned over to you or the executive department for the account of agency "x"?

BOND: It would vary; there are some instances where revenues will be credited directly to an account. In all instances the money is turned over to the treasury.

160 ADKINS: Do some agencies not use the OST, such as the lottery?

BOND: There are a few certain instances where accounts are established specifically, but we approve them. Currently all state agencies are banking with the OST.

WORK SESSION ON 2159

197 MOTION: REP. BAKER MOVES THAT THE (-1) AMENDMENTS BE ADOPTED.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: REP. BAKER MOVES THAT HB 2159 AS AMENDED TO SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION

208 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS EXCUSED: HAYDEN & ROBERTS.

PUBLIC HEARING ON HB 2162 Witnesses: Darren Q. Bond, Director of Cash Management, OST Frank Brawner, Oregon Bankers Association, State Chartered Banks of Oregon

224 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2162.

DARREN Q. BOND, DIRECTOR OF CASH MANAGEMENT, OST: Submits and summarizes written testimony in support of HB 2162, (EXHIBIT B).

264 CHAIR NORRIS: Do these funds deposited in out of state institutions eventually roll back into the state?

BOND: That is exactly what the intent is.

CHAIR NORRIS: About how many days...in effect it is sort of a float, it sounds like.

BOND: Currently we have a situation afloat. With a rent check being deposited into a local bank we would expect to have no more than two days afloat and possibly not any.

CHAIR NORRIS: Can you put an approximate number on how many millions of the state's dollars are out there outside the state in these banks if we approve this?

BOND: No, I couldn't at this time. The amount of funds that would be out there in these accounts would be minimized. We would expect that the balances would run to the few thousands of dollars as opposed to the many millions of dollars.

CHAIR NORRIS: Is this referring strictly to commercial banks?

BOND: Yes.

293 CHAIR NORRIS: Would we by rule or otherwise have any preference for state chartered or federally chartered banks?

BOND: If anything, we would probably look at federally chartered banks out of state, only because we are more familiar with the federal regulations regarding those banks.

CHAIR NORRIS: Would we be qualified for coverage under FDIC?

BOND: Yes.

CHAIR NORRIS: Are we doing this now?

BOND: Currently the moneys that are similar to this are being brought in by the various mortgage loan services that are handling the money being deposited into their accounts and then being transferred to the OST as they are collected.

310 REP. BAKER: Is there a specific prohibition now from us opening bank accounts outside the state of Oregon?

BOND: Yes. The definition of depository in state statute is specific to Oregon banks.

333 REP. HOSTICKA: The state doesn't have management companies?

BOND: Yes we do employ management companies to oversee the investments that we have.

350 FRANK BRAUNER, OREGON BANKERS ASSOCIATION AND THE STATE CHARTED BANKS OF OREGON: Testifies in support of HB 2162; submits (-1) amendments, (EXHIBIT C).

WORK SESSION ON HB 2162

MOTION: REP. BAKER MOVES THAT THE (-1) AMENDMENTS TO HB 2162 BE ADOPTED.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

375 MOTION: REP. BAKER MOVES HB 2162 AS AMENDED BE SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION. VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS EXCUSED: HAYDEN & ROBERTS

PUBLIC HEARING ON HB 2163 Witnesses: Chuck Smith, Manager, Debt Management, Oregon State Treasury, (OST) Jim Shannon, Chairman, Oregon Municipal Debt Advisory Commission, (MDAC) Frank Brawner, Oregon Bankers Association

405 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2163; submits hand engrossed version of amendments requested by the OST; (EXHIBIT D).

454 CHUCK SMITH, MANAGER, DEBT MANAGEMENT, OST: Testifies in support of HB 2163.

TAPE 31, SIDE A

JIM SHANNON, CHAIRMAN, OREGON MUNICIPAL DEBT ADVISORY COMMISSION, (MDAC): Testifies in support of HB 2163; submits written testimony and informative material, (EXHIBIT E).

115 REP. BAKER: We have certificates of participation; do those come under the lid of measure five and are they addressed in any way in this bill?

SHANNON: They are not specifically addressed in this bill. They come under the lid of measure five in the sense that any taxes imposed on property is limited to the extent that COP are paid from taxes imposed on property, they would have a limit as to the amount of taxes that can be imposed to make those payments. - Describes lease agreements under measure 5 limits.

213 CHAIR NORRIS: There are a variety of terms for public body that we use to describe the entity we are dealing with; is there a problem with consistency.. is there any confusion because of this mix of terms?

SHANNON: There is confusion, but those who deal with these statutes have resolved the confusion. - Describes why the terms are used and what is meant by them.

250 FRANK BRAWNER, OREGON BANKERS ASSOCIATION: Testifies in support of HB 2163 and amendments.

WORK SESSION ON HB 2163

275 MOTION: REP. BAKER MOVES THAT THE (-1) AMENDMENTS TO HB 2163 BE ADOPTED.

VOTE: NO OBJECTION, MOTION PASSES.

MOTION: REP. BAKER MOVES THAT HB 2163, AS AMENDED, TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION

290 VOTE: IN A ROLL CALL VOTE MOTION CARRIES.

PUBLIC HEARING ON HB 2164 Witnesses: Randall Edwards, Executive Assistant, OST Robert Muir, Attorney General's Office

311 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2164; submits letter from DOJ, (EXHIBIT F).

350 RANDALL EDWARDS, EXECUTIVE ASSISTANT, OST: Testifies in support of HB 2164. Submits written testimony of Dan Smith (EXHIBIT G).

420 REP. BAKER: Section one "unless under the circumstances it is not prudent to do so"; it seems to me that is a major contradiction. I don't quite understand this.

454 ROBERT MUIR, ATTORNEY GENERALS OFFICE: Attempts to clarify language in the section 227 of the restatement third of trust. - One way that it might be imprudent is to put your money out in too many areas; the point of this qualification was to say you don't diversify for it's own sake, you only diversify where it is prudent to do so.

TAPE 30, SIDE B

MUIR: Continues with testimony.

040 REP. BAKER: If we are talking about diversity of investments, we are talking about discretion. This language would seem to say that you have the option to be prudent; I think there is a significant difference there.

MUIR: It says you must diversify unless it is not prudent. - The current statute doesn't have any language dealing with diversification at all; the point of the change is to reflect what is current practice.

REP. BAKER: Refers to Exhibit G; are you saying that some times that single transaction would be a sacrifice; are you saying you will only look at the broad mutual approach and not worry about the component parts?

MUIR: In the current portfolio there is investment in the highest security instruments and they have a very poor return. - Discusses portfolios and bonds.

120 REP. HOSTICKA: Refers to Exhibit G; even if we didn't change the law the courts would interpret the current law in ways that are consistent with your proposed change, is that right?

MUIR: That is my best belief, but there is still uncertainty.

REP. HOSTICKA: "under laws governing each investment fund", (first part of section one); we've had fights over the legislature establishing consistency with the prudent person rule; does this say that if the legislature directs then that overrides considerations under this?

MUIR: Yes, the legislature will override, if they speak clear.

140 MUIR: The PERS fund isn't the state's to do with; there could be an issue with regard to those trust funds.

167 ADKINS: Do you anticipate any practical affect on investments?

MUIR: Certainly not on practice; it will have a settling affect in the minds of those who worry about these things.

CHAIR NORRIS: Would this be a guide post for the members of the investment council?

MUIR: Yes. That's exactly what it is.

WORK SESSION ON HB 2164

190 REP. BAKER: States he would feel better deleting line 21.

230 CHAIR NORRIS: What impact would there be if we delete line 21?

MUIR: The impact will be minimal now; over the years there may be concern.

255 CHAIR NORRIS: Is there reason for subsection 3?

MUIR: The clear statement that there is a duty to diversify gives some comfort to those of us working with this.

299 REP. BAKER: This isn't a critical issue, but I wanted the statement made we shouldn't have all our assets in one pot. 310 MOTION: REP. BAKER MOVES HB 2164 BE SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

314 VOTE: IN A ROLL CALL VOTE MOTION CARRIES.

PUBLIC HEARING ON HB 2165 Witnesses: Randall Edwards, Executive Assistant, OST Robert Muir, Attorney General's Office

330 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2165;

350 RANDALL EDWARDS, EXECUTIVE ASSISTANT, OREGON STATE TREASURY, (OST): Testifies in support of HB 2165; submits and summarizes written testimony from Dan Smith, (EXHIBIT H).

CHAIR NORRIS: "shell corporation"; how penetrable would these shells be?

ROBERT MUIR, ATTORNEY GENERALS OFFICE: The statutes authorize these companies so the IRS recognizes them; the courts, for the most part, don't allow this to be pierced if they are run like corporations. We intend them to be real corporations.

TAPE 31, SIDE B

027 REP. BAKER: Don't we have statutory responsibility to control assets and investments and if we are creating a force with independent authority to make decisions, are we violating that responsibility?

MUIR: That is an issue, it is answered by the power of the treasurer to remove the officer or director who fails to comply with the treasurer's policies and directives.

50 CHAIR NORRIS: Define the investment officer.

MUIR: That is the state treasurer.

060 ADKINS: Asks what the number of holding companies is?

MUIR: Thirty or forty; I will get you a list. Not expecting the list to increase.

WORK SESSION ON HB 2165

084 MOTION: REP. BAKER MOVES THAT HB 2165 BE SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS EXCUSED: HAYDEN & ROBERTS.

PUBLIC HEARING ON HB 2166 Witnesses: Randall Edwards, Executive Assistant, OST Robert Muir, Attorney General's Office

090 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2166;

REP. BAKER: We have an ADHOC committee looking at confidentiality, does this fall in that scheme of things?

REP. HOSTICKA: Judiciary is reviewing the public records law.

ADKINS: The public records advisory council looked at that during the interim.

116 CHAIR NORRIS: A major concern has been the confidentiality barrier between departments in human resources; Children Services and AFS could not talk to each other.

130 RANDALL EDWARDS, EXECUTIVE ASSISTANT, OREGON STATE TREASURY, (OST): Testifies in support of HB 2166; submits written testimony and informative material, (EXHIBIT I).

150 ADKINS: The summary sounds like the OST will have more access to private financial records.

ROBERT MUIR, ATTORNEY GENERALS OFFICE: That's correct. - Explains current law. - This change will state that the information in the OST is lawful, but remains confidential.

WORK SESSION ON HB 2166

176 MOTION: REP. BAKER MOVES THAT HB 2166 BE SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS EXCUSED: HAYDEN & ROBERTS

CHAIR NORRIS: I will ask that we receive half page double spaced information to use when carrying these bills on the house floor.

205 REP. HOSTICKA: On 2165, the bill summary doesn't accurately reflect what the bill does; they should keep that in mind when we are asking for comments.

225 CHAIR NORRIS: We are adjourned. (10:20 a.m.)

Submitted by, Reviewed by,

Timothy Marshall Janet Adkins Committee Assistant Committee
Administrator

EXHIBIT SUMMARY:

A - HB 2159: Written testimony and proposed amendment submitted by Bond, pp 1
B - HB 2162: Written testimony submitted by Bond, pp 3
C - HB 2162: (-1) amendments submitted by Brawner, pp 4
D - HB 2163: (-1) amendments submitted by staff, pp 5
E - HB 2163: Written testimony and informative materials submitted by Shannon, pp 5
F - HB 2164: Letter from the Department of Justice submitted by staff, pp 6
G - HB 2164: Written testimony of Dan Smith submitted by Edwards, pp 6
H - HB 2165: Written testimony of Dan Smith submitted by Edwards, pp 8
I - HB 2166: Written testimony and informative material submitted by Edwards, pp 9