

HOUSE COMMITTEE ON JUDICIARY SUB-COMMITTEE ON CRIME AND CORRECTIONS

May 20, 1993 Hearing Room 357 3:00 p.m. Tapes 111 - 112
MEMBERS PRESENT: Rep. Bob Tiernan, Chair Rep. Kate Brown Rep. Peter
Courtney Rep. Veral Tarno VISITING MEMBER: Rep. Kevin Mannix STAFF
PRESENT: Holly Robinson, Committee Counsel Bryan Boehringer,
Committee Clerk MEASURES CONSIDERED: SB 493 - Relating to
racketeering. HB 2489 - Relating to criminal identification data. B 2630
- Relating to juvenile corrections.

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 111, SIDE A

004 CHAIR TIERNAN: Calls meeting to order at 3:05 p.m.

WORK SESSION ON HB 2630

007 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2630 modifies the
population cap for youths housed at the training schools. Provides that
remanded youth at the training schools do not count against the cap.
Allows the cap to be adjusted annually based on the change in the
general population of persons under 18 years of age. There are 4
amendments. Asks Rep. Mannix about the bills application to the
population of the state. 029 REP. MANNIX: The population number is
state wide. 040 MOTION: REP. BROWN: Moves to ADOPT the HB 2630-4
amendments.

VOTE: CHAIR TIERNAN: Hearing no objection, the amendments are ADOPTED.
Rep. Courtney is excused.

MOTION: REP. BROWN: Moves HB 2630, AS AMENDED, to the full committee
with a DO PASS recommendation.

045 REP. TARNO: Asks for clarification on the bill. House Committee on
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047 REP. MANNIX: Explains the population increase index. Discusses the
population cap.

055 REP. BROWN: Asks about the population exceeding capacity.

058 REP. MANNIX: Explains constitutional limitations and physical
facility capacity.

066 VOTE: 3-0 Motion passes AYE: Brown, Tarno, Tiernan NO: None
EXCUSED: Courtney

PUBLIC HEARING ON SB 493 Witnesses: Roy Hyder, Oregon State Police, Fish
and Wildlife Division

077 HOLLY ROBINSON, COMMITTEE COUNSEL: The bill expands the definition
of racketeering to include violations of wildlife laws.

095 REP. BROWN: Asks about additional penalties to the actual crime
itself.

097 HOLLY ROBINSON, COMMITTEE COUNSEL: That is a decision made by the

prosecution. Discusses proof of the subsequent offense.

105 ROY HYDER, OREGON STATE POLICE FISH AND WILDLIFE DIVISION: Submits and reviews written testimony in support of SB 493. (EXHIBIT A and B)

204 CHAIR TIERNAN: Asks about the payment for prosecution.

20,9 HYDER: Discusses the use of the proceeds. Discusses the amount of racketeering cases currently present in the arrest and citation records.

246 CHAIR TIERNAN: Asks about a violation of RICO statute. Asks about certain violations. Discusses separation between racketeering and other violations.

276 HYDER: Discusses qualifiers for violations falling under the RICO statute. Explains the difference between violations and misdemeanors.

310 CHAIR TIERNAN: Asks about the collection and use of road kill animals.

315 HYDER: Explains that those types of situations would not qualify as racketeering. Discusses the targeting of racketeering operations.

346 CHAIR TIERNAN: Discusses the law as a deterrent to those who commit racketeering.

353 HYDER: Discusses an example of the racketeering problem. Discusses the need to be able to charge felonies.

390 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses proof for building a racketeering case. Discusses the accumulation of wildlife as proceeds.

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404 REP. TARNO: Discusses commercial elk operations for food. Discusses intentions of the bill.

424 HYDER: Discusses examples of the racketeering.

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031 HYDER: Continues to discuss examples. 057 CHAIR TIERNAN: Asks if fish would be included in the legislation. 058 HYDER: The statute would include anything dealing with game fish. It doesn't cover commercial fishing or commercial fishing regulations. 077 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses Tiernan's example. 084 CHAIR TIERNAN: Asks about shooting game and then using it for your own consumption. 089 HOLLY ROBINSON, COMMITTEE COUNSEL: There must be a some type of commercial gain to prove racketeering. There needs to be some type of proceeds

WORK SESSION ON HB 2489

118 HOLLY ROBINSON, COMMITTEE COUNSEL: The bill directs the Department of State Police to provide the Teacher Standards and Practices Commission and the Oregon Department of Education with complete criminal

identification information, which includes both state level criminal history information as well as other state's information as well as other state's information, on persons applying for educational licenses, other school district employees, and contractors who have contact with students. There are -1 amendments.

125 CHAIR TIERNAN: Explains the testimony that will be heard.

131 HOLLY ROBINSON, COMMITTEE COUNSEL: Gives a synopsis of where the committee is in the work session. Discusses screening requirements. Discusses current law. Discusses use and storage of the fingerprint cards. Discusses cost savings for applicants. 194 REP. COURTNEY: Asks for an explanation of lines 14 and 15 on page two of the -1 amendments.

196 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains the screening process. Discusses the screening of classified employees. 218 ROBERT DUEHMIG, OREGON FEDERATION OF TEACHERS, EDUCATION AND HEALTH PROFESSIONALS: Submits and reviews written testimony in regards to concerns with HB 2489. (EXHIBIT B) 278 CHAIR TIERNAN: Responds to some of Duehmig's concerns. Discusses the application process. Discusses the fingerprint cards.

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307 DAVID MITTON, EXECUTIVE DIRECTOR OF TEACHER'S STANDARDS AND PRACTICES COMMISSION: Explains the substance of most teaching applications. Discusses licensed personnel. 319 CHAIR TIERNAN: Discusses avoiding problems of grievance. Discusses possible amendments.

359 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION OF OREGON: Discusses concerns with the bill. Discusses the use of FBI records.

414 CHAIR TIERNAN: Discusses substance of determination. Discusses offenses that might prohibit employment. 433 FIDANQUE: Discusses burden proof. Discusses the nexus between the crime and the employment.

439 CHAIR TIERNAN: Discusses basis for termination on employment applications.

467 FIDANQUE: Discusses the information contained in the criminal records. 480 JOE BENNINGHOFF, CONFEDERATION OF OREGON SCHOOL ADMINISTRATORS: Discusses license renewal.

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031 BENNINGHOFF: Discusses separation of licensed and non-licensed individuals. Discusses uniformity of applications.

044 CHAIR TIERNAN: Asks about the school district adding additional requirements to the applications.

050 BENNINGHOFF: Discusses the extent of the changes that school districts can make.

055 CHAIR TIERNAN: Discusses the different standards for hiring.

059 BENNINGHOFF: Most districts in the state do not challenge TSPC's authority in this area.

062 HOLLY ROBINSON, COMMITTEE COUNSEL: Clarifies the statute.

070 CHAIR TIERNAN: Asks about classified employees who are not involved in licensing.

071 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains the intent of the bill. Discusses the use of a "laundry list" of crimes. 086 FIDANQUE: Discusses the proof of good moral character. Discusses TSPC's authority to investigate potential teachers. 097 CHAIR TIERNAN: Asks about the nexus statute.

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097 FIDANQUE: That is ORS chapter 670.280. Discusses the exceptions in the statute. 102 REP. BROWN: Asks if SB 1078 specified the suspect class.

106 FIDANQUE: Explains the delegation of authority to determine eligibility.

127 REP. TARNO: Asks Mr. Duehmig if his testimony represents the organization or just himself.

130 DUEHMIG: The letter was not sent to the membership, but was cleared with the Director of the organization.

132 CHAIR TIERNAN: Asks counsel about the grievance amendment.

133 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses the denial of the right to go through grievance procedures.

138 CHAIR TIERNAN: Explains the rationale of eliminating the grievance period. Discusses false information that is provided on applications. 162 REP. BROWN: Asks about inaccurate information that may be provided on employment applications. 164 FIDANQUE: Explains the protection that is provided in the Senate Bill 107 8. 179 CHAIR TIERNAN: Discusses the possible abuse of an appeals process.

182 FIDANQUE: Explains that the basis of determination is the criminal record.

188 REP. BROWN: Asks about testimony concerning children being molested in Oregon schools in the past year.

202 REP. COURTNEY: Discusses an example of the problem.

209 REP. BROWN: Is the fiscal impact accurate?

211 HOLLY ROBINSON, COMMITTEE COUNSEL: The fee for the check would pay for any additional staff that might be needed for the program. This will need to go to appropriations. 224 REP. TARNO: Discusses concerns with the use of the word "volunteer." 235 REP. COURTNEY: Discusses the purpose of the bill. Discusses groups that want to be included in the jurisdiction of the bill. 260 MITTON: Clarifies the process of checking the prints. 275 CLIFFORD DAIMLER, OREGON STATE POLICE:

Explains the costs involved in checking the prints.

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291 CHAIR TIERNAN: Asks about additional costs for rechecking the prints. Discusses concerns with the storage of the fingerprint cards.
299 DAIMLER: Explains the process of filing the prints. Explains the archiving of cards and the storage of data in the computer system.
317 MOTION: REP. COURTNEY: Moves to ADOPT the HB 2489-1 amendments.

VOTE: CHAIR TIERNAN: Hearing no objection, the amendments are ADOPTED. All members are present.

331 CHAIR TIERNAN: Asks about the amendments concerning the grievance procedure. 333 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses limiting or restricting the grievance process. 353 REP. COURTNEY: Asks about the possibility of eliminating the provision that deals with storage of the cards. 357 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains that there is no point to store the cards. There would be additional costs involved in the storage of the cards. 378 CHAIR TIERNAN: Asks about the permanent storage of the cards in the computer filing system.
388 REP. TARNO: Discusses aversion to having the prints stored. Suggests that if the prints are clean, the records should be destroyed.
408 MOTION: REP. COURTNEY: Moves to ADOPT REP. TARNO'S CONCEPTUAL AMENDMENT TO THE -1 AMENDMENTS. VOTE: CHAIR TIERNAN: Hearing no objection, the amendments are ADOPTED. All members are present.
422 MOTION: REP. COURTNEY: Moves HB 2489 to the full committee with a DO PASS recommendation, and a subsequent referral to the APPROPRIATIONS COMMITTEE. 427 CHAIR TIERNAN: Asks about the amount of the current fiscal.

429 HOLLY ROBINSON, COMMITTEE COUNSEL: There has not been one done recently. It depends on the number of individuals included.

VOTE: 3-1 Motion passes AYE: Courtney, Tarno, Tiernan NO: Brown

460 CHAIR TIERNAN: Adjourns the meeting at 4:30 p.m.

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Submitted by: Reviewed by: Bryan Boehringer Anne May Committee Clerk
Committee Coordinator

EXHIBIT LOG: A - Testimony on SB 493 - Roy Hyder - 7 pages B - Testimony on SB 493 - Roy Hyder - 7 pages C - Testimony on HB 2489 - Robert Duehmig - 2 pages D - Testimony on HB 2630 - Larry OgleSB y - 2 pages E - Testimony on HB 2630 - Timothy Travis - 1 page F - Amendments to HB 2630 - Legislative Counsel - 1 page G - Amendments to HB 2489 - Legislative Counsel - 2 pages

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