

HOUSE COMMITTEE ON JUDICIARY

July 1, 1993 Hearing Room 357 1:30 p.m. Tapes 80 -82
MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Tom Mason, Vice-Chair
Rep. Ken Baker Rep. Tom Brian Rep. Kate Brown Rep. Peter Courtney Rep.
Jim Edmunson Rep. Veral Tarno Rep. Bob Tiernan STAFF PRESENT: Julie
Nolta, Committee Clerk Holly Robinson, Conunittee Counsel Carole
Souvenir, Committee Counsel MEASURES CONSIDERED: SB 1020 - Relating
to discrimination SB 1132- Relating to correction of erroneous material
in Oregon law SB 410 - Relating to military justice SB 228 - Relating to
judicial review SB 1019 - Relating to ignition interlock devices;
declaring an emergency

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 80, SIDE A

001 CHAIR TIERNAN: Calls the meeting to order at 2:00 p.m.

PUBLIC HEARING ON SB 1020 (SB 1020 declares zero tolerance policy toward
all forms of racially discriminatory behavior in state work place and in
academic or education environment [EXHIBIT A,B])

Witnesses: Raleigh Lewis, Legislative Assistant for Sen. McCoy Calvin
Henry, Oregon Assembly for Black Affairs Charles Dalton, Commission on
Black Affairs Rosemary Adamski, Citizen House Committee on Judiciary
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Witnesses: Sue Jordon, Bureau of Labor and Industries (Cont'd) Mike
Clark, Oregon Assembly for Black Affairs Laurie Wimmer, Oregon
Commission for Women Annabelle Jaramillo, Commission for Hispanic
Affairs

006 RALEIGH LEWIS, LEGISLATIVE ASSISTANT, SEN. BILL MCCOY: Testifies
and submits written testimony on behalf of Sen. McCoy, in support of SB
1020. (EXHIBIT C)

044 CALVIN HENRY, OREGON ASSEMBLY FOR BLACK AFFAIRS: Testifies in
support of SB 1020.

061 CHAIR TIERNAN: Asks about the zero tolerance in Oregon, and if it
still exists.

068 HENRY: Zero tolerance is in the work place, and is supported in
certain circumstances. Gives example of discrimination.

116 LEWIS: Race discrimination happens in this st\$e regularly. Reviews
EXHIBIT C, and explains key points in SB 1020. With strong legislation,
people will be more aware of what is occurring in institutions and
agencies daily.

201 CHARLES DALTON, COMMISSION ON BLACK AFFAIRS: Testifies in support
of SB 1020. 359 CHAIR TIERNAN: Don't the construction contracts have
an affirmative action requirement in them? 362 DALTON: It is not
being enforced. 365 REP. TIERNAN: Contractors must, by federal law,
make an attempt or a good effort to hire a minority or they could lose a

bid. 375DALTON: That "good faith" has been minimal. Gives cases of people lying about a person's race. There is a lack of leadership.

398 REP. BROWN: Asks about African Americans being labeled as "trouble makers". 411 HENRY: Yes, it is hard to find a lawyer to take a case on racial discrimination. Cites examples. 428 DALTON: It is true that once a label is set, for example taking a stand for an organization, finding jobs can be hard to find. Outside the metropolitan area it is even worse. 464 REP. TARNO: This bill addresses the age of 18 or older. What about kids under 18 who have been involved in a violation of this bill?

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021 DALTON: Discusses the language that requires accountability of chief executives of organizations to be responsible for enforcing the zero tolerance. 027 REP. TARNO: Gives example of a principal of an elementary school, etc. Asks if a parent who has seen their child go through this kind of treatment will go to the Bureau of Labor Industries. 035 HENRY: Explains that they have to go to the superintendent first. 039 REP. TARNO: What happens if it isn't taken care of at that level? Has this problem been mentioned in a union contract, or an issue of collective bargaining? 049 DALTON: If it isn't taken care of then it goes to the Bureau of Land Industries. It hasn't been in a contract or part of collective bargaining in this state. 050 HENRY: Affirmative action has come up, but holding an executive officer accountable within an agency has not. 057 ROSEMARY ADAMSKI, CITIZEN: Testifies and submits written testimony in support of SB 1020. (EXHIBIT D) Discusses union members who haven't been represented as well as they should be. 069 REP. TARNO: Doesn't agree. Gives example of a teacher discriminating against a child. 079 DALTON: There needs to be a more diverse work force, and people need to be trained to deal with adversity. Gives example. 102 CHAIR TIERNAN: Asks if this bill only applies to racial discrimination, or to other forms of discrimination as well. 105 HENRY: This bill concentrates on racial discrimination only. Restates that this bill is needed for accountability reasons. 113 CHAIR TIERNAN: Asks if he thinks there is racial discrimination in this building, right now. 123 HENRY: Yes. 135 DALTON: You aren't aware of the discrimination because you are not the victims. 170 HENRY: This bill allows someone who has been discriminated against to contact the head of the company, and it is then their responsibility to take care of it. 190 REP. TIERNAN: Discusses discrimination in Liberia. 207 HENRY: Discusses international levels of discrimination, and veteran discrimination. 254 SUE JORDAN, BUREAU OF LABOR AND INDUSTRIES: Testifies in favor of SB 1020. 317 CHAIR TIERNAN: Asks about executive officers being personally liable. House Comm;tee on Judiciary July 1, 1993 - Page 4

331 HENRY: Explains that each executive officer has responsibility to inform and enforce zero tolerance in their institution. (Refers to Section 2 of the bill)

355 CHAIR TIERNAN: Asks about personal liability.

356 MIKE CLARK, OREGON ASSEMBLY FOR BLACK AFFAIRS: Testifies and submits written testimony in support of HB 1020. (EXHIBIT E) Explains personal liability.

362 CHAIR TIERNAN: A chief officer, if they know illegal activity is happening, can be held personally liable?

366 JORDAN: Yes.

368 HENRY: Our concern is that the executive officer is not carrying out and being held accountable for their responsibilities.

371 JORDAN: A civil rights filing would go against company or agency, not a person.

377 LAURIE WIMMER, OREGON COMMISSION FOR WOMEN: Testifies in favor of SB 102 0.

395 CHAIR TIERNAN: How many people are in your agency?

398 WIMMER: 6.7 people. Continues testimony.

423 REP. BROWN: Why should we not include "gender" in this bill?

426 WIMMER: Not every bill that addresses discrimination has to include women.

433 CLARK: Continues with testimony.

TAPE 80, SIDE B

040 ANNABELLE JARAMILLO, COMMISSION ON HISPANIC AFFAIRS: Testifies in support of SB 1020.

118 REP. TARNO: Asks for definition of "subtle racism".

121 CLARK: "Subtle racism" is not mentioned in the bill, explains.

131 REP. TARNO: Will this bill address those "subtle" issues?

135 JORDAN: This would raise consciousness about the problem.

154 REP. BROWN: You don't want this bill with the amendments to prohibit cultural studies, correct?

164 CLARK: Cites EXHIBIT B. House Committee on Judiciary July 1, 1993 - Page 5

176 CHAIR TIERNAN: Are there any other states that have passed similar legislation?

196 CLARK: We want the bill passed even if it does have the amendments.

200 JARAMILLO: Need to look at taking a proactive stand, explains.

214 CHAIR TIERNAN: Is there discrimination in the Treasurer's office?

217 CLARK: Within the organization of state government, there is institutional racism. There are 65 people in the Treasurer's office, I don't see there being problems there.

PUBLIC HEARING ON SB 408

(SB 408 provides that material facts must be proven by preponderance of evidence in order to be considered by court for purposes of imposing departure sentence under sentencing guideline rules)

Witnesses: Fred Avera, Oregon District Attorneys Association David Factor, Criminal Justice Council Dale Penn, Marion County District Attorney

255 FRED AVERA, OREGON DISTRICT ATTORNEYS ASSOCIATION: Testifies in opposition to SB 408.

389 REP. BROWN: Does the bill limit departures?

390 AVERA: No. It makes it a more difficult process, explains.

TAPE 81, SIDE B

017 REP. BROWN: Asks about the defendant's due processing rights being lessened because of departure.

021 AVERA: Can't decrease a defendant's due process rights, explains.

033 DAVID FACTOR, CRIMINAL JUSTICE COUNCIL: Testifies in opposition to SB 408 .

057 DALE PENN, MARION COUNTY DISTRICT ATTORNEY: Testifies in opposition to SB 408.

073 AVERA: State Court Administrator's office has no position on the bill. They felt this bill should be referred to Appropriations

079 CHAIR TIERNAN: Asks about the fiscal impact on the indigent defense fund. 080 AVERA: \$108,000 prior to the amendment. True fiscal would be higher than that.

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PUBLIC HEARING ON SB 410

(SB 410 allows Adjutant General to appoint individuals as temporary Assistant State Judge Advocates who are legally trained but need not be lawyers or members of Oregon State Bar [EXHIBIT F])

Witness: Sen. Jim Bunn, District 15

091 SEN. JIM BUNN, DISTRICT 15: Testifies in favor of SB 410.

117 CHAIR TIERNAN: Asks about of ficers being judges in the Judge Advocate Court and if they are also private attorneys.

118 BUNN: No, explains the judge's role.

124 CHAIR TIERNAN: The members that are judges in their private lives, and can be a part of the advocate core in the National Guard?

126 BUNN: Yes, and they would be unable to do that unless this legislation passes. Discusses the amendments for the military.

136 CHAIR TIERNAN: What is the state defense force?

137 BUNN: It is retired military individuals who meet once a month, and twice a year who would fill in if the guard units were called away.

146 CHAIR TIERNAN: The weekends are not paid, but the training weeks are?

147 BUNN: It is only two weekends a year, and it is not paid.

150 REP. TIERNAN: Do they wear uniforms?

151 BUNN: Yes.

PUBLIC HEARING ON SB 228

(SB 228 modifies inmate's right to judicial review of certain decisions made by State Board of Parole and Post-Prison supervision)

Witnesses: Danny Santos, Board of Parole Harrison Latto, Department of Justice Sally Avera, Public Defender

165 DANNY SANTOS, BOARD OF PAROLE: Submits and reviews written testimony in favor of SB 228. (EXHIBIT G)

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183 HARRISON LATTO, DEPARTMENT OF JUSTICE: Submits and reviews written testimony in favor of SB 228. (EXHIBIT H)

270 SALLY AVERA, PUBLIC DEFENDER: Testifies in favor of SB 228.

314 CHAIR TIERNAN: Is there anyone who opposes this bill?

315 S. AVERA: Only the inmates, explains.

324 LATTO: Discusses the Parole Board making unlawful decisions and the method for the parolees to have their day in court.

346 S. AVERA: Discusses that parolees have no constitutional right to appeal parole actions, explain.

WORK SESSION ON SB 228

438 MOTION: REP. COURTNEY: Moves SB 228 TO THE FLOOR with a DO PASS recommendation. VOTE: 5-0 MOTION PASSES AYE: Baker, Brown, Courtney, Tarno, Tiernan NO: None EXCUSED: Brian, Edmunson, Mason, Parla Rep. Courtney to carry to the floor

TAPE 82, SIDE A WORK SESSION ON SB 410

026 MOTION: REP. COURTNEY: Moves SB 410 TO THE FLOOR with a DO PASS recommendation. VOTE: 5-0 MOTION PASSES AYE: Baker, Brown, Courtney, Tarno, Tiernan NO: None EXCUSED: Brian, Edmunson, Mason, Parks Rep. Tarno to carry to the floor

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WORK SESSION ON SB 1019 (SB 1019 repeals sunset provision of ignition
interlock requirements. [EXHIBITS I, J, K])

032 MOTION: REP. COURTNEY: Moves SB 1019 TO THE FLOOR with a DO
PASS recommendation. VOTE: 5-0 MOTION PASSES AYE: Baker, Brown,
Courtney, Tarno, Tiernan NO: None EXCUSED: Brian, Edmunson, Mason, Parks

Rep. Tiernan to carry to the floor WORK SESSION ON SB 1132 (SB 1132
makes technical changes to internal references to Oregon statutes)

041 MOTION: REP. COURTNEY: Moves SB 1132 TO THE FLOOR with a DO
PASS recommendation. VOTE: 5-0 MOTION PASSES AYE: Baker, Brown,
Courtney, Tarno, Tiernan NO: None EXCUSED: Brian, Edmunson, Mason, Parks
Rep. Brown to carry to the floor 065 CHAIR TIERNAN: Adjourns the meeting
at 4:00 p.m.

Submitted by: Reviewed by: Sarah May Anne May
Committee Clerk Committee Coordinator House Committee on Judiciary
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EXHIBIT LOG:

A - Proposed Amendments to SB 1020 - Committee Counsel - 1 page B -
Testimony on SB 1020 - Sen. Rasmussen - 1 page C - Testimony on SB 1020
- Sen. McCoy - 7 pages D - Testimony on SB 1020 - Rosemary Adamski - 2
pages E - Testimony on SB 1020 - Mike Clark - 2 pages F - Testimony on
SB 410 - Committee Counsel - 3 pages G - Testimony on SB 228 - Danny
Santos - 1 page H - Testimony on SB 228 - Department of Justice - 4
pages I - Testimony on SB 1019 - Department of Motor Vehicles - 3 pages
J - Testimony on SB 1019 - Committee Counsel - 9 pages K - Testimony on
SB 1019 - Committee Counsel - 2 pages

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