

HOUSE COMMITTEE ON RULES AND REORGANIZATION

January 27, 1993 Hearing Room E 1:30 p.m. Tapes 12 - 15

MEMBERS PRESENT: Rep. John Watt, Chair Rep. Lonnie Roberts, Vice-Chair
Rep. Delna Jones Rep. Dave McTeague Rep. Cedric Hayden Rep. Michael
Payne Rep. Eldon Johnson Rep. Fred Girod Rep. Avel Gordly

MEMBER EXCUSED: Rep. Cedric Hayden

STAFF PRESENT: Adrienne Sexton, Committee Administrator Kenneth
Brady, Committee Clerk

MEASURES CONSIDERED: HB 2262 - Delegation of rulemaking
authority HB 2263 - Printing frequency of rules bulletin

WITNESSES: Phil Keisling, HB 2262 & HB 2263 William Funk,
HB 2262 & HB 2263 Kathleen Beaufait, HB 2262 Elizabeth Harchenko, HB
2262 & HB 2263 Bob Carpenter, HB 2262 & HB 2263 Thom Nelson, HB 2262 &
HB 2263 Don Schellenberg, HB 2262 & HB 2263 Karmen Fore, HB 2262 Jim
Neely, HB 2262 & HB 2263 Cameron Birnie, HB 2262 & HB 2263 Allison
Baker, HB 2262 & HB 2263 Melinda Grier, HB 2262

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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 12, SIDE A

013 REPRESENTATIVE JOHN WATT, COMMITTEE CHAIR: Convenes meeting at 1:30
p.m. Makes opening comments to committee members and audience.
Excuses Rep. Hayden. Opens hearing on HB 2262.

HB 2262 - DELEGATION OF RULEMAKING AUTHORITY, PUBLIC HEARING

016 ADRIENNE SEXTON, COMMITTEE ADMINISTRATOR: Explains HB 2262
and introduces Phil Keisling.

029 PHIL KEISLING, SECRETARY OF STATE: Explains HB 2262 and
stresses its importance and his support of. Describes specifics of
bill. Relates how HB 226 2 and 2263 work together.

079 REPRESENTATIVE LONNIE ROBERTS, COMMITTEE CO-CHAIR: Asks Keisling
his

opinion as to whether there are too many administrative rules being
made.

086 KEISLING: Responds.

110 REPRESENTATIVE ELDON JOHNSON: Asks Keisling if there's a process in written testimony about agencies adopting rules that contravene bills already passed.

115 KEISLING: Responds.

129 JOHNSON: Asks Keisling if the legislative counsel has enough clout to reinterpret what is intended.

137 KEISLING: Responds.

147 REPRESENTATIVE DELNA JONES: Follows up on Johnson's question. Asks Keisling if the legislative counsel can respond to concerns.

158 KEISLING: Responds.

160 WATT: Asks Keisling how many rules the counsel reviews.

164 KEISLING: Responds

178 WILLIAM FUNK, LEWIS & CLARK COLLEGE: Submits and summarizes written testimony (EXHIBIT A) in support of HB 2262 & 2263. -Tells about the committee that brought HB 2262 together. Informs that there needs to be more public participation in rulemaking. -Says that authority needs to be clearly delegated. Reviews HB 226 2, step by step.

264 ROBERTS: Asks Funk about guidelines for delegation.

267 FUNK: Responds. Continues step by step review of HB 2262.

292 WATT: Introduces Kathleen Beaufait from Legislative Rules. Asks Kathleen how many rules counsel reviews and what the criteria is.

311 KATHLEEN BEAUFAIT: Responds.

383 ROBERTS: Asks Beaufait how people know when there are meetings dealing with rules.

387 BEAUFAIT: Responds. 415 WATT: Asks Beaufait if the counsel reviews every rule.

416 BEAUFAIT: Responds.

422 FUNK: Continues step by step review of HB 2262.

445 ROBERTS: Asks Funk about standards for appointing people to make rules.

460 FUNK: Responds. Continues with step by step review of HB 2262. Notes the benefits of the bill.

TAPE 13, SIDE A

030 FUNK: Continues with step by step review of HB 2262. Notes that there is inadequate notice to the public about hearings for rules.

072 WATT: Asks Funk what the charge is to receive bulletin.

078 FUNK: Responds. Continues with review of HB 2262. Notes that there is concern not to delay the rulemaking process.

143 ROBERTS: Asks Funk if there is a fiscal impact with HB 2262.

148 FUNK: Responds. Continues with review of HB 2262. -Notes that agencies don't always comply with regulations to fully consider comments of the public.

198 REPRESENTATIVE AVEL GORDLY: Asks Funk to be more specific & to tell which agencies don't comply.

202 FUNK: Responds.

216 JONES: Asks Funk if the agencies did this in recent times & if it was the same agency each time.

218 FUNK: Responds. -Explains intent of bill, in his words. -Continues review of HB 2262. -Notes that some agencies abuse temporary rules provision.

308 ROBERTS: Asks Funk if the Attorney General would have to review every temporary rule.

310 FUNK: Yes. -Continues review. -Notes that some agencies use advisory committee.

358 JONES: Asks Funk about those agencies that used advisory committees.

362 FUNK: Responds.

384 WATT: Asks Funk if the committee considered requiring use of advisory committees.

386 FUNK: Responds. -Continues review. -Encourages public involvement.

440 JONES: Asks Funk if federal laws interfere.

447 FUNK: Responds. -Concludes in favor of HB 2262 & HB 2263.

468 ROBERTS: Repeats question as to who authority can be delegated to.

490 ELIZABETH HARCHENKO, ATTORNEY GENERAL'S OFFICE: Submits and summarizes written testimony (EXHIBIT B) in favor of HB 2262 & HB 2263.

TAPE 12, SIDE B

038 HARCHENKO: Responds to Roberts' question. -Notes there are no general rules about delegation. -Used D.E.Q. as an example. -Examines cost of temporary rules.

120 ROBERTS: Asks Harchenko about time frames when dealing with rules for elections.

132 HARCHENKO: Responds.

145 ROBERTS: Asks Harchenko if elections should be exempt from rule review.

153 HARCHENKO: Refers question to Secretary of State's office.

156 JOHNSON: Asks Harchenko if the Department of Justice is responsible for rules that don't comply.

163 HARCHENKO: Responds. -Notes that the Dept. of Justice only advises, is not responsible.

194 JOHNSON: Asks Harchenko if agencies could do what they want despite the Dept. of Justice's recommendation against.

201 HARCHENKO: Responds.

222 JOHNSON: Asks Harchenko if the legislature could hold the Attorney General's office accountable.

227 HARCHENKO: Responds. -Speaks about the time restraints of HB 2262. -Notes that the bulletin should be printed twice a month, in support of 226 3. -Concerned about ambiguity of HB 2262 wanting agencies responding to every public comment. Would like that qualified as to which should be responded to. -Notes that the bill would make the Attorney General's office a gatekeeper of sorts.

383 SEXTON: Clarification of Roberts' question about temporary rules.

400 BOB CARPENTER, COMMITTEE FOR THE RIGHT TO EARN A LIVING: Submits and

summarizes written testimony (EXHIBIT C) in support of HB 2262. -Explains how HB 2262 was begun. -Notes that the bill doesn't reflect opinions that aren't directly involved in government.

TAPE 13, SIDE B

035 CARPENTER: Explains written testimony dealing with a study done by the Secretary of State's office. -Notes that there is a "runaway rulemaking process." -Notes what the impact of rules are on the state.

119 JONES: Asks Carpenter what he would do differently from the bill proposed, if he were to change it.

132 CARPENTER: Responds. -Explains what he thinks the bill does. -Notes who makes most of the rules in the state.

194 WATT: Asks for documentation to support Carpenter's claims.

197 CARPENTER: Responds that he doesn't have written documentation, but has heard accounts of such. -Comments on accountability for rulemaking. -Gives examples (relates to mining). -Notes that rules are too stringent already. -Notes the need for legislative oversight. -Does not feel that HB 2262 should be altered, however.

339 THOM NELSON, HOOD RIVER GROWER-SHIPPER ASSOC.: Submits and

summarizes

written testimony (EXHIBIT D) in support of HB 2262. -Notes that HB 2262 is a positive step forward. -Comments that HB 2263 is not important.

390 ROBERTS: Asks if HB 2263 is worth the amount of fiscal impact it would cause.

394 NELSON: Responds that he is not familiar with the bulletin's cost. -Notes that HB 2262 affects small businesses like his. -Gives examples. -Supports having the Attorney General's office review rules.

TAPE 14, SIDE A

030 NELSON: Gives an example for why agencies should respond to public comments. -Says agencies should notify people involved of hearing. -Stephen Gordon responded to him that follow-up information was not necessary. -Notes that there was a memo (in one instance) that said there was no public opposition six days prior to the hearing.

097 WATT: Asks Nelson if he had said the memo stated no public opposition six days prior.

102 NELSON: Responds.

113 ROBERTS: Notes that he would like a copy of that, being that he has heard similar complaints from constituents.

121 NELSON: Notes that there is a fiscal impact, but that that is not a problem.

137 ROBERTS: Declares in subcommittee.

140 DON SCHELLENBERG, OREGON FARM BUREAU: Submits written testimony (EXHIBIT E) in support of HB 2262. -Seconds comments of previous speakers. -Supports HB 2262.

171 ROBERTS: Asks Schellenberg, in relation to Nelson's comment on an agency assuming no public opposition, if it would be acceptable to void the rules that were made thereof.

185 SCHELLENBERG: Responds that Roberts misunderstood what Nelson had said, and explains. -Notes a need to restore the public's trust in government. -Notes that there shouldn't be rules governing the same thing from two different agencies. -Notes a need to develop a good business environment. -Also notes support of HB 2263.

235 ROBERTS: Asks Schellenberg to explain benefits of having the bulletin printed twice a month.

237 SCHELLENBERG: Responds.

254 WATT: Declares full committee.

263 KARMEN FORE, OREGON STUDENT LOBBY: Submits and reads written testimony (EXHIBIT F) in support of HB 2262. -Notes that the Oregon Student Lobby would like an amendment to the bill. -Says that there must be a provided copy of the rule as well as the changes.

351 JIM NEELY, DEPARTMENT OF HUMAN RESOURCES: Submits and summarizes written testimony (EXHIBIT G) in support of HB 2262. -Supports aims of HB 2262, but does not think it will accomplish those aims. -Alternatives are proposed: Increase of time is a concern. -Would double the work load for the Dept. of Human Resources. -Supports HB 2263.

460 WATT: Notes that Neely's concerns are valid and invites him back to the next hearing. TAPE 15, SIDE A

019 NEELY: Notes a workload increase because of having a coordinator appointed. -Supports public input into the rulemaking process.

071 WATT: Asks to be brief, since the hour is getting late.

082 CAMERON BIRNIE, DEPARTMENT OF GENERAL SERVICES: Submits written testimony (EXHIBIT H) in support of HB 2262 and HB 2263.

105 WATT: States that the committee encourages agencies to come forward collectively, and will allot that time.

115 ALLISON BAKER, UNIVERSITY OF OREGON: Supports HB 2262 and HB 2263. -Notes that in the case of U of O, only a few rules are made, relating to campus, faculty, staff and students. -Notes that the bulletin costs \$50.00 per year. -Notes that it needs to be more frequently published. -Need to encourage citizen participation. -Suggests budget for Secretary of State's office for newspaper advertising.

176 ROBERTS: How?

178 BAKER: Small advertisement in Oregonian newspaper, etc. -Bulletin doesn't reach all Oregonians.

193 HAYDEN: Asks whether there was alot of public input into the issue of homosexual housing on campus.

194 BAKER: Yes. -Notes that that was not an issue of rulemaking, and people were interested because of newspaper advertisements. -Concern is to get public notice.

223 ROBERTS: Notes that most people are more interested in business and farms, and those people need to get the word.

236 BAKER: Notes that time-lag is a concern when attached to safety.

250 MELINDA GRIER, OREGON SYSTEM OF HIGHER EDUCATION: Submits written testimony (EXHIBIT I) in opposition to HB 2262. -Notes that intent is good, but . . . -The bill is going to be burdensome to staff. -Increased cost for mailing and delays, etc.

282 WATT: Closes hearing on HB 2262. -Orders of business in introduction of committee bills.

291 SEXTON: Notes that copies of LC 399 were submitted by staff (EXHIBIT K), which seeks to provide funding a cure for breast cancer. -Copies of LC 1317 (EXHIBIT L) which

prohibits adoption of a rule by a state agency
that is more stringent than a federal requirement, with
provisions.

305 ROBERTS: Moves both LC 399 and LC 1317 out as committee bills.

307 WATT: Motions adopted.

314 -Adjourns the meeting at 4:05 p.m.

Submitted by:

Reviewed by:

Kenneth Brady
Administrator

Adrienne Sexton Clerk

EXHIBIT LOG:

A - Testimony on HB 2262 & 2263 - William Funk - 11 pages B -
Testimony on HB 2262 & 2263 - Elizabeth Harchenko - 6 pages C -
Testimony on HB 2262 & 2263 - Bob Carpenter - 8 pages D - Testimony on
HB 2262 & 2263 - Thom Nelson - 2 pages E - Testimony on HB 2262 & 2263
- Don Schellenberg - 7 pages F - Testimony on HB 2262 - Karmen Fore -
6 pages G - Testimony on HB 2262 & 2263 - Jim Neely - 2 pages H -
Testimony on HB 2262 & 2263 - Cameron Birnie - 1 pages I - Testimony on
HB 2262 - Melinda Grier - 2 pages J - Testimony on HB 2262 & 2263 -
Mike Marsh - 1 page K - Summary of LC 399 - 2 pages L - Summary of LC
1317 - 2 pages