

HOUSE COMMITTEE ON RULES AND REORGANIZATION

June 18, 1993 Hearing Room E 1:30 p.m. Tapes 89 - 92

MEMBERS PRESENT: Rep. John Watt, Chair Rep. Dave McTeague Rep. Cedric Hayden Rep. Eldon Johnson Rep. Fred Girod Rep. Avel Gordly Rep. Delna Jones

MEMBER EXCUSED: Rep. Lonnie Roberts, Vice-Chair Rep. Michael Payne

STAFF PRESENT: Adrienne Sexton, Committee Administrator Bryan Boehringer, Committee Clerk

MEASURES CONSIDERED: SB 683 A - Relating to cooperative programs for transplant services; declaring an emergency.

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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 89, SIDE A

CHAIR WATT: Calls the meeting to order at 1:42 p.m.

PUBLIC HEARING ON SB 683 Witnesses:

ADRIENNE SEXTON, COMMITTEE ADMINISTRATOR: SB 683 establishes opportunity for collaborative human organ transplant programs in which participants and the programs: 1) are subject to state agency supervision; 2) operate under guidelines to govern decisions and activities; and 3) achieve specified goals. Creates a "state action" defense relative to potential concerns with federal and state anti-trust laws.

REP. HAYDEN: Asks if the bill requires or permits individuals to be involved in the programs.

ADRIENNE SEXTON, COMMITTEE ADMINISTRATOR: Explains.

REP. HAYDEN: Asks about

ADRIENNE SEXTON, COMMITTEE ADMINISTRATOR: SEN. BOB SHOEMAKER, DISTRICT 3: Submits and reviews testimony in support of SB 683. (EXHIBIT A) Explains the rationale behind the legislation.

REP. HAYDEN: Asks if the COOP would be limited to the three institutions mentioned.

SEN. SHOEMAKER: Explains that there would only be one COOP.

REP. HAYDEN: Asks who sets the transplants.

SEN. SHOEMAKER: Explains that it only deals with heart and kidney transplants.

REP. GIROD: Asks why this needs to be done statutorily.

SEN. SHOEMAKER: Explains that there is a doctrine that permits the state to authorize these programs.

REP. GORDLEY: Asks about the public interest that will be served. Asks about the costs of the new program.

SEN. SHOEMAKER: Explains the goals of the program as outlined in the bill.

REP. HAYDEN: Asks about the competition contributing to the improvement of services.

SEN. SHOEMAKER: Discusses redundancy caused by duplication. Describes the process of creating the Cooperative. Discusses the program application process.

REP. HAYDEN: Discusses expertise levels between the director and the Oregon Health Council.

SEN. SHOEMAKER: Explains that the director will be using a very experienced staff.

CHAIR WATT: Discusses the providing of health services, and the establishment of administrative policy. Discusses the importance of these issues in other bills.

SEN. SHOEMAKER: Continues with testimony. Discusses complaint filing process. Discusses pursuing the public interest. Discusses the policy making board.

REP. GIROD: Asks about the omission of sunset clauses.

SEN. SHOEMAKER: Discusses advancing technology. Explains that in such cases the program would probable disB and on its own.

REP. GIROD: Asks about the benefits to Oregon Health Sciences University and the other competing hospitals.

SEN. SHOEMAKER: Discusses the benefits to the parties involved.

REP. GIROD: Asks for further clarification in the new COOP.

SEN. SHOEMAKER: Explains the process.

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REP. HAYDEN: Asks why some transplants were excluded. Asks why we would limit these transplant providers.

SEN. SHOEMAKER: Explains that it does not prohibit providers, the bill simply allows the above hospitals to enter into a COOP.

REP. GORDLEY:

SEN. SHOEMAKER: Explains that he does not see any anti-trust problems currently.

REP. GORDLEY: Asks about the programming board. Asks about a responsibility chart. Discusses the relationship between this bill and the Oregon health plan.

SEN. SHOEMAKER: Explains that this is part of the Oregon Health Plan.

CHAIR WATT: Asks about the possible creation of a monopoly.

SEN. SHOEMAKER: Explains the monopoly issue.

CHAIR WATT: Asks how an independent organization would break into the monopoly.

SEN. SHOEMAKER: Explains the process.

REP. HAYDEN: Asks about the certificate of need.

SEN. SHOEMAKER: Discusses the numbers.

REP. HAYDEN: Asks about the monopoly section of the bill.

ANDY OBERTEEN, DEPARTMENT OF JUSTICE: Testifies in support of SB 683.

CHAIR WATT: Asks about the existing market.

OBERTEEN: Explains that OHSU currently controls 100% of the market. Explains the reasoning behind the anti-trust provision in the bill. Discusses the exemptions to anti-trust liability. Explains that the clauses does not restrict or prevent other competitors from creating their own COOPs.

CHAIR WATT: Asks for further clarification on the anti-trust laws.

OBERTEEN:

REP. D. JONES: Asks about the memo.

ADRIENNE SEXTON, COMMITTEE ADMINISTRATOR: Explains the AG's opinion.

OBERTEEN: Explains the anti-trust laws.

CHAIR WATT: Asks about the reference to state law.

OBERTEEN: Explains that federal law and state law tie in together.

CHAIR WATT: Asks if we need to have some type of federal approval.

OBERTEEN: Explains that there is no need for federal approval. Discusses the state action doctrine.

REP. HAYDEN: Asks about the reasons for protecting competitors from anti-trust laws.

REP. GIROD: Asks how certificate needs are constitutional.

OBERTEEN: Explains the Sherman Anti-Trust Act. Discusses the two part

test for the state action doctrine.

REP. HAYDEN: Asks for clarification on the competition issue.

OBERTEEN: Explains.

REP. HAYDEN:

TAPE 89, SIDE B

OBERTEEN: Discusses the cooperative agreements.

REP. HAYDEN: Asks about the oversight provision.

OBERTEEN: Explains.

GREG VAN PELT, SISTERS OF PROVIDENCE HEALTH SYSTEM: Testifies in support of SB 683. Explains the areas that his organization serves.

JIM SANGER, LEGACY HEALTH SYSTEM: same. discusses impacts on other institutions.

TIM GOLDFARB, OREGON HEALTH SCIENCES UNIVERSITY: same

VAN PELT: Discusses the services provided by the COOP. Explains the advantages for his organization entering into the COOP. Explains the cost savings.

REP. GIROD: Discusses capital costs for expansion.

VAN PELT: Explains that his organization would share in the costs.

GOLDFARB: Discusses cost savings.

REP. GIROD: Wants to know what is in the Co-op deal for legacy.

SANGER:

REP. HAYDEN: Asks for the rationale behind this bill.

VAN PELT: Explains that the groups need the protection from the anti-trust law.

GOLDFARB: Explains the costs to the hospitals. Discusses the exemptions to the anti-trust law.

REP. HAYDEN: Asks about adding other transplants to the bill and deleting kidney transplants.

GOLDFARB: Discusses the lung and liver transplant programs. Discusses concerns with kidney elimination suggestion.

REP. HAYDEN: Discusses other transplants.

TAPE 90, SIDE B

SANGER: Explains the process of arriving at this bill.

REP. HAYDEN: Asks about combining corporations.

SANGER:

REP. GIROD:

GOLDFARB:

REP. GIROD: Asks about referrals on the national arena.

GOLDFARB: Explains that the referrals are made in an office in Virginia.

REP. GIROD:

SANGER: Explains the potential for creating more doners.

GOLDFARB: Explains the amendments. (EXHIBIT B)

SANGER: Explains the amendments

REP. HAYDEN: Asks which hospitals provide these services.

VAN PELT: Explains that OHSU is the only provider currently.

REP. HAYDEN: Discusses possible additions to the bill.

REP. GORDLEY: Asks about other collaborative programs that might get into anti-trust laws.

SANGER: Explains a case that might result in an exemption request.

VAN PELT: Discusses this bill as a prototype.

REP. HAYDEN: Asks if other hospitals would be hurt.

SANGER: Explains that that is not the intent of the bill.

STEVE TELFER, VP LEGACY HEALTH SYSTEM:

JAN PHILLOPS:

TELFER: Explains why the bill is in front of this committee.

HAYDEN: Isn't "Certificate of Need" a failed policy?

TELFER: Yes, we believe that. Presents a section by section summary of the -A2 amendments.

PHILLIPS: Section 4, sub 5 states only a sufficient number of goals should be met. Have conflicting statements.

CHAIR WATT: Want the Human Resources Dept. director here to tell us what a sufficient number is.

TELFER: Continues section by section summary with Section ____.

PHILLIPS: Speaks to the oversight.

REP. GIROD: What are the numbers on this committee? Will there be an equal number of seats?

TELFER: Program committee will have 3 presidents of each institution.

HAYDEN: There are many immediate heart injuries, can hospitals outside area not do?

PHILLIPS: No, intent is that new partnership will result in flow of non-cardiac transplants to be equalized. Workload is to continue relatively unaffected.

GORDLY: Does this chart match the A-engrossed?

TELFER: Explains the differences between the two charts.

GORDLY: Asks about something.

TELFER: Continues with the explanation of the amendments.

CHAIR WATT: Asks about the deletion at the top of the page 4.

PHILLOPS: Explains that the statement is inherent throughout the document.

TELFER: Explains the rationale behind deleting detail.

PHILLIPS: Discusses the rationale for limiting this bill to the three agencies that have come before the committee.

REP. HAYDEN: Discusses

CHAIR WATT: Asks for clarification.

PHILLIPS: Explains that the intent of the bill....

CHAIR WATT:

REP. GIROD: Asks about the referral.

Phillips: Discusses the referral process in accordance with the work load.

REP. HAYDEN: Discusses retention of the language in the original bill.

TELFER:

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TELFER: Continues with explanation.

PHILLIPS: Clarifies.

TELFER:

PHILLIPS:

TELFER: Explains the deletions dealing with prices.

PHILLIPS: Explain that B is redundant.

REP. GORDLY: Asks for clarification in the deletions.

PHILLIPS: Explains

CHAIR WATT: Discusses the emphasis on costs.

TELFER:

REP. GORDLY:

TELFER: Continues with the explanation.

REP. HAYDEN: Asks about the inspection of public records.

TELFER: Explains where that is mentioned in the bill.

REP. HAYDEN: Asks what would be available to the public.

PHILLIPS: Explains what will be public.

TELFER: Continues with explanation.

CHAIR WATT: Asks about the purpose of the language.

PHILLIPS: Discusses the issue.

TELFER: Discusses the directors ability to revoke power.

REP. HAYDEN: Asks who has authority after it is revoked.

PHILLIPS:

TELFER:

PHILLIPS: Discusses the language.

TELFER: Continues with the explanation of the amendments.

PHILLIPS: Discusses the standing issue in section 13.

TAPE 92, SIDE A

TELFER: Continues.

CHAIR WATT: Adjourns the meeting at 4:35 p.m.