

SENATE COMMITTEE ON EDUCATION

March 2, 1993 Hearing Room 343 3:00 p.m. Tapes 27 - 28

MEMBERS PRESENT: Sen. Catherine Webber, Chair Sen. Stan Bunn Sen. Ron
Cease Sen. Shirley Gold Sen. Paul Phillips

STAFF PRESENT: Jan Barga, Committee Administrator Julie Mušiz,
Committee Assistant

MEASURES CONSIDERED: Executive Appointment - Fair Dismissal
Appeals Board - Alice T. Meyer SB 15 - Relating to criminal
identification data SB 168 - Public broadcasting; 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 27, SIDE A

004 CHAIR WEBBER: Calls meeting to order at 3:18 p.m.

(Tape 27, Side A) SB 15 - RELATING TO CRIMINAL IDENTIFICATION DATA -
PUBLIC HEARING WITNESSES: Bill Kennemer, Oregon State Senator,
District 12 Larry Sowa, Oregon State Representative, District 26 Peter
Courtney, Oregon State Representative, District 33 Don Tank, Oregon City
School District

Stacey Normand, Oregon City School PTA

015 BILL KENNEMER, OREGON STATE SENATOR, DISTRICT 12: Gives
background on bill. This bill is a modest draft to start us in this
discussion.

We've tried to keep the cost down and are considering the possibility of
using this as a trial effort. It closes the loophole in the screening
of about 2000 out-of-state teachers each year.

045 LARRY SOWA, OREGON STATE REPRESENTATIVE, DISTRICT 26: We had a
tragic incident in Oregon City with the murder of a local school
principal.

Oregon is one of the only states that doesn't require a background check.

056 DON TANK, OREGON CITY SCHOOL DISTRICT: Reviews written testimony in support of SB 15, (EXHIBIT B).

101 SEN. BUNN: There are a number of occupations where it would be helpful to know criminal backgrounds. It bothers me that we'll start

fingerprinting certain universal groups. Where is the threshold where we begin to intrude on a person's privacy too much?

121 Tank: Up until this occurred, I would agree. But we need to think of the rights of the children and other teachers in the schools.

146 SEN. CEASE: What's the process you go through when you wish to employ someone?

155 Tank: We check references and ask these references for additional references.

176 SEN. CEASE: What is the ratio of "new hires" (those just out of training) vs. people hired with previous experience?

181 Tank: About 1:1.

187 SEN. CEASE: Do districts prefer to hire people at the beginning of their career?

191 Tank: That's hard to say. I think there will tend to be fewer "new hires" in the coming years.

198 SEN. CEASE: Is there any correlation between how soon you hire someone out of college and what sort of problems they've been into?

206 Tank: A new teacher may have similar problems as any other. But a good teacher usually settles in quickly.

213 SEN. CEASE: Agrees with concern expressed by Sen. Bunn. I think you have a problem that may get worse, but I don't think this is the answer.

230 SEN. KENNEMER: Background checks in foster care are working well. If Oregon doesn't do these checks, it will attract those who have something to hide because all surrounding states do these checks. Suggests the

addition of a sunset clause.

252 SEN. CEASE: It's the fingerprinting that bothers me.

261 CHAIR WEBBER: Without fingerprints we can't use the national identification system.

270 STACEY NORMAND, OREGON CITY SCHOOL PTA: Reads written testimony, (EXHIBIT A).

293 SEN. KENNEMER: We're already checking backgrounds in Oregon, with fingerprints we can check nation wide.

300 CHAIR WEBBER: For people that are certified through TSPC.

317 PETER COURTNEY, OREGON STATE REPRESENTATIVE, DISTRICT 33: Reviews written testimony in support of SB 15, (EXHIBIT C). Asks for extra

provisions of HB 2489 amended into SB 15.

(Tape 28, Side A)

018 SEN. CEASE: Does this apply only to the public sector school districts?

020 REP. COURTNEY: As I understand it, but I'm uncertain.

025 SEN. BUNN: Is there any evidence that the California or Washington system is working?

030 REP. COURTNEY: It would be difficult to get that evidence. I'm not sure; I haven't had staff research that.

037 CHAIR WEBBER: Would non-certified employees pay the fee?

040 REP. COURTNEY: We discussed it. There isn't the money to have the school district pick up the fee.

050 CHAIR WEBBER: Would just doing an in-state check be effective?

053 REP. COURTNEY: No. It's very important to get a national check. To do that we need the fingerprints.

Public Hearing on SB 15 re-opens on page 4.

070 CHAIR WEBBER: Reviews LC drafts 3477 and 3553, (EXHIBITS D & J).

078 MOTION: CHAIR WEBBER moves to introduce LC drafts 3477 and 3553.

VOTE: Hearing no objection, so ordered.

(Tape 28, Side A) EXECUTIVE APPOINTMENT - FAIR DISMISSAL APPEALS BOARD - ALICE T. MEYER WITNESSES: Greg McMurdo, Deputy Secretary, Fair Dismissal Appeals Board Carole Morse, Governor's Office Alice Meyer, Appointee

085 GREG MCMURDO, DEPUTY SECRETARY, FAIR DISMISSAL APPEALS BOARD: Reviews written testimony, (EXHIBIT E).

110 CAROLE MORSE, GOVERNOR'S OFFICE: Speaks in favor of Alice Meyer's appointment.

116 ALICE MEYER, APPOINTEE: Gives her background and why she wishes this appointment.

130 MOTION: SEN. CEASE moves the appointment to the Board with a do confirm recommendation. VOTE: Motion passes (3-0). Sen. Gold and Sen. Phillips excused. Sen. Cease will lead the floor discussion.

(Tape 28, Side A) SB 15 - RELATING TO CRIMINAL IDENTIFICATION DATA -
PUBLIC HEARING WITNESSES: Joe Benninghoff, Confederation of
Oregon School Administrators Katherine Tippens Wiper, Teacher
Standards and Practices Commission David Myton, Teacher Standards and
Practices Commission Lee Erickson, State Police Cliff Daimler, State
Police David Fidanque, American Civil Liberties Union of Oregon Jim
Green, Oregon School Boards Association

154 DAVID MYTON, TEACHER STANDARDS AND PRACTICES COMMISSION:
Introduces self and Katherine Tippens Wiper.

157 KATHERINE TIPPINS WIPER, TEACHER STANDARDS AND PRACTICES
COMMISSION: Reviews written testimony, (EXHIBIT F).

200 SEN. BUNN: Do we have any way of getting the number of
convictions or other statistical information so we could see if those
people would have been caught with this bill?

209 Myton: We have limited information on that, but it's mostly
anecdotal; we don't have any statistical information.

219 SEN. BUNN: What would the total cost come to?

222 Myton: About \$180,000 for the biennium.

225 SEN. BUNN: Reconfirms reservations about SB 15. I want to make
sure this would do a significant good. I'm not convinced of that yet.

239 Myton: Surrounding states estimate that 4-5% of submitted cards
return with criminal records.

262 SEN. BUNN: What percent of our applications show up with a
criminal record?

267 Myton: About .5%.

271 SEN. BUNN: Does that suggest that we're missing between 3.5 -
4.5%?

274 Myton: We are missing some on the out-of-state applications.

288 SEN. BUNN: It's primarily the out-of-state people we need
to fingerprint. So if we find an alternative, then we don't need to
do

this?

292 Myton: Yes, but we don't know any other alternatives.

300 CHAIR WEBBER: To use the national system, we need a fingerprint
match. Could we get into the system with just a name, birthdate or
other

identifying information?

305 CLIFF DAIMLER, STATE POLICE: No.

313 LEE ERICKSON, STATE POLICE: Discusses how the criminal

record information system works, (EXHIBIT H). Submits explanation of SB 15

impact, (EXHIBIT G).

347 CHAIR WEBBER: Do they do a fingerprint check during that process?

351 Erickson: Yes.

355 SEN. BUNN: What happens to those fingerprint cards after they are used?

330 Daimler: The cards can be returned to the contributor after the search is completed. The state file can retain the cards for license renewal

later on.

374 SEN. BUNN: Do anyone else have access to those cards?

380 Daimler: Criminal justice agencies would have access but not the public.

388 SEN. BUNN: All police agencies would have access to information on all teachers in the state.

392 Daimler: Correct.

396 SEN. BUNN: Would anyone beyond police agencies have access to them?

398 Daimler: Yes, criminal justice agencies.

404 SEN. BUNN: Expresses concern about having such information available to all criminal justice agencies.

413 CHAIR WEBBER: This information would include my name, fingerprints and birthdate and would be in the FBI fingerprint file. Is there also an

entry in NCIC?

422 Daimler: FBI would conduct a search, and send back the card and any information they find. Policy makers could choose whether they would

keep the card on state file or return the card to TSPC.

438 CHAIR WEBBER: So we could wipe out the records for those that didn't have a criminal file.

444 SEN. CEASE: In other states is this only for public school employees or all school employees?

449 Myton: In California it's for licensed personnel; in Washington it includes classified personnel; in Nevada it's a wide spectrum of

employees.

457 SEN. CEASE: When they deal with licensed personnel, is it both public and private?

460 Myton: In California, private schools are not required to hire licensed teachers.

474 SEN. CEASE: SB 15 refers only to licensed teachers?

480 Myton: It applies to all teachers, administrators, counselors, psychologists and nurses.

485 CHAIR WEBBER: But not all teachers in private schools in Oregon?

485 Myton: This would apply to all new applicants -- about 5000 people per year. We have 70,000 license holders currently, if we applied it to all licensed personnel.

(Tape 27, Side B)

039 CHAIR WEBBER: Do private schools hire both licensed and unlicensed teachers?

042 Myton: Yes. The bill would not cover some private school teachers because not all private schools hire licensed teachers.

047 SEN. CEASE: I think we have just as many problems in the private schools.

050 SEN. GOLD: This applies to new people who apply for licenses. There will be a different set of criteria for new applicants vs. people

already employed?

062 Myton: Correct. There are other checks in place for those that already have their license.

078 SEN. GOLD: I assume the objective of this bill is to correct situations that have arisen between school children and criminal adults. I don't

think this is the solution needed. It discriminates against one set and omits checks on others.

108 CHAIR WEBBER: Under SB 15 there is a requirement to recheck people when they are recertified?

111 Myton: The commission only wants to apply this to new applicants because of the great number of applications.

123 SEN. GOLD: What other alternative methods of checking are available?

135 Erickson: The background checks needed for someone from the community are different from those needed for out-of-state applicants. We don't

have the ability to obtain this information quickly enough. This gives

employers the opportunity to make more informed decisions.

155 SEN. GOLD: Why can't the school district hiring authority communicate with other states and obtain these background checks?

162 Erickson: It depends on what level we want to automate the search and how much we want to depend on the cooperation of agencies in other

states. The real issue is establishing true identity. A person may not be who they say they are.

175 CHAIR WEBBER: Can the Oregon School Board literally pick up the phone and call the police to run an out-of-state check?

177 Erickson: The other state wouldn't do a criminal history check for an out-of-state agency. The dissemination of those records is controlled

by each state.

190 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION OF OREGON: We have reservations about this bill in its current form. The language of the

bill applies this to renewals as well as new applicants. ACLU is opposed to the number of innocent people who would be swept up into this, compromising their rights to privacy. There is concern that the fingerprints of innocent people sent to the FBI will be added to the national database. This bill is too broad in that it's not limited to only out-of-state applicants. Only information regarding criminal offenses that would revoke or suspend a license should be sent back to TSPC since information without bearing to the application may also appear from this search. The records should be purged periodically, especially those of innocent people.

275 JOE BENNINGHOFF, CONFEDERATION OF OREGON SCHOOL ADMINISTRATORS: Speaks in support of SB 15. Our school children are very vulnerable. I'm

concerned with the large numbers of people in Washington who decide not to apply for licenses after they find out they are going to be fingerprinted. It's too difficult to check these things at the local district level.

385 JIM GREEN, OREGON SCHOOL BOARDS ASSOCIATION: Speaks in support of SB 15. OSB A is a co-sponsor of HB 2489. We need to do something to

protect our children. We will work with the ACLU and other groups to get some sort of compromise.

418 SEN. GOLD: It's inexcusable that a school district's personnel department does not do a thorough background check. I have a problem

taking this strong a measure with such sloppy procedures at the local level.

473 SEN. CEASE: I think some of the suggestions made by the ACLU are worth looking at. If this bill is going to work, it should also include the

private sector.

(Tape 28, Side B)

035 JAN BARGEN, COMMITTEE ADMINISTRATOR: Submits and reviews -1 amendments, (EXHIBIT I).

SB 168 - PUBLIC BROADCASTING; DECLARING AN EMERGENCY - WORK SESSION
WITNESSES: William Nessly, Oregon Department of Justice

056 Bargaen: Submits and reviews -1 and -2 amendments and hand engrossed bills, (EXHIBITS K & L).

079 SEN. CEASE: The -1 amendments are the ones I requested in terms of the Board, all other amendments are in the -2 amendments?

083 Bargaen: Correct. 086 SEN. CEASE: The -1 amendments don't have a lot of support. I'm satisfied with what we have and won't push for the -1 amendments. I

think the -2 amendments are good.

099 SEN. PHILLIPS: If we passed this bill out, then OPB would no longer be a "state agency". If the Board of Directors makes a stupid decision

that incurs some liability, does the state have liability or does the Commission?

110 WILLIAM NESSLY, OREGON DEPARTMENT OF JUSTICE: On page 2, line 20 of the -2 amendments there's a referral to the tort claims. That was to

provide a cut off to the acts taken by the organization after which private corporation would be on its own. It's purely private.

119 CHAIR WEBBER: Is the PERS on page 2, lines 5 & 6?

122 Nessly: Those are the transitional statutes in already in affect where the employee has the decision to make the decision to continue with PERS or to go with the private agency's retirement system.

126 SEN. CEASE: Does that apply to new employees?

128 Nessly: New employees don't have that option.

130 MOTION: CHAIR WEBBER moves the -2 amendments.

VOTE: Hearing no objection, so ordered.

133 MOTION: SEN. CEASE moves SB 168 as amended to Trade and Economic Development with a do pass recommendation.

145 VOTE: Motion passes, (4-0). Sen. Bunn is excused.

148 CHAIR WEBBER: Adjourns meeting at 4:50 p.m.

Submitted by:

Reviewed by:

Julie Muşiz

Jan Barga Assistant Administrator

EXHIBIT LOG:

A - Testimony on SB 15 - Stacey Normand - 1 page B - Testimony on SB 15 - Don Tank - 2 pages C - Testimony on SB 15 - Peter Courtney - 2 pages D - LC Draft 3477 - Staff - 2 pages E - Testimony on Alice Meyer - Greg McMurdo - 16 pages F - Testimony on SB 15 - Katherine Tippens Wiper - 4 pages G - Testimony on SB 15 - State Police - 23 pages H - Testimony on SB 15 - State Police - 7 pages I - LC -1 Amendments for SB 15 - Staff - 2 pages J - LC 3553 Draft - Staff - 1 page K - LC SB 168-1 Amendments and hand-engrossed bill - Staff - 3 pages L - LC SB 168-2 Amendments and hand-engrossed bill - Staff - 5 pages M - Planned bylaws for private OPB - OPB - 22 pages