

SENATE COMMITTEE ON EDUCATION

March 18, 1993 Hearing Room 343 3:00 p.m. Tapes 38 - 39

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

MEMBER EXCUSED: Sen. Paul Phillips

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

MEASURES CONSIDERED: SB 428 - Relating to education; declaring
an emergency SB 435 - Relating to education; declaring an emergency SB
436 - Relating to education; declaring an emergency SB 26 - Relating to
education service districts

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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 38, SIDE A

004 CHAIR WEBBER: Calls meeting to order at 3:17 p.m.

(Tape 38, Side A) SB 428, SB 435, SB 436 - RELATING TO EDUCATION;
DECLARING AN EMERGENCY - PUBLIC HEARING WITNESSES: John Danielson,
Oregon Education Association Neil Bryant, Oregon State Senator, District
27 Joe Benninghoff, Confederation of Oregon School
Administrators Nancy Hungerford, Confederation of
Oregon School Administrators Vickie Dozler-Totten, Oregon School Boards
Association

013 JOHN DANIELSON, OREGON EDUCATION ASSOCIATION: Speaks in
support of bills. The bills simplify the process, correct deficiencies
and make

the process more efficient. Reviews SB 428, SB 435 and SB 436. The
fair dismissal law serves as a protection for teachers and a warning for
school districts that they must keep reasonable records and personnel
policies. When screening and hiring teachers, a district should dismiss
the bad teachers before they become eligible for the fair dismissal
procedure. There aren't many cases, but the law forces districts to
operate with reasonably good personnel practices and evaluative

techniques. Discusses two controversial aspects of SB 436: selection of the arbitration procedure and the just-cause standard. We would be willing to move on either or both of these.

130 CHAIR WEBBER: I don't understand page 2, line 32, on SB 435. Does that imply no matter who won the appeal?

140 Danielson: No. The teacher would have to get a favorable ruling from the Fair Dismissal Appeals Board. They wouldn't have to reinstate them

to a position while it's under appeal but they would have to reinstate them to at least a parallel position.

146 CHAIR WEBBER: But only if the teacher won.

148 Danielson: It's very rare that a teacher appeals these. Generally, the appeals come from the Board.

152 SEN. CEASE: Do you expect a lot of appeals in reference to the funding situation with Measure 5?

155 Danielson: No. Under Measure 5, any reduction of workforce that we have will fall under the reduction of force statute. That is a

completely separate item.

162 SEN. CEASE: What kinds of issues do teachers normally appeal?

167 Danielson: It depends on the reason for the dismissal. Insubordination is a questionable issue that may be appealed. There is a statute that

requires evaluations and personnel records be maintained and that the teacher be entitled to see these records.

186 SEN. CEASE: If they are OEA members, OEA would defend them if they made an appeal?

188 Danielson: We have a responsibility to do that.

190 SEN. CEASE: Do you advise the teacher whether he/she ought to go through with the appeal or not?

191 Danielson: We advise if they should not to go through with it. The final decision is left to the teacher. We can give them a good idea as

to whether they have a chance.

203 SEN. CEASE: How many teachers might be the OEA represent in a year.

206 Danielson: Our legal bill is about \$.5 million a year. There are several, but they are not all on dismissal.

210 SEN. CEASE: If you had an arbitration process available, are you assuming that several teachers would choose that the option over the

other?

213 Danielson: The Bend school district has an arbitration procedure included in their collective bargaining contract. You can not go below

the statutory rights without violating the individual's rights.

226 SEN. CEASE: Do you have many cases where teachers are dismissed because they do not fit the conservative standards of the community.

231 Danielson: There used to be quite a few of those prior to the Fair Dismissal Law. There are still people that fall under that category

today, but not many. Most school boards are reasonably fair.

250 CHAIR WEBBER: Are the just-cause standards in statute or are they under the rule of the Fair Dismissal Board?

254 Danielson: The just cause standard is not specifically in the Fair Dismissal Law. There are just-cause standards.

260 CHAIR WEBBER: So they are in statute.

265 NEIL BRYANT, OREGON STATE SENATOR, DISTRICT 27: Submits and reviews written testimony in opposition to SB 428, SB 435, SB 436, (EXHIBIT A). Submits SB 890 for the consideration of the Committee, (EXHIBIT B).

373 SEN. CEASE: Are you supporting the suggestion that an arbitration process be available?

377 SEN. BRYANT: Both parties need to decide to go to arbitration. I don't think just the teacher should be allowed to make that decision. If it

goes to arbitration, will they use the Fair Dismissal standard or the just-cause standard?

384 SEN. CEASE: What about the idea of having the arbitration process available at all?

387 SEN. BRYANT: I think that would be all right as long as both parties consented.

400 JOE BENNINGHOFF, CONFEDERATION OF OREGON SCHOOL ADMINISTRATORS: Many administrators are also covered under the Fair Dismissal Law. We feel

that the law works well now. Opposes just-cause standard. Also, sometimes arbitration is not as fair to either parties.

424 SEN. CEASE: Can you explain that?

427 Benninghoff: My observation is that many arbitrators are, in fact, biased to one side or another.

435 SEN. CEASE: My sense is that they try to give something to both sides.

439 Benninghoff: Yes, when there is an opportunity. If the baby can be split, they split it. If not, then they'll apologize to the losing

side. I don't think this is helpful. Also opposes SB 435.

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017 NANCY HUNGERFORD, CONFEDERATION OF OREGON SCHOOL ADMINISTRATORS: Submits and summarizes written testimony, (EXHIBIT C).

055 SEN. CEASE: I have reservations to the appeals process we currently have. It's an intimidating process. What percent of the cases would

choose to appeal?

063 Hungerford: A relatively small number, but that's because of the body of case law we have and OEA and COSA often advise against it. Teachers

have to pay the costs of their own appeal.

072 CHAIR WEBBER: There are no attorney fee awards in this process?

075 Hungerford: No. Under the Fair Dismissal Law the school board pays the costs of the panel.

080 VICKIE DOZLER-TOTTEN, OREGON SCHOOL BOARDS ASSOCIATION: Submits and summarizes written testimony, (EXHIBIT D).

(Tape 39, Side A) SB 26 - RELATING TO EDUCATION SERVICE DISTRICTS - WORK SESSION WITNESSES: Jim Scherzinger, Legislative Revenue Office Jan Barga, Committee Administrator Joyce Benjamin, Department of Education Kathleen Beaufait, Legislative Counsel Micheal Sykes, Columbia County Commissioner, President, Association of Oregon Counties Paul Snider, Association of Oregon Counties

172 JIM SCHERZINGER, LEGISLATIVE REVENUE OFFICE: Submits fiscal graphs, (EXHIBIT E).

185 JAN BARGA, COMMITTEE ADMINISTRATOR: Submits and reviews corrected and expanded edition of policy overview booklet, (EXHIBIT L). It's my job

to tell you that the scope your choices is the entire public school system and not only the ESDs.

275 Scherzinger: Reviews charts and graphs, (EXHIBIT E), and how they relate to policy overview.

415 CHAIR WEBBER: ESDs are funded at 85%?

420 Scherzinger: Under the state school fund, last session we funded the ESDs at 85% of their lost property tax revenue under Measure 5.

430 CHAIR WEBBER: Is that the same as funding them at 85% of the prior year service level?

434 Scherzinger: No. Refers to charts.

452 CHAIR WEBBER: Is that growth service level growth?

456 Scherzinger: The result of the 85% assumption is total growth in property tax system revenue as shown in the chart. The 85% only relates to the lighter shaded area of the chart.

466 CHAIR WEBBER: The current service level growth is a higher line that isn't there? 472 Scherzinger: No. That's how they define the current service level to be. Had we funded them at 100% of lost revenue, the line would be

higher. Eighty-five percent of lost revenue is not 85% of current service.

489 CHAIR WEBBER: Does the cut in funding represent 15% less service when you take out growth?

495 Scherzinger: No. It's only 15% less on your replacement, not 15% less on the other budget components.

Tape 38, Side B

055 Scherzinger: You don't collect all the property tax dollars because there is an uncollected tax factor, but you do get all the replacement

dollars.

069 CHAIR WEBBER: So the real cut last time was closer to a 5% cut in revenue?

071 Scherzinger: Less than that in 1992-93 because the property tax revenue in that year is less than 20% of the property tax system revenues.

Discusses bill in terms of funding. The way the equalization districts are handled may be a potential problem.

097 CHAIR WEBBER: The Measure 5 tax rate as it's measured for the schools includes and is computed with the ESD in mind so there's an interaction between the two?

101 Scherzinger: Right, but some schools have no authority to impose a tax in the equalization ESD. So if you take away the ESD authority, then no one has the authority to impose a tax and you can't collect one. The

easiest answer is to get the districts to vote themselves some authority

to impose a tax up to the Measure 5 limits.

137 CHAIR WEBBER: But that's not everywhere in the state.

138 Scherzinger: No, in Grant, Wallala and Wheeler counties.

141 CHAIR WEBBER: Is it interactive between the ESD and the school district?

147 Scherzinger: Yes. It's different on every property.

163 CHAIR WEBBER: If the school district decided not to levy on the ESD, then it would allow more money for the community college or K-12?

168 Scherzinger: If the ESD did not impose a tax, then it would automatically flow into the community college and the K-12 schools.

174 Bargaen: But where there is not an ESD levying authority now but after the merger there would be, then the money would be taken from the other schools.

177 Scherzinger: The Legislature is providing the marginal dollar to the school system and it can control where that money goes. It has the

choice as to who gets what. The other issue that should be considered is that this bill requires 100% of replacement funding for ESDs. In the

school funding bill, HB 5003, the ESDs will only be funded at 80% of the 85% or about 68% of the replacement revenue. I could prepare an

explanation of what that would do to the total resources. Discusses

future funding of the bill. In the end, some amount of rectification of the intent of the k-12 formula will need to occur.

305 CHAIR WEBBER: Is it technically possible to fund ESDs with the equalization formula, just plugging in different numbers using the same concept?

308 Scherzinger: Anything is technically possible. It depends on what your function and purpose of ESDs are. It depends on what you want to do,

and then the funding issues should compliment that decision.

349 Bargaen: A matrix of those kind of policy question starts on page 3. Reviews policy overview and how it relates to this issue.

396 Scherzinger: The property tax system will provide a fixed amount of support for the school system. The state provides the additional

dollars. The state needs to decide who should make the decisions and

then give that person the money to meet their goal. Then its an

educational policy decision.

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010 JOYCE BENJAMIN, DEPARTMENT OF EDUCATION: Submits LC -5 amendments, (EXHIBIT G).

030 KATHLEEN BEAUFAIT, LEGISLATIVE COUNSEL: Uses section-by-section outline, (EXHIBIT F), to review the bill with the LC -5 amendments. The suggestion to delete the equalization process is consistent to

everything you want to do with the bill.

123 CHAIR WEBBER: There is basically no change in when things are happening. The dates are still in place but the language is making the

process easier to work with, correct?

126 Beaufait: There was concern that if we needed to determine who made the decision of the assets and liabilities. This was to clarify that

situation. Continues to walk through the bill.

170 CHAIR WEBBER: So the primary policy change is "the lead role" to "a lead role" in 1?

172 Benjamin: Yes. Everything else is just to clarify.

177 CHAIR WEBBER: How far away are we from a resolution with the small districts in the language.

179 Benjamin: Kathleen and I are satisfied.

184 Beaufait: I think we're better off than in the previous draft.

194 Benjamin: We think there is a diminuendo effect on the questions that people are raising. They seem more and more satisfied.

202 CHAIR WEBBER: This is scheduled again for work session Tuesday.

204 Benjamin: Submits documents and maps from the ESD Task force, (EXHIBIT H).

220 MICHEAL SYKES, COLUMBIA COUNTY COMMISSIONER, PRESIDENT, ASSOCIATION OF OREGON COUNTIES: Submits proposed amendments, (EXHIBIT J). Columbia

county's Youth Services Commission is a model for other programs.

Discusses human services that can be delivered effectively at the local level. We have an excellent system in place. Doesn't see the need for

ESDs in lead role for human services.

268 CHAIR WEBBER: You've changed "must assume the lead" to "shall play an important" role. There are another set of amendments that changes that

statement to "a lead role". Are there significant differences between

the two?

272 PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES: Yes, there is. The word "lead" has the implication that some must follow. As soon as we

designate a/the lead role, people lose interest in the outcome. We need to create partnerships instead. Submits and discusses letter John Ball, (EXHIBIT K), regarding San Diego County "New Beginning" program. People need to work together to create a better product. We don't need

legislation to accomplish this. I think legislation in this form would

be detrimental to that goal. The feasibility study is the only thing we need more legislation for. Submits additional testimony, (EXHIBIT I).

365 CHAIR WEBBER: Adjourns meeting at 5:04 p.m.

Submitted by:

Reviewed by:

Julie Mušiz
Administrator

Jan Barga Assistant

EXHIBIT LOG:

A - Testimony on SB 428, SB 435, SB 436 - Sen. Bryant - 12 pages B - SB 890 - Sen. Bryant - 4 pages C - Testimony on SB 428, SB 435, SB 436 - Nancy Hungerford - 4 pages D - Testimony on SB 428, SB 435, SB 436 - Vickie Totten - 4 pages E - ESD Revenue Graphs - Jim Scherzinger - 3 pages F - Section-by-section guide to SB 26-5 - Joyce Benjamin - 6 pages G - LC -5 Amendments to SB 26 - Joyce Benjamin - 26 pages H - ESD Task Force maps - Joyce Benjamin - 40 pages I - Testimony on SB 26 - Paul Snider - 4 pages J - LC -4 Amendments to SB 26 - AOC - 1 page K - Testimony on SB 26 - Paul Snider - 4 pages L - 3/18/93 Corrected and Expanded SB 26 Policy Overview & School District Index - Staff - 48