

SENATE ETHICS, ELECTIONS, AND CAMPAIGN FINANCE COMMITTEE

January 28, 1993 Hearing Room B 3:00 p.m. Tapes 2 and 3
MEMBERS PRESENT: Senator Grattan Kerans, Chair Senator Neil Bryant
Senator Joan Dukes Senator Rod Johnson Senator Dick Springer STAFF
PRESENT: Annette Talbott, Committee Counsel Tamara Brickman,
Committee Assistant WITNESSES: L. Patrick Hearn, Executive Director,
Oregon Government Ethics Commission Dr. Thompson Faller, Vice Chair,
Oregon Government Ethics Commission Derek Johnson, Past Chair, Oregon
Government Ethics Commission MEASURES CONSIDERED: Informational
meeting

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 2, SIDE A

006 CHAIR KERANS: Calls meeting to order at 3:07 p.m. Introduces
witnesses: L. Patrick Hearn, Executive Director, Oregon Government
Ethics Commission; Derek Johnson, Former Chair, Oregon Government Ethics
Commission; Dr. Thompson Faller, Vice Chair, Oregon Government Ethics
Commission.

014 PATRICK HEARN: Presents overview of Oregon Government Ethics
Commission. (EXHIBIT A)

108 PATRICK HEARN: Discusses the current Administrative Rule making
process that the Commission is undertaking.

164 PATRICK HEARN: Reviews cases brought before the Ethics Commission
in 1992. (EXHIBIT B) Senate Ethics, Elections, and Campaign Finance
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196 PATRICK HEARN: Discusses the Commission's five pre-session filed
bills. (SB 17, 18, 19, 110, 111)

212 CHAIR KERANS: Asks Patrick Hearn whether SB 17 is a "SNAFU" of the
Commission's own making.

213 PATRICK HEARN: Responds and continues discussion.

225 SENATOR JOHNSON: Referring to SB 18, asks whether there is any
allowance for expenses incurred by individuals traveling to testify on a
Bill.

233 PATRICK HEARN: Answers Senator Johnson's question.

235 CHAIR KERANS: Makes comment on lobbying activities.

236 PATRICK HEARN: Adds to Chair Kerans' comments concerning lobbyist
activities.

237 CHAIR KERANS: Mentions time threshold issue in regards to the
definition of lobbyist.

238 SENATOR JOHNSON: Makes comment on special type lobbying costs.

239 PATRICK HEARN: Continues overview of current legislation being considered.

291 CHAIR KERANS: Asks whether Derek Johnson or Dr. Faller have any comments to add.

294 DEREK JOHNSON: Asks whether they (the guests) are there to discuss the Chair's five point program to enhance the capabilities of the Ethics Commission.

296 CHAIR KERANS: Responds to question.

303 DEREK JOHNSON: Reviews his background with Ethics Commission and benefit of the current Commission. Mentions his concern regarding proposals to eliminate the Commission.

346 CHAIR KERANS: Responds to Mr. Johnson's statements.

351 SENATOR DUKES: Ask about investigation phase and whether all records are public.

354 PATRICK HEARN: Responds to question. All records are subject to public records law. \ . These minutes contain materials which paraphrase and/of 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 lopes. Senate Ethics, Elections, and Campaign Finance Committee January 28, 1993 - Page 3

357 SENATOR DUKES: Comments on Mr. Hearn's response.

360 PATRICK HEARN: Speaks independently on the issue of confidentiality. Notes he is not speaking for the Ethics Commission.

396 SENATOR DUKES: Continues comments on confidentiality.

405 CHAIR KERANS: Continues discussion on confidentiality.

451 PATRICK HEARN: Responds.

452 CHAIR KERANS: Continues.

462 DEREK JOHNSON: Continues discussion on confidentiality of Ethics Commission investigations.

TAPE 3, SIDE A

035 DEREK JOHNSON: Proceeds with discussion of confidentiality. Comments on lack of control the Ethics Commission has over the media portrayal of complaint given to the Commission.

063 CHAIR KERANS: Remarks that he and the committee members hope to hear from the Commission as a whole and not from individuals on the Commission.

073 DR. FAILER: Comments.

075 CHAIR KERANS: Compliments Mr. Hearn, Mr. Johnson, Dr. Faller, and the Commission. Asks a question about the Commission's ability to seek

outside counsel.

088 DEREK JOHNSON: Responds to question. Attorney General represents the Ethics Commission while also representing public officials, such as the Director of SAIF.

124 CHAIR KERANS: Comments on written advice of Ethics Commission's Assistant Attorney General.

127 DEREK JOHNSON: Continues the discussion on the Commission's ability to appoint independent counsel.

143 CHAIR KERANS: Remarks that there should be a clear direction which states that the Justice Department can not represent both sides of a case, and the Commission should be allowed to hire counsel from its own budget.

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CHAIR KERANS: Asks if he could receive a synopsis of the distribution of cases before the Commission in order to determine if it is being used as a political platform.

173 PATRICK HEARN: Responds to the request.

174 CHAIR KERANS: Continues the discussion on the Ethics Commission and its fairness of notification to the person involved in an investigation.

194 PATRICK HEARN: Responds to comments on the notification process.

196 CHAIR KERANS: Continues comments on the Commission's notification process. How do you maintain fairness to a person involved and at the same time not run over the Commission's own motion power?

224 DEREK JOHNSON: Responds to Chair Kerans' questions regarding the Ethics Commission's own motion powers.

242 CHAIR KERANS: Continues discussion and questions on the Commission's own motion power and notification process.

270 DR. FAILER: Responds to Chair Kerans' question.

289 CHAIR KERANS: Comments that he expects to be blindsided by a political opponent or political party, but it is different if it comes from the Commission.

296 DR. FAILER: Responds to Chair Kerans' statement.

302 CHAIR KERANS: Indicates that this is an area that he believes needs to be worked on.

303 DR. FAILER: States that this is an area where the Commission welcomes suggestions.

304 CHAIR KERANS: Continues discussion on notification procedures and the need to be sensitive to people's due process rights.

328 DEREK JOHNSON: Comments on Chair Kerans' statement about notification process.

338 CHAIR KERANS: Continues.

358 SENATOR DUKES: Questions whether the Commission uses newspaper articles in its meetings for the purposes of deciding whether to investigate a person.

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372 PATRICK HEARN: Responds to Senator Dukes' question.

405 SENATOR DUKES: Asks a question regarding whether it would be possible for a Commissioner, who finds something in the newspaper clippings worthy of pursuing, to fill out a piece of paper and submit it to the Executive Director before an official investigation is launched.

417 DEREK JOHNSON: Responds to Senator Dukes' question.

422 SENATOR DUKES: Continues discussion.

430 CHAIR KERANS: Continues discussion on the Commission's own motion notification process.

449 PATRICK HEARN: Responds to Chair Kerans' comments.

452 CHAIR KERANS: Continues.

TAPE 2, SIDE B

040 CHAIR KERANS: Asks about possibility of requiring formal continuing education on ethics.

057 DR. FAILER: Responds to Chair Kerans' question.

069 DEREK JOHNSON: Continues discussion on ethical education.

085 CHAIR KERANS: Continues education discussion.

CHAIR KERANS: Asks if the Commission has considered having a consent calendar.

138 DR. FAILER: Responds to Chair Kerans' question.

CHAIR KERANS: Ask if the Commission members get all the findings and conclusions prior to each meeting.

DR. FAILER: "Yes."

CHAIR KERANS: Continues conclusion discussion.

152 DR. FAILER: Responds to Chair Kerans' comments and continues discussion.

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169 CHAIR KERANS: Asks if much time is taken on cases when the report concludes there is "no cause" to proceed.

DR. FAILER: Responds.

CHAIR KERANS: Requests information on how many times the Commission's decisions go in the opposite direction of the investigator.

174 PATRICK HEARN: Responds to Chair Kerans' requests.

176 CHAIR KERANS: Thanks the guests for their attendance at the hearing. Instructs the guests to contact either himself or Annette Talbott if they have matters they would like to communicate. Mentions that he would like the Committee to have a full understanding of the Commission.

199 PATRICK HEARN: Announces next Commission meeting for February 25.

201 CHAIR KERANS: Mentions possibility of Committee attending meeting.

207 SENATOR DUKES: Comments on newspaper clipping fRes.

209 DEREK JOHNSON: Comments on Commission meeting.

211 CHAIR KERANS: Thanks the Commission and complements its improvement.

220 DR. FAILER: Thanks committee for assistance.

226 SENATOR BRYANT: Mentions he has a question but not of witnesses.

227 CHAIR KERANS: Addresses that Senator Springer has a question of the witnesses.

228 SENATOR SPRINGER: Remarks on his work with Patrick Hearn and Derek Johnson from a previous committee. Seconds Chair Kerans' statement about the improvement of the Commission.

238 PATRICK HEARN: Thanks Chair Kerans and Senator Springer for their comments.

247 SENATOR BRYANT: Asks if the Governor's proposal has been pre-session filed.

248 CHAIR KERANS: "Senate Bill 1S9 and will be assigned to this committee."

249 SENATOR BRYANT: Asks for that to be put together in the book with the existing statute and rules and regulations.

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250 CHAIR KERANS: Mentions that all the bills assigned will be distributed. Discusses agenda for Tuesday, February 2, 1993.

261 ANNETTE TALBOTT, Counsel: Responds to Chair Kerans' question on the agenda.

262 CHAIR KERANS: Directs that the committee will work on SB 17, 18, and 19. The Commission bills regarding the subpoena power, registration of lobbyists, and the filing requirements. 269 ANNETTE TALBOTT:

Mentions that she will put the statutes and the rules in the book, as well as the bills that the Commission has introduced. 271 CHAIR

KERANS: Adjourns meeting at 4:22 p.m. Submitted by:

Reviewed by: Tamara Brickman Annette Talbott Assistant
Counsel

EXHIBIT LOG

A - Overview of OGEC - Patrick Hearn - 9 pages B - Statistics on all cases submitted to OGEC in 1992 - Patrick Hearn - 2 pages

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