

SENATE COMMITTEE ON
JUDICIARY

August 1, 1993 Hearing Room C
2:00 p.m. Tape 237

MEMBERS PRESENT: Sen. Dick Springer, Chair
 Sen. Jeannette Hamby
 Sen. Karsten Rasmussen
 Sen. Catherine Webber

MEMBERS EXCUSED: Sen. Bob Shoemaker
 Sen. Gordon Smith

STAFF PRESENT: Karen Quigley, Committee Counsel
 Kirk Bailey, Committee Assistant

ISSUES DISCUSSED: Public Hearing/Work Session: SB 307, HB 2552
 Work Session: 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.

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TAPE 237, SIDE A

003 CHAIR SPRINGER: Opens the hearing at 3:00 pm. Excuses Sen. Shoemaker and Smith.

HB 2552: Requires statement on package or product disclosing use of pay-per-call service as method of providing technical support or services.

WITNESSES: SENATOR BILL DWYER, District 21

020 SEN. DWYER: Testifies in support of the bill. Explains that the computer industry is using 1-900 numbers for software support and the customer is unaware of this additional cost.

MOTION: Chair Springer moves HB 2552 to the Floor with a "do pass" recommendation.

VOTE: The motion passes, 4 - 0. Sen. Shoemaker and Smith
excused. Sen. Dwyer will carry the bill on the Floor.

SB 307: Requires bifurcation of all trials of claims for relief based
in
tort.

WITNESSES: ELIZABETH HARCHENKO, DEPARTMENT OF JUSTICE
PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES
ED HUGHES, OREGON COUNCIL OF FEDERALLY RELATED ORGANIZATIONS
TED DEMEZAS, OREGON COUNCIL OF FEDERALLY RELATED ORGANIZATIONS

044 CHAIR SPRINGER: Explains that the bill has been amended to accomplish
a
different purpose than the original bill (EXHIBIT A?).

050 ELIZABETH HARCHENKO: Testifies in support of the amendments to
the
bill. Reviews -1 amendments. The amendments are designed to expediate
the review of cases that are currently in the circuit courts involving
the taxation of public retirement benefits. The cases would proceed
through the circuit courts as they ordinarily would, but upon the
entry
of judgement, when the cases would normally be reviewable in the court
of appeals, the appealing party may notify the court of appeals that
the
appeal fits under the terms of this bill and the court of appeals is
directed to certify the appeal directly to the Oregon Supreme Court.

There are three categories of cases that would go directly to the
Oregon
Supreme Court under these amendments. The first is any proceeding in
which the state or any other public employer is a party and in which
the
court has decided a claim based on contract rights of the plaintiff and
that arises out of taxation of the retirement allowance or other
benefit
paid through the Public Employees Retirement System. This class of
cases will deal with the question of damages caused to these
individuals
by taxation of their PERS benefits. The second category would be
proceedings between the state and any public employer that
participates
in PERS and the employer claims that s/he is not responsible to pay
damages or must be reimbursed for any damage payments. There are three
cases filed that would fit into one of the first two categories. The

a third category of cases are those cases based on an asserted right to tax exemption on retirement benefits paid other than by PERS. This would affect the non-PERS retirees. The amendments have an emergency clause.

110 PAUL SNIDER: Explains that he only signed up to testify to explain the typed-in language to the amendments, which had already been explained (EXHIBIT A).

113 CHAIR SPRINGER: The typed in language is alright with the Dept. of Justice?

114 HARCHENKO: Yes.

124 ED HUGHES: States that he has not seen the new amendments, and his comments address his concern. Submits and reviews amendments in support of the bill (EXHIBIT B).

140 TED DEMEZAS: The new amendments are not objectionable. If the intent is to expediate resolution of the problem, our proposal would ensure that this aging retirement population receives relief faster. The federal retirees have not come before the courts since the Ragsdale decision in 1992. At that point we believed that federal retirees were tied to other retirees in this state. Our proposal contains a phrase that would tie the federal retirees to the issue, and that phrase is "all retirees" shall be granted this relief. The federal retirement community in the past has been totally ignored in proposed legislation. We believe that any legislation that returns funds to state employees but not federal employees would be in violation of Davis.

190 CHAIR SPRINGER: Notes for the record that other organizations representing union members are in the audience and are in support of the amendments. I am prepared to move the -1 amendments. I will not move the Hughes amendments because both caucuses have seen and agreed to the -1 amendments, but not the Hughes' amendments.

MOTION: CHAIR SPRINGER moves adoption of the SB 307-1

amendments as engrossed by Paul Snider (EXHIBIT A).

motion VOTE: Hearing no objections, Chair Springer declares the adopted.

MOTION: Chair Springer moves SB 307 as amended to the Floor with a "do pass" recommendation.

Webber, VOTE: The motion passes 4 - 0. Hamby, Rassmusen, Springer voting "aye." Excused: Shoemaker, Smith. Sen. Springer will carry the bill on the Floor.

HB 2262: Requires filing by agency of written delegation of rulemaking authority with Secretary of State before filing of any rule adopted under delegated authority.

218 KAREN QUIGLEY: Reviews bill and -A10 and a hand-engrossed bill containing the -A9 and some of the additional changes proposed at the last work session on this bill (EXHIBITS C,D).

- The first issue has to do with the delegation of the authority to make rules and the amendments clarify that it can be done by one or more individuals.
- Another change provides that when changes of great magnitude are made a copy of the new rule is provided or an explanation of how to acquire a copy of the new rule is included.
- The amendments include a process to include the public in rulemaking.
- Section 13 deals with what was being referred to as the "copyright" amendment.
- Section 14 permits the Secretary of State a 30-day period of rule adoption to make the written responses available to the public.

274 CHAIR SPRINGER: Is the Secretary of State's Office supportive of the -A10 amendments? They nod affirmatively.

MOTION: Sen. Hamby moves to adopt the -A10 amendments.

VOTE: Hearing no objections, the amendments are adopted.

a MOTION: Sen. Hamby moves HB 2262 as amended to the Floor with "do pass" recommendation.

VOTE: The motion passes, 4 - 0. Sen. Shoemaker and Smith

excused. Sen. Webber will carry the bill on the Floor.

295 CHAIR SPRINGER: Thanks staff and adjourns the committee.

Submitted by,

Reviewed by,

Kirk Bailey, Assistant
Karen Quigley, Counsel

EXHIBIT SUMMARY

A - Proposed amendments, SB 307-1, Elizabeth Harchenko, 2 pgs.

B - Proposed amendments, SB 307, Ed Hughes, 2 pgs.

C - Proposed amendments, HB 2262, staff, 4 pgs.

D - Hand-engrossed HB 2262, staff, 4 pgs.