

SENATE COMMITTEE ON
JUDICIARY

July 19, 1993 Hearing Room C
1:00 p.m. Tap" 223 - 224
MEMBERS PRESENT: Seo. Dick Sprig - , Chair
 Seo. Jeanette Hamby
 Sen. Karsteo Rasmussen
 Seo. Bob Shoemaker
 Seo. Gordoo Smito
 Seo. Catherine Webber
STAFF PRESENT: Bill Taylor, Committee Counsel
 Karen Quigley, Committee Couosd
 Kirk Bailey, Commllttee Assistant
 Janelle M. Factora, Fbor Stat'
ISSUES DISCUSSED: Public Hearinging & Worlc Session on HB 2910
 Work Session on HB 2984, HB 2514

TAPE 223, SIDE A
003 CHAIR SPRINGER: Opens the hearing. (1: 17 p.m.)

PUBLIC HEARING ON HB 2910: Allows county governing body to charge applicants fee for receiving, processing and reviewing applications for permits to hold outdoor mass gatherings. WITNESSES: REPRESENTATIVE LEE BEYER, HOUSE DISTRICT 42 JACK ROBERTS, LANE COUNTY COMMISSIONER BILL VANVACTOR, COUNTY ADMINISTRATOR, LANE COUNTY DAVID FIDANQUE, EXECUTIVE DIRECTOR, ACLU OF OREGON

010 REP. BEYER, HOUSE DISTRICT 42: Testifies in support of the bill.

045 JACK ROBERTS, LANE COUNTY COMMISSIONER: Testifies in support of the bill.

· Our only purpose is to recover costs in the area of permits and fees; it is not our intent to have this apply to the Oregon Country Fair.

SEN. SHOEMAKER: I'm curious about the second part of statute, moving from surety bond to an insurance policy, commensurate with the risks, if not exceeding one million dollars.

ROBERTS: A surety bond is not designed for this situation as it doesn't provide the needed protection and worth; we considered either/or, but interested parties preferred insurance coverage.

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084 SEN. SHOEMAKER: You concluded that providing the poverty exemption was not appropriate?

ROBERTS: Our purpose was to determine the likelihood of harm.

SEN. HAMBY: My question stems from the language "not to exceed \$1 million"; help me understand that.

ROBERTS: We wanted to make sure that applicants would be protected; it wasn't intended to try to guess what the appropriate level would be, but to put a ceiling.

103 SEN. HAMBY: Questions whether \$1 million is sufficient.

REP. BEYER: This was somewhat a political compromise in the House committee.

ROBERTS: This is a step forward, we don't have the ability to require insurance at all presently.

SEN. SHOEMAKER: I'm a little concerned this could be used to prevent a public gathering by requiring the \$1 million policy, forcing the applicants to go to court.

ROBERTS: That is one trade-off; we are sensitive to risk, but we need to protect puUic by requiring insurance.

136 BILL VANVACTOR, COUNTY ADMINISTRATOR, LANE COUNTY: Submits and reviews written testimony in support of the HB 2910, (EXHIBIT C).

CHAIR SPRINGER: Have you calculated positive economic impact of these events?

ROBERTS: The impact is significant.

175 DAVID FIDANQUE, EXECUTIVE DIRECTOR, ACLU OF OREGON: Testifies in support of the bill; reviews history of Oregon Country Fair and the statute.

· Our concern about this statute is prohibiting the holding of an out door gathering unless you have a permit; in effect this can act as a restraint on freedom of assembly, (ORS 433.745).

· We are comfortable with the bill and believe it represents a major step forward over existing law.

WORK SESSION ON HB 2910

254 MOTION: SEN. RASMUSSEN MOVES HB 2910-A TO THE FLOOR WITH A DO PASS RECOMMENDATION.

· The concern was that this not have an impact with the Country Fair; it is important that this be dear.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

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WORK SESSION ON HB 2984: Problblts suppiers of utility services from transferring claim against tenant to owner under spedfied circumstances.

WITNESSES:

LOUISE WEIDLICH, NEIGHB ORHOODS PROTECTIVE ASSOCIATION JOHN VANLANDINGHAM, LANE COUNTY LEGAL AID

EMILY CEDARLEAF, MULTI-FAMILY HOUSING COUNCIL

PHILIP YATES, AFFILIATED RENTAL HOUSING ASSOCIATION OF OREGON TOM O'CONNOR,

OREGON MUNICIPAL ELECTRIC UTILITIES

SUSAN SCHNEIDER, CITY OF PORTLAND

SHARON FLEMING-BARRETT, AFFILIATED RENTAL HOUSING ASSOCIATION

283 KAREN QUIGLEY, COMMITTEE COUNSEL: Reviews bill and submits (-A10 & (-All) amendments (EXHIBIT D and E).

305 LOUISE VVEIDLICH, NEIGHB ORHOODS PROTECTIVE ASSOCIATION: Submits written testimony in opposition to HB 2984, EXHIBIT G).

· We have added a section saying that this bill doesn't create, expand or bridge any authority of a municipal utility to lien or transfer the claim to the landlord.

· We would like tile city to notify us before they take action.

330 JOHN VANLANDINGHAM, LANE COUNTY LEGAL AID: There were two issues that may not be resolved in the (-1) dealing with procedural due process and the other deals with utility lien rights in general.

· There is questions on the constitutionality of procedural due process; the (-A10) amendment states that this bill doesn't abridge any procedural due process protection that tenants have.

395 MAILY CEDARIEAF, MULTI-FAMILY HOUSING COUNCIL: Testifies in support of the

HB 2984.

QUIGLEY: Reviews (-All) amendments further.

CEDARLEAF: The reason for the two step implementation date is because many cities aren't

geared for this and there was concern that they have time to train their folks; they will have to implement by July 1.

448 EHILIP YATES, AFFILIATED RENTAL HOUSING ASSOCIATION OF OREGON:

Submits and reviews written testimony in opposition to the bill, (EXHIBIT I).

TAPE 224, SIDE A

040 YATES: Continues testifying in opposition to HB 2984.

131 SEN. SHOEMAKER: Regarding last two points, HB 2984 doesn't change existing law except to give tenants rights they do not have; how is the bill violating due process or equal protection?
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YATES: I have no problem with most of the bill, but do with the implication that the legislature would say it is okay, by passing this bill, to terminate service without notice and right to a hearing.

163 SEN. SHOEMAKER: Would notice provision be adequate if it was to the best address available?

YATES: That would work; if you add notice and right to hearing, the procedural due process argument goes away.

SEN. SHOEMAKER: Why do you need hearing as well?

YATES: That is what the constitution requires; there has to be an attempt to provide notice and there has to be an opportunity for a hearing.

185 TOM O'CONNOR, OREGON MUNICIPAL ELECTRIC UTILITIES: Testifies in support of the bill.

· Municipal electric utilities are governed by local elected boards; the policies are set by the elected boards and those policies are modeled after the PUC.

210 SEN. SHOEMAKER: Why shouldn't notice and hearing be included?

CEDARLEAF: Uses hypothetical situation to describe.

VANLANDINGHAM: It is easier to deal with (-A10) amendments as they say that procedural due process applies and it not abridged by anything in this bill.

CHAIR SPRINGER: What language would work?

VANLANDINGHAM: The (-A10) and (-A11) amendments together.

251 QUIGLEY: We would have to change references in the (-A10) amendments.

SEN. SHOEMAKER: Nothing in the section says "shall" abridge.

VANLANDINGHAM: "Shall" is better.

CEDARLEAF: The majority of people on the Howe side said that cities shouldn't lien for tenants bills.

299 SEN. SMITH: Are there any comparable provisions with private utilities?

CEDARLEAF: Public utilities are governed by a PUC and they can't hold a landlord liable.

SEN. SMITH: Do they have this power?

CEDARLEAF: No, they have to deal directly with the tenant; that is where we want to be, but

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can't get.

SEN. SMITH: This is one circumstance where government should operate like a business.

CEDARLEAF: Nothing in the bill stops utilities from operating in that fashion; cities are learning.

343 CHAIR SPRINGER: This applies only to residential property?

CEDARLEAF: It doesn't say that, it says only tenants and units.

CHAIR SPRINGER: So it would apply to non-residential property as well.

CEDARLEAF: I believe so.

358 SUSAN SCHNEIDER, CITY OF PORTLAND: One important distinction in services that cities and special districts provide is sewer service and there is no ability to turn off the service if folks don't pay, a lien is our only opportunity to collect.

SEN. SHOEMAKER: Regarding the (-A10) amendments; should this say ~nothing in this section shall abridge any procedural due process protections... ~

VANLANDINGHAM: I believe that was my original language and in negotiations with some of the utilities that was changed; that is acceptable.

385 YATES: In regards to adding a hearing provision in subsection four of section one; the distinction is between a lien and terminating service.

· The constitutional issue isn't imposing the lien, that is okay, the issue is termination of service.

418 SHARON FLEMING-BARRETT, AFFILIATED RENTAL HOUSING ASSOCIATION: We still have concerns regarding utilities collecting their own bills and transferring their job of collecting the payment to someone else.
· We want you to consider the argument that the appearance of allowing or approving of the already, we feel, unconstitutional actions of the committee to deny service to the subsequent tenants may take us further than any of us mean to have happen.

458 QUIGLEY: Section two seems to deal with the residential landlord tenant part of the law, procedures change for commercial tenants?

VANLANDINGHAM: Section two is limited to residential landlord relationships; it is a significant improvement to current law.

SEN. SHOEMAKER: Should we just say "nothing in the section shall abridge any right to notice and hearing..."

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VANLANDINGHAM: What about saying procedural due process such as notice and hearing.; I would hate to see it limited to those things.

035 MOTION: SEN. SHOEMAKER MOVES TO AMEND THE (-A10) AMENDMENTS TO READ "NOTHING IN THIS SECTION SHALL ABRIDGE ANY PROCEDURAL DUE PROCESS PROTECTIONS SUCH AS NOTICE AND HEARING AND THAT A TENANT OR SUBSEQUENT TENANT IS ENTITLED TO UNDER A CONTRACT, UTILITY POLICY RULE, STATUTE OF THE STATE OR FEDERAL CONSTITUTION PRIOR TO DENIAL OR SHUT OFF OF SERVICE."

SEN. HAMBY: Also counsels note on line two, July 19 after line twenty four.

046 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

047 MOTION: SEN. SHOEMAKER MOVES THAT THE (-A10) AMENDMENTS, AS AMENDED, BE ADOPTED.

049 VOTE: HEARING NO OBJECTION [ON THE MOTION CARRIES.

050 MOTION: SEN. SHOEMAKER MOVES THAT THE (-A11) AMENDMENTS BE ADOPTED.

053 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

055 MOTION: SEN. SHOEMAKER MOVES THAT HB 2984A AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION.

SEN. RASMUSSEN: I think utilities should be in the business of collecting their own bills and
I'd be interested in pursuing that line when we get to it; given the fact that this doesn't create or
expand a utility lien right I'm comfortable that we have improved the law and we can look at it
again.

063 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS VOTING NO: SEN. SMITH

WORK SESSION ON HB 2514: Provides that person seeking relief from prohibition against possession of firearm apply to district of circuit.

WITNESSES:

REPRESENTATIVE MANNIX, HOUSE DISTRICT 32

073 BILL TAYLOR, COMMITTEE COUNSEL: Reviews HB 2514 and amendments to the bill,

(EXHIBIT H).

· Reviews letter from Lt. Daimler which would require a judge to put information concerning
finger print cards where the judge had granted the person's right to get a concealed weapons
permit when Sheriff had denied it.

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· I would suggest that on the language received from Lt. Daimler that we change, on line one, "cause" to "order"

100 REP. MANNIX: Testifies in support of the amendments; Sen. Hamby has an addition that she will be proposing and also, the one change in the language suggested by the State Police is a good idea; that is in the original bill.

117 SEN. HAMBY: Submits and reviews additional to subsection eight of the bill (EXHIBIT D).

145 SEN. RASMUSSEN: Uses hypothetical situation to clarify.

154 MOTION: SEN. HAMBY MOVES THAT THE PROPOSED AMENDMENT SUBMITTED BY THE STATE POLICE BE ADOPTED.

162 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

163 MOTION: SEN. HAMBY MOVES THAT THE PROPOSED AMENDMENT, NEW SUBSECTION EIGHT, BE ADOPTED.

167 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

169 MOTION: CHAIR SPRINGER MOVES THAT THE SUBSTANCE OF HB 2365 BE INSERTED INTO HB 2514, RETAINING LANGUAGE IN HB 2514 TO THE EXTENT THAT WHEN A PETITION IS DENIED THE JUDGE SHALL "ORDER". THAT THE INFORMATION BE ENTERED INTO THE LAW ENFORCEMENT DATA SYSTEM.

180 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

182 MOTION: SEN. HAMBY MOVES THAT HB 2514 AS AMENDED BE SENT TO THE FLOOR WITH A DO PASS RECOMMENDATION.

184 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

MEMBERS EXCUSED: SEN. SMITH, SHOE MAKER CARRIER: SEN. HAMBY

203 CHAIR SPRINGER: Having no further business to come before the committee,

we are

adjourned

Transcribed by,

Reviewed by,

Kimberly Burt
Committee Assistant

Bil Taylor
Committee Counsel

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EXHIBIT SUMMARY:

- A - HB 2910: ORS 433.735 submitted by staff, pp 1
- B - HB 2910: Written testimony submitted by AOC, pp 1
- C - HB 2910: Written testimony submitted by Vanveator, pp 3
- D - B 2984: (-All) amendments submitted by staff, pp 5
- E - HB 2984: (-A10) amendments submitted by staff, pp 1
- F - HB 2984: Written testimony submitted by Yates, pp 5
- G - HB 2984: Written testimony submitted by Weidlich, pp 3
- H - HB 2514: Written testimony submitted by Daimler, pp 2
- I - HB 2514: Proposed amendments submitted by Sen. Hamby, pp 2

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