

SB 166 - PH Subcommittee on SB 166 of the SENATE COMMITTEE ON TRADE AND ECONOMIC DEVELOPMENT

April 14, 1993 HR170 3:00 p.m. Salem, OR

Tapes 4-5

Semi-Privatization of Boards/Commissions

MEMBERS PRESENT: SEN. CATHERINE WEBBER, CHAIR SEN. JOYCE COHEN SEN. JEANNETTE HAMBY SEN. SHIRLEY GOLD

MEMBERS EXCUSED:

STAFF PRESENT: JOSEPH CORTRIGHT, EXECUTIVE OFFICER BRIDGETTE BAILEY JERI CHASE, OFFICE MANAGER

WITNESSES: DAVID PLUNKETT, BOARD OF OPTOMETRY HAROLD BEIGHLEY, LANDSCAPE ARCHITECTS BOARD JOHN BLOCK, VICE PRESIDENT, BOARD OF PHARMACY LINDA JAMES, BOARD OF LICENSED PROFESSIONAL COUNSELORS AND THERAPISTS CAROL FLEMING, ADMINISTRATOR, BOARD OF LICENSED PROFESSIONAL COUNSELORS AND THERAPISTS MOLLY EMMONS, EXECUTIVE OFFICER, OREGON VETERINARY BOARD BARBARA ORAZIO, EXECUTIVE OFFICER, BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS KAM DELANY, BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY GEORGIA SPENCE, PHYSICAL THERAPISTS BOARD DON WICK, CHAIR, PHYSICAL THERAPISTS BOARD SUSAN WILSON, ADMINISTRATOR OF HEALTH DIVISION LICENSING PROGRAMS (BOARD OF BARBERS AND HAIRDRESSERS, BOARD OF DENTURE TECHNOLOGY, BOARD OF ELECTROLOGY, and BOARD OF HEARING AID DEALERS) GARY HUTCHESON, PROFESSIONAL LAND SURVEYORS OF OREGON RAY BRODERSON, CHAIR, BOARD OF GEOLOGIST EXAMINERS JOYCE MATTHYS, BOARD OF RADIOLOGIC TECHNOLOGY ELIZABETH BUYS, ADMINISTRATOR, BOARD OF CLINICAL SOCIAL WORKERS GEOFF GUILFOY, DEPUTY DIRECTOR, DEPARTMENT OF INSURANCE AND FINANCE

NOTE: These minutes contain materials which paraphrases and/or summarizes statements made during this meeting. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 4, SIDE A

000 CHAIR WEBBER: Convenes subcommittee meeting at 3:00 p.m.

SB 166 (Semi-Independent Boards and Commissions) - Public Hearing

Board of Optometry

001 DAVID PLUNKETT: Testifies in support of SB 166.

034 SEN. COHEN: You have the ability to remove someone's license, a

very grave power, that a non-profit board does not have. This could lead to creation of a "clique" within a profession. I would like to have amendments that licensing boards periodically report back to the Legislature regarding enforcement and regulation activities. There are boards that are now state agencies that I have problems with.

058 PLUNKETT: Speaking for our board, reporting on activities would be a reasonable process.

064 PLUNKETT: Continues testimony in support of SB 166.

069 Continued discussion about license removal practices.

085 PLUNKETT: Continues testimony in support of SB 166.

Board of Landscape Architects

103 HAROLD BEIGHLEY: Testifies in support of SB 166.

Board of Pharmacy

112 JOHN BLOCK: Testifies in support of SB 166.

137 BLOCK: I have a proposed housekeeping amendment to Page 65, lines 44 and 45, where the language reads: "All penalties recovered under ORS 475 . . . .". We are concerned with ORS 475 (controlled substances). We are charged by statute to regulate that. The legislation would deposit fines collected not in our account, but in the Health Division's account. We would ask for an amendment that deposits those fines in our account.

157 CHAIR WEBBER: Currently fines that you impose are deposited in your own account?

BLOCK: Yes.

160 CHAIR WEBBER: There are some boards with a different procedure - fines that they impose are returned to the General Fund, not their own specific accounts.

165 BLOCK: We are the "drug enforcement agency" for the state and would like to offset those enforcement activities with monies from fines. The bill is currently divided: for ORS 475 , fines go to the Health Division; for ORS 689 (Pharmacy Practices Act), fines go to the Board of Pharmacy.

171 SEN. COHEN: My position would be to not vote for any piece of this legislation if the fines are returned to the entity that levies and collects them. That is poor policy. We have avoided it in law enforcement and it is inappropriate. It creates an impetus to "go beyond" appropriateness. I will not "turn agencies loose" with that included.

187 CHAIR WEBBER: We need to discuss this with the Executive Department. We have discussed a conceptual amendment addressing this since in current statute a number of boards would retain this ability, without legislative oversight.

Board of Massage Technicians

200 CHAIR WEBBER: Introduces letter into record from Glenath Moyle that clarifies oral testimony submitted on April 7 regarding budgetary expenditures.

Oregon Board of Licensed Professional Counselors and Therapists

210 LINDA JAMES: Testifies in support of SB 166.

226 Discussion about public membership.

Oregon Veterinary Board

245 MOLLY EMMONS: Testifies in support of SB 166.

280 Discussion about subpoena power, civil penalties, and the ability to re-coup costs of disciplinary proceedings.

Board of Examiners of Nursing Home Administrators

355 BARBARA ORAZIO: Testifies in support of SB 166.

395 Discussion regarding subpoena powers, civil penalties, and sanctions.

Board of Examiners for Speech Pathology and Audiology

430 KAM DELANY: Testifies in support of SB 166. Submits letter from Dwayne Anderson (Chair of Board) (EXHIBIT B).

Physical Therapists Board

460 GEORGIA SPENCE: Testifies in support of SB 166.

495 DON WICK: Testifies in support of SB 166.

TAPE 5, SIDE A

Health Division Licensing Programs (Board of Barbers and Hairdressers, Board of Denture Technology, Board of Electrology, and Board of Hearing Aid Dealers)

027 SUSAN WILSON: Testifies in support of SB 166. Submits responses to criteria (EXHIBIT C) (not included in criteria packet).

048 Discussion over union representation issues.

Board of Engineering Examiners

079 GARY HUTCHESON: On behalf of Professional Land Surveyors of Oregon, testifies in support of SB 166. Submits written testimony (EXHIBIT D). Also submits written testimony from Oregon Association of County Engineers and Surveyors in support of SB 166 (EXHIBIT E).

Board of Geologist Examiners

101 RAY BRODERSEN: Testifies in support of SB 166.

Board of Radiologic Technology

122 JOYCE MATTHYS: Testifies in support of 166. Presents

written testimony (EXHIBIT F).

Board of Clinical Social Workers

143 ELIZABETH BUYS: Testifies in support of SB 166.

155 Discussion about penalties returned to the Board.

SB 166 - Semi-Privatization of Boards and Commissions - Work Session

190 GEOFF GUILFOY: Begins presentation of Proposed -2 Amendments (EXHIBIT G). These amendments are the result of Executive Department's review.

305 GUILFOY: Begins presentation of Amendments to Hand-Engrossed SB 166 (EXHIBIT H), which are further issues that have risen in review of the bill. Also submits chart of powers/membership/penalties/employees comparisons (EXHIBIT I).

329 Discussion about accounts and Oregon State Treasury relationships.

375 GUILFOY: Continues presentation of EXHIBIT H.

TAPE 4, SIDE B

030 SEN. COHEN: I have the concern (stated earlier) about fees accruing to the boards' individual accounts. I would support either returning these fees to either the General Fund or an Independent Boards Fund that has some legislative oversight.

CHAIR WEBBER: I have the same concerns.

055 GUILFOY: There has been discussion about this issue. We did not change this because we felt that the purpose of this legislation was not to change their regulatory structure, it was an effort to make them function more effectively administratively. We will draft amendments to address that concern if that is the wish of committee.

074 CHAIR COHEN: I also would like amendments to address performance review concerns, i.e., numbers of licensees, fees, increases, expenses, how are cases handled, how many are court cases, etc.

093 GUILFOY: Continues presentation of EXHIBIT H. Describes new section to addresses concerns raised relating to legislative oversight without the regular Ways and Means process. This new section requires that each board would submit a comprehensive report submitted to the Legislative Assembly just prior to each legislative session. Describes report and advantages of this method.

144 SEN. COHEN: I am still concerned about after-the-fact reporting to the Legislature relating to funds since this type of reporting has occurred before and action was not taken. However, this section could be helpful in other ways, such as performance measurement.

165 GUILFOY: Continues presentation of EXHIBIT H.

180 CHAIR WEBBER: Does this address performance measure concerns?

185 SEN. COHEN: Some of the items in this new section are clearly performance measures.

190 CHAIR WEBBER: I have a concern about who the reports will come to in the Legislative Assembly and how we ensure that attention is paid to them in years to come. I would appreciate any suggestions to address that.

198 GUILFOY: Presents portion of EXHIBIT H (on page 1) that relates to chart (EXHIBIT I). Discusses options to accomplish increasing public membership.

230 Discussion about public membership issue.

259 GUILFOY: Discusses subpoena power issue. Some of these boards ended up with additional subpoena powers. That was not our intent. Our position would be to restore current authority unless the committee wants to do otherwise.

280 CHAIR WEBBER: Is there "generic" authority for subpoena power for boards under ORS 670? I would like this reviewed. I would like language that clarifies existing power.

296 PATRICIA O'SULLIVAN: ORS 670.304 does give some boards generic power, not all boards.

314 CHAIR COHEN: I would support language that restores existing powers. If the powers were not necessary before this, I would be reluctant to change that.

320 SEN. HAMBY: I concur.

322 GUILFOY: We will draft language for this amendment.

325 CHAIR WEBBER: I have another concern about financial mismanagement - the current restrictions that exist and if there is any change in that.

321 GUILFOY: Nothing changes there from current law. With passage of this legislation, there would be no more or less risk than currently exists.

350 SEN. COHEN: Are they still covered by state risk pool?

337 GUILFOY: Yes. They will still pay their share of that insurance.

366 GUILFOY: What is the committee's direction on an increase of public participation?

372 CHAIR WEBBER: That is up to the committee. My choice would be to increase public participation by adding membership. I need an estimated cost of doing that.

390 CHAIR COHEN: So that we could accomplish the target goal of two/three members.

415 GUILFOY: We will estimate the costs, board-by-board and bring those back to you and have separate amendments drafted to address this.

433 SEN. COHEN: We could have language drafted that allows the individual boards to decide how they want to accomplish meeting a target goal for additional public membership and return to the Legislature with their plans.

458 CHAIR WEBBER: I would support that.

469 GUILFOY: We will draft language to accomplish that. Were there any suggestions regarding reporting requirements?

CHAIR WEBBER: No.

478 GUILFOY: Should we draft anything at this time regarding civil penalties?

CHAIR WEBBER: Yes. I would suggest language that requires monies returned to the General Fund.

SEN. COHEN: I agree.

SEN. HAMBY: I agree.

495 CHAIR WEBBER: I have a concern about agencies that take a small amount in in fees, but spent a lot on legal proceedings for sanctions and I would like to address that somehow.

500 SEN. COHEN: That would indicate a preference for creation of an Independent Boards Fund that penalties would accrue to with some process for the boards to request monies from that fund.

TAPE 5, SIDE B

031 GUILFOY: The issue with creation of the Independent Board Fund would be that the funds could not be accessed without returning to the Legislature during the next session, so the funds might as well go to the General Fund and they could just request a General Fund appropriation. We will discuss options with your staff and see if we can draft language.

042 Continued discussion about review process and board self-sufficiency.

070 CHAIR WEBBER: Adjourns subcommittee meeting at 4:45 p.m.

NOTE: Criteria packets also included in the record as EXHIBIT J and letters of support from boards and commissions included in the record as EXHIBIT K.

Submitted by,

Jeri Chase

EXHIBIT SUMMARY

EXHIBIT A - SB 166, Written Testimony, submitted by Glenath Moyle, 1 page

EXHIBIT B - SB 166, Letter of support, submitted by Kam Delaney, 1 page

EXHIBIT C - SB 166, Criteria from Health Division Licensing Programs, submitted by Sue Wilson, 5 pages

EXHIBIT D - SB 166, Letter of support, submitted by Gary Hutcheson, 1 page

EXHIBIT E - SB 166, Letter of support from R. Charles Pearson, submitted by Gary Hutcheson, 1 page

EXHIBIT F - SB 166, Written testimony, submitted by Joyce Matthys, 1 page

EXHIBIT G - SB 166, Proposed -2 Amendments to SB 166, submitted by Geoff Guilfooy, 3 pages

EXHIBIT H - SB 166, Amendments to Hand-Engrossed SB 166, submitted by Geoff Guilfooy, 2 pages

EXHIBIT I - SB 166, Chart, submitted by Geoff Guilfooy, 1 page

EXHIBIT J - SB 166, Responses to Criteria from Boards and Commissions, submitted by Bridget Bailey, 117 pages

EXHIBIT K - SB 166, Letters of support from Boards and Commissions, submitted by Bridget Bailey, 33 pages