

House Committee on Agency Reorganization and Reform February 7, 1991 -  
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statements made during this session. Only text enclosed in quotation  
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proceedings, please refer to the tapes.

HOUSE COMMITTEE ON AGENCY REORGANIZATION AND REFORM

February 7, 1991Hearing Room D 3:30 p.m.Tapes 19 - 20

MEMBERS PRESENT:Rep. Clarno, Chair Rep. Hugo, Vice-Chair Rep.  
Derfler Rep. Katz Rep. Jones Rep. Brian Rep. Clark

STAFF PRESENT: Susan Browning, Committee Administrator Scott  
Kaden, Committee Assistant

MEASURES CONSIDERED:HB 2427 - Education Personnel Appointments, PH HB  
2428 - PI Deputy Superintendents, PH

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proceedings, please refer to the tapes.

TAPE 19, SIDE A

007 CHAIRPERSON CLARNO: Calls the meeting to order at 3:31 p.m..

(Tape 19, Side A) HB 2427 - EDUCATION PERSONNEL APPOINTMENTS, PUBLIC  
HEARING Witnesses:Norma Paulus, Superintendent of Public Instruction  
Dale Weight, Vice-Chair - State Board of Education

012 SUSAN BROWNING: Briefly describes the elements of HB 2427.

019 CHAIRPERSON CLARNO: Introduces Norma Paulus and thanks her for her  
attendance.

021 NORMA PAULUS: Introduces Dale Weight, Vice-Chairman for the State  
Board of Education. This bill will allow better flexibility in the  
management of personnel. I will address governance for the benefit of  
Rep. Katz, who was not in attendance on Saturday, (February 2, 1991).  
In order to carry the educational goals effectively, the Superintendent  
must have the ability to hire and fire people. This ability is already  
limited due to the merit pay system. - Governance must be addressed,  
especially in light of Ballot Measure Five (5). The universities, the  
Superintendent, and the State Board of Education must work together in

order to achieve the desired results. - We need to designate the duties and goals of the local school boards. The Legislature must address these overall governance issues. - We must come up with a plan that consolidates and unifies school districts. Some school districts should even be abolished. All of these topics should be reviewed by a statutory revision commission, with a limited life span and a specific charge. This commission should be composed of legislators, as well as non-legislators. "If the Legislature is willing to address this issue, then I am willing to put this issue on the back burner." This issue (personnel appointments) should be addressed as an element of whole governance scheme.

096 CHAIRPERSON CLARNO: Mr. Weight, would you like to make some comments?

097 DALE WEIGHT: Thank you, Madame Chair. I have the privilege of serving as Vice Chairman of the State Board of Education. See Exhibit A for direct verbatim.

175 CHAIRPERSON CLARNO: Thank you for your testimony, Mr. Weight. Does the committee have any questions?

176 REP. DERFLER: Has the Board ever disagreed with you with regards to hiring someone? Is this a needed change?

177 NORMA PAULUS: No, the board has not. I don't know what the situation was in the past . . . I have asked my deputy to look into that and give me an analysis. Usually, the Superintendent makes the selection and does not consult with the Board. I made my selection, but then consulted with the Board.

188 REP. DERFLER: You also mentioned that the Board must approve hiring. Does the Board have to approve your elimination of personnel?

190 NORMA PAULUS: No, I do not. But with the passage of last Session's bill, the Board's consultation authority is broadened, specifically with regards to hiring.

201 REP. DERFLER: I have another question, but I do not think it applies to this specific bill.

202 NORMA PAULUS: You also have to take into consideration my comments on the merit pay system. The closest analogy would be the Treasure's Office. That office is created by the Constitution and is subjected to the laws which determine the duties and scope of Treasury Department. In the Treasury Office, they have an Oregon Investment Council, which is appointed by the Governor, who oversees the investment policy. But there is no hiring and firing power vested with Oregon Investment Council. The fiscal officers, who are the backbone of the Treasury Department, are hired and fired at will by the Treasurer.

221 REP. KATZ: This is very difficult to have both of you here, not in agreement with regards to this legislation. I would prefer to look at the whole governance issue. We can look at old Superboard bills for conceptual assistance.

232 NORMA PAULUS: I agree with you, but when are you going to cover the issue of governance? We have many other issues to address in addition to governance. If the Legislature plans to address governance, then this naturally should be addressed in that discussion. I would welcome that

because there are far more important things to do, and we don't have any disagreement there.

258 DALE WEIGHT: The CEO has to have the right to hire and fire, clearly. This legislation, as it presently exists, creates a severe dilemma. Now is the natural time to address the broad issue of governance. " We are moving into a post-Measure Five world and none of us really know what that world will look like." A statutory review commission should take care of this, and take care of it soon. Currently, we have very limited ways of controlling spending and that worries me the most. We like Norma, and she must have the right to react immediately. Under the current law, we have a major dilemma. 309  
CHAIRPERSON CLARNO: Thank you for your comments. Are there any other questions of our witnesses? If not, . . . anyone else interested in testifying on HB 2427? If not . . . the public hearing for HB 2427 is closed.

(Tape 19, Side A) HB 2428 - PI DEPUTY SUPERINTENDENTS, PUBLIC HEARING  
Witness:Norma Paulus, Superintendent of Public Instruction Rick Burke,  
Department of Education Staff Greg McMurdo, Department of Education  
Staff

316 CHAIRPERSON CLARNO: Opens the public hearing on HB 2428.

319 NORMA PAULUS: Introduces Rick Burke. This bill seeks to flatten out the organizational pyramid and create a more horizontal system. The reason we didn't change the overall personnel statute is we had no way of knowing what affect it would have on the other agencies. Refers to Rick Burke for further detail. I am not asking for another deputy or additional money, I just want more flexibility in management.

354 RICK BURKE: Covers the history of the following positions: Deputy and Associate Superintendents. - Greg McMurdo and I have been stacked into the single deputy position, knowing that we would be proposing this remedy to the Legislature.

461 REP. KATZ: I have missed a link here. You have been placed in an Associate Superintendent slot?

465 RICK BURKE: No. I have been placed in a Deputy Superintendent slot.

467 REP KATZ: What would have happened to those below you?

468 RICK BURKE: Had I not been placed in this slot, their mode of service would have been changed from the Executive service to the Management service.

473 REP. HUGO: I think the confusion is because ORS 240 refers to classified/unclassified as opposed to Management or Executive.

477 RICK BURKE: Both issues are intertwined. If you have a statutory deputy superintendent, one or more, then you must refer to ORS 240.205, Subsection 4. The proposal and the amendments seek to straddle both of the limitations in the law.

TAPE 20, SIDE A

033 REP. KATZ: Instead of Executive, they would be Management . . . and not classified?

035 RICK BURKE: They would be Management service with a merit system classification. They are excluded from collective bargaining, instead of being included in the bargaining unit.

037 REP. KATZ: Can the Superintendent hire and fire them?

038 RICK BURKE: Yes, subject to the approval and review by the Executive Department.

040 REP KATZ: If we do not authorize this, the people working under you would become Management service and the freedom to hire and fire is not with the Superintendent. Is that correct?

047 RICK BURKE: Yes, but it goes beyond that. The steep pyramid results in a gaggle of associate superintendents (middle management). We want to reshape the scheme in order to reduce middle management by flattening the organization. The place to save money is in the salary range 36 - Assistant Superintendents of Public Instruction.

062 REP. BRIAN: You are trying to modify the span of control. Should we not amend Chapter 240 ?

069 RICK BURKE: That is the territory of Fred Miller and the Executive Department. We simply did not want to intrude in that area.

071 REP. BRIAN: That is an option for the Legislature . . . we could change the language in Chapter 240, which may be effecting other agencies as well.

073 RICK BURKE: That is correct. If you tinker with ORS 240.205, Subsection 4 you will send waves throughout state government. You will not know exactly what will happen as a result of your actions.

076 CHAIRPERSON CLARNO: It has been the desire of this committee to send some waves through state government, but I don't know that we would want to do it in this manner.

077 REP. BRIAN: But I think we need to know what the waves are.

078 CHAIRPERSON CLARNO: Rep. Brian, would you like to pursue that?

079 REP. BRIAN: Yes . . . I will.

080 REP. CLARK: Early in the practice of law, I ran into the magnitude of this issue...assistant versus deputy. I think we should look at this issue in a larger sense, given this committee's charge. Maybe other agencies can flatten out their management as well.

090 CHAIRPERSON CLARNO: Yes. I believe Rep. Brian is going to proceed with this issue.

093 REP. HUGO: With regards to the bill itself, could you explain lines 8 - 9. Currently the deputy cannot serve on a board or commission that the Superintendent also serves on. I am sort of curious why you have chose to delete that.

096 NORMA PAULUS: I have no idea.

099 GREG McMURDO: That was deleted for the same reason it was deleted

in 198 5 for the Secretary of State. I know of no other deputy that has a similar limitation. That authority need not be delegated, but it can be delegated. Most bills which created boards and commissions specifically state the Superintendent or designee anyway. So, this is really surplus and archaic language.

112 REP. HUGO: I read that differently. It seems to me the language says a Superintendent may not designate the deputy.

118 GREG McMURDO: You are correct. Under current law, the Superintendent could not designate the deputy. What I was trying to do is put them in the same position as I have for all the other deputies in the various departments.

127 REP. HUGO: Why do you think the existing law is the way it is?

128 GREG McMURDO: It is this way because it dates back to a time when all the statutes had similar language. It was removed from all of them, that I am aware of, with the exception of this statute.

133 REP. JONES: Does this allow you to determine the number of deputies? Does it change your ability to determine if employees are classified or not classified?

142 RICK BURKE: It does not expand our authority to change the status of employees.

144 REP. JONES: It simply allows you to have the number of deputies that you decide to have . . . in relationship to the responsibilities that the Superintendent feels appropriate.

146 RICK BURKE: I would rather state that in the context . . . that it allows us to propose a budget to the Ways & Means committee who will make that decision as a result of their funding.

150 REP. JONES: I don't think that was my question. If you wanted four instead of three, and you were within your budget, and within your FTE level, then you would be allowed to do so, with this proposition. Is that not true?

154 RICK BURKE: No. The budget will be approved with each position in a specific classification, and we are required to abide by that.

159 NORMA PAULUS: We are trying to give me flexibility to change the management system and the management style. If you don't pass this bill, then I have one of two choices. I can either keep the pyramid that now is contrary to what I want and need. In order to change the management style, I can change it under existing law without this bill, if I am willing to give up the right to have the hiring and firing of those fifteen positions. If I change the management structure and go away from the pyramid and take those people outside the deputy, then I lose that capability. If you don't pass the bill, then I am stuck with this vertical management. Or if I flatten the system out, then I give up the flexibility to hire and fire those fifteen positions.

177 REP. JONES: We are in agreement with that. The question concerned the response which was given in relationship to your authority, once you get to the budget issue.

185 REP. HUGO: With the previous bill, HB 2427, that was to free you

from going to the Board to ask for permission to appoint or hire. With this bill, you will still have to consult with the Board. So there will be no change in current practices. Who is the deputy now? Is that Bob Burns?

192 NORMA PAULUS: Yes.

193 REP. HUGO: What are your positions or titles (referring to Rick Burke and Greg McMurdo)?

194 RICK BURKE: We are titled Deputy Director, with some services/function attached.

198 REP. HUGO: Why do you need a law to do what you want? Is there a law which prevents you from doing what is currently being practiced?

208 GREG McMURDO: The problem is that we will have to triple-fill one position.

211 REP. HUGO: But the Fiscal Impact Statement for this bill says, "Passage of this bill will not have any effect on the number of positions, nor on the salary ranges which may be approved." Are there going to be more positions added?

213 NORMA PAULUS: No.

214 REP. HUGO: So then what difference does it make?

215 NORMA PAULUS: When I try to rearrange, and make it more horizontal, those positions would drop out of the Executive slot and become Management service.

227 REP. HUGO: So who would fire them, Fred Miller?

228 RICK BURKE: They would have the same rights as every other employee. They would only be fired for cause, and they would be able to appeal that.

230 REP. HUGO: So when they are Management, they are almost like Classified?

231 RICK BURKE: Yes.

231 REP. HUGO: A deputy is a significant title, because they can function as a superintendent, under the law. They can issue penalties and sign warrants. Do you plan to have more than one deputy?

239 NORMA PAULUS: The title doesn't make any difference to me as long as I can maintain the flexibility and as long as I can maintain those fifteen slots that we have presently. That is the goal.

242 REP. KATZ: She wants the freedom to hire and fire and get them out of the pay structure that management folks are in. That's the goal.

249 GREG McMURDO: Current law authorizes the Superintendent to designate other people, within the department, to act as the Superintendent. The problem is, that under present statute, those people cannot be called deputies.

255 REP. HUGO: Right. . . and they are called assistants, or

associates. Are these people Management?

259 GREG McMURDO: Some of those people are unclassified Executive service people and some of them are probably Management service people.

262 REP. HUGO: This whole legislative session has been one of symboliSM over substance. I suppose I am getting a little hung up on it. The symboliSMis that we are cutting all these things, and we are going to permit the Superintendent to have more than one deputy. How can we reconcile that with our charge of reducing government?

266 NORMA PAULUS: We don't want to tamper with Fred Miller's shop. The Legislature could change the statute, as has been suggested by Rep. Brian.

271 NORMA PAULUS: We are not asking for more positions or more salary. We are asking for more flexibility and the ability to keep those fifteen positions that prior superintendents have had.

276 REP. KATZ: Talk to me about salaries. Do you three have the same salary?

280 RICK BURKE: The salary assigned to the deputy and the associate superintendents is called M-38. The rates of pay within that range are not the same. Bob Burns and Greg McMurdo have rates of pay that are slightly higher than the one I have, which is quite fine with me.

290 REP. KATZ: Would you request a salary increase to match the other two with the same title?

292 RICK BURKE: My intent is to try and work myself out of a job. The answer is no. It is not a salary issue; it is an organizational/structural issue.

305 CHAIRPERSON CLARNO: If there are no further questions, we will have the Committee Administrator go over the amendments.

308 SUSAN BROWNING: Covers the amendments which have been submitted subsequently by Department of Education.

329 REP. JONES: I want to try to ask my question as simply as I can. I was surprised at your answer, Rick, when I asked the question about the budget. My reason for asking the question is because I am accustomed to having people in a position of authority . . . having a budget and a head count and let them manage it the way they want to do it. What you have just told me is that there is a lot more control in the budget process in terms of whether Norma can have the number of deputies she is talking about, even if her budget and her FTE, are in fact, kept in line.

348 RICK BURKE: I probably over-answered your question the first time and now we are back to it. There is an element within the automated budget system which flags the fact that there is more than one person in the deputy position. There is quite a bit of control.

358 REP. JONES: For what it is worth, I think you ought to be responsible to manage within the budget. I really don't care how many people you have.

360 CHAIRPERSON CLARNO: Any other questions or comments? Closes the

public hearing on HB 2428 (4:24 p.m.). Committee meeting is adjourned  
(4:26 p.m.).

Submitted by:

Reviewed by:

Scott Kaden

Susan M. Browning

EXHIBIT LOG

Exhibit A - Dale Weight - 4 pages