

March 7, 1991Hearing Room D 3:30 p.m.Tapes 35 - 36

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

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

MEASURES CONSIDERED:HB 2090 - Position Allocations, PH & WS HB 2094 -  
Changes in Compensation Plans, PH & WS

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 35, SIDE A

004 CHAIRPERSON CLARNO: Calls the meeting to order at 3:35 p.m..  
Addresses the long term agenda of the committee. Discusses the proposed  
amendments to HB 2890.

023 SUSAN BROWNING: Briefly summarizes the major points of HB 2090.  
Fiscal impact concludes that it has indeterminate savings.

037 REP. DERFLER: This bill will impact another bill that Labor is  
going to be looking at in a couple of weeks - the early retirement  
program. In an attempt to reduce spending and salaries by \$70 million,  
we will start limiting the number of people in individual agencies. If  
this bill (HB 2090) passes, it will allow them to circumvent that bill  
to allow them to shift back and forth. I just wanted to make this  
conflict known.

045 CHAIRPERSON CLARNO: We thank you for making that point. When our  
witnesses testify, would you please bring up that matter? 062 REP.  
CLARK: On HB 2090, I have an elementary question. Susan, can you tell  
me the significance of someone being assigned into the statewide  
classification system?

068 BROWNING: I believe the Executive Personnel Division will be  
addressing that topic. The new statewide classification system came  
into being when they discussed comparable worth and those different  
moves.

072 CHAIRPERSON CLARNO: I look forward to be educated with regard to  
this matter as well.

- Introduction of Karen Roach

(Tape 35, Side A) HB 2090 - POSITION ALLOCATIONS, PUBLIC HEARING AND

POSSIBLE WORK SESSION Witnesses: Karen Roach Jim McIntosh Mike Marsh

077 KAREN ROACH, PERSONNEL AND LABOR RELATIONS DIVISION - ADMINISTRATOR:  
- Provides a brief description of the Personnel and Labor Relations Division. Reference to EXHIBIT A, page one (discusses the Division's organizational chart).

178 CHAIRPERSON CLARNO: You keep track of people, is that the gist of your mission? How do you coordinate all personnel?

184 ROACH: This division has the data base which keeps track of all employees, as well as applicants. It records state employees, their positions, and all state applicants. All state agencies use and input into this data base.

193 CHAIRPERSON CLARNO: When you say input, you mean that they are connected with everyone else?

195 ROACH: Yes, they are accessing a centralized data base. They put in and retrieve information from the system. They also utilize information on the many applicants.

200 CHAIRPERSON CLARNO: How long has this been on-line?

201 ROACH: This system has been on-line for about ten or fifteen years. However, we have just spent six years updating the system, adding a position and personnel data base. That will be put in place July 1, 1991.

207 REP. DERFLER: Who benefits from the program and how is it used?

208 ROACH: That is how we (the division as well as all state agencies) keep track of who we hire, if they are qualified, and process all personnel actions as they relate to hiring, promoting, transferring or terminating an employee. All of those personnel actions are processed against this data base.

215 REP. DERFLER: What do you do differently than a regular personnel office would do? Most agencies have personnel departments - what do you do in addition to these individual departments?

220 ROACH: We develop the data base system for all state agencies to use.

222 REP. DERFLER: Who uses that information?

223 ROACH: All state agency personnel offices and managers, as well as ourselves.

227 REP. DERFLER: If the agencies have their own personnel departments, then what role do you play? It looks like duplication of effort.

230 ROACH: We each have different roles. It is a centralized system within the state, but it also has a decentralized portion as well. We (in the central division) set up the systems; develop the rules, procedures and policies; and monitor the systems. The various state agencies use the system.

239 REP. DERFLER: Why would they then need a personnel department along with this system?

242 ROACH: The state agency personnel offices keep track of the daily personnel issues. We don't have the FTE to administer daily personnel actions and handle personnel issues.

254 CHAIRPERSON CLARNO: Are there any further questions? We appreciate your division summary. Please continue your discussion of HB 2090.

258 ROACH: Introduces Jim McIntosh, Manager of the Compensation, Classification and Benefits Section. He will cover our rationale for this bill.

262 JIM McINTOSH, PERSONNEL AND LABOR RELATIONS DIVISION - DEPUTY ADMINISTRATOR: I thought I would first address the issues of classification and compensation for the benefit of the committee members. Essentially, the Division writes and implements broad categories of work (which we call classifications). We rank levels of responsibility and accountability of various jobs. Next, we evaluate for compensation - using a Hay Point Factor System. This system avoids the stereotyping of various systems. After we rank the classifications, then we determine the salary ranges.

307 REP. KATZ: Could I have a clarification when you say, "fits into the classification system"? Are you talking about the range within the classification category?

310 McINTOSH: Yes. What I am really trying to describe is a "classification." There might be various jobs which fit within that classification. The agency decides whether their very specific job fits in that broad category. - Submits and summarizes written testimony on HB 2090 (see EXHIBIT B). The Division wants to make this system work more efficiently.

360 REP. KATZ: Be a little more specific and give us an example of where an agency would act improperly. What exactly would the impact of your actions be on the employee?

369 McINTOSH: Say we have a Clerical Specialist class, or we have an Administrative Specialist I and II. With different levels of responsibility, each agency will look at these classes and place their employees at different levels. At least to their thinking, they are convinced that they have proper fits. Another agency may look at the same job (type of work) and decide differently. We want a statewide look at these assignments made by the various agencies.

392 REP. KATZ: Before an agency can set the classification, don't they go through you first, to get a final approval?

395 McINTOSH: Yes, they do, to set the classification. But they decide where they put their jobs into the various classifications. Agencies differ as to where they put similar jobs, different interpretations of the classifications. This leads to an occasional inconsistency within the state system. What we are asking for is the ability to change the position (up or down) to correct the inconsistency.

414 REP. KATZ: Automatically? Without discussion or appeal?

418 McINTOSH: We would not do that automatically, we would do that as a result of a post-audit review. We would have gone through a lengthy

process with the agency prior to reaching the decision-making point.

424 REP. KATZ: How do you handle it now? What authority do you have now?

427 McINTOSH: We talk with the agencies. In most cases, we are successful in convincing them that a change should be made in an allocation. On occasion, they may disagree with us. If they do, that issue rises to the Director of the Executive Department. The Director of the Executive Department makes the final decision about whether or not the allocation was appropriate.

442 REP. JONES: I have worked in structures for quite some time. When you have a job classification description that has been determined by the Executive, you now have agencies which have specific jobs within the various classifications. Is that process there right now? Do the agencies have specific classifications, and jobs which fit within those classifications?

463 McINTOSH: Yes. The process you have described is complete.

465 REP. JONES: What is the process of changing a job from this classification to another?

469 McINTOSH: The agency would come forth with a request to reclassify the position based on a change in job duties. They can do that through a review process. Depending on financing, our Division might be involved in that as well.

483 REP. JONES: In order to change a classification, they write up a change in the job description and then you determine what category, what classification that job fits in. Is that correct?

489 McINTOSH: No, they determine the classification and then we review that classification. In certain circumstances, Budget and Management asks us to get involved prior to the decision being made. Normally, the agency makes the decision, and we look at it on a post-audit basis.

TAPE 36, SIDE A

038 REP. JONES: They don't require your approval before it is done?

039 McINTOSH: No.

040 REP. BRIAN: Describe the inconsistencies mentioned in your bill summary. Could you describe to us the volume of positions that are over or under-classified?

045 McINTOSH: We have not done the work to determine the numbers of over-classified or under-classified. We do, just in terms of broad data, understand that agencies have allocated differently in similar situations. We have noted these differences. In post-audit reviews, we have found, in our perception, that agencies have allocated incorrectly. In most cases, we have prevailed in getting the agencies to make the necessary changes.

055 REP. DERFLER: What is the need of this bill? Don't they change it when you ask them?

056 McINTOSH: On occasion, agencies will question whether the Personnel

Division has the authority to change allocations or to prevail with a recommendation.

059 REP. DERFLER: Have you had occasions where they refused to do it?

060 McINTOSH: We have occasions where the issue has gone beyond our Division and up to the Director of the Executive Department. I don't recall that we have ever had an agency refuse to follow the Director's recommendations.

064 REP. DERFLER: Have you had a lot of them, a few of them, one or two?

065 ROACH: We haven't done a lot of post-audit reviews with state agencies. We have spent a lot of our time building this new classification system for the state. This last year we have been able to get into more personnel systems evaluations (audits of state agencies). We don't have a large data base to know how many conflicts. In terms of the statutes, we are trying to clarify the authority, and also to take the conflicts out of the Director's office and handle them within our division.

079 REP. JONES: I am bothered by this. When auditing, you only catch those issues which come to your attention. There is no overall management for making the agencies prove their case before they change the classification of a job. Is that correct?

085 ROACH: That is correct. That is a concern. When we address the Legislative Class and Compensation Committee, we pointed out two elements. The first was that arbiters didn't have comparable worth as a criteria. Secondly, the position allocation authority in state agencies was worrisome to us as we review those jobs which are common across state agencies (often inconsistently allocated). That really gave impetus to this bill. When we find inconsistencies, we want to be able to clarify those allocations in to the agencies.

109 REP. JONES: I served on the committee which reviewed this and saw the turmoil they went through to get the allocations in the first place. I have a concern for the system never having to go through that again, but as new positions are created, they should be fit properly. I am not comfortable with this process; I am not sure that this will accomplish proper fits in the end. This gives you the hammer, when you need the hammer. But how is the system going to find the proper fit? You can only use the hammer when you find the problem, and I have concerns about that.

117 ROACH: We do try to look at new positions, as part of the budget process when they do come on-line. When an agency wants to reclassify upward, that requires some procedure for review. We are involved with most of those instances.

124 REP. JONES: Very rarely does an agency want to down-grade a system. So you do review allocations that request increased position levels?

128 ROACH: Yes, for the most part.

131 REP. KATZ: I have a problem with why you can't tell us the magnitude of the problem. Is there a problem here? You did not answer my question with regard to the employee. What happens to the employee is that the person would get less money, right?

140 McINTOSH: In response to your last question, the employee would normally be "red circled." New employees would come into the position in question, at the lower classification. In response to the magnitude of the problem, we finished the implementation of the class system in late 1990. We reported to the Legislature last September. Since then, I have been involved in three instances where we have had discussions with the agencies about allocations. In one instance, it did elevate to the Office of the Director.

150 REP. KATZ: What happened when it went to the Office of the Director?

151 McINTOSH: They sustained our position.

152 REP. KATZ: So what is the problem?

153 McINTOSH: As we view the need to maintain the system, we do not want to involve the Director with every one of these occasions. We felt this was one way to make our operations more efficient, and that is why we brought this bill forward.

159 REP. JONES: I think the agencies have the responsibility to manage their operations. I don't see that as such a problem.

163 REP. BRIAN: I think this bill attempts to help where an agency has some position over- classified. This will give the Executive Department (your Division) the authority to correct it. Is that what we are trying to do here?

168 McINTOSH: We have, in a sense, a process to deal with the problem. We just need a less cumbersome mechanism for dealing with these problems.

173 REP. DERFLER: Are you asking for the formal authority to make these changes when you find them necessary?

175 McINTOSH: That is correct.

178 REP. JONES: Does the Executive Department have the authority today, without this bill?

180 McINTOSH: Yes, the Director of the Executive Department does have that authority.

182 REP. BRIAN: So then what does this do if the Director already has the authority? Does this shift the authority to a lower level?

185 McINTOSH: Effectively, it formally gets the Executive Director out of the loop, in terms of issues concerning classification. It goes to our office instead.

189 CHAIRPERSON CLARNO: Are there further questions? If not, Mr. Mike Marsh would like to testify.

195 MIKE MARSH, BUDGET AND MANAGEMENT DIVISION (EXECUTIVE DEPARTMENT) - ADMINISTRATOR: Let us look at history, BRIEFLY. - This bill asks that Executive Department Personnel Division have, in statute, the authority to do this. Currently, some do believe that this authority exists now. The technical wording of the statute, currently, can give this Division the power to do it. I feel that the legislature put forth their intent twelve years ago, but we need to establish this intent again.

212 REP. KATZ: Now I am completely lost. From what I understand, Personnel has the ability to do it right now.

215 MARSH: The Division has indicated that to you, and I believe that is a perspective, yes.

216 REP. KATZ: Excuse me?

217 MARSH: I believe that is a perspective.

218 REP. KATZ: What is the other perspective?

219 MARSH: The other perspective is that the intent was established twelve years ago. It gave agencies that authority, and that is what the statute says.

220 REP. KATZ: I guess I have asked them (Personnel Division) what is the problem and they identified three problems. Two were resolved and one went on to the Director's Office. So, has anybody challenged their ability to do this?

223 MARSH: I don't want to get into an argument about the background. What I should say, is that Executive has been able to convince agencies that is all right to do this, but in my opinion, the authority is not there. If the agency wants to challenge it, they have that ability to do so. I think it is useful for the Executive branch to have the legislative direction that says either that there should be a centralized statewide classification, or that it should be decentralized with the agencies having more authority. This bill attempts to solidify the centralized concept.

238 REP. JONES: Now wait a minute. This bill does not say that the Executive Department head now clearly has the authority. It says that the Personnel and Labor Relations Division would have the authority.

242 MARSH: That is correct.

243 REP. JONES: Executive Department wants the Personnel Division to assume the authority even though, at this point, you are not even sure the Executive Department, itself, has the authority to do so?

245 MARSH: My position is that the Legislature spoke to intent twelve years ago. The statute as it is, allows for some waffling. This allows a reading that the Executive Department can retain the authority. I don't see that myself, and I am thinking back into history when I worked within the Personnel Division. That is not the direction that I recall from discussions which occurred twelve years ago.

252 REP. KATZ: Do you have an AG's Opinion on this?

254 MARSH: The agency is here, and I think they have had discussions with the Attorney General.

255 REP. KATZ: Why don't you share this with us? I have just read the statute, and it doesn't seem to me that you have the authority to do that. You are doing it anyway. You have an AG's Opinion, and you are not sharing it with us.

261 McINTOSH: We don't have an AG's Opinion. We have a letter that

gives us advice on this matter. It says the Director of the Executive Department has the authority to resolve disputes between agencies, etc., as stated in the statute. It does say that they believe the Director, because of that language, has the authority to resolve disputes arising from post-audit discussions.

279 REP. KATZ: He is absolutely right. He is reading ORS 240.311 - Subsection Two. Mike, what is the problem here?

282 MARSH: The problem is that the Legislature has spoken on this subject and has said that agencies should allocate. We would like to have a process where a review includes a Personnel Division review, instead of the Director of the Executive Department always having to come in and serve as a judge in the process.

288 REP. DERFLER: Where is it stated that the Legislature has spoken on this issue? Where is that stated?

292 MARSH: The statute has given allocation authority to agencies. When the allocation authority was given to agencies, in essence that decentralized the system. It seems that there should be at least a review authority on the part of the Personnel Division, that is pretty clear, instead of involving the Director.

297 REP. DERFLER: So you would like to stop it at your level rather than having it go further up?

299 MARSH: I would like to have it be a business-like process where the agency works with the Personnel analyst so that it doesn't have to go the Director of Executive.

303 REP. HUGO: When we have an agency head and we have a Personnel Division which is equal in status to the agency, you would like to have those two groups work this problem out, without it going to the Executive level. Where does collective bargaining come into play?

310 McINTOSH: Collective bargaining comes into play after allocation. They can request a different allocation. They are certainly involved as to where positions get allocated and they also get involved with the appropriateness of salary ranges. That, to me, is a separate issue.

332 REP. HUGO: Let me ask a really naive question about the three branches of government. All we are talking about today is the executive, correct?

335 McINTOSH: That is correct.

336 REP. HUGO: The Governor is the Chief Executive of the executive branch. Under that tier, there is the head of the Executive Department. All of the agencies you are talking about are all under that wing, correct? These are all Executive agencies.

342 McINTOSH: Yes.

343 REP. HUGO: I can't understand why the Personnel Office can't get it done. I am at a loss for why you are here. I can't understand this at all.

350 McINTOSH: We are here because we have a problem with the maintenance of our system. We are trying to send a message to the



agencies. We want them to know that it is important that they pay very close attention when they make allocations. While the AG says the Director has the authority, it is a very cumbersome mechanism to utilize. Every classification allocation disagreement should not go to the Director's office.

373 REP. HUGO: Who does the head of the agency work for?

374 McINTOSH: In most instances, I believe it is the Governor.

378 REP. HUGO: Not the head of the Executive Department?

379 McINTOSH: The Governor, at least in this administration, essentially has the agency heads reporting to Fred Miller.

384 REP. HUGO: So Fred does not want to deal with the reclassification problem, and he would rather have Personnel Division do it?

387 McINTOSH: This is correct. Fred does not want to spend his time on classification issues. On the other hand, he certainly recognizes that any agency head may come to him if that agency head thinks that we are screwing up. On the other hand, he doesn't want it to automatically kick up to him as it does now as a result of the statute.

394 REP. HUGO: Why would you want him in ORS 240.215 and not in ORS 240.311 then?

397 REP. KATZ: He has been delegating that authority to Personnel. In three occasions, two have been resolved at the Personnel level. One case was taken to Fred. You have told us there was no AG's Opinion, but apparently there is an AG letter.

406 McINTOSH: At the time of those occasions, we had not talked to the AG about this issue. After those instances, we asked the AG about this particular phrase in the statute. We posed the question to the AG's office, and they answered that the Director does have that authority, in their opinion.

414 REP. KATZ: Excuse me, I asked you a few minutes ago if there was an AG's opinion and you said "no."

417 McINTOSH: Madame Chair, Representative Katz, I misspoke. I should not say opinion. I said we had a letter of advisement.

420 REP. CLARK: It was a letter of advice as opposed to a formal opinion. It takes a lot less time, and it is a whole lot less binding on the Attorney General. - I think one of the questions Rep. Hugo asked concerned the executive branch and the answer we got back was about the Executive Department.

431 REP. HUGO: That is correct, but I don't want to go further with that thought.

433 REP. DERFLER: You want consistency, and that is perfectly acceptable, but the consistency would be based on your opinion. If the agency had a different opinion, that may not be consistent if they were in disagreement with you. Is there an area where you can discuss that and come to an agreement?

440 McINTOSH: There is an internal review mechanism in place. Most

agencies make allocations very well. When the agency makes a mistake, they do not do so on purpose. They just do not see all the jobs in the state. We are the only agency that has information on how all jobs compare across the agency lines. In our opinion, we can do a better job on the issues of consistency.

467 CHAIRPERSON CLARNO: Closes the Public Hearing on HB 2090 (4:33 p.m.).

478 REP. JONES: Could you please provide a copy of the AG's letter which you have received, even though it is not a formal opinion?

483 McINTOSH: I will do so.

485 CHAIRPERSON CLARNO: Opens the Public Hearing on HB 2094.

TAPE 35, SIDE B

(Tape 35, Side B) HB 2094 - CHANGES IN COMPENSATION PLANS, PUBLIC HEARING Witnesses:Jim McIntosh

029 McINTOSH: HB 2094 responds to the identified problem with regards to compensation issues. This bill would reduce the agency's trips to the Emergency Board. (See EXHIBIT D).

065 REP. KATZ: If the position is a new position, you would be coming to the Emergency Board, even if there was enough money in the budget.

069 McINTOSH: Where there was a new classification, . . .

071 REP. KATZ: I said new position.

072 McINTOSH: Adding a position is not something that we would bring to the Emergency Board. That would have to go through the Budget and Management process rather than Personnel, if I understand your question properly. Personnel cannot add positions or people.

075 REP. KATZ: Re-class within the budget allocated for that division, assuming that they have the resources, would not come before the E - Board?

077 McINTOSH: That is correct.

078 REP. KATZ: I agree with you, Rep. Hugo, when you say this is a good bill. The only thing that I am worried about is the impact on the next biennium's budget. To sit there and say that it will protect the next bienniums budget is probably not an accurate statement. You can re-class somebody. They can have some savings in the budget this biennium. But next biennium it would cost more money, correct?

085 McINTOSH: Yes.

086 REP. KATZ: Fiscal Staff would not be able to identify that impact to the Emergency Board if they were not aware of that fact.

087 McINTOSH: That is correct. We would report on it, but not before the fact.

089 REP. HUGO: The only way we could deal with that is to go to a real zero-based budget. Otherwise, we will never catch this sort of thing.

092 REP. KATZ: I guess if the fiscal staff of the Ways and Means Committee wants this and can live with it, it would be all right with me.

095 REP. BRIAN: Mr. McIntosh, have you read the Legislative Fiscal analysis?

097 McINTOSH: No, I have not. I understand that Legislative Fiscal does have some concerns.

098 REP. BRIAN: There are some red flags that pop up when I read this. Doesn't the Ways and Means process provide a check and balance which works towards cost savings?

110 McINTOSH: We screen requests in the Executive Department very closely. I cannot respond to Legislative Fiscal's point, but that is their opinion. It may be valid.

117 REP. BRIAN: We don't always agree with these fiscal statements either. One of the problems we have here with regards to cost control is that we delegate a lot of authority and then go home for 18 months. Does this raise salaries without legislative oversight?

126 McINTOSH: That certainly was not our intent. Our intent was to remove part of the process which seemed unnecessary, at least to some of us.

132 REP. KATZ: I would like to hear Legislative Fiscal address this committee. We can question them with regard to our concerns.

133 CHAIRPERSON CLARNO: The Chair shares the same concern. With that, the Public Meeting is closed and the committee meeting is adjourned (4:45 p.m.).

#### EXHIBIT LOG

Exhibit A - Karen Roach - 22 pages Exhibit B - Jim McIntosh - 1 page  
Exhibit C - Jim McIntosh - 2 pages Exhibit D - Jim McIntosh - 1 page

Submitted by:

Reviewed by:

Scott Kaden

Susan M. Browning