

House Committee on Agency Reorganization and Reform March 21, 1991 -  
Page

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.

HOUSE COMMITTEE ON AGENCY REORGANIZATION AND REFORM

March 21, 1991Hearing Room D 3:30 p.m.Tapes 43 - 44

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

MEMBER EXCUSED: Rep. Brian

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

MEASURES CONSIDERED:HB 2258 - Dispute Resolution Comm. Statewide  
Programs, PH,WS HB 2438 - Dispute Resolution Comm. Per Diem, PH and WS  
HB 2890 - Publications Bill, 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 43, SIDE A

006 CHAIRPERSON CLARNO: Calls the meeting to order at 3:33 p.m..

(Tape 43, Side A) HB 2258 - DISPUTE RESOLUTION COMMISSION STATEWIDE  
PROGRAM, PUBLIC HEARING AND WORK SESSION Witnesses:R. Elaine Hallmark  
Alice Phalan Greg Wolf Richard Angstrom

025 R. ELAINE HALLMARK, CHAIRMAN OF THE DISPUTE RESOLUTION COMMISSION:  
Introduces Alice Phalan, Executive Director. - Submits and summarizes  
written testimony, see EXHIBIT A.

067 REP. CLARK: I was a strong supporter of the Dispute Resolution  
Commission last session. I specifically remember that the thrust of the  
Commission's work was to be at the county level doing dispute  
resolution. I understand now you have a federal grant for additional  
education and work. I don't want to see the work of the Commission turn  
into public relations "rah, rah" effort for the idea of dispute  
resolution. I understand that you have to win converts and prove this  
is a viable alternative. Is this a shift away from your original  
mission?

085 HALLMARK: That is a good question. I would like to clarify the situation a bit. I don't see it as a shift away from providing services at all. The original legislation set up this funding mechanism for the counties, to get programs on the local level going. This national grant opens up another avenue which allows us to work with state agencies through their own programs and connections locally. This will help them get started in actually mediating cases. I don't think this will be just a "rah, rah" publicity statement, rather it will help bring in a broader section of disputants, so to speak.

106 REP. CLARK: If that is the thrust of the bill, then that is great. There are disputes out there that cross county lines yet they still need to be resolved. I support that direction. I would hate to see this become another human resource management tool that loses the focus of actual dispute resolution.

118 ALICE PHALAN, EXECUTIVE DIRECTOR OF DISPUTE RESOLUTION COMMISSION: I appreciate the concern of Rep. Clark. I work full-time on community and county projects. Unless the Commission assumes the leadership in getting those community programs going, it will not get done because no one else is authorized to do that. The Commission continues to see that as its primary focus. In the past month, we have seen a local land issue which will have involvement at the state level, with state agencies. The community program's focus is to keep these disputes at a local level, where they are less costly and less involved. - Introduction of materials - EXHIBIT B (Mission Statement), EXHIBIT C (Aggregate Resource Case Comparison).

183 GREG WOLF, LAND CONSERVATION AND DEVELOPMENT COMMISSION: Land Conservation supports this modification to the legislation. We believe that the partnership between LCDC and the Dispute Resolution Commission in developing a public policy dispute resolution program has been very beneficial to our department as well as the state. - We have used the Commission for some rural lands planning issues (secondary lands). We have narrowed the scope of debate. - In disputes where we have used the Commission, as a whole we have come out with better decisions (as compared to a court decision). - We have been very pleased with the work of this group. We have indirectly benefitted greatly.

219 REP. JONES: I am a little puzzled as to how the change will take place, in terms of who pays and the distribution of the funds on a county basis.

226 REP. CLARK: When Judiciary worked through this last session, we decided to keep the Commission at the local level - real nuts and bolts dispute resolution. This legislation says that some issues will require statewide programs. That is how I understand this bill.

233 HALLMARK: We are not asking for any change in the allocation of funds. The 70% which remains in the counties for the local community based dispute resolution programs will still remain in the counties. We want to clear up the issue of doing a state-wide pilot project. We don't know if current statute is explicit enough. The original bill specifically authorized us to seek grant funds to establish pilot projects in order to promote different areas of dispute resolution. We are not trying to change the underlying design of our funding.

250 REP. KATZ: Are you involved in dispute resolution here in the legislature?

253 HALLMARK: You mean as a commission?

254 REP. KATZ: Do you provide your resources to us - do you assist us with land use issues or secondary lands issues?

257 WOLF: Yes. We have hired a mediator through this program to assist us with the secondary lands forum. We hired probably one of the best mediators in this county.

262 REP. KATZ: Do you have resources available to be called on in other areas of the legislative arena, where there are serious differences which need to be mediated?

268 PHALAN: As I explained earlier, we are stretched to the limit with regards to our budget. Our resources are limited and concentrated on the communities. The work you suggest is incredibly time-consuming, and we would have to stop working with the natural resource agencies in order to help the legislature.

287 REP. KATZ: I didn't mean for you to do that, but I have a little project with the National Rifle Association (NRA) that I need some help with.

296 CHAIRPERSON CLARNO: Good afternoon, Mr. Angstrom. Could you please identify yourself for the record?

297 RICHARD ANGSTROM, MANAGING DIRECTOR FOR THE OREGON CONCRETE AND AGGREGATE PRODUCERS ASSOCIATION: Mining in the state of Oregon is the number one category for land use appeals. We are very familiar with conflict and conflict resolution. We support a strong effort of conflict resolution by the State of Oregon. Dispute resolution minimizes litigation. It also saves money and speeds up the periodic review process.

369 CHAIRPERSON CLARNO: Are there any questions from the committee?

370 REP. CLARK: As I talk to industries that have experienced dispute resolution, I find that they love it. The disputes are handled in 90 or 120 days instead of four years in the court system.

379 CHAIRPERSON CLARNO: I opened this meeting as a subcommittee. We are operating as a full committee, having achieved a quorum. - Closes the public hearing on HB 2258. Opens the work session on HB 2258.

383 MOTION: REP. CLARK moves HB 2258 to the floor with a "do pass" recommendation.

385 CHAIRPERSON CLARNO: Rep. Clark has moved HB 2258 to the floor with a "do pass" recommendation. Is there any further discussion?

396 VOTE: In a roll call vote, the motion carries with Representatives Jones, Clark, Derfler, Katz, Hugo and Clarno voting AYE. No one voting NAY. Rep. Brian was absent (excused).

410 CHAIRPERSON CLARNO: I believe that Rep. Clark should carry the bill. Are there any objections? Hearing none, it is so ordered.

(Tape 43, Side A) HB 2438 - DISPUTE RESOLUTION COMMISSION PER DIEM, PUBLIC HEARING AND WORK SESSION Witnesses: Alice Phalan R. Elaine

Hallmark

419 PHALAN: Submits and summarizes written testimony in favor of HB 2438 (EXHIBIT D, EXHIBIT E, EXHIBIT F).

TAPE 44, SIDE A

035 REP. JONES: You indicated that you have a bill on the Senate side. Is that the bill that is also your budget?

037 PHALAN: Yes. That is the bill that has our budget in it.

039 REP. JONES: Why did you think it was appropriate to have a separate bill to deal with per diem when the budget itself would give an overview of funding and expenditures?

041 PHALAN: This portion of the bill was submitted upon the recommendation of the Budget and Management Division. We were told to separate per diem from the budget - to segregate per diem from the larger bill.

047 SUSAN BROWNING, COMMITTEE ADMINISTRATOR: ORS.292 states that any commission member may receive \$30 per diem. In talking with Budget and Management, however, I learned that they strongly advise each board or commission to get separate language in their own statutes.

053 REP. JONES: Currently they have the ability, but they want it separated in their own statute?

054 BROWNING: Currently under statute, they do not have the authority to draw per diem.

061 REP. HUGO: Rep. Jones addressed my question. Currently your commissioners are reimbursed for travel costs. Are your members actually claiming any costs now?

064 PHALAN: Yes, there are two commissioners who claim costs on a regular basis. One comes from Ashland and we pay her for her milage. We also have a commissioner who comes from Ontario.

070 REP. HUGO: You are paying actual and necessary costs now. Do you know what the increase in costs will be?

073 PHALAN: We have projected that it would cost \$5,040 for the biennium. Now we are paying a total of \$10,000.

078 REP. HUGO: You pay \$10,000 now?

079 PHALAN: No, you see I am taking the whole travel budget and I need to break that down.

080 REP. HUGO: I guess the point I am trying to make is that it will not be a \$5,000 net cost to anyone because you already pay something.

081 PHALAN: Yes, for the commission members who request reimbursement for their milage.

083 REP. KATZ: Please educate me for a minute. I know you have some grant monies and that you do hire people and do wonderful work. Believe me, I wish we had more of you folks. But, why do you need a commission?

Why don't we empower you, as the Executive Director, to make the decisions with the limited resources that you have?

091 PHALAN: We need a commission in our office because we only have one staff person. Our commission members staff the subcommittees. Before I came on board last June, these people were doing an amazing amount of work. These people meet without compensation. Without a commission, we would need at least one, if not two more FTEs. We have a working commission with very lengthy job descriptions.

109 REP. DERFLER: Why wasn't this request included in the Senate bill? I am still trying to figure out why this was done.

113 PHALAN: If I appear confused, it is because we did not initiate taking this out of the bill. That was recommended to us. Whether or not the Senate bill passes is uncertain, due to the process. We wanted to, budget willing, be able to provide per diem to those commissioners who request it. This language is also in the Senate bill.

128 REP. DERFLER: This language is in the Senate Bill as well?

129 PHALAN: Yes. If that bill, which does increase our revenues, then we would still have a bill which specifically establishes our authority to grant per diem. That is the advice that we received from the Executive Department. It is somewhat confusing to us as well.

137 HALLMARK: It has been confusing to all of us. Initially it was recommended to us by our legislative counsel that these were housekeeping issues. Apparently that changed because we learned that your committee was interested in boards and commissions, as well as their funding. This is not a big issue with this Commission. I believe most of us would not draw the per diem. But we do want that authority. We are a bit confused as well, as to why it is in both bills.

156 REP. JONES: Unless you have the authority, you cannot pay per diem, regardless of your budget. That is why you need the budget bill as well as this bill which allows you the statute to pay it.

161 CHAIRPERSON CLARNO: Is there any further testimony or questions on the bill? - If not, I will close the public hearing on HB 2438 and open a work session on HB 2438.

167 REP. DERFLER: If this is in the Senate bill, and it passes in the Senate, does that overlap what we do on this side?

170 REP. KATZ: No. It gets taken care of.

171 REP. JONES: The Senate bill is a budget bill, correct?

173 REP. HUGO: It is a fee increase bill.

176 PHALAN: Senate Bill 250 is a bill which allows for additional revenue for the commission.

179 REP. CLARK: I don't know that I will support this bill because we had a lot of discussion on the revenue coming from the filing fees. The funding bill in the Senate raises the court filing fee?

192 PHALAN: Yes, that is true. It raises it to \$8.

194 REP. CLARK: That is my concern. The filing fees are just getting too high.

200 REP. KATZ: What is your problem? Rep. Clark, if there is no money, there is no per diem.

203 REP. CLARK: I understand that. But it is sort of putting the cart before the horse. How many members of the commission would not be on the commission if they don't get this per diem? That is not why they are on the commission. They are very dedicated people and on one hand, I don't want to take advantage of them. On the other hand, I don't want to adjust the filing fees. The average person is almost getting priced out of court.

213 REP. JONES: When you put this commission in place, did you assume they had the ability to draw per diem?

216 REP. CLARK: I don't recall the exact history, but I do remember there was a substantial struggle in getting the commission itself up and running. I think if the issue of per diem had been raised, that might have had an effect on the process.

223 REP. KATZ: I didn't know the history behind this, and I appreciate that. They must make a budget decision on how the funds are used. But if there is history behind this, then that is another issue.

231 REP. CLARK: I don't want to present that per diem was discussed and rejected because it certainly wasn't - at least, I do not remember that occurring.

233 REP. HUGO: Does Senate Bill 250 deal with anything other than your fee increase? Are there a lot of fees in that bill?

223 PHALAN: SB 250 only deals with the increase of the surcharge on certain cases. SB 250 would increase the amount earmarked for our commission from \$5 to \$8, maintain the 70% available to the counties, and would add the addition of guardianship and conservatorship cases. It would also add landlord tenant cases (many of the counties have been collecting the fees on landlord tenant cases since the creation of the commission).

260 REP. HUGO: Rep. Katz, from a process standpoint, Ways and Means has to get this package somewhere, otherwise they don't get the funds allocation to spend the money. How does that happen?

263 REP. KATZ: The fee bill should be down there and this issue should be discussed with their budget. Where is your budget?

266 PHALAN: Let me defer to Executive Department on that topic in order to get a specific response.

270 JANET CARLSON, BUDGET ANALYST - BUDGET AND MANAGEMENT (EXECUTIVE DEPARTMENT): The Dispute Resolution Commission's budget will be heard by the Public Safety Subcommittee on April 8th, 9th and 10th.

276 REP. HUGO: Where is SB 250 - is that in Senate Revenue Committee?

277 CARLSON: SB 250 is currently in the Senate Judiciary Committee and has not been heard yet.

278 REP. HUGO: Is there any likelihood of SB 250 getting to Ways and Means before April 8th?

280 CARLSON: We certainly hope that it will be in Ways and Means before April 8th.

281 REP. HUGO: If Ways and Means passes the bill to the floor and it passes on the floor, then the funding is intact and the authority to pay per diem is intact.

283 CARLSON: You are talking about this particular bill with the per diem?

285 REP. HUGO: My understanding is that SB 250 includes the language that we have in HB 2438.

286 CARLSON: That is correct.

287 REP. HUGO: So if SB 250 passes, and it goes through the Ways and Means process, they will have the fee increase on the filings and they will have the authority to pay per diem.

290 CARLSON: Ways and Means has the authority to adjust that particular bill according to their decisions on the agencies' budget. Assuming that it remains intact through Ways and Means, and it goes to a vote on the floor and passes, then the answer would be yes. But that is quite a long process.

296 REP. HUGO: There is a rule in the House which does not pertain to the Senate. The House rule says that if a bill, passed by a substantive committee of the House, goes to Ways and Means Committee, the Ways and Means Committee, if chaired by a House member, cannot change that policy without the permission of the Chair. I don't know if you are aware of that or not. I guess what we are saying is, do you want Ways and Means to make this decision, or does the substantive committee want to make that decision. As Janet says, they can change it any time they want to down there. Ways and Means could authorize a fee increase and not authorize per diem.

309 REP. DERFLER: That was my question. If the Senate bill passes, and their budget goes to Ways and Means, then does this bill have to go to Ways and Means to coordinate with the Senate bill?

315 REP. KATZ: From what I understand, this piece is in the fee bill. Let me ask a question of you. If the Senate bill fails and we pass this bill, would the commission take the per diem?

323 PHALAN: Definitely not. This is not a priority with the commission. We have basic needs that must be paid first - government service charges, rent, etc.

333 REP. DERFLER: If we pass this, it just gives the Commission the authority to grant per diem, budget permitting.

335 CHAIRPERSON CLARNO: Does the Committee have any problem with waiting to see what happens to the bill in the other body? We could hold a work session later in April and address this bill.

339 REP. CLARK: I have no discomfort with that. In fact, that makes sense to me. Who would want to try to explain this bill to the members

of the House during floor debate, before we know what is going on in the Senate with regard to their fee increase?

345 CHAIRPERSON CLARNO: I understand.

348 REP. HUGO: For the record, my intention is to wait on this issue, but I do feel we should be paying per diem. There are a lot of fee bills floating around this body, and we don't know of about all of them.

We should take an aggregate look at all of the fee bills before we decide on your per diem issue.

361 CHAIRPERSON CLARNO: We appreciate your time and testimony. - Closes the work session on HB 2438 and opens the public hearing on HB 289 0. - Introduction of Greg McMurdo, Department of Education.

363 GREG McMURDO: I am here to answer questions raised by the committee with regard to our publication Education First (formerly Edugram). - Revenues raised from publications sold: \$71,378.00 - Distribution numbers: 48,000. - Cost varies from issue to issue with \$20,000 as the maximum. - We try to limit our publications, i.e. text book list went into Education First, saving \$700. - Survey on the Education First - 62% gave a 5 on a scale of 1 to 5. This is highly desired publication. - We asked respondents what sort of issues were desired. Answers: More information on the Legislative Assembly, news on other district's innovative practices, career and student opportunities, stories on individual educators, etc. Copies of the survey are available - see EXHIBIT G.

TAPE 43, SIDE B

073 CHAIRPERSON CLARNO: Refers to Stephen Minnich's coverletter on his publication. The coverletter asks recipients of the AFS newsletter to indicate whether they wish to continue receiving it. - Are you doing something similar with Education First?

080 McMURDO: It isn't practical for us to do that because we sort the bundles by district. It would cost more to sort those out. They are addressed to school districts rather than individuals.

087 REP. HUGO: The other day we were talking about the cost to agencies for producing mandatory printed documents. You must publish the ORS's as they relate to education, labor, open-meetings, civil rights etc. You also have to publish the OAR's, which is a spendy process. I was pleased to see that you are charging for these things. You provide one copy free to everyone who should get one and then charge for the rest. I think that is an excellent policy. Highway Department has a 1-900 instead of a 1-800 phone number. They have had to do this, and the people of Oregon are willing to pay for these quality services. - I would like you to have a rules section in your publication. Administrative rules are always a source of confusion.

106 McMURDO: There was debate on whether you should charge for those items. But if a person didn't have this option, he would have to buy the entire volume of ORS or the OAR. Katherine Murdoch put a lot of time and effort into the second volume, as discussed in our February meeting.

118 CHAIRPERSON CLARNO: Thank you for your testimony.

120 McMURDO: I also understand that Representative Brian wanted a copy of our organizational chart and budget summary. I will give those to



your Committee Administrator - see EXHIBIT H.

124 CHAIRPERSON CLARNO: Thank you. - Introduction of Mr. James.

126 BROWNING: Explains the packet on HB 2890 and the agency responses.

133 ART JAMES, SENIOR PERSONNEL ANALYST - PERSONNEL AND LABOR RELATIONS DIVISION (EXECUTIVE DEPARTMENT): - I would like to draw your attention to an amendment submitted by Karen Roach. We provide a report on the status of comparable worth and report to an interim committee. We feel this requirement is not needed and should be repealed.

161 REP. HUGO: One way to deal with this is to absolve an agency administrator from any culpability for not publishing a report. Then if someone complains about the lack of a report, we can go from there. I don't think you will get any complaints.

165 BROWNING: Explains additional handouts found in the bill packet on HB 289 0.

183 REP. KATZ: I am puzzled. He doesn't want to publish this report, correct?

184 JAMES: The Division doesn't feel it is necessary to publish this report in the future. It has been helpful in the past, but it is not necessary in the future.

187 REP. KATZ: Does staff know what report it is? Has the staff looked at this report?

188 BROWNING: This is the report to the Legislative Compensation and Classification Committee on comparable worth. It addresses the Hay System and the classification system.

196 REP. KATZ: I understand why they don't want those documents published - they didn't want to have this issue raised. I don't want to get them off the hook without someone checking this out. I am worried about agencies that don't want to print a report. I am sorry that I am paranoid. It may be that we don't need that information, but my gut tells me that I want verification.

212 CHAIRPERSON CLARNO: Could you provide Rep. Katz with a copy of that report?

213 JAMES: I can provide all of the reports we've done since 1983.

214 REP. KATZ: Don't do what Higher Education does. I want to see the last report. Then I want to check with our legislative committee.

219 JAMES: The last report to the committee resulted in two pieces of legislation, presession filed by the division (HB 2090 and HB 2091). Those two bills are a result of the report that we did to the Legislative Compensation and Classification Committee. Our report closed out the implementation of comparable worth by showing to the committee that we implemented the new classification and compensation system. From the standpoint of the Division, future reports will be of little value.

240 REP. KATZ: All I am asking for is a copy of the last report. You are probably very right, but show me please.

242 JAMES: I would be more than happy to do that, Rep. Katz.

243 CHAIRPERSON CLARNO: Closes the public hearing on HB 2890 and opens the work session on HB 2890.

256 BROWNING: Explains the amendments to the bill.

278 REP. KATZ: Do these amendments include public relations reports that are not authorized by law or rule?

281 BROWNING: As we tentatively worded it, "report" would include those reports required by law and also newsletters and other accounts.

282 REP. KATZ: Is that what is meant by "other accounts regardless of form"?

284 BROWNING: Yes. We were trying to get at every publication, including newsletters not required by law. - Continues with her explanation of the amendments.

300 REP. DERFLER: We took it out of Legislative Administration Committee and put it into General Services?

302 CHAIRPERSON CLARNO: In one form of this, yes we did.

303 BROWNING: In one proposal, the amendment does that.

318 CHAIRPERSON CLARNO: Section 3a would give the authority to General Services instead of Legislative Administration, is that correct?

322 REP. KATZ: Let me see if I understand this correctly. You are not prohibiting the printing of newsletters and reports, if they follow the policy or criteria outlined in Section 2.

325 BROWNING: They would have to meet certain criteria, as outlined in section 2. Section 3 is based on a suggestion from Rep. Clark (printing the costs and distribution on the publication itself). - Continues explanation of amendments.

368 CHAIRPERSON CLARNO: We are getting closer to the bill that we desire. We need some more fine-tuning and will revisit this issue once Susan returns.

376 BROWNING: If the members have additional amendments, please let me know and I will help with the drafting.

378 REP. DERFLER: I would like to hear from Legislative Administration as to what their criteria would be with regard to publishing. I guess I would like to know why we are changing from Legislative Administration to General Services.

384 BROWNING: Who would you like to hear from? Legislative Administration Committee?

387 REP. DERFLER: We have heard from General Services, so I would like to hear from Legislative Administration Committee.

388 BROWNING: Any other questions? What I tried to propose in these amendments were two viewpoints - one from General Services and one from

Legislative Administration.

394 REP. JONES: I think you have two different approaches here. You have an agency of state government being responsible for gathering the data and presenting the information for whatever committee may be deemed appropriate, and that could be the Legislative Administration Committee.

On the other hand, you could have the Legislative Administration Committee being the watchdog, instead of having an agency responsible for making the case and supervising. If you select General Services, it could very well end up with Legislative Administration because you have left some flexibility with the Speaker and the Senate. I think leaving it open is the best place. I think General Services is the one place where they gather data on agency printing.

423 REP. DERFLER: Are you assuming they would just gather the information, and someone else would make the decision as to whether the report should be made?

426 REP. JONES: The legislature has to be the place where the decision is eventually made. In terms of policy, we must be the body who does that.

430 CHAIRPERSON CLARNO: I think what Rep. Derfler is getting at is what happens when we are not here?

432 REP. JONES: The legislature must make that policy. We can dictate the process to General Services as long as we provide some sort of guidelines.

445 BROWNING: I got the impression from the committee that you really wanted the oversight at the legislative level, whether that may be the Legislative Administration Committee or whatever other committee. This approach tries to place the burden of the "leg work" on the agency, due to their familiarity with gathering information, etc. Then they would be required to report to the legislature.

461 REP. DERFLER: We would give them the guidelines, but the agency would determine whether that publication meets the guidelines?

466 BROWNING: Correct. Once General Services makes that decision, they would report to the Legislature as to which reports they had approved or disapproved.

477 REP. JONES: Frankly, I like that approach because you have a point where that is already being gathered - the state printer. So that makes sense.

483 CHAIRPERSON CLARNO: With that, we close the work session on HB 2890 and will revisit this matter at a later date. - Adjourns the meeting, (5:00 p.m.).

#### EXHIBIT LOG

Exhibit A - E. Elaine Hallmark - 2 pages Exhibit B - R. Elaine Hallmark - 3 pages Exhibit C - R. Elaine Hallmark - 4 pages Exhibit D - R. Elaine Hallmark - 1 page Exhibit E - R. Elaine Hallmark - 3 pages Exhibit F - R. Elaine Hallmark - 3 pages Exhibit G - Greg McMurdo - 2 pages Exhibit H - Greg McMurdo - 4 pages

Submitted by:

Reviewed by:

Scott Kaden

Susan M. Browning