

House Committee on Education Date, 1991 - Page

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House Committee on Education March 4, 1991 - Page

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HOUSE COMMITTEE ON EDUCATION

March 4, 1991Hearing Room F 1:30 p.m.Tapes 29-30

MEMBERS PRESENT:Rep. Carolyn Oakley, Chair Rep. Vera Katz, Vice-Chair Rep. Bruce Hugo Rep. Delna Jones Rep. Mike Nelson Rep. Bob Pickard Rep. Walt Schroeder

STAFF PRESENT: Lee Penny, Committee Administrator Karen Edwards, Committee Assistant

MEASURES CONSIDERED: HB 2096 - Prescribes procedures to be used in distance learning teaching certificates - WORK SESSION HB 2204 - Creates Classified Employee Professional Development Program - PUBLIC HEARING HB 2095 - Describes method of determining consecutive school days for purposes of computing salaries of substitute teachers - PUBLIC HEARING HB 2095 - Describes method of determining consecutive school days for purposes of computing salaries of substitute teachers - WORK SESSION HB 2111 - Specifies teacher's date of employment foe the purposes of determining seniority when reduction in teaching staff is required - PUBLIC HEARING

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TAPE 29, SIDE A 010 CHAIR OAKLEY calls the meeting to order at 1:35 p.m.

HB 2096 - WORK SESSION:

LEE PENNY: Discusses HB 2096-8 amendments, dated 3/4/91 (EXHIBIT A):
>Will repeal 1989 Oregon Law for contracting long distance learning
courses taught by persons who do not have an Oregon certificate. >Page
two, lines 13 and 14 include the forfeiture section of the statute and
its exceptions. >Page one, lines 15 and 16 show "forfeiture shall be
effective unless", then refer to page two.

REP. VERA KATZ: Are we also repealing the approval of the curriculum by
the Board of Education?

PENNY: Yes. Continues discussing HB 2096-8 amendments: >On page four,
subsection 11 shows the addition of live interactive language which is a
repetition of one section in the 1989 law. This is the section that
allows the district to put a certificated teacher into the classroom and
not charge the district with misassignment because the teacher does not
have the proper endorsement. >Section three covers the in-state distance
learning teacher. That person will hold a certificate issued by TSPC or
be employed by an accredited post-secondary institution. >Section four,
ORS 354.440 is repealed. In 1961, it directed the board to approve
educational radio and television programs. Last session it was amended
to include distance learning. >Section five will keep subsection 11 in
place until this amendment becomes effective. If for any reason this
does not become effective before June 29th, subsection 11 will be saved
until that time.

055 REP. CAROLYN OAKLEY: Does this say that we have to have a
certificated teacher in the classroom when it is televised?

PENNY: No.

REP. WALT SCHROEDER: Were you just referring to page four, line four?
You do not have to have a certificated teacher in the classroom?

PENNY: No. If the district chooses to place a certificated teacher in
the classroom that district will not be subject to forfeiture because
that teacher does not have the proper endorsement.

MOTION: Rep. Katz moves HB 2096-8 amendments dated 3/4/91 to HB 2096.

VOTE: Hearing no objection, Chair Oakley so moves.

MOTION: Rep. Jones moves HB 2096 to the floor with a "do pass"
recommendation.

DISCUSSION TO THE MOTION:

REP. BRUCE HUGO: Lee could you explain section five again? Why do we
have the June 29th date?

PENNY: If HB 2096 is not enacted by June 29th, this section will
preserve subsection 11. This is what is essentially in the Sunset law
that is now in effect.

086 REP. SCHROEDER: HB 2096 has an emergency clause?

PENNY: It probably will never be an issue but just in case it is, it
will be preserved.

REP. JONES: Why are we putting in an emergency clause?

PENNY: Kathleen originally placed the emergency clause on HB 2096 because she was trying to get the matter resolved before the sunset takes over the bill.

VOTE: In a roll call vote, the motion carries with all members present voting AYE.

(Tape 29, Side A) HB 2204 - PUBLIC HEARING

120 MARI ANE GIST, OREGON SCHOOL EMPLOYEES ASSOCIATION: Reads written testimony (EXHIBIT B).

REP. OAKLEY: How many members do you have?

173 GIST: Around 16,000.

REP. OAKLEY: Do you have any idea what the average salary is?

GIST: The average salary for a 10-month work year, six hours a day is \$10,000. The secretaries are taking over the jobs of the school nurse. They have no training. This is an area that needs to be addressed.

244 REP. KATZ: A district committee is being formed, is this the HB 2020 committee concept?

GIST: Yes.

REP. KATZ: It is not the school site-based committee, it is a parallel.

GIST: Right.

REP. KATZ: Classified personnel are an integral part of the school and should be involved with the school site-based committee.

267 JOYCE REINKE, DIRECTOR OF PERSONNEL DEVELOPMENT, OREGON DEPARTMENT OF EDUCATION: Last session there was a clause put into HB 2020 encouraging the participation of classified employees on the school site committee. Participation on the site committee does not guarantee staff development for everyone in every area.

369 REP. KATZ: We want to encourage school site-based committees to include classified employees. It would be ideal to have the 2020 grant involve some training or a second grant for the same purpose, does that make sense?

REINKE: There is a possibility that a mini grant could be given and expanded to include classified employees for training under the 2020 program.

KATZ: What would be wrong in asking any 2020 program that puts together grants for administrators and teachers to put together a grant for classified employees?

REINKE: It is a good idea but will cost additional money. If the district as a whole obtained a grant they can allocate the funds for training to individuals or groups.

(TAPE 30, SIDE A)

014 REP. OAKLEY: Is the training done on the employee's time or compensated time?

GIST: In one particular school district, if a grant is awarded, the individual may be allowed to take a class during work hours. Usually classes are taken after work hours unless the district mandates the class be taken.

REP. MIKE NELSON: Do you fingerprint classified employees? Is it in statute anywhere?

GIST: Not to my knowledge.

REP. NELSON: Are background checks done on employees? Is that a bargaining issue?

GIST: Any employer can chose whether or not a background check should be done. It is not a bargaining issue.

047 REP. KATZ: Joyce, is there any school district in the state that includes classified personnel in their activities and grants? Do you know if there is any place in the country that has school site-based management where the classified personnel are an integral part of the administration? Could you find out?

REP. HUGO: Is there any money in the budget for HB 2204 through the State Board?

GIST: There was originally 1 million dollars for this fund before Ballot Measure Five.

REP. JONES: Isn't the State Board the sponsor of HB 2204?

072 GREG MCMURDO, STATE BOARD: When the decision package was removed from the Governor's budget this should not have been printed as an agency bill. The State Board agrees with the concept of the bill, we don't have the money.

(TAPE 30, SIDE A) HB 2095 - PUBLIC HEARING

097 WARREN CAMPBELL, SUBSTITUTE TEACHERS ASSOCIATION: Requests hearing to be postponed.

REP. HUGO: HB 2095 was introduced by the Joint Committee on Education and brought to my attention by request. There was an issue about a substitute teacher in my district and the 10 day rule. This may not be an issue the association wants to address, but their amendments are here.

PENNY: These are the amendments Phyllis Kirkwood requested (EXHIBIT C).

VERA KATZ: Who is she?

CAMPBELL: She is the person who is from Beaverton and has not made it down here yet. It is not that we disagree with what has been placed in the bill as amendments. We do believe there are additional changes that should be made. My understanding is if the committee approves these

amendments we could no longer ask for additional amendments.

REP. HUGO: HB 2095 has been worked on for two years, another week isn't going to hurt.

CAMPBELL: We are going to ask for clarification on several of the other amendments.

130 REP. JONES: Could we have Rep. Hugo discuss HB 2095?

REPRESENTATIVE BRUCE HUGO, DISTRICT 10: After a substitute teacher has been employed for 10 consecutive days, the statute requires a certain level of pay is given on the 11th day. HB 2095 states how to compute the 10 days. It can be found on lines 25 - 27 (EXHIBIT C).

REP. VERA KATZ: Why weekends Bruce?

REP. HUGO: Some school districts have never paid because they are not opened 10 consecutive days. Betty Weldon sent out a questionnaire to 41 school districts where 19 responded (EXHIBIT D). School districts vary in how they compute the 10 days. Phyllis Kirkwood came to my office and offered some amendments. One is on line 20, adding "or parts there of". The problem is with lines 23 and 24 which specifies what the pay schedule will be (EXHIBIT C).

REP. OAKLEY: Warren do you have any comments?

CAMPBELL: We have no objection to the amendment. We feel the wording could have gone further to include emergencies and sickness in the 10 consecutive day work period.

REP. HUGO: That is consistent with the intent of HB 2095. Sickness or other excused emergencies that would normally be excused for a contract teacher would be fine with me.

187 REP. JONES: What is the difference in salary levels between the 10 consecutive days and the 11th day?

CAMPBELL: Refers to HB 2095-1, line 5 (EXHIBIT C). After the 10 consecutive days, the teacher receives the full 100 percent of the beginning teacher's salary. Phyllis Kirkwood wanted to change the amendment to read the teacher would be paid in accordance to his or her educational level.

REP. SCHROEDER: What is the normal school year?

REP. HUGO: 175 days.

REP. JONES: Classroom days.

232 PHYLLIS KIRKWOOD, OREGON SUBSTITUTE TEACHERS ASSOCIATION: Supports HB 2095. Would like to add some amendments. Found that substitute teachers who work beyond the 10 days may have a part-time position and may be asked to work 20 half days before being paid the higher salary. Refers to HB 2095-1 (EXHIBIT C): >Would like to insert "consecutive school days or parts there of" on line 20.

REP. JONES: Doesn't that change the requirements? Currently teachers have to work 10 equivalent days in order to get paid, isn't that correct?

KIRKWOOD: It is 10 days of any duration, whatever is stated in the contract. That was the intent of the original bill.

REP. JONES: Meaning full-time teacher contracts?

KIRKWOOD: Half-time teacher contracts, then it would be 10 working days.

REP. JONES: Let me clarify this, do you mean a contract with the individual substitute teacher or compared to the contract of a regular teacher?

KIRKWOOD: The individual teacher. If a teacher is hired to teach half of a day, the salary increase should become effective after the 10 days.

274 REP. JONES: Currently that is not the case?

KIRKWOOD: That is supposed to be the case, there is often a misinterpretation.

REP. JONES: Are you saying some schools do and some schools don't honor the 10 days?

KIRKWOOD: Most follow the intent. The language is not clear enough to clarify it. In checking with the State Department of Education, they interpret it as 10 half days or portions thereof. Would like to propose that teachers are allowed to be paid according to experience and education as opposed to starting at a zero salary level.

REP. KATZ: What does the law say?

332 KIRKWOOD: The law is not specific. Substitute teachers who are doing the job of a teacher should be paid as a regular teacher.

REP. JONES: What does the statute require?

PENNY: ORS 342.610 is the only section of law to my knowledge that deals with substitute teachers. Is there another section?

REP. JONES: How do the districts deal with substitute teachers and their salaries after the teachers have been working 15 or 20 days?

JOE BENNINGHOFF, CONFEDERATION OF OREGON SCHOOL ADMINISTRATORS: There is no statewide mandate. In most districts, if a teacher takes a leave with an ending date, a contract is extended to the individual as a temporary teacher and in most districts becomes a part of the bargaining unit. Often an ending date is not specified.

REP. JONES: Currently there is no statute to address this issue, do you have a requirement for the substitute at some point to require a contract?

BENNINGHOFF: If the teacher has given an ending date. We cannot put someone under contract if the ending date is not provided.

REP. HUGO: Isn't it common for a substitute to replace a teacher due to an accident or illness more so than a teacher taking a sabbatical for a year?

BENNINGHOFF: In a lot of instances there is no returning date given.

435 REP. HUGO: In the case of maternity leave, you would have a date?

BENNINGHOFF: In most cases we would have a date although teachers are not required to give one.

REP. KATZ: What do you pay the substitute after the 10th day?

BENNINGHOFF: It would be what the statutes provide. Some districts put the person on per diem at a future date. That is a district option. Some districts may keep the substitute on zero experience per diem the whole time.

REP. KATZ: Do you think that's fair?

(TAPE 29, SIDE B)

BENNINGHOFF: What's fair?

004 REP. KATZ: Paying a teacher at a beginning level who holds a bachelors degree.

BENNINGHOFF: There is a concern about the financial obligation that this would place on the district.

REP. KATZ: Do you think it is fair to the teacher?

BENNINGHOFF: The teachers would not view this as fair.

REP. KATZ: Are you an administrator?

BENNINGHOFF: Not any longer.

REP. KATZ: Do you think this would have been fair to your teachers at your school?

BENNINGHOFF: Collectively no. Individually perhaps yes or vice versa.

REP. HUGO: We have a teacher who is on contract and for whatever reason decides to take off for three months. Are you paying this teacher during those three months?

BENNINGHOFF: It depends on the purpose of the leave. If the leave is due to illness, yes. If the teacher decides to take a trip for three months, no.

REP. HUGO: What about the teacher who decides to take a sabbatical for the whole school year?

BENNINGHOFF: Generally the teacher would not be paid. By definition, the word sabbatical in most districts carries salary with it. These people are compensated at a reduced rate.

REP. HUGO: If you are not paying the teacher or you are paying the teacher out of some other fund and the substitute is being paid at a zero salary level, the school district is making out pretty well.

BENNINGHOFF: If the teacher is gone the entire year, the person would be employed as a temporary teacher and in most districts would be paid a

contracted salary.

REP. HUGO: What do we put into statute regarding the paying of substitute teachers after a period of time?

BENNINGHOFF: In terms of the way HB 2095 was put together, we have no problem with it.

041 REP. JONES: Do you normally have teachers that substitute year after year?

KIRKWOOD: We have a large group of teachers who substitute regularly and would like to work full-time. The average substitute teacher has five years full-time experience. All substitute teachers have to be certified in their subjects and grade levels.

REP. SCHROEDER: Mr. Benninghoff, don't temporary and substitute teachers work in different capacities? A substitute teacher is used on short notice. A temporary teacher is used when a teacher decides to take time off.

BENNINGHOFF: That is correct.

KIRKWOOD: These are estimated costs. A substitute teacher is paid about \$76.00 a day. The pay at the base level for districts that have no salary scale is about \$104.00 a day. The five year teacher would make about \$120.00 a day.

REP. KATZ: Back to Rep. Hugo's question, what do we want to place in the statutes to guarantee that substitute and temporary teachers are being fairly paid by the school districts when the regular teacher is no longer being compensated?

KIRKWOOD: We go back to the 15 or 20 day rule and have a statute after that time period to increase the salary level for experience and education.

REP. JONES: Could that also include, "or contracted as a temporary teacher"? At some point the salary would be paid at an experienced level or a contract would be negotiated.

BENNINGHOFF: Does not know how many temporary positions in the state are not covered by collective bargaining agreements.

098 REP. JONES: Then you have a contract with these teachers?

BENNINGHOFF: Yes.

REP. JONES: If the statute was worded "or contract", would that make sense?

BENNINGHOFF: Yes.

REP. JONES: Place the substitute teacher on a salary level by the 15th or 20th day or negotiate a contract as a temporary teacher.

REP. HUGO: What we are talking about is paying the teacher at a salary level by the 21st day or placing the teacher under contract. Would you object to that?

BENNINGHOFF: Unprepared to discuss the matter. Will do some research to find out what the impact will be.

122 REP. HUGO: It would be helpful if Mr. Benninghoff would check on those positions and staff would prepare a menu of amendments to be drafted stating: >"Zero to 10" with the current language on HB 2095. >A substitute teacher is paid at 0/0 for the first 10 days, then the 1/190th would go into effect. >For the first 20 days receive 0/0 pay, after which the person would be paid a comparable salary and/or placed on a contract.

KIRKWOOD: The letter that you have from Joe Riley of the Newburg schools (EXHIBIT E) brings up the problem of health insurance. At what point should the teacher be placed on benefits? And how do we prevent discrimination of school districts against those who are qualified for the retirement system? These issues have been brought up to see if they become a problem with the contract pay.

REP. JONES: Once you become a temporary teacher, do you become a part of the bargaining unit?

KIRKWOOD: Yes.

REP. JONES: Does it entitle you to participate in the contract that has been negotiated with the school district?

KIRKWOOD? Yes.

REP. JONES: Does that then give you the option of health benefits?

KIRKWOOD: To my knowledge it does. There may be a problem of coming in at the middle of the year. There is an initial benefit period for signing up.

REP. JONES: Joe, do you know?

BENNINGHOFF: It would vary from district to district.

167 REP. JONES: It appears to me this is something that could be negotiated within the school district because it is a bargain issue. Joe, how does the position work in terms of PERS?

BENNINGHOFF: A person has to meet certain requirements to become part of the PERS system.

REP. JONES: Would a substitute teacher that worked in your district and belonged to PERS get credit from day one?

BENNINGHOFF: Yes.

KIRKWOOD: After working 600 hours in one calendar year, state law requires the substitute to contact PERS and begin the benefits. If districts don't pay, six percent is taken out of the substitute teachers pay and they become members. The hours can be accrued in more than one district. The problem arises when the substitute teacher states he or she is a member of PERS. The district does not want to pay the retirement or hire the person.

224 REP. JONES: The issue is not what is currently required by law. The implementation of the law is the problem. There should be an

accounting system that works wherever you are employed in the state to keep up with PERS system.

KIRKWOOD: Money should be set aside for substitute teachers. Those persons that became members would have the money available and whatever money was left over would be returned to the budgets of the districts.

REP. JONES: You want the districts to set money aside per day when they have a substitute or temporary teacher so if the money is needed, it is available. It that what you are thinking?

KIRKWOOD: The money should go to PERS until the person qualifies.

SALLY SUE CELLERS, SUBSTITUTE TEACHER: Testifies on behalf of HB 2095: >Has been a substitute teacher for 19 years. >Only collects PERS from the McMinville school district.

REP. JONES: If you tell the school district you are a member of PERS they will not call you? That is the problem, it is not something you should have to initiate.

CELLERS: This is why we need help.

271 REP. JONES: The system itself should have some type of mechanism that is triggered when you get a salary at a certain point.

REP. KATZ: You have not received PERS benefits from those other schools?

CELLERS: For 19 years, no.

KIRKWOOD: Just a comment. The back page of this document (EXHIBIT E) deals with a workable solution for health benefits.

317 REP. BOB PICKARD: Back in 1987 what did we do with this issue?

KIRKWOOD: You helped us with the half-day minimum salary.

HB 2095 - WORK SESSION

PENNY: Discusses amendments to be added to HB 2095 (EXHIBIT C). The basic idea of the bill is to preserve the 10 consecutive days, do you want to add sickness and family emergency or some similar wording to the list of things that will not interrupt the 10 consecutive days on line 25?

REP. OAKLEY: We will leave the wording as it is.

PENNY: On line 20 it states "10 consecutive days or parts there of". If the person is substituting for a part-time teacher, does it mean 10 consecutive part days or is it figured out into hours where it is 20 half days?

414 REP. OAKLEY: The general consensus is if the substitute teacher works 10 consecutive days even if they are half days, on the 11th day the higher pay starts.

PENNY: The next issue to be addressed is the starting salary for a substitute teacher. Rep. Hugo asked for a variety of combinations where after a certain amount of days the teacher would be paid a comparable

salary or have a temporary contract.

REP. HUGO: This could have some fiscal impact. Will have to give more thought to this and wait to hear from Joe after he does his research.

(TAPE 30, SIDE B)

012 PENNY: The next issue is that of collecting through the PERS retirement system wherever you work.

REP. JONES: It should be illegal for a district not to hire a teacher because they are a part of the PERS system. Lee, could you find the language to include this? There should be a method that the hours worked are reported to PERS.

REP. HUGO: Lee, could you look at the withholding statute for language dealing with PERS? How does the employee state that he or she qualifies without jeopardizing their livelihood? The argument being made is that these employees are qualified until proven otherwise.

056 PENNY: The last issue is health benefits and when they should become operative.

REP. HUGO: Lee may want to look at ORS c. 653 of the Wage and Hour law that deals with work class and discrimination.

HB 2011 - PUBLIC HEARING

114 PENNY: Discusses HB 2011. There was a court case where the Court of Appeals identified an ambiguity in the law. Later the Supreme Court refuted the case. The Legislative Counsel office identified this problem for the Law Improvement committee as a place where clarification might be desirable. The Law Improvement committee had HB 2011 drafted. The Law Improvement committee, the Legislative Counsel, and the Court of Appeals want clarification.

REP. HUGO: Refers to letter from the Legislative Counsel (EXHIBIT F). The last two paragraphs in the evaluation really explain HB 2011. To avoid further dispute of HB 2011 we need to create amendments.

PENNY: With Ballot Measure Five, HB 2011 remains obscure and in dispute.

REP. HUGO: If you have worked for a school district, 10 years part-time and 10 years full-time, when does your seniority start? According to this (EXHIBIT F) it starts the day you establish employment.

REP. JONES: Without legislation, will HB 2011 stand up in court if it has to be heard again? The Supreme Court has changed and said those years that are part-time could be considered differently from those years that are full-time. What about temporary employees?

PENNY: To my knowledge temporary employees were not included in this, just permanent employees.

187 CHAIR OAKLEY closes hearing on HB 2011 and adjourns meeting at 3:14 p.m.

Submitted by: Reviewed by:

Karen Edwards Lee Penny Assistant Committee Administrator

EXHIBIT LOG:

A - Amendments to HB 2096 - Staff - 4 pages B - Testimony on
HB 2204 - Mari Ane Gist - 13 pages C - Amendments to HB 2095 -
Staff - 2 pages D -Testimony to HB 2095 - Staff - 5 pages E -Testimony
to HB 2095 - Phyllis Kirkwood - 5 pages F -Testimony to HB 2111 - Staff
- 2 pages