

HOUSE COMMITTEE ON LEGISLATIVE RULES AND REAPPORTIONMENT

April 17, 1991 Hearing Room E 5:00 p.m.
26 - 29 .

Tapes

MEMBERS PRESENT: Rep. Greg Walden, Chair Rep. Peter Courtney, Vice-Chair Rep. Ray Baum Rep. Ron Cease Rep. Beverly Clarno Rep. Carl Hosticka Rep. Bill Markham Rep. Randy Miller MEMBER EXCUSED: Rep. Margaret Carter Rep. Tom Mason Rep. Fred Parkinson VISITING MEMBER: Rep. Liz VanLeeuwen Rep. Ted Calouri Rep. John Minnis STAFF PRESENT: Greg Leo, Committee Administrator Mary Walling, Committee Assistant MEASURES CONSIDERED: HB 3300 - Employment Rights of Legislators HB 2400 - Election Campaign Contributions SB 501 - Commission on Indian Services HB 3419 - Creates Science Advisory Board

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 26, SIDE A

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5:00 CHAIR WALDEN: Calls meeting to order at 5:00 p.m.

(Tape 26, Side A) HB 3300 - Employment Rights of Legislators, Public Hearing Witnesses: Rep. Ted Calouri, House District 7 Rep. John Minnis, House District 20

012 REP. TED CALOURI, HOUSE DISTRICT 7: Testifies in support of HB 3300 and presents LC-1, LC-2, LC-3, LC4 amendments. (EXHIBIT A) > Refers to LC-3 amendments which were prepared following the suggestion from Rep. Courtney at the last hearing to look at how juries are treated. Added a new (2) that used same language as that used for jury duty. >Discussion regarding deleting the words on lines 5 and 6 "or candidates for the office of member of the Legislative Assembly." 050 REP. CEASE: Questions the meaning of the words intimidate or coerce. 057 REP. COURTNEY: Society looks on legislative service as akin to jury duty. 064 REP. CEASE: Society believes has a citizen's duty to fullfill when called to jury duty, but do not have a citizen's duty to run for office. >There are various kinds of coercion used to discourage a teacher from running for office. There is a feeling that professionally the individual will hurt himself and he will hurt his department by not being there. > There are many other kinds of employment where it would be very difficult for the employer to allow the individual to leave for the length of time required by being a legislator. 117 REP. CALOURI: Those are the types of reasons and attitudes why this bill is needed. Has felt pressure at work place for the same reasons. > In discussions with business people have asked if they are willing to let one of their employees serve as a legislator. The answer is no, can't spare anyone. or. The answer is no, can't spare anyone. 135 REP. COURTNEY: The State of Oregon is still trying to hang on to a citizen legislature. This 135REP. COURTNEY: The State of Oregon is still trying to hang

on to a citizen legislature. This bill would encourage a greater number of people with varied backgrounds to serve in legislature. House Committee on Legislative Rules ~ Reapportionment April 17, 1991- Page 3

186 REP. MILLER: Could get rid of some of the problems Rep. Cease raised if get rid of the words "intimidate or coerce". Intimidation or coercion could be merely a discussion by the employer about the merits of certain legislation. Better to focus on the wording "shall not discharge or threaten to discharge".

230 REP. JOHN MINNIS, HOUSE DISTRICT 29: Testifies in support of HB 3300 and supports the-3 and -4 amendments. > Does not think the amendment really does what was suggested it would do in respect to the intimidate or coerce language. Would be concerned about an employer that would threaten or coerce an employee who happens to be a legislator because he either did or did not vote for a particular piece of legislation. > It is important that people who are involved in other occupations outside the legislature have some reasonable assurance that they will not be denied positions because person is a legislator and is gone a lot. > Statute should never be applied maliciously to any employer. When there is a grievance, the legislator should have the right to reach some kind of settlement with the employer. 280 REP. CALOURI: In the HB 3300-3 amendments, would be willing to put a period after the second "member" and delete the rest of line 5 and all of line 6. MOTION: Rep. Courtney moves to amend and adopt the HB 3300-3 amendments on line 5 to read "member or prospective member of the Legislative Assembly." Delete the remainder of line 5 and line 6. VOTE: Hearing no objection, the HB 3300-3 amendments are adopted as amended. 310 REP. CALOURI: Explains the HB 3300 - amendments.

> Discussion ensued regarding the wording on page 1, line 32, "No less than 30 days". Should this be changed to read "At least 30 days"?

~ Discussion also regarding the use of the words "special session".

TAPE 27, SIDE A

032 MOTION: Rep. Miller moves to amend and adopt the HB 3300 - amendments with the following MOTION: Rep. Miller moves to amend and adopt the HB 3300 - amendments with the following addition: on page 2, line 25, after the word "regular" delete "or special" and on line 27 after the word "a" add the words "special session or for a". House Committee on Legislative Rules ~ Reapportionment April 17, 1991- Page 4

VOTE: Hearing no objection, the HB 3300-4 amendments are adopted as amended.

045 MOTION: Rep. Courtney moves HB 3300 as amended to the floor with a do pass recommendation. 060 REP. MILLER: Add friendly amendment to HB 3300-3 on line 3 after the word "discharge" delete ", intimidate or coerce" and on line 4 after the word "employee. insert the word "solely". > Feel this would avoid some problems with respect to interpretations of intimidate or coerce. 086 REP. HOSTICKA: Likes the language the way it is and objects to the motion. > Discussion followed regarding the interpretation of the words intimidate and coerce.

112 VOTE: Motion failed. Rep. Hosticka and Courtney voted nay. Rep. Baum, Carter, Mason and Parkinson excused. > Discussion about the addition of the word "solely" in HB 3300-3 amendments, line 4.

214 REP. COURTNEY: Withdraws motion to send bill to the floor with a do pass recommendation. 247 MOTION: Rep. Miller moves to amend the HB

3300-3 amendments on line 3 after the word "discharge" delete ", intimidate or coerce" and on line 4 after "employee" insert the word "solely". REP. HOSTICKA: Requests clarification of wording in the motion. Does that mean that it would be allowable for an employer to intimidate or coerce a member of the legislature because of actions that member takes as a member of the legislature? Not solely because they are a member, but because of actions they may take? REP. MILLER: This is language to be added and it is not current statute. Not changing anything with respect to current law. Focusing on whether or not an employer can discharge someone who serves in the Legislative Assembly.

308 > Discussion over what is intimidation on part of employer.

420 REP. COURTNEY: First eleven words on line 2 of the HB 3300-3 amendments are important: "As a part of the public policy to encourage public service". a part of the public policy to encourage public service". >In some ways the words intimidate or coerce are even more important than the words >In some ways the words intimidate or coerce are even more important than the words discharge. There is a great deal an employer can do to an employee to make their life as a House Committee on Legislative Rules & Reapportionment April 17, 1991- Page S

legislator difficult. TAPE 26, SIDE B

060 REP. CEASE: Simply because a person is a legislator does not mean that there may not be a situation in which the employer can say the employee is not performing his job. That ought to be protected. Shouldn't protect it so overwhelmingly that the employer can never fire an employee because he is a legislator. 068 VOTE: Motion failed. Rep. Baum, Hosticka, and Courtney voted nay. Rep. Carter, Mason, and Parkinson excused. 076 MOTION: Rep. Courtney moves HB 3300 to the floor with a do pass as amended recommendation. VOTE: Motion carried. Rep. Cease and Mason voted nay. Rep. Carter, Mason, and Parkinson excused. Rep. Calouri will carry the bill.

(Tape 26, Side B) HB 2400 - Election Campaign Contributions. Public Hearing Witnesses: Phil Keisling, Secretary of State David Fidanque, American Civil Liberties Union of Oregon

103 PHIL KEISLING, SECRETARY OF STATE: Testifies in support of HB 2400. >Projecting 20 years into the future, half the candidates for the state legislature will have no opponents, and there will be nearly 30 initiative measures on the ballot, many covering areas the legislature used to deal with quite comprehensively. Despite all this the voter turnout is predicted to be less than 35 percent of the registered voters. >This may sound unlikely but trends in other states are ominous. During the 1988 general election in Massachusetts, 54 percent of the house seats and 40 percent of the senate seats were completely uncontested. Incumbents received 81 percent of PAC contributions. > In California, the top ten PACS gave 92 percent of their contributions to incumbents during the 1987 - 1988 election cycle. >PAC expenditures have climbed from 2.35 million in 1980 to 9.38 million in 1990; nearly a 400 percent increase. > Average expenditures in a general election for an Oregon senate candidate climbed from

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\$9,759 in 1980 to \$58,935 in 1990. A 603 percent increase. >It is interesting to compare spending on a per voter basis. In 1988 Oregon outstripped California. Oregon spent \$5.06; California \$4.25. California

was back in the lead in 1990 with \$6.30 to Oregon's \$5.35. The million dollar campaign Oregon decries about California assembly races are already in Oregon. California's assembly district is eight times larger than an Oregon house district. t > Comparing figures with some other states, in Wisconsin the average cost was \$1.72 in 1988. > Money is not sole problem. Believe need to do more than is being done now to temper the role money plays in the process. Candidates spend too much time chasing it. > First point is to do a more and better disclosure of campaign contributions and expenditures. Want to get information before the public in a timely manner and in a way that sources of campaign contributions can make a difference. >The Office of the Secretary of State is working to get summary information available more readily for the public. > Believe that the voter's pamphlet should include some information that bears on this issue. >Second point is some comprehensive and fair contribution limits. There will be some disagreements about the constitutionality of this. Start not by amending the constitution but seeing if contribution limits can stand the test under our existing constitution and the free speech clause. >What those limits will be is something this committee will have to wrestle with. Thinks contribution limits are an important part of what is done and that includes restrictions on certain pass throughs of contributions. > This bill makes an effort to define independent expenditures. Thinks that is very important.

>The third point is voluntary spending limits. The court has been very clear that mandatory spending limits are unconstitutional. There have been efforts to have public funding of political races. The likelihood of this happening is very small.

~ It has also been suggested that the tax credit that Oregon now gives, which is a form of regon now gives, which is a form of public funding, that it be used and leverage it to accomplish certain things; i.e. to put a stop to the arms race in campaign spending. Some believe the tax credit should be done away with completely. House Committee on Legislative Rules & Reapportionment April 17, 1991- P - e 7 _ > Rather than do away with it, use it as a means to encourage voluntary restraint in the area of spending. If only address campaign financing on the supply side and not the demand side, the human mind and capacity to find ways around whatever is put in force is very powerful and very strong.

> HB 2400 does not address the issue of voluntary spending limits tied to a tax credit. Think something like that would make it a better bill. This would apply not only to candidates but PACS as well. If PACS want to offer the tax credit to members who give to them, fine; but the PACS must agree to certain limits on spending both in terms of specific candidates and in the aggregate.

>Final point is that money should be spent to enliven the debate, inform voters on key differences between people and invigorate the political process. > Important not just in laws passed, but work done administratively and in communities to try to find new ways to get that information out to people.

> Would be happy to work with committee in ways to improve debate and quality of information that is there. 363 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION OF OREGON: Testifies in opposition to HB 2400. >The ACLU since 1974 has opposed any contribution or expenditure limitations in political campaigns. Recognize that the United States Supreme Court has upheld contribution limits in candidate races. Nationally, the ACLU believes that decision was incorrect.

> ACLU believes that limitations on the process are not going to solve what people perceive as the problems.

> Have complaints about too much influence by certain people on the elections process, whether that is people who make large contributions as individuals or people who form a PAC to try to elect candidates to achieve those goals.

> Electing people to represent us is as fundamental to the constitutional form of government as can get. Any tinkering with that process is going to have implications for both freedom of expression and freedom of association.

>ACLU believes in the policy of making clear where money is coming from in political campaigns. By adopting contribution limitations, ACLU believes the primary effect is not to shut off money to campaigns, but rather to make it more difficult to tell where the money is coming from.

- House Committee on Legislative Rule ~ Reapportionment April 17, 1991- Page 8 ~' >Terms of it being accessible to individual candidates, particularly candidates who are not incumbents, ACLU believes the answer is some form of public financing. Whether that is a public financing mechanism that is available to all candidates or whether it is made contingent on agreeing to truly voluntary limitations. > Candidates want to communicate with voters. The cost of communicating with voters has gotten more expensive.

TAPE 27, SIDE B 010 ~ ACLU believes the answer is more speech, not less. Ought to be the option available for all candidates to be able to get their message out. Do not believe that contribution limits are going to accomplish that. 030 REP. MILLER: Another bill did call for added disclosure but now deals with the tax credit provisions. It also prohibits pass throughs. Doesn't deal with limits. Is that bill more acceptable? 040 FIDANQUE: Not familiar with the tax credit portion of the bill. Have no problem with added reports. ACLU policy does not deal with the issue of pass throughs, either for them or against them. > Discussion regarding how to get more information out to the public. Use of voter's pamphlet, television, etc. 130 FIDANQUE: There is a lot of cynicism on the part of the public concerning not just election process but the governing process. Contribution limits are not going to eliminate that cynicism. The primary effect of contribution limits is to require candidates to go to more interest groups and get contributions from more PACS. (Tape 27, Side B) SB 501 - Commission on Indian Affairs. Public Hearing Witness: James Metcalf, Chairman, Coquille Tribe 155 JAMES METCALF, CHAIRMAN, COQUILLE TRIBE: Submits testimony and testifies in support of SB 501. (EXHIBIT B) 168 ~ The Coquille tribe was terminated as an Indian Tribe in 1954. Took a number of years for tribe to be recognized again. > Has been with the tribe since the early 1960's and would like a seat on the Commission of the tribe since the early 1960's and would like a seat on the Commission of Indian Services. House Committee on Legislative Rule' & Reapportionment April 17, 1991 - Page 9 . . . (Tape 27, Side B) SB 501- Commission on Indian Affairs. Work Session

MOTION: Rep. Courtney moves SB 501 to the floor with a do pass recommendation.

VOTE: Motion carried with all members present voting aye. Rep. Baum, Carter, Mason, and Parkinson excused. Rep. Schroeder will carry the

bill.

(Tape 27, Side B) HB 3419 - Creates Science Advisory Board ; Witnesses:
Rep. Liz VanLeeuwen, House District 37 Jack McIsaac, Pope and Talbot,
Inc. Jay Waldron, Pope and Talbot, Inc. Roger Campbell, Pope and Talbot,
Inc. John Loeury, Department of Environmental Quality 243 REP.
VANLEEUWEN, HOUSE DISTRICT 37: Testifies in support of HB 3419.

> The Science Advisory Board would be similar to the Pesticide Analytical Response Commission (PARC) of the federal Department of Agriculture. > Concern of many people has been the hazard from dioxin and that has been one of the things that has limited some of the expansion that may be done at Pope and Talbot. Hope to get out of the political arena with some of these things and get them into the scientific field.

> If the test that has been done is factual, it certainly should have a tremendous helpful affect on some of the industry, especially the pulp and paper industry, and possibly the timber industry and some other things in the State of Oregon.

> Supports the concept of putting together the scientific advisory board. 289 REP. CEASE: Believes possibly would end up with another expensive board that would be more scientific but would add another layer. Will the appointing authorities find who they want to find with respect to their particular views? 361 JACK MCISAAC, POPE AND TALBOT, INC.: Submits and summarizes testimony in favor of HB 3419. (EXHIBIT C) 400 JAY WALDRON, COUNSEL, POPE AND TALBOT, INC.: Submits and summarizes testimony (EXHIBIT D) and amendments (EXHIBIT E) in favor of HB 3419.

TAPE 28, SIDE A

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025 > This advisory board is made up of scientists only. Because appointments are made by several different people, and they must have high credentials, it would not be political appointments. > The board will only be reviewing existing literature and existing scientific data either at the express request of the Environmental Quality Commission (EQC), the Department of Environmental Quality (DEQ) or the legislature and making recommendations. > Discussed bill and amendments with industry and environmental groups and have had many questions, but no opposition. > Second part of bill addresses the qualifications of the scientists. These scientists would be based on the types of fields that would come before the DEQ or the legislature. 078 REP. COURTNEY: Originally bill had seven appointments and now it is reduced to five. Prefers the original seven. 100 REP. CEASE: Governor, Speaker of the House, and Senate President all will be appointing one or more scientists. Don't see the politics being removed from it. MCISAAC: To have the top quality people they have to be appointed by the top quality people. Also the five or seven members of this board still must be of a significant quality that they are not going to make general political decisions. > The board does not make a decision, rather it passes or recommends on something put before the DEQ as to whether it is scientifically valid. 129 > Committee would meet about four times a year on serious scientific issues. Would operate like the EPA advisory board. Meetings are short. Committee members have already reviewed the articles. > Administrative support would be provided by the DEQ and would primarily be a person who would get board together, send out

notices, copy reports, etc. > If this gets anywhere near the peer recognition that the EPA board does, no one would question their recommendations.

> Envision this group of scientists as having the highest qualifications and being able to make recommendations based on their knowledge of the issues. 202 REP. MAREHAM: Asks who Fred Hanson at DEQ depend on today to make those decisions? WALDRON: He makes his best judgment based on his staff who are regulators. He depends on staff who are technically competent but are not of the highest level of scientific competency. House Commidee on Legislative Rules ~ Reapportionment April 17, 1991- Page 11

> He has to make educated recommendations as a lay person without pure scientific knowledge.

231 REP. HOSTICKA: Science at this level is a very specialized enterprise. How to get people on this board with enough range of expertise so don't have a separate board for each subject. 239 WALDRON: Maybe only have four out of five that are very qualified to review something, but scientists of this caliber are able to peer review and understand many of the presentations that are given to them. 254 REP. HOSTICKA: Decisions that must be made that are not necessarily scientific decisions such as what is a proper standard. What is an acceptable level of risk and what is acceptable is a political decision, not a scientific decision.

> Science is very good at saying what is not the case, but is not very good at saying what it is the case. For example, scientists can say, the evidence does not support the conclusion that Agent Orange is a risk. That is a scientific statement. A statement that Agent Orange is safe is not a scientific statement. Science usually precedes in the negative and will end up saying they can't prove something. 281 WALDRON: Science is a tool like any other tool. Scientists can make the statement that after examination, an X number of veterans show X number of incidents that relate to exposure to Agent Orange.

> Then someone else, congress, legislature etc., must make the judgment whether those veterans are to be compensated. 332 MCISAAC: This bill is not funded by any state funds. It is paid for by permit fees paid through the DEQ. The staff consists of one administrative assistant who is also paid from permit fees. No general fund monies go to this.

354 REP. CEASE: What are the fees presently being used for? MCISAAC: It is being used for hazardous waste cleanup and remedial action. >Expect this board to cost about \$100,000 a year. 375 CHAIR WALDEN: The fiscal analysis relates to the original bill and not to the amendments.

380 REP. CEASE: Questions like dioxin are so complicated. Would there be anybody in the state that could adequately advise on that kind of issue?

> How would issues get before the board? What would happen if the board were split? Would House Co littee on Legislative Rules & Reapportionment April 17,1991- Page 12

that make recommendation useless?

425 WALDRON: It would be close to useless. If scientists were that split, the message that would be going out to legislature and DEQ is

that science is split. > Even the strongest environmentalist would like to have this advisory board, because they think it will come out their way. Industry feels the same way. TAPE 29, SIDE A 011 DOUGLAS MORRISON, NORTHWEST PULP AND PAPER ASSOC.: Testifies in support of HB 3419. > Do not want scientists to be making regulatory or political decisions. In terms of what is an acceptable risk, scientists can provide some good information on statistics. Ultimately, the final decision has to be made by the regulatory or political arena. Decisions have to be made with the best scientific evidence at hand. > Cannot afford to put a top notch scientist on staff at DEQ. Very few dedicated scientists that would make the monetary sacrifice to come to work for a public agency. > Consultants that they hire cost about \$250 an hour. Cannot do this on a routine basis. > Believe science advisory board will work. Top notch scientists are willing to make some sacrifices in terms of their hourly rate. Come in and share their knowledge so that good public decision making takes place. > The risk in not getting good scientific information in making decisions is that resources will be misallocated.

106 JOHN LOEURY, DEPARTMENT OF ENVIRONMENTAL QUALITY: Testifies in general about HB 3419. > DEQ considers utilization of good science a critical component of their work. There are a number of technical advisory committees DEQ has set up. Recent example is a technical advisory committee dealing with the Willamette River. Committee is made up of highly knowledgeable people. > DEQ is very actively involved with the EPA's science advisory board and are able to take advantage of the work of the scientists at EPA and of their science advisory board. Make presentations to commission and staff recommendations based on that kind of input.

> Arguments and motivation of the proponents of this bill is very good. Concept is how to get

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks represent a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. House Committee on Legislative Rules and Reapportionment April 17, 1991- Page 13 , good science into the regulatory process. Debates internally on this same issue.

> Concerned regarding the source of funding for the science advisory board. The source of funding is from DEQ's hazardous substance and remedial action fund. The money is used for funding the state superfund program, which is the cleanup of hazardous waste sites. Any money taken from that fund will be a loss to the superfund program.

> Source of that funding is not permit fees. It is a \$20 per ton fee on any waste disposed of at a hazardous waste site in the State of Oregon.

> In addition, this legislation and these expenditures are not anticipated in the Governor's budget, so DEQ is not in a position to support programs or expenditures that have not been included in the budget.

172 REP. CEASE: On page 11, line 18, (2) of the HB 3419-1 amendments, how often does the commission adopt rules or standards or consider changing these rules or standards in reference to the various activities the DEQ performs. 204 LOEURY: The EQC meets approximately every six weeks. At each commission meeting a minimum of one and sometimes more rules are considered. 208 REP. CEASE: Wonders if this provision is so broad that any change of rules or standards the commission might

consider would have to be first reviewed by the science advisory board.
Not really sure if that is the intent or should be the intent.

240 CHAIR WALDEN: Will not go into work session tonight. Suggests Mr. Loeury set aside some time to go through the bill and work with proponents on any changes that might need to be made. 254 REP.

HOSTICKA: In anticipation of a work session, would like to highlight a concern regarding the issue of site's specific to Oregon, page 11, line 25 of the HB 3419-1 amendments. Not clear what the intention of the amendment is in that regard and am not clear about what the effect of requiring that will be. 263 CHAIR WALDEN: Perhaps could clear up

dollar amount; \$400,000 as opposed to the proponents suggestion that it would be much less than that. 267 REP. CEASE: Would like to get information from another state that has a science advisory board.

Additional testimony in opposition to HB 3419 submitted by Terry Witt and Paulette Pyle, Oregonians for Food and Shelter. (EXHIBIT E) House Committee on L - lative Rule. ~ Reapportionmeot April 17,1991- Page 14

293 CHAIR WALDEN: Adjourns meeting at 7:45 Submitted by: Reviewed by: Mary Walling Greg Leo Assistant Committee Administrator

EXHIBIT LOG:

A - Amendments on HB 3300 - committee staff - 4 pages B - Testimony on SB 501 - J. Metcalf - 14 pages C - Testimony on HB 3419 - J. McIsaac - 1 page D - Testimony on HB 3419 - J. Waldron - 2 pages E - Amendments on HB 3419 - J. Waldron - 13 pages F - Testimony on HB 3419 - T. Witt & P. Pyle - 4 pages

These minutes contain iteriale which p rsph~se and/or iummarize I Jtementr made during this ession. Only ~ eacloeed in quotado madu repon . speJlcer's exact words For complete conter.ts of the procee lings, please refer to the tapes