

House Committee on Legislative Rules & Reapportionment May 8, 1991 -
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proceedings, please refer to the tapes.

HOUSE COMMITTEE ON LEGISLATIVE RULES AND REAPPORTIONMENT

May 8, 1991 Hearing Room E 5:00 p.m. Tapes 35 - 36

MEMBERS PRESENT: Rep. Greg Walden, Chair Rep. Peter Courtney,
Vice-Chair Rep. Ray Baum Rep. Margaret Carter Rep. Ron Cease Rep.
Beverly Clarno Rep. Carl Hosticka Rep. Bill Markham Rep. Tom Mason Rep.
Randy Miller Rep. Fred Parkinson

VISITING MEMBER: Rep. Marie Bell Rep. Sam Dominy

STAFF PRESENT: Greg Leo, Committee Administrator Mary Walling,
Committee Assistant

MEASURES CONSIDERED: LC 4088 - Memorial - POW/MIA Truth
Bill HB 2826 - Measure Limitation SJM11 - Return of Willamette Meteorite
HB 3419 - Creates a Science Advisory Board HB 2416 - Role and Scope of
Public Defender HB 3567 - Board of Higher Education Spending Level

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proceedings, please refer to the tapes.

TAPE 35, SIDE A

008 CHAIR WALDEN: Calls the meeting to order at 5:05 p.m.

(Tape 35, Side A) HB 2826 - MEASURE LIMITATION, WORK SESSION

010 REP. CLARNO: Explains the HB 2826-3 amendments. (EXHIBIT A) >At the
last hearing, there was a question regarding the number of committee
bills that could be introduced. These amendments address that issue.

>The general consensus was that ten would be the number to insert.

MOTION: Rep. Clarno moves to amend the HB 2826-3 amendments on page 1,
line 24, after the word "request", insert the number "10".

VOTE: Hearing no objection, the motion passed.

MOTION: Rep. Clarno moves the adoption of HB 2826-3 amendments.

VOTE: Hearing no objection, the amendments are adopted.

MOTION: Rep. Clarno moves HB 2826 as amended be sent to the floor with a do pass recommendation.

VOTE: Motion passed with all members present voting aye. Rep. Baum, Carter, Miller and Courtney excused. Rep. Clarno will carry the bill.

(Tape 35, Side A) LC 4088 - MEMORIAL, POW/MIA TRUTH BILL, WORK SESSION

060 CHAIR WALDEN: LC 4088 has been approved for introduction by the Speaker of the House.

MOTION: Rep. Cease moves that LC 4088 be introduced as a committee bill.

VOTE: Motion passed with all members present voting aye. Rep. Baum and Miller excused.

(Tape 35, Side A) HB 3567 - BOARD OF HIGHER EDUCATION SPENDING LEVEL, PUBLIC HEARING Witnesses:Rep. Carl Hosticka, House District 40 Rep. Marie Bell, House District 41 Rep. Ray Baum House District 58 Charles, Wright, University of Oregon Lynn Pinckney, Oregon Student Lobby

075 REP. CARL HOSTICKA, HOUSE DISTRICT 40: In the State System of Higher Education tenure and contract policy requires a year's notice prior to terminating a faculty member. That means that the System of Higher Education will have to notify people of possible termination even before it is known if there will be a refinancing of state government.

>This would be very devastating to a great many faculty members and it might never happen.

099 REP. MARIE BELL, HOUSE DISTRICT 41: Testifies in support of HB 3567.

>Many faculty members have stayed in Oregon through lean years thinking salaries would work upwards.

>The State of Oregon needs to offer faculty members stability in their lives. They may stay during the lean years, but they can't stay if they don't know they have a job to provide for their family.

118 REP. RAY BAUM, HOUSE DISTRICT 58: Testifies in support of HB 3567.

>Eastern Oregon State College is in district 58. It is the only college in the east side of the state. It is a wheel from which many spokes go out into the communities.

>This bill gives the faculty members an additional year to and allows that opportunity to be available to the rural constituents of Oregon.

145 REP. HOSTICKA: This does not bind a future legislature; it simply gives the system legal authority to plan without sending out notices. A future legislature would have to appropriate money, if necessary, to make this happen.

224 CHARLES WRIGHT, PRESIDENT, INTERINSTITUTIONAL FACULTY SENATE:
Submits and summarizes testimony in support of HB 3567. (EXHIBIT B)

>The state system has to give a year's notice. It takes about a year to develop the budget. That means that if this bill doesn't pass, this summer the state system starts planning and faculty members will find out what is planned.

>The hiring season in higher education is fall and winter. Those faculty members who might be terminated have to be out looking for a job by next March or they have lost a year.

>The point of the bill is to stall for one year to bring higher education in line with other state agencies that do not have the constraints that higher education has of giving a year's notice.

328 LYNN PINCKNEY, EXECUTIVE DIRECTOR, OREGON STUDENT LOBBY: Submits and summarizes testimony in favor of HB 3567. (EXHIBIT C)

357 SANDRA BISHOP, LEAGUE OF WOMEN VOTERS, AND THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN: Testifies in support of HB 3567.

>The membership of these two organizations is scattered throughout the state and there are upwards of 4,000 members. All of those members will be there when the leadership of the house and the senate agree on a replacement revenue. They will be in the communities ready to push and support the legislation.

(Tape 35, Side A) HB 3567 - BOARD OF HIGHER EDUCATION SPENDING LEVEL, WORK SESSION

385 MOTION: Rep. Cease moves HB 3567 to the Ways and Means Committee with a do pass recommendation.

VOTE: In a roll call vote, the motion carries with Rep. Miller voting nay. Rep. Markham excused.

TAPE 36, SIDE A

SJM11 - RETURN OF WILLAMETTE METEORITE, PUBLIC HEARING Witness:Rep. Randy Miller, House District 24

008 REP. RANDY MILLER, HOUSE DISTRICT 24: Testifies in support of SJM11.

>This meteorite was discovered near Willamette, Oregon, in 1902. In 1905 the meteorite was sold to a New Yorker who donated it to the American Museum of Natural History in New York and it is still there.

>A group of students from the Lake Oswego area, Forest Hill Grade School, have discovered the rock landed here and they want it back.

REP. PARKINSON: How much does the meteorite weigh and what will be the shipping costs?

REP. MILLER: Fifteen tons. It is the largest meteorite in the United States. Several businesses have volunteered to transport the meteorite to Portland if the museum will give it up.

038 MOTION: Rep. Miller moves SJM11 be adopted.

VOTE: In a roll call vote, the memorial is adopted. Rep. Hosticka and Markham excused. Rep. Miller will carry the memorial.

(Tape 36, Side A) HB 3419 - CREATES A SCIENCE ADVISORY BOARD, PUBLIC HEARING Witnesses:Rep. Sam Dominy, House District 44 Jack McIsaac, Pope and Talbot, Inc. Roger Campbell, Pope and Talbot, Inc.

054 REP. SAM DOMINY, HOUSE DISTRICT 44: Testifies in support of HB 3419.

>Favors this bill because it will keep from tying up industries in the state and the scientific advisory board could resolve some of the issues.

>It could save the state money because it will be funded by fees paid by the industry. Save the people of the state a lot of frustration over frivolous charges.

076 JACK MCISAAC, POPE AND TALBOT, INC.: Testifies in support of HB 3419.

081 ROGER CAMPBELL, POPE AND TALBOT, INC.: Submits and summarizes testimony

in support of HB 3419.

>HB 3419 was developed to help the Environmental Quality Commission (EQC) and the Department of Environmental Quality (DEQ) in evaluating valid scientific evidence in those areas where the department now lacks expertise.

>In addition it would require scientific consideration as part of the department's and commission's decision making process. Of particular concern is the qualifications of the board members; that the qualifications are high and the process is objective.

>However, since the last hearing, there has been discussions between the proponents of the bill and representatives of the DEQ and EQC. The EQC has reaffirmed its commitment to consideration of the available science in its regulatory process.

>The EQC is interested in increasing the role of technical advisory committees.

>Pope and Talbot will refocus their efforts and will work with the EQC to provide scientific review of issues.

116 REP. PARKINSON: Was this bill designed to help the legislature in its deliberations?

CAMPBELL: It could, yes. The original bill was designed to do that. It is important that there is a resource that is immune to politics and can objectively consider the issues.

>Feel comfortable that can work out concerns with DEQ and EQC.

>Would like to redirect our energy to develop something within the DEQ at this point.

CHAIR WALDEN: There have been some good discussions between the DEQ and EQC and proponents of the bill and they found some common ground where they think they can work together without a bill.

Additional testimony for the record submitted in opposition to HB 3419 by William Hutchison, Environmental Quality Commission. (EXHIBIT E)

(Tape 36, Side A) HB 2416 - ROLE AND SCOPE OF PUBLIC DEFENDER, PUBLIC HEARING Witnesses: Bill Linden, State Court Administrator, Judicial Department Sally Avera, State Public Defender

187 CHAIR WALDEN: This measure brought to committee's attention by Ways and Means along with amendments. (EXHIBIT F)

BILL LINDEN, STATE COURT ADMINISTRATOR, JUDICIAL DEPARTMENT: Testifies in support of the bill.

>HB 2416 as originally submitted would create a Public Defender's Services Commission independent from the judicial branch. Some day this needs to be done. The system is not stabilized enough to do it now.

>The courts should not be in the business of administering one side of the criminal justice system to the extent that they administer criminal defense services in this state. The courts need to be in the middle.

>Oregon is one of only two states that structures their indigent defense system the way it is done here. In most states it is in the executive branch or in an independent commission.

>The HB 2416-1 amendments provide some very needed changes in how appellate indigent defense services are provided in the state. It shifts to the state appellate defender responsibility for most appellate services. When the appellate defender is unable, because of workload concerns to handle all the appellate indigent defense work, it falls by default into the general indigent defense fund.

>What the HB 2416-1 amendments do is provide that the state appellate defender handles all the appellate work load that is generated in the state. The judicial department will continue to handle all death penalty appeals over the 12 that the state public defender has agreed to handle. We would handle all habeas corpus post conviction cases filed outside of Marion County. Other than that all appeals, felonies, misdemeanors, juveniles, and mental commitments would be handled by the appellate defender's office.

260 >Had extensive discussion in Ways and Means about these issues and the HB 2416-1 amendments represent the agreement of all the interested parties.

270 SALLY AVERA, STATE PUBLIC DEFENDER: Testifies in support of HB 2416 as amended.

>The proposed HB 2416-1 amendments are a consensus between State Court Administrator's office and the Public Defender's Office and represent a policy decision made by a subcommittee of Ways and Means which considered both budgets. The Public Defender's Office is the most appropriate agency to be held responsible for indigent appeals within the State of Oregon.

>There are some errors that appear in the amendments. Specifically, on page 1, line 13, and on page 6, line 20. In these instances the amendment would have the Public Defender's Office representing all those who file proceedings within Marion County for post conviction or habeas corpus.

>The agreement was that the Public Defender's Office would maintain the status quo which would be to represent those people in post conviction habeas corpus matters who are inmates of state penal institutions within Marion County.

>Believes the agreement incorporated only those people who are inmates of state institutions.

302 LINDEN: Issue is that the indigent defense remains nestled within the judicial branch and it shouldn't be. It is not really a judicial branch function. It should be a stand alone commission outside of the executive and outside of the judicial branch, essentially funded by the legislature, but left alone. Their role is not prosecution but constitutional defense.

399 AVERA: To clarify for other members of committee, the state public defender's office has been in existence since 1963 and while it is among those agencies within the judicial branch it is governed by the State Public Defender Committee. That committee is appointed by the Chief Justice but from that point on it is essentially a hands off situation. The budget is approved by the committee and it is separately presented from that of the remainder of the Judicial Department.

>The Public Defender's Office is a state agency rather than contractors under the employee of the Indigent Defense Commission or any other body. There is a distinct dividing line between the State Court Administrator's Office and the Public Defender's Office.

TAPE 35, SIDE B

006 >Amendments on page 1, line 13, should be "initial proceedings involving inmates incarcerated in state penal institutions in Marion County" and same language on page 6, line 20.

040 LINDEN: Recommends take out word penal in amendments suggested by Avera. Have cases coming out of state institutions other than penal institutions, such as the state hospital.

AVERA: Agreeable to that.

Additional testimony presented for the record in opposition to HB 2416 by WALTER TODD AND LAURA GRASER, ATTORNEYS (EXHIBIT G).

(Tape 35, Side B) HB 2416 - ROLE AND SCOPE OF PUBLIC DEFENDER, WORK SESSION

044 MOTION: Rep. Courtney moves that HB 2416-1 amendments, hand engrossed, be adopted. Hand engrossed amendments read on page 1, line 13, following the word proceedings insert "involving inmates incarcerated in state institutions" and on page 6, line 20, after proceedings insert "involving inmates incarcerated in state institutions".

VOTE: Hearing no objection, motion adopted.

MOTION: Rep. Courtney moves HB 2416 as amended to the Ways and Means Committee with a do pass recommendation.

VOTE: In a roll call vote, the motion carries with Rep. Carter voting nay. Rep. Hosticka, Markham, and Parkinson excused.

080 CHAIR WALDEN: Adjourns the meeting at 6:10 p.m.

Submitted by: Reviewed by:

Mary Walling Greg Leo Assistant Committee Administrator

EXHIBIT LOG:

A - Amendments to HB 2826 - Rep. Clarno - 3 pages B - Testimony on HB 3567 - C. Wright - 3 pages C - Testimony on HB 3567 - L. Pinckney - 1 page D - Testimony on HB 3419 - R. Campbell - 1 page E - Testimony on HB 3419 - W. Hutchison - 4 pages F - Amendments to HB 2416 - Staff - 30 pages G - Testimony on HB 2416 - W. Todd & L. Graser - 3 pages