

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 LEGISLATIVE RULES AND REAPPORTIONMENT

May 24, 1991 Room 350 12:15 p.m. Tape 44

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. Tom Mason Rep. Randy Miller Rep. Fred Parkinson

MEMBER EXCUSED: Rep. Margaret Carter

STAFF PRESENT: Greg Leo, Committee Administrator Carol Wilder, Committee Assistant

MEASURES

SB 296 CONSIDERED:

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TAPE 44, SIDE A

007 CHAIR WALDEN: Calls the meeting to order at 1:30 p.m. Opens a public hearing on SB 296.

SB 296 - OREGON GOVERNMENT ETHICS Commission, PUBLIC HEARING

010 PAT HEARN, EXECUTIVE DIRECTOR, OREGON GOVERNMENT ETHICS Commission: Senate Bill 296 is an omnibus bill that was the compilation of elements of several other bills that were pre-session filed by the interim Government Operations Committee of the Senate. The elements of SB 296 are very pleasing to the Government Ethics Commission. It's a good bill for members of the Legislature and other public officials, for the Commission, and for the people of the state. Substantively SB 296 would do the following things: (1) It would create a period of 90 days from the filing of the complaint or from the Commission's acting on its own

instigation to conduct a preliminary review to find cause to initiate a formal investigation or formally dismiss the complaint. (2) Where probable cause to investigate is found, it would establish a time period of 120 days from the beginning of that investigatory phase to the contested case hearing stage to make a finding a violation. It would also define the term "cause" as a "substantial objective basis for believing that an offense or violation may have been committed and the person to be investigated may have committed the offense or violation".

(3) It would appropriate an additional \$146,135 to the Oregon Government Ethics Commission from the General Fund to provide an additional investigator, an additional clerical employee, additional space and related services and supplies. Those additional positions are absolutely essential if the Commission is to comply with the other provisions of the bill relating to the timelines for the preliminary review and investigatory phases.

040 REP. MARKHAM: Will you be moving? You're in a shoebox over there now.

045 HEARN: There is some vacant space immediately contingent to us now. We don't know yet whether we'll be able to get it.

050 CHAIR WALDEN: Members, this is the bill that allows them to have the funding to make a purchase out of this biennium's funds for some supplies. They're on a real tight timeline to get that done. We have before us SB 292 in which we can address any different policy matters that may come up as well.

055 REP. MILLER: Given that there are some policy matters that we would be asked to approve in here, tell me a little bit about the financial problems if we don't pass this today.

065 HEARN: In my general budget request for the next biennium there was a request in there for funding for capital outlay for a personal computer network for the office. We currently just have one old stand-alone personal computer. The concept has already been approved by the System's Division of the Executive Department and Legislative Fiscal with Rep. Minnis as the Chair of the subcommittee who were able to come up with the recommendation that the purchase for the computer be removed from next year's budget and that funding that has been appropriated to the Commission in the current biennium but has been unscheduled (that is, it's not available to us) be rescheduled so that those personal computers may be purchased this biennium. In order to do that, we have to order them and have them invoiced by the vendor no later than June 30.

082 REP. MILLER: Is all of the language that is required to take care of your budget concerns located in Section 5, page 3 of the bill?

085 HEARN: There is no language in the bill relative to what I just mentioned regarding the computers. It's a functional matter. If this bill were not to pass, then the computers would not be necessary. The reasons to enhance the computer are the timelines and the additional personnel, etc., and the subcommittee felt that they work hand and glove. One would need to pass before they do the other.

097 REP. CEASE: We put out a bill the other day trying to set up a fair process which was essentially the same kind of thing dealing with the elections office. As I understand this bill, this sets up a set procedure which would substantially improve the situation of how you

handle the whole process, is that correct?

100 HEARN: Yes, it would from the standpoint that there are specific timelines now. The public official who is under scrutiny by the Commission wouldn't have to wait for an infinite period of time to know the results of that review.

110 REP. CLARNO: One of the things that we were looking at in our committee, Agency Reorganization Committee, was the over 40 computer systems and nothing works together. Does your proposed computer system have any ability to work with other agencies or have you looked into that or is this just a computer for use within your office?

112 HEARN: This is a personal computer local area network, but with the use of a modem we could dial into telephone lines and access other systems in the state system.

115 REP. CLARNO: I think that's very important. John Radford in Executive Department talked to us about the fact that most agencies if they have the money go ahead and purchase systems that do not compute with one another. A real concern I have when I hear someone talking about the computer system they're getting is if they've checked with somebody to see if that's going to be compatible with other systems in other state agencies.

125 HEARN: Yes, we've already confirmed that it would be.

126 REP. BAUM: The last committee meeting we had on this bill I had some problems with the definition of the word, "cause". I also said some things that maybe weren't wholly complimentary of the process on the other side of the building. But I realize that we have completely taken out of the proceeding any kind of secret or proceeding that usually accompanies a criminal investigation prior to the issuing of an indictment. We're going to exclude from the process any kind of requirement that they have a period of time where they bring people under oath and it's a relatively confidential proceeding before they come out. For that reason, I am happy with that language.

140 CHAIR WALDEN: You're happy with the language on line 27, page 2.

142 REP. BAUM: The cause there is about as soft as you can get and still state that there seems to be some evidence to move forward and we're not going to nail anybody to the wall on it being "probable cause" that you did this deed which is what probable cause carries, that there's been some kind of criminal investigation that's gone forth and secret proceedings by the Grand Jury. We haven't done any of that here. Calling this "probable cause" I think would mislead both the public and the process which apparently has been adopted.

148 REP. PARKINSON: Rep. Baum makes a confidentiality (inaudible) they'll do anything to change the present procedure about confidentiality?

153 HEARN: No.

155 REP. PARKINSON: I guess it's been explored and it couldn't be done. That's still my biggest concern in the whole process, that they'll be tarred and feathered in the newspaper before they're ever charged or not charged.

157 CHAIR WALDEN: I'm not sure there's much we can do about that.

160 REP. PARKINSON: Is the criminal indictment before a grand jury open? Maybe somebody could explain.

162 CHAIR WALDEN: One of the problems you have is you can't contain the free speech of the complainant which is the person that signs the complaint and drops it in the mail to all the press and the press reports it. There's nothing that this Commission can do to preclude that. There's nothing we can do legislatively to preclude it and not violate free speech.

170 REP. PARKINSON: Criminal complaints are not filed by citizens.

173 REP. BAUM: It can be but the DA has to file the charge and the grand jury might issue the indictment to the individual. This doesn't prevent some of them orchestrating a bunch of complaints that turn out later to be false or not be substantive enough but we didn't deal with that.

175 REP. CLARNO: Which is further proof that we protect criminals better than we do ourselves.

178 CHAIR WALDEN: We will have further hearings, work sessions on SB 292 and amendments thereto where some of these broader policy issues can be addressed as well.

182 REP. MARKHAM: If the person has supposedly been falsely accused by a citizen, does he have civil remedy through the courts to sue?

185 REP. BAUM: For malicious prosecution, abuse of process, etc.

187 REP. MASON: If you're not a politician. If you're a politician, you can't sue for slander or libel.

190 CHAIR WALDEN: Closes the public hearing on SB 296 and opens a work session.

SB 296 - WORK SESSION

195 MOTION:Rep. Cease moves SB 296 B-Engrossed to the Floor with a Do Pass recommendation.

VOTE:In a roll call vote, the motion passes with all members present voting

AYE. Rep. Carter is excused. Rep. Cease will carry the bill.

212 CHAIR WALDEN: Adjourns the meeting at 1:45 p.m.

Submitted by: Reviewed by:

Carol Wilder      Greg Leo Assistant      Administrator