

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

April 22, 1991 Hearing Room E 8:00 a.m. Tapes 109 - 110
MEMBERS PRESENT: Rep. Bill Markham, Chair Rep. Larry Sowa, Vice-Chair
Rep. Marie Bell Rep. Mary Alice Ford Rep. Tom Novick Rep. Carolyn Oakley
Rep. Lonnie Roberts MEMBER EXCUSED: None VISITING MEMBER: Rep. Ray
Baum, District 58 Rep. Ron Cease, District 19 Rep. Chuck Norris,
District 57 Rep. Fred Parkinson, District 28 STAFF PRESENT: Randall
Jones, Committee Administrator Carolyn Cobb, Committee Assistant
MEASURES CONSIDERED: HB 2510 - Prohibits Candidates and Political
Committees From Using Political Contributions to Pay election Law Civil
Penalties, WS HB 2538 - Requires Petition of Not Less Than Six Percent
of Electors In Each Affected Component District to Submit Question, WS
HB 2927 - Prohibits City or County From Enacting or Enforcing Ordinance
or Resolution That Restricts Political Signs, WS HB 3155 - Prohibits
Service of Summons by Person Other Than Sheriff Unless Person Files
\$100,000 Certificate of Errors and Omissions Insurance, PH HB 3370 -
Reorganizes Oregon Hanford Waste Board, PH

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 109, SIDE A 003 CHAIR MARKHAM: Calls the meeting to order at
8:08 a.m. House Committee on State and Federal Affairs April 22, 1991-
Page 2

HB 3370 - REORGANIZES OREGON HANFORD WASTE BOARD - PUBLIC HEARING
Witnesses: Ray Baum, State Representative, District 58 Ron Cease, State
Representative, District 19 Chuck Norris, State Representative, District
57 Keith Burns, Chairman, Oregon Hanford Advisory Committee Mike
Grainey, State Department of Energy

020 RON CEASE, STATE REPRESENTATIVE, DISTRICT 19: Gives background of
the Hanford Waste Board. -Reviews provisions of HB 3370. -Submits and
reviews proposed dash one LC amendments dated 4/2/91 (EXHIBIT A)

057 REP. ROBERTS: Are we talking about a sixteen member board?

058 REP. CEASE: Yes, I think it is a sixteen or seventeen member board.

059 REP. ROBERTS: It is going to have ten public members, three
senators and three house members?

061 REP. CEASE: And three agency heads. The Board currently is about
that size. Currently there is the Board and an Advisory Committee. Two
members of the Advisory Committee are on the Board. What we are really
doing is reconstituting this into one body. 072 REP. ROBERTS:
Nineteen people seems unwieldy for any kind of decision making process.

074 REP. CEASE: I think that is true, but the history of this board
has shown that not all those people are there all the time. -We wanted
to make sure as we restructured this, we did not lose the large public
membership that we presently have on the Advisory Committee. -The three
house members currently before you are the three house members on the
Board. 105 CHUCK NORRIS, STATE REPRESENTATIVE, DISTRICT 57: This is
basically a policy group. To coordinate with the State of Washington is
not something we can do in isolation. Increasingly we have had contact
with a comparable group in the State of Washington to work this out

together. One of our main concerns is transport safety. If and when we start transporting this stuff to the waste depository in New Mexico, the route will go through Oregon. 133 REP. CEASE: The six legislators are non-voting members because of the separation of powers issue. So there are only fourteen voting members. We believe it is workable. 140 RAY BAUM, STATE REPRESENTATIVE, DISTRICT 58: We need to have direction in the statute that says somebody on that Board and voting, is going to have the intimate knowledge of someone who comes from the hazardous response teams. 150 REP. CEASE: I think it would be easy to make clear that one of those public members would have to be a "first responder".

158 CHAIR MARKHAM: Where should that be included?

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159 REP. NORRIS: Suggest language to insert on line 18 of the original bill.

164 REP. CEASE: I think Mr. Burns and Mr. Grainey can give you language for it, but we have no problem with the concept. -Resumes review of bill and proposed dash one LC amendments. -Proposing to combine the existing Board and the existing Advisory Committee, eliminating many of the directors of agencies, but retaining the Director of the Department of Energy and the Water Resources Director. Also retains the three house members and three senate members, who are non-voting. Instead of eight public members, there would be ten. The representative of the governor should remain on the Board.

262 MIKE GRAINEY, STATE DEPARTMENT OF ENERGY: Submits and summarizes written testimony (EXHIBIT B). Explains his department supports the bill because the consolidation will allow them to more effectively staff the Board.

281 REP. ROBERTS: We are setting up a state board that interacts with the Washington State board. How do they influence the federal government? 289 REP. NORRIS: We have to work closely with the entity within Washington because the heart of this whole thing to get something done at Hanford is the so called "tripart agreement" between the United States Department of Energy, the United States Environmental Protection Agency and the two states. We have to work within that framework. I think we ought to put something in Section 4 to the effect "coordination with appropriate counterparts and agencies in the State of Washington" because the Hanford Reservation, after all does not lie in the State of Oregon. 304 REP. ROBERTS: If you put that in the bill, does it have any effect if the State of Washington does not reciprocate in some way? 307 REP. CEASE: It is clear since that reservation is in Washington State, we are very concerned about what goes on in that state. It is another example of where the two states working together have been able to affect what the federal government does. 372 KEITH BURNS, CHAIRMAN, OREGON HANFORD ADVISORY COMMITTEE: Submits and summarizes written testimony (EXHIBIT C) in support of the measure.

TAPE 110, SIDE A

049 CHAIR MARKHAM: Would that be like the firm in Portland?

051 BURNS: It is not that large, it has to be something that can be there immediately. It is low level waste, which is a hazard only if you ingest or breathe it or something like that. 054CHAIR MARKHAM: Who is the first responder? 055 BURNS: It would be a trained fire department. We have probably two or three of those teams. It is very important to address the concerns of the people on that route in Eastern Oregon that there is representation on this body to make sure those responder teams are there, trained and have the proper equipment.

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069 CHAIR MARKHAM: How much more storage is there at Rainier?
072 GRAINEY: There is enough capacity for the Trojan plant to operate until sometime between 2007 and 2010. Their license expires in the year 2010. 076 CHAIR MARKHAM: If they were to remove a rod to Hanford, would it go up the Columbia River or go by the highway? 078 GRAINEY: Those rods will have to all be removed eventually. The route of low level materials from Trojan comes down U. S. Highway 30 to northwest Portland and then on the interstate. 087REP. ROBERTS: The federal government gives Oregon over \$2 million to make certain people are trained for emergencies. Do you use some of that money to train your people? 095 GRAINEY: The money we receive directly is from the U. S. Department of Energy. Some of the local emergency responders along the route may be funded in part by FEMA, but I do not know that for a fact.

HB 2538 - REQUIRES PETITION OF NOT LESS THAN SIX PERCENT OF ELECTORS IN EACH AFFECTED COMPONENT DISTRICT TO SUBMIT QUESTION - WORK SESSION

117 MOTION: REP. ROBERTS moved HB 2538 to the Committee on Education without recommendation as to passage.

119 CHAIR MARKHAM: Hearing to objection, it is so ordered.

HB 3155 - PROHIBITS SERVICE OF SUMMONS BY PERSON OTHER THAN SHERIFF UNLESS PERSON FILES \$100,000 CERTIFICATE OF ERRORS AND OMISSIONS INSURANCE - PUBLIC HEARING Witnesses: Jan Inman, President, Oregon Association of Process Servers Bob Keyser, Oregon Association of Process Servers Jim Markee, Oregon Collectors Association Bob Olson, Oregon Bar Association Ron Smith, Oregon Association of Process Servers

133 BOB KEYSER, OREGON ASSOCIATION OF PROCESS SERVERS: Introduces representatives of the Association.

141 RON SMITH, OREGON ASSOCIATION OF PROCESS SERVERS: The bill has a dual purpose. The first is to protect the general public and the process servers' clients with some degree of financial responsibility. The second is an attempt to educate members of the industry by offering attractive general liability and errors and omissions premiums through the national and local process servers associations. Many states have licensing, a concept we do not endorse. 156 CHAIR MARKHAM: What is the reason for this bill?

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157 SMITH: Yes, there are.

158 CHAIR MARKEIAM: What is the largest item you process serve?

160 SMITH: Process servers specialize in particular areas. Our specialty is service of summons and complaints, small claims matters, and trustees' notices of sale. Others handle forcible entry, unlawful detainers, subpoena service and garnishments, etc.

167 REP. ROBERTS: Has there been a problem? How are you going to force people into getting the insurance? Do you issue your own insurance in some way?

178 SMITH: No, we do not provide the insurance through our organization, although membership allows them to get insurance at a reduced rate. We work with the Oregon Collectors Association and others. Our attempt is to protect people who have been unjustly served papers. There have been a lot of horror stories in this regard. 186 REP.

ROBERTS: Is there any kind of certification to make sure these people understand what the job is? 189 SMITH: Currently Lane County is the only one that requires errors and omissions proof of coverage.

197 CHAIR MARKHAM: Is that under county home rule?

198 SMITH: That is a local court rule.

200 REP. OAKLEY: Currently who is eligible to serve these summons?

203 SMITH: Currently anyone eighteen years old or older, not a party to the action, and a resident of the State of Oregon may serve process in the state.

209 REP. OAKLEY: Did we pass legislation in the last session that opened that up?

213 SMITH: I am not familiar with that particular piece of legislation.

215 REP. OAKLEY: What does it cost to take advantage of your services?

216 SMITH: \$20 for a service of process, and that may be negotiable with the individual for a lesser fee.

220 REP. OAKLEY: What is the cost of the insurance?

223 SMITH: It depends on the size of the organization. For a one-person process serving company it costs approximately \$700 to \$800, including general liability and errors and omissions coverage.

228 REP. OAKLEY: Does the \$20 include transportation also, or do you charge mileage on top of that?

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231 SMITH: There are provisions in the statute that allow for charges

of \$12.50 when a trip exceeds 100 miles round trip. Those are the only provisions. 236 REP. OAKLEY: Are there process servers in every city? 238 SMITH: Yes, there are independent process servers in most areas. Some areas do not provide enough process to support the industry, and in those areas the sheriff serves all the process. 243 REP. NOVICK: The State Bar Procedure and Practice Committee as well as the Council on Court Procedures have testimony raising some questions about this. They did not have a chance to review it ahead of time, and are raising specific problems with the bill. Have you seen those? 251 REP. BELL: Does the fee mention apply only if the server is a member of your association?

255 SMITH: There is an approximately 10% credit for being a member of the association, because the association provides educational benefits for the members. 259 REP. BELL: In small areas, forcing servers into a large association and insurance coverage would probably put them out of business, wouldn't it?

269 SMITH: I do not know.

272 REP. BELL: Why force them into an association rather than requiring licensing?

275 SMITH: State licensing is not necessary. We have the ability to help our own members and police our own organizations. It would be extremely expensive for the State of Oregon and the process servers to police licensing than it would be for the additional requirements for errors and omissions insurance. 288 REP. BELL: My concern is in most cases, your association is a voluntary thing. Usually associations take on other philosophies and often get involved in politics that private practitioners do not want to get involved in. 302 SMITH: We are not requiring or requesting they become a member of the association, although there is a benefit of a 10% credit off their insurance for being a member of the national association. We have several members of the local association who are not members of the national association, and we do not require them to be. 306 REP. BELL: How did you arrive at the \$100,000 coverage figure? 307 SMITH: We used the same criteria that they used for errors and omissions required to be filed with the Secretary of State for service of writs and garnishments. Unfortunately there are no enforcement procedures for the \$100,000. Anyone can serve a writ of garnishment with or without the \$100,000 and there are no penalties. It is done every day. Through this measure we want to be sure it is checked at the court house. 328 REP. BELL: In your mind what are the qualifications that need to be met to be a process server?

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333 SMITH: They should have considerable education in civil process, what it represents and the method in which it can be served, and how proofs of service are made.

345 REP. BELL: If it is served improperly, is it ever invalidated?

346 SMITH: It can be. 351 REP. NOVICK: The bill says "other than a sheriff", does that mean that local police cannot or do not serve process? 353 SMITH: The sheriffs' offices are mandated by law to do

two things. One is to serve civil process, and the other is to maintain a jail. Police departments do not serve process. 361 JAN INMAN, PRESIDENT, OREGON ASSOCIATION OF PROCESS SERVERS: There is an ever growing number of people endeavoring to enter the civil process business who have no expertise or knowledge of the civil process statutes. One of our objectives is to give clients adequate liability protection, and to protect those individuals who have been in business for some time and who have worked diligently to upgrade and educate the other members of the profession. 389 REP. FORD: I want to hear some horror stories. 391 SMITH: Gives examples of the kind of problems that can occur.

TAPE 109, SIDE B

014 INMAN: Gives example of problem with inexperienced process server who solicited business at the court house.

040 REP. NOVICK: The errors and omissions insurance would have allowed a claim to be made against that person's policy?

041 SMITH: Yes, that is correct.

043 REP. NOVICK: You would assume that if that person would have had to buy errors and omissions insurance, they may not have been in the business? J 046 KEYSER: It probably would not have done anything with that immediate situation, but if that person was actually serving some sort of process, it is safe to assume he was making some other errors and it would cover those kinds of things.

050 REP. NOVICK: If someone wanted to charge less than what your association or the sheriffs charge, could they?

053 SMITH: Yes, that is correct. The statute provides for \$20 as a service fee and you can negotiate the fee. This was provided at the last session to allow those large organizations as well as the Justice Department, to negotiate fees for service of process. - These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation mark, report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. House Committee on State and Federal Affairs April 22, 1991- Page 8

057 REP. NOVICK: So some entrepreneur who thought he could serve more and do it for less, could do that.

059 SMITH: One of the areas of specific concern to the organization is that today there are less than ten process service companies in Oregon that have been in business over five years. Our organization provides entrepreneurial training as well as training in the statute. We would like to keep these people in the industry.

075 REP. NOVICK: Of the process servers in the state, what percentage are members of your organization?

077 SMITH: I would say close to 50%.

080 REP. BELL: In case they just disappear with the documents, would the insurance still cover and how would a person know where to make a claim?

082 SMITH: When you file your errors and omissions with the Secretary

of State, it has your carrier on the documentation.

085 REP. BELL: How many crossovers do you have with private investigators and other groups who might have to have some other insurance already?

089 SMITH: The majority of private investigators in Oregon who desire to have general liability and errors and omissions insurance, use virtually the same source the process servers use. 093 REP. BELL: Is there anything about this bill that would require they have duplicate coverage?

094 SMITH: No.

100 BOB OLSON, OREGON STATE BAR ASSOCIATION: At the very least I would ask the committee have the proponents of the measure meet with the Council on Court Procedures before acting on the bill because the Council has by legislative delegation, responsibility for the civil procedural rules that this issue affects. The normal procedure is to take the proposal to the Council during the interim and they make a recommendation in December to the legislature on procedural changes. As far as I know, no proposal has been taken to them.

113 CHAIR MARKHAM: Could these folks visit with yours in the next week or so?

117 KEYSER: Yes, we can do that. -Wants to make clear this bill does not require membership in the Association.

131 REP. NOVICK: If someone did not want to become a member and was willing to pay the 10% additional premium, they could still do it?

134 KEYSER: They may be able to get the insurance just as cheaply if they shopped around. 137JIM MARKEE, OREGON COLLECTORS ASSOCIATION: Our association has no objection at all to this proposal. You do have some people out there serving papers who are not very

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financially responsible.

156 REP. OAKLEY: Last session we dealt with a bill that allowed a summons to be sent by certified mail, does this have any affect on that?

158 MARKEE: It would not. A plaintiff must serve a summons and complaint. He can choose to do so by certified mail. The object is to have a disinterested party serve the papers. There are people out there serving papers who are private investigators.

188 CHAIR MARKHAM: Recesses meeting at 9:20 a.m.

-Resumes meeting at 9:38 a.m.

HB 2927 - PROHIBITS CITY OR COUNTY FROM ENACTING OR ENFORCING ORDINANCE OR RESOLUTION THAT RESTRICTS POLITICAL SIGNS - WORK SESSION

199 FRED PARKINSON, STATE REPRESENTATIVE, DISTRICT 28: Gives background

of the measure. -The proposed amendments that give issues the same protection as candidates would be an acceptable change to me. -Urges passage of the measure.

227 REP. FORD: Some cities place restrictions by requiring you to plot on a map the proposed location of every sign. Some also require a non-refundable bond be posted. Under this measure they would not be able to do any of those things, would they?

244 REP. PARKINSON: No. If a community wants to place the same restrictions on all other temporary signs, it would be all right.

253 IRVIN H. FLETCHER, PRESIDENT, OREGON AFL-CIO: Describes encounter with restriction on political signs. Submits written testimony (EXHIBIT D) in support of the measure.

283 CHAIR MARKHAM: Is this a county problem also?

287 REP. PARKINSON: Yes.

298 VICE CHAIR SOWA: If the same groups that now prohibit political signs really do not want them, is this going to lead to broad brush restrictions on all signs so they can get at political signs?

308 REP. PARKINSON: I cannot conceive of that happening.

314 VICE CHAIR SOWA: Are you sure that all the signs you mention are within code now or do they let them get by because they are a church, so they decide not to force the issue?

319 REP. PARKINSON: Most areas, at least cities having ordinances on their books, allow these other signs, but not with the same restrictions they place on political signs.

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326 CHAIR MARKHAM: Has the League of Oregon Cities given you any problem on the bill?

327 REP. PARKINSON: The League of Oregon Cities did oppose the bill the last time there was a public hearing on it, but I did not think their testimony was that accurate, and I cannot conceive of why they would want to continue to oppose it.

336 REP. BELL: It is my understanding in my city, the enforcement is done only by complaint, and the complaints are only about political signs. 347

REP. NOVICK: In most cities the parking strip actually belongs to the city, which is why most places do not allow the signs on the parking strip. 361 MOTION: REP. BELL moved to adopt the dash one LC amendments dated 4/12/91 to HB 2927 (EXHIBIT E). . 367 CHAIR MARKHAM: Hearing no objections, it is so ordered.

369 MOTION: REP. BELL moved HB 2927 as amended to the floor with a "do pass" recommendation. VOTE: In a roll call vote, the motion carried, with Rep. Bell, Rep. Ford, Rep. Novick, Rep. Oakley, Rep. Sowa, and Chair Markham voting AYE. Rep. Roberts was excused.

HB 2510 PROHIBITS CANDIDATES AND POLITICAL COMMITTEES FROM USING
POLITICAL CONTRIBUTIONS TO PAY ELECTION LAW CIVIL PENALTIES - WORK
SESSION

392 RANDALL JONES, COMMITTEE ADMINISTRATOR: Submits and reviews
proposed dash two LC amendments dated 4/18/91 (EXHIBIT F). -Submits
written testimony from Sue Proffitt, Elections Division (EXHIBIT G) in
support of HB 2510 and amendments.

TAPE 110, SIDE B

017 REP. BELL: Did we eliminate the part about the non-tax credit
contributions used in violation of the act?

018 CHAIR MARKHAM: Yes, long ago. The first \$200 may come out of your
political contributions if you wish.

022 VICE CHAIR SOWA: In what is now Section B, which was subsection 2,
that is added to Oregon Statute? I thought that was present law.

030 SUE PROFFITT, ELECTIONS DIVISION: Section 2 is added to and made a
part of ORS Chapter 260 is new language.

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049 VICE CHAIR SOWA: Who is responsible for a campaign fine at this
time?

128 PROFFITT: Cites ORS 260.037. Larry Bevens (Elections Manager,
Office of Secretary of State) feels it is not redundant to put it here
because you are making it a broader statement, it is more than just the
candidate serving as his own treasurer. 144 MOTION: REP. ROBERTS
moved to adopt the dash two LC amendments dated 4/18/91 to HB 2510
(EXHIBIT F). 147CHAIR MARKHAM: Hearing no objection, it is so
ordered. 149 MOTION: REP. ROBERTS moved HB 2510 as amended to the
floor with a "do pass" recommendation. VOTE: In a roll call vote, the
motion carried, with Rep. Bell, Rep. Ford, Rep. Novick, Rep. Oakley,
Rep. Roberts, Rep. Sowa, and Chair Markham voting AYE.

HB 2927 - PROHIBITS CITY OR COUNTY FROM ENACTING OR ENFORCING ORDINANCE
OR RESOLUTION THAT RESTRICTS POLITICAL SIGNS IN MANNER DIFFERENT FROM
OTHER SIGNS WORK SESSION

159 REP. ROBERTS: Requests unanimous consent that the rules be
suspended to allow him to be recorded as voting AYE on the motion to
move HB 2927 as amended to the floor with a "do pass" recommendation.

161 CHAIR MARKHAM: Hearing no objection, it is so ordered. Submitted
by: Reviewed by: Carolyn Cobb
Randall Jones Assistant Administrator

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EXHIBIT LOG:

A - Amendments to HB 3370 - Rep. Ron Cease - 5 pages B - Testimony on HB 3370 - Michael Grainey - 3 pages C - Testimony on HB 3370 - Keith Burns - 4 pages D - Testimony on HB 2927 - Irvin H. Fletcher - 1 page E - Amendments to HB 2927 - Rep. Marie Bell - 1 page F - Amendments to HB 2510 - Randall Jones - 1 page G - Testimony on HB 2510 - Sue Proffitt - 1 page

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