

Senate Government Operations May 3, 1991 Page 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.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

May 3, 1991Hearing Room "B" 3:00 p.m. Tapes 81 - 82

MEMBERS PRESENT:Sen. Glenn Otto, Chair Sen. Jane Cease, Vice-Chair
Sen. Jim Bunn Sen. Ron Grensky Sen. Tricia Smith Sen. Dick Springer

MEMBERS EXCUSED:Sen. John Kitzhaber Sen. Dick Springer

STAFF PRESENT: John Houser, Committee Administrator Jayne
Hamilton, Committee Assistant

MEASURES CONSIDERED: SB #1024 - Relating to the use of
armories, PH/WS SB #1051 - Relating to the use of armories, PH/WS SB
#911 - Relating to intergovernmental agreements, PH/WS HB #2043 -
Relating to advertisements of bids for contracts, PH/WS HB #2469 -
Relating to elections, PH

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TAPE 81, SIDE A

005 CHAIR OTTO: Called the meeting to order at 3:10.

(TAPE 81, SIDE A)

PUBLIC HEARING

SB 1024 RELATING TO THE USE OF ARMORIES

Witnesses:General Fred Rees, Oregon Military Department Lenn Hannon,
Oregon State Senator, District #26 Byron Schriever, Military Department
Executive Officer

007 HOUSER: Distributed fiscal impact statement, Exhibit A, and
proposed -1 amendments, Exhibit B.

010 LENN HANNON, OREGON STATE SENATOR, DISTRICT #26: It was disclosed to us two years ago that the property at Camp Withycombe would soon be sold to the Highway Department. SB 1024 would set up a separate fund for the collection of money from the sale of armories, from the future sale of the Camp Withycombe property and from rentals and use of armories. This bill has no fiscal impact. We would like to have this in place so when these activities generate money we'll have an established account for building the future armories to deposit to.

038 GENERAL FRED REES, OREGON MILITARY DEPARTMENT: Reads written
testimony,

Exhibit C.

092 CEASE: When you say "the amendment" do you mean the -1 amendment,
Exhibit B?

096 UNKNOWN: Yes, that is correct.

097 CEASE: So the amendment lets you use the construction account for
operating expenses, correct?

099 HANNON: The amendment would allow the Legislature to make that
determination each session. They would decide if the operating expenses
for the armories would be taken out of the construction account, or to
use general funds instead.

106 CEASE: Was this made as a suggestion for part of your legislative
package?

108 HANNON: Yes.

112 CEASE: Actually Senator, I was asking Mr. Rees if it was something they had tried as part of their military package.

116 REES: No, we were pleased we had the success getting the trust account established, but as we started identifying how we would fund these armories and maintain a usable balance in the trust fund, we felt we had to put this on a long-term basis.

124 CEASE: So you want to use the money for the maintenance of the armory, as well as capital construction? That's not what the amendments say.

127 REES: The primary purpose is to establish an account so we can transfer rental monies and use it for capital construction.

131 CEASE: Then why do you have an amendment that says you can use the account for operating expenses? Reads line 9, as would be amended.

144 BUNN: Sen. Hannon addressed that in the need because of the way the budget had been done in this biennium.

146 CEASE: I understand that, but from what people had said, I thought people were talking about maintenance.

148 BUNN: The maintenance for the coming biennium has already been taken out of this. The way the bill was originally drafted, the maintenance money could not be taken out for this biennium. This amendment allows us to do it the way the budget is already designed.

154 CEASE: The way the budget is designed this session, is the money for maintenance or for operating expenses?

156 UNKNOWN: Both.

159 REES: Perhaps I misspoke. The way I would read this is it provides an option to use these monies for capital construction or operating expenses, but it is our intent that if we can fund this appropriately we would establish a long term capital construction account.

171 OTTO: These two bills indicated that other parties can use these armories. What about liability insurance? Does your policy cover that?

177 BYRON SCHRIEVER, MILITARY DEPARTMENT EXECUTIVE OFFICER: All users of our facilities sign a release.

184 OTTO: But in the event that they don't pay anything, they are still covered?

186 SCHRIEVER: Yes.

WORK SESSION

191 MOTION: SEN. BUNN MOVED THE -1 AMENDMENTS TO SB 1024.

194 CEASE: I'm still not clear on this. It sounds like there's a potential collision between the desire for a capital construction fund and allowing that fund for operating expenses. That bothers me.

200 HANNON: That money is currently used by Ways and Means to fund the maintenance and operating expenses of some of these armories. We're trying to establish a side fund that also includes capital construction.

209 CEASE: You're trying to have these monies that are not necessarily dedicated to other functions of the department but instead focused on the armory? That's not what your amendments do. There must be other operating expenses of the department that aren't related to the armory.

217 HANNON: Unless we pass special legislation, our Ways and Means subcommittee can do anything it wants with the appropriation except dedicate these funds for capital construction.

231 CEASE: So you want to use this money for anything, not just armory-related maintenance?

233 HANNON: It's whatever Ways and Means dedicates that money for. Currently the money is used to fund only maintenance and operational expenses.

236 CEASE: It comes across to me that what you're really trying to do is focus it on the armory.

240 HANNON: It's only operated for the armory.

240 CEASE: The amendment says "operating expenses of the department." If the department has other operating expenses that aren't related to the armory, then it moves away from your intent.

250 BUNN: The idea was the original bill without the amendments. We have the -1 amendments because there isn't enough money to cover the operation and maintenance. The funds for the armories go to the general operation of the Department. We're allowing that to continue.

275 REES: We wanted to make it possible to take the rental receipts from the armory and put it into the construction fund. We do not want to change the construction fund so they will pay operational expenses. Everything is related to the armories, at least by funding. Explains intent.

303 CEASE: Sen. Bunn added a word that would be armory operating expenses, but I'm not sure that's what they want to do.

307 BUNN: We've established what it does for the record. If people thought the word "armory" would help, I'm willing to offer it.

314 VOTE: MOTION CARRIED BY ACCLAMATION.

315 MOTION: SEN. BUNN MOVED SB 1024, AS AMENDED, TO WAYS AND MEANS WITH A DO PASS RECOMMENDATION.

324 VOTE: MOTION CARRIED, 5-0. EXCUSED: SEN KITZHABER, SEN. SPRINGER.

(TAPE 81, SIDE A)

PUBLIC HEARING

SB 1051 RELATING TO THE USE OF ARMORIES

Witnesses: General Fred Rees, Oregon Military Department Jim Bunn, Oregon State Senator, District # 15

332 HOUSER: Distributed fiscal impact statement, Exhibit D.

334 GENERAL FRED REES, OREGON MILITARY DEPARTMENT: Reads written testimony,

Exhibit E.

355 JIM BUNN, OREGON STATE SENATOR, DISTRICT # 15: I had a group of individuals who as volunteers were offering safety training programs. They found they could volunteer their time, but had to pay a fee to offer the training programs. This bill clarifies that. This bill limits it to the Coast Guard.

WORK SESSION

387 MOTION: SEN. BUNN MOVED TO ADOPT THE -1 AMENDMENTS TO SB 105 1. MOTION CARRIED BY ACCLAMATION.

398 MOTION: SEN BUNN MOVED SB 1051 TO WAYS AND MEANS WITH A DO PASS RECOMMENDATION.

399 CEASE: This bill has too large a fiscal impact for me to support it.

404 BUNN: It's my opinion that the fiscal impact is negligible as amended. Also, the Military Department would have the discretion of what money is available.

422 VOTE: MOTION CARRIED, 5-0. EXCUSED, SEN. KITZHABER AND SEN. SPRINGER. SEN. BUNN WILL CARRY THE BILL.

(TAPE 82, SIDE A)

PUBLIC HEARING

SB 911 RELATING TO INTERGOVERNMENTAL AGREEMENTS

Witnesses: Beth Bridges, City of Eugene Cress Bates, Lane County Council of Government John Gervais, Oregon Newspaper Publishers Association

020 BETH BRIDGES, CITY OF EUGENE: Reviews fact sheet, Exhibit G. Submits letter from Jeff Miller for the record, Exhibit F.

042 OTTO: Would the Metropolitan Service District legislation we passed work here without having this bill?

045 BRIDGES: To the best of my knowledge, it does not. The legislation is under ORS 268 which refers specifically to Metropolitan Service Districts, and this is under ORS 190 that allows for intergovernmental agreements.

049 OTTO: So it wouldn't satisfy your need?

050 BRIDGES: Correct.

052 BUNN: Is your language the same, other than the reference to a different part of a statute?

054 BRIDGES: Yes, it is.

055 BUNN: But you're asking we do the same thing for you that we did for Metro last time?

056 BRIDGES: Yes we are.

057 BUNN: We had a great deal of controversy over denying public access to information that was going to be sold. When you say we will not deny that public access to anything that's public information now, will you take information and put it in a form that government agencies will use, but the public will not have access to?

070 BRIDGES: I believe your analysis is correct.

075 BUNN: As technology advances, decisions will be made on enhanced information. As city councils make decisions, citizens won't have access to the information the decisions are being made on.

086 SMITH: If the public comes in and requests information on the Redistricting database, they have to purchase that, correct?

091 BUNN: I believe we charge the cost of reproducing it. It doesn't have a market value that the citizen has to pay.

101 CRESS BATES, LANE COUNTY COUNCIL OF GOVERNMENTS: Right now, it is possible for people to purchase the redistricting data. What may be missing is the analytical tool -- the software that's necessary to provide that enhanced level of information.

121 BUNN: I got some information from IBM trying to sell me a redistricting program. I think they take the public information, provide the software to use that information, and sell it back. For \$8000, they would have given me the information we have in our machine and the software to make it run. If we approve this bill, we are saying you don't have the right to give that information to the vendor or the public.

131 BATES: We're saying we would now have the ability to charge the market rate.

138 JOHN GERVAIS, OREGON NEWSPAPER PUBLISHERS ASSOCIATION: The more I learn about this, the more I'm comfortable with it. We have some concerns about how it relates to the public records access to the individuals in the community. We want to research it further and take a look at the application of the example that was put together for Metro. We're a little concerned about the language in here, in terms of the records closure.

156 OTTO: Are you for or against the bill?

157 GERVAIS: I support the bill with some yet to be drafted amendments. I really feel comfortable with what they're trying to achieve. I'm only uncomfortable if the wording meets the needs of the public for access and future changes in technology.

165 OTTO: You may propose amendments when it goes to the House?

166 GERVAIS: Yes.

168 SMITH: Do you feel the playing field should be even for Metro and the rest of the world, or should Metro have an advantage in their existing language that the other councils of governments don't have?

178 GERVAIS: I'm not certain that Metro isn't working perfectly, but it doesn't attract a lot of attention in that kind of review.

185 SMITH: I'm not sure that some of the councils of government affected by this would attract a great deal of attention either.

186 GERVAIS: I'm saying that it may not have been fully tested. I want to make sure it's the right language. I think the playing field ought to be the same for everybody.

188 SMITH: So if you draft amendments to this legislation, would you be including the amendments to Metro's enabling statutes?

192 GERVAIS: Certainly. We want to look at this further.

198 CEASE: I just looked at the wording of the Metro-thing. This is identical except for substituting "intergovernmental group or district". The other difference is that in the Metro statute there's a reference to public bodies that pay a service charge to the intergovernmental group.

218 SMITH: I want some assurance that if you amend this bill, you will also amend Metro's enabling statute.

222 GERVAIS: Yes, that would be my intent. If I chose to do that I would come to you and Sen. Cease to express my concern. I agree that everyone ought to play the same way.

WORK SESSION

232 MOTION: SEN. SMITH MOVED SB 911 TO THE FLOOR WITH A DO PASS RECOMMENDATION.

234 BUNN: I'm going to vote it in Committee, but I'm going to try to figure out what we did last session with Metro. I may change my opinion by the time it reaches the floor.

239 CEASE: Whoever gave us the fact sheet, Exhibit G, they've got the wrong citation in it.

245 VOTE: MOTION CARRIED, 5-0. EXCUSED, SEN. KITZHABER AND SEN. SPRINGER. SEN. SMITH WILL CARRY THE BILL.

(TAPE 82, SIDE A)

PUBLIC HEARING

HB 2043 RELATING TO ADVERTISEMENT OF BIDS FOR CONTRACTS

Witnesses: Sandra Burt, Purchasing Division administrator Kim Mingo, Associated General Contractors Maura Roche, Oregon Arborist Association

257 SANDRA BURT, PURCHASING DIVISION ADMINISTRATOR: Reads written testimony, Exhibit H.

293 OTTO: Why does it have the emergency clause?

295 BURT: You need to address that question to the Associated General Contractors who requested the emergency clause.

303 KIM MINGO, ASSOCIATED GENERAL CONTRACTORS: We requested the emergency clause because we feel that this problem needs to be cleared up as soon as possible. Since the changes with the Construction Contractors Board, there have been instances where out of state contractors have bid on Oregon Public Improvement contracts. It was discovered that those out of state contractors were not registered with the Construction Contractor's Board. This resulted in many bid protests. Oregon statute requires that a contractor be registered with this Board before they can bid on Oregon Public Improvement contracts in Oregon. Without this, it could result in additional bid protests, delays and additional costs.

331 SMITH: It seems that this bill would save the public agencies a lot of money. Do you have some estimate of this savings?

338 MINGO: No. We view this as a public service to the contracting community and the public agency, making it clear what those requirements are so as to avoid any costs associated with that later on.

352 MAURA ROCHE, OREGON ARBORIST ASSOCIATION: We are in support of HB

2043 for the very reason Kim mentioned.

WORK SESSION

372 MOTION: SEN. CEASE MOVED HB 2043 TO THE FLOOR WITH A DO PASS RECOMMENDATION

378 VOTE: MOTION CARRIED, 5-0. EXCUSED, SEN. KITZHABER AND SEN. SPRINGER. SEN. CEASE WILL CARRY THE BILL.

(TAPE 82, SIDE A)

PUBLIC HEARING

HB 2469 RELATING TO ELECTIONS

Witnesses: Michael Ryan, Executive Assistant to State Treasurer Jack Graham, Elections Division Gregory Kafoury, Lawyer

411 JACK GRAHAM, ELECTIONS DIVISION: This bill deals with the financial impact statements and is intended to make the changes necessary to improve the process. Reviews bill section by section.

448 BUNN: While we're dealing with the direct impact, who's direct expenses are we talking about?

455 GRAHAM: The primary thrust of the financial impact statement is to deal with state impact, although the next subsection deals with adding an estimate for local governments. The direct impact would apply to both of those.

465 BUNN: We wouldn't be dealing with the expenditure of private or federal dollars?

468 GRAHAM: That's correct.

468 BUNN: So if we have an issue where both state and federal funds are involved, what do you list?

485 GRAHAM: We talked about whether we should extend it to go beyond this level and concluded that it goes beyond the capability of the Committee to estimate the other impacts.

TAPE 81, SIDE B

030 CEASE: Are we talking about state budget impact or revenue or what? The state budget is fairly direct. There's a lot of federal funds in the state budget.

050 GRAHAM: The language in the statute currently refers to estimating the impact on public money, including the reduction of state revenues.

054 CEASE: It also talks about reduction of expenditures.

056 SMITH: I have a question with deleting the words "with the assistance of" in §1. With the deletion of these words, does this mean that the Secretary of State, Treasurer and the Directors of Exec. and Revenue are each going to prepare their own? How is this going to be implemented?

068 GRAHAM: We've basically made a public body out of the Price Tag Committee. There was considerable confusion last time about what the words "with the assistance of" truly meant. What we've done now is put in a set procedure that the named officials are caused to vote upon in public.

076 SMITH: So you anticipate they will sit in a public meeting and vote on what the financial impact of the ballot measure will be?

080 GRAHAM: There will be public sessions held in public. What we've tried to do is place this process before the public and keep the process moving.

091 BUNN: Going back to §1, we talk about state revenues. It would be nice not to have that battle. Is it possible on line 9 where it says "shall estimate the amount of direct expenditure" to insert "state" between "direct" and "expenditure"?

107 GRAHAM: We're trying to figure out if the insertion of that would cause problems in the aggregate calculations.

110 BUNN: I'm not sure how §1 and §2 work together, so if it messes it up...

116 GRAHAM: I think we would have an adverse impact on the aggregate section in §2 if we did that. Continues review of bill section by section.

133 SMITH: How would you come up with an aggregate impact on local government through Ballot Measure 5?

139 GRAHAM: I can't begin to discuss Ballot Measure 5. We could confer with representatives of local governments to try to make estimates.

144 SMITH: It will be years before we know a fiscal impact on Ballot Measure 5. But on anything, I wonder how you could determine what the fiscal impact would be if it had a state-wide impact on state government.

150 CEASE: In the case of Measure 5, we had all the data in the revenue office for what a reduction of property taxes would mean in terms of each of the tax levies in each district.

155 SMITH: But local governments still doesn't know. Measure 5 aside, are you going to contact the League of Oregon Cities and ask them for their best guess, or are you going to contact a sampling of different areas? I'm concerned about four state agencies coming together and deciding what the impact on local government would be.

165 GRAHAM: The process employed by the Price Tag Committee is extending throughout state government to locate the expertise available to deliver the figures. In this area, it would be possible to come up with some information along those lines. This would be a very public open process. The Committee is concerned about misleading the public in thinking there is only state impact.

207 SMITH: I would agree that it is important for them to understand what the impact is on their government. I'm concerned with the mechanics of the state determining what that impact is.

210 GRAHAM: Agrees it's important to include this for voters. Continues review of bill.

216 BUNN: On the \$50,000 threshold, were there some that had \$50,000 expenses that weren't administrative so they had a price tag, but others had a \$50,000 administrative and they didn't?

221 GRAHAM: That could happen.

225 BUNN: If the impact on the state budget is the same, why not just have a threshold and if the expense is over that, it's in, if it's under that, it's not?

231 GRAHAM: We wouldn't have a problem with that. Continues to review bill.

273 BUNN: Would it be noted in the voters' pamphlet with a statement?

275 GRAHAM: Under the language here, no it would not. It would be in the minutes of the committee but not in the voters' pamphlet.

278 BUNN: What happens if there's a tie?

279 GRAHAM: Then we go onto the next subsections which provides that the Secretary of State would have the obligation to prepare a file and certify an estimate independently.

285 SMITH: (5) says "if three of the officials named", so in the case of a tie, that wouldn't occur, correct?

291 GRAHAM: If three of the four vote for an estimate, it would be printed that way. If fewer than three vote for the estimate then...

295 SMITH: I think it says that if three of the officials named do not prepare the estimate, the Secretary of State alone shall prepare the estimate. If two of the officials don't approve it, it doesn't address that.

300 BUNN: If three do approve, then you're done. If two approve, then three don't approve.

308 SMITH: There are only four. If two approve, then two don't.

309 BUNN: Three do not take the act of approving. It doesn't say "two disapprove," it says if three do not take the positive action, it's not saying that three vote negatively. You can have a 2-2 vote, then it also means that three have not approved.

322 GRAHAM: In drafting that, we could not come up with something simple and clear. Continues review of bill.

370 BUNN: If you have a discrepancy, didn't the process have to be flawed to get to it?

374 GRAHAM: I'm not sure it would have to be flawed. It would involve different assumptions about the impact of the measure.

383 BUNN: Under the current statute, the court can deal with the question of the dollar amounts, not just the procedure, is that correct?

385 GRAHAM: That's correct.

398 BUNN: I would like to come back to the question of specifying state expenditure. Under (2), if we say "state" above, doesn't that say we do state and then we also do the other?

416 GRAHAM: At one point we clearly say "state revenue," but we don't clearly say "state expenditures." It has been stated as state expenditures today on the record. In the Secretary of State's office it's been interpreted different ways.

429 MICHAEL RYAN, EXECUTIVE ASSISTANT TO STATE TREASURER: On the first line,

§1 (1) after the period it says "by the state". Doesn't that address your question?

439 BUNN: Yes, I guess it does. It reinforces that there was an error made before including federal expenditures. That's existing language, isn't it? Talks about abortion issue on Measure 6 in 1986. From what I understood you to say earlier, it's just the state expenditure of dollars, not federal dollars.

479 GRAHAM: I wasn't there when those were being done. This past year that issue did come up. We tried to extract out the federal expenditure, but I don't think we identified it.

490 BUNN: I think that's correct. I believe there was a change between 1986 and the previous election on how that was applied.

TAPE 82, SIDE B

033 GRAHAM: I think the Committee discussed that and made that conscious decision as they were drafting the estimate this time. I know that was a very definite decision. I think the language is very consistent with it.

035 BUNN: We're establishing on the record that it should be separated out and the federal part not listed.

037 CEASE: I don't agree with that at all. If that's part of the state budget money and it's an expenditure that the state makes, no matter what it's source, I think it needs to be included. There are other funds that come into the state budget also. If there's something that will cause a reduction of expenditures by the state, I think the public needs to know.

050 BUNN: I guess that's part of the question: what is the impact on the budget? When you're dealing with federal funds it's not the state that's absorbing all that money.

058 CEASE: Forget what the issue is. That's why I used the other example.

058 BUNN: Whatever it is, if it's an issue that the state's share is only 1/3 or 1/10, then the state's share is what we're talking about, not the federal share.

065 OTTO: We still have one more witness.

068 SMITH: I'll hold all my questions except one. I don't want to have a work session until we figure this out.

073 GREGORY KAFOURY, LAWYER: In paragraph 2, the second sentence appears to be grafted on. All the explanations in paragraph 1 aren't there in paragraph 2. We know what paragraph 1 is talking about, but we are uncertain about paragraph 2. I'm concerned about what use can be made of this if there is a new Trojan initiative. Discusses unclarity and problems of paragraph 2 and relates it to Trojan.

125 SMITH: So because that second sentence of paragraph 2 isn't tied to the first sentence of (1), we could be talking about many things?

135 KAFOURY: That's right. It's open ended and will cause problems.

139 SMITH: If that sentence were tied more closely to the requirements of (1) you would be comfortable?

141 KAFOURY: Yes. I'm sure you don't want to get into these political questions.

151 BUNN: When we have \$100,000 threshold, it's talking about expenses not about balancing revenue.

169 SMITH: Requests language of paragraph 2 be cleaned up and more information on how a state agency will decide how this will affect local governments be given.

185 OTTO: I won't appoint a subcommittee, but any people that have an interest in the bill should get together and work out some differences.

188 Meeting adjourned at 4:55.

Transcribed By:

Reviewed By:

Julie Muñiz
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EXHIBIT LOG

A - Fiscal impact statement, staff, 1 page B - Proposed amendments, staff, 1 page C - Written testimony, Fred Rees, 3 pages D - Fiscal impact statement, staff, 1 page E - Written testimony, Fred Rees, 1 page, F - Letter, Jeff Miller, 1 page G - Fact Sheet, 1 page, Beth Bridges, 1 page H - Written testimony, Sandra Burt, 1 page