

Senate Government Operations June 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

June 3, 1991Hearing Room "B" 3:00 p.m. Tapes 105 - 106

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

STAFF PRESENT: Gail Ryder, Senior Committee Administrator Joan  
Green, Committee Assistant

MEASURES CONSIDERED: SB 802 - Relating to public  
printing, PH/WS HB 3206 - Relating to fees of county surveyors, PH/WS HB  
3464 - Relating to historic remains, PH/WS HB 3532 - Relating to  
publication of financial reports, PH/WS SB 835 - Relating to terms of  
office, WS HB 2974 - Relating to public records, WS HB 2039 - Relating  
to the Joint Legislative Audit Committee, WS

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TAPE 105, SIDE A

006 CHAIR OTTO: Called the meeting to order at 3:18 p.m.

(TAPE 105, SIDE A)

PUBLIC HEARING

HB 3464 - RELATING TO HISTORIC REMAINS

Witnesses:Bill Markham, Oregon State Representative, District 46

007 BILL MARKHAM, OREGON STATE REPRESENTATIVE, DISTRICT 46: Reads HB  
346 4. This does not deal with artifacts, but the remains.

025 OTTO: When you speak of "remains", I think of dead bodies and what  
is left. Are we on the same wavelength?

026 MARKHAM: That is exactly right. It is the remains and, if I  
understand correctly, some of the tribes want to go back to whence they  
came.

033 SMITH: Public Law 101-601 is the Native American graves protection  
and repatriation act?

035 MARKHAM: Nods acknowledgement.

WORK SESSION

040 MOTION: SEN. SMITH MOVED HB 3464 A-ENGROSSED TO THE FLOOR WITH A DO  
PASS RECOMMENDATION.

043 VOTE: MOTION CARRIED: 4-0. EXCUSED: SEN. GRENSKY, SEN. KITZHABER,  
SEN. SPRINGER. SEN. SMITH WILL LEAD THE FLOOR DISCUSSION.

(TAPE 105, SIDE A)

PUBLIC HEARING

SB 802 - RELATING TO PUBLIC PRINTING

Witnesses:Cindy Becker, Department of General Services, Printing  
Division, Administrator

052 RYDER: Distributes the -2 amendments to SB 802, dated 04/26/91,  
Exhibit A, from General Services.

058 CINDY BECKER, DEPARTMENT OF GENERAL SERVICES, PRINTING DIVISION,  
ADMINISTRATOR: The -2 amendments to SB 802, (4-5), Exhibit A, have been  
proposed to allow the Department of General Services to enter into  
intergovernmental agreements with political subdivisions to provide  
printing services for them.

WORK SESSION

073 MOTION: SEN. CEASE MOVED THE -2 AMENDMENTS TO SB 802, DATED  
04/26/91, EXHIBIT A.

079 BUNN: I don't mind the addition, but I have a problem with the

deletions. Unless the amendments were just to add the new sections I would oppose them.

084 VOTE: MOTION CARRIED, 4-1. EXCUSED: SEN. KITZHABER, SEN. SPRINGER. (VOTING NO: SEN. BUNN).

087 MOTION: SEN. CEASE MOVED SB 802 TO THE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.

090 VOTE: MOTION CARRIED, 5-0. EXCUSED: SEN. KITZHABER, SEN. SPRINGER. CHAIR OTTO WILL LEAD THE FLOOR DISCUSSION.

(TAPE 105, SIDE A)

PUBLIC HEARING

HB 3206 - RELATING TO FEES OF COUNTY SURVEYORS

Witnesses: John Meek, Oregon State Representative, District 5

104 JOHN MEEK, OREGON STATE REPRESENTATIVE, DISTRICT 5: Refers to the -1 amendments to HB 3206, dated 05/24/91, Exhibit B.

109 MOTION: SEN. CEASE MOVED TO REMOVE HB 3206 FROM THE TABLE. MOTION CARRIED BY ACCLAMATION.

114 MEEK: Speaks in support of HB 3206. I would hope the -1 amendments to HB 3206, drafted at Sen. Smith's request would receive Committee support.

121 CEASE: I don't see those amendments.

121 RYDER: I don't have the amendments here, I will send for them immediately.

122 CEASE: They are ready?

124 RYDER: Yes, they are prepared by Legislative Counsel, I'm sorry for the oversight. We will have copies made.

129 MEEK: They are brief. Sen. Smith and I had a conversation in regards to the resolution and order aspect of changing fees. Her concern was that by statute there is no requirement for public notice and public hearing. I concurred with that. The -1 amendment reflects that prior to an adoption or change in a fee, a public notice must take place in a public hearing. We are discussing changing the cost on a \$10 surveyor fee, which is limited by statute. Currently that is done by ordinance, which requires publication, a filing and three readings before it can be moved. From start to finish it takes approximately 60 days.

157 CEASE: If the county establishes a fee by an ordinance, is that subject to initiative and referendum?

160 MEEK: Yes.

161 CEASE: If it establishes a fee by resolution or order, is that subject to initiative and referendum?

163 MEEK: I really don't know.

164 CEASE: I doubt it.

164 MEEK: This particular fee is set by state statute. They can charge up to a \$10 fee.

167 CEASE: I am not sure whether a resolution or order is an executive action, a legislative action or whether it falls under initiative and referendum.

173 OTTO: The maximum they can charge would be \$10?

173 MEEK: Correct. This is one of the few limitations on the amount of dollars that can be charged by a county in statute. The majority are done through resolution and order that have been established by statute.

WORK SESSION

191 MOTION: SEN. SMITH MOVED THE -1 AMENDMENT TO HB 3206, DATED 05/24/91, EXHIBIT B.

193 VOTE: MOTION CARRIED, 4-1. EXCUSED: SEN. KITZHABER, SEN. SPRINGER. (VOTING NO: SEN. BUNN.)

199 MOTION: SEN. SMITH MOVED HB 3206 TO THE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.

202 VOTE: MOTION CARRIED: 4-1. EXCUSED: SEN. KITZHABER, SEN. SPRINGER. (VOTING NO: SEN. BUNN). CHAIR OTTO WILL LEAD THE FLOOR DISCUSSION.

(TAPE 105, SIDE A)

PUBLIC HEARING

HB 3532 - RELATING TO PUBLICATION OF FINANCIAL REPORTS

Witnesses: Bob Cantine, Association of Oregon Counties  
Jeb Bladine, Oregon Newspapers Publishers Association

211 RYDER: Distributes staff measure summary, Exhibit C.

215 BOB CANTINE, ASSOCIATION OF OREGON COUNTIES: HB 3532 deals with the county and was one of four bills in the House that came out of the Speakers' Task Force on mandates dealing with publication requirements. The original bill was amended on the House side to require a statement of assets and liabilities and contracts the county enters into during the year to be published and to make that a parallel provision in the county clerk. I urge passage of HB 3532-A.

268 CEASE: Who wants the bill?

269 OTTO: The counties do.

271 SMITH: Deleted from the language is an exhibit of all receipts and disbursements by the county fund for the year. Your budget does not show receipts and disbursements, other than as totals.

280 CANTINE: It is not a detailed listing, but it indicates what was spent last year, both receipts and disbursements, by department, by object.

293 SMITH: Does it show transfers from various accounts to others?

294 CANTINE: If it was a disbursement it would.

299 SMITH: Doesn't your budget come out mid-year?

304 CANTINE: It is towards May or June when the budget committee's report is published.

311 SMITH: Do all counties adjust the budget totals from the previous year in that document?

323 CANTINE: I don't know, I would be glad to give you a copy of what is published.

327 SMITH: It doesn't tell me if those are final figures for the year.

329 CANTINE: I feel pretty certain that they would have to be the final figures for the prior year's action. There would be a three to six month early review of last year's actual, if you used the audit report versus the budget.

355 SMITH: The bracketed language on pg. 1, lns. 24-25 of the A-engrossed bill is existing language, right?

362 CANTINE: Right.

364 SMITH: If they pass this bill, in essence we are delaying that publication about six to eight months?

369 CANTINE: Correct and (unintelligible). We are the only ones required to publish that and we don't feel we should be singled out in that manner. Publishing the same information twice makes no sense to me.

388 JEB BLADINE, OREGON NEWSPAPERS PUBLISHERS ASSOCIATION: Speaks in opposition to HB 3532-A. It is one of a long line of measures eliminating what local government is required to distribute to the public via newspapers. The News Register in McMinnville has never published this information and, therefore has no financial interest in this bill. I would suspect a number of counties are in the same situation. Newspapers are in agreement that cities should be required to publish some of the information that counties are required to publish, however counties are a fundamentally different form of government than cities and school districts. Counties govern a broad area, they don't have a tight, close knit constituency, they are governed by elected full time paid policy setters, etc. There is different language on pg. 1, lns. 24-25, and pg. 2, ln. 11 for what is done with this information, depending on whether there is an accountant or a county clerk. Eliminating publication would also eliminate what is prepared, as I read it. In general certain information needs to be prepared and published at the conclusion of a year. There is information that needs to be prepared and published as new budgets are completed.

TAPE 106, SIDE A

037 BLADINE: The information that local government is required to compile and distribute has an important positive public impact. As those requirements have been chipped away at, local government has grown immensely. We feel this whole area of cities, counties and school districts, and what they are required to publish at the local level, needs to be addressed.

WORK SESSION

063 MOTION: SEN. BUNN MOVED THE CONCEPTUAL AMENDMENT THAT THE REQUIREMENT TO PREPARE NOT BE ELIMINATED.

068 CEASE: Could we ask Mr. Cantine for a response to that.

071 BUNN: I want to make sure that we are not denying total access to the information.

084 CEASE: Aren't there other budget law sections requiring a complete budget?

085 CANTINE: This information must be prepared and sent to the libraries and posted in the court houses every month. It is the same thing, except instead of making one twelve month listing we'll make it in twelve monthly listings.

094 SMITH: Did you say that you must prepare this information monthly, with or without the bill, or did you say that with the bill it will be prepared monthly?

096 CANTINE: With or without this bill we will have to prepare a detailed statement of expenditures and revenues. The compromise in SB 1083 is that we must prepare it, post it at the courthouse every month and it must be delivered to all libraries in the county.

100 SMITH: What is the purpose of this bill?

101 CANTINE: The original bill deleted all of the county accountant's report.

104 SMITH: The original bill that did not get out of committee?

105 CANTINE: Yes. It was amended to require that we still publish the contract information and the statement of assets and liability.

107 SMITH: Everything else that is being deleted still must be prepared and published monthly?

109 CANTINE: Must be distributed monthly?

110 SMITH: What is the point of the bill?

112 CANTINE: If no bill passed we would have had to also publish in the newspaper a year end statement listing all receipts and disbursements for the year.

116 SMITH: The point of this bill is to eliminate the requirement of publication in the newspaper and to require the county clerk to prepare a statement showing contract?

121 CANTINE: The existing law requires three things be prepared and published in a newspaper: 1. the statement of receipts and disbursements, 2. the contract and bidding information and 3. the statement of assets and liabilities. This bill removes the requirement to publish the statement of receipts and disbursements. SB 1083 will require us to prepare that, post it at the courthouse every month and in all the libraries.

129 SMITH: Where is SB 1083?

129 CANTINE: It has passed both Chambers and is awaiting the Governor's signature.

131 BLADINE: I would take exception, it does not require that. It requires that expenditures above \$250 or \$500 be listed, and I don't believe it has anything to do with receipts. The conflicts in the law accentuate the need for the state to look at what local governments are required to prepare, where it is duplicated, where it can be combined and what should be distributed and how.

148 BUNN: I would conceptually amend the bill to specify that the reports must be prepared and distributed as in SB 1083, but not to require publishing in the newspaper.

158 VOTE: MOTION CARRIED: 4-1. EXCUSED: SEN. GRENSKY, SEN. KITZHABER. (VOTING NO: SEN. SPRINGER).

169 MOTION: SEN. CEASE MOVED HB 3532 A-ENGROSSED TO THE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.

173 VOTE: MOTION CARRIED: 4-1. EXCUSED: SEN. GRENSKY, SEN. KITZHABER. (VOTING NO: SEN. SPRINGER). SEN. BUNN WILL LEAD THE FLOOR DISCUSSION.

177 BLADINE: Does the amendment require preparation of the information that was going to be deleted from preparation or publication?

182 BUNN: That is correct, I am not deleting anything further from the amendment.

184 BLADINE: The publication requirement is the same before and after the amendment? Thank you.

(TAPE 106, SIDE A)

WORK SESSION

SB 835 - RELATING TO TERMS OF OFFICE

194 RYDER: Reviews Committee action from last week. In reviewing the amendments, Sen. Kitzhaber has asked the Committee to reconsider their vote and not pass the bill.

201 CEASE: He wants it to stay here?

202 RYDER: Yes.

204 MOTION: SEN. CEASE MOVED TO RECONSIDER PREVIOUS COMMITTEE ACTION ON SB 835.

208 VOTE: MOTION CARRIED: 4-1. EXCUSED: SEN. GRENSKY, SEN. KITZHABER. (VOTING NO: SEN. BUNN).

212 MOTION: SEN. SMITH MOVED TO TABLE SB 835.

214 VOTE: MOTION CARRIED: 4-1. EXCUSED: SEN. GRENSKY, SEN. KITZHABER. (VOTING NO: SEN. BUNN).

(TAPE 106, SIDE A)

WORK SESSION

HB 2974 - RELATING TO PUBLIC RECORDS

Witnesses: Karen Hafner, Oregon School Boards Association and Community Colleges

227 RYDER: Distributes final amendments, Exhibit D and fiscal impact statement, Exhibit E.

238 CEASE: Have these been reviewed by the various people interested in the bill?

240 RYDER: They are identical to the Legislative Counsel drafts that you saw at the last meeting, with the exception of the conceptual amendment.

244 OTTO: What is the feeling on compensation for members?

246 RYDER: There is no amendment to that regard; they believed having that placed on the record was enough. Ways and Means Committee has said the bill falls within the minimum amount and does not need the subsequent referral. The Sen. President's office has indicated, with that explanation, it would not be necessary to send the bill to Ways and Means, if the Committee chooses to rescind the subsequent referral.

258 SMITH: If I recall correctly this embodies all of the amendments the Committee adopted last time, correct?

262 RYDER: That is correct. The only portion that is new language is the conceptual amendment from the County Clerks Association, and that is clarified.

264 SMITH: Where is that?

268 RYDER: On pg. 5, §8, lns. 21-22 and pg. 4, lns. 25-27. All the rest of that was existing language.

282 SMITH: And adopted?

282 RYDER: You have adopted all of them.

284 OTTO: What about sunset review?

286 RYDER: They were the -9 amendments and they are included. This includes the State Archivist amendment, Rep. Edmunson's two amendments, the Oregon Newspaper Publishers Association (ONPA) amendment and the County Clerks amendment.

293 BUNN: Apparently the amendments put back the appeals of the exemptions to public records?

295 RYDER: Yes, the sunset.

296 BUNN: Was that something that was voted on at the last meeting?

297 RYDER: Yes, those were the -9 amendments submitted by Rep. Edmunson and portions of the ONPA amendment.

314 KAREN HAFNER, OREGON SCHOOL BOARDS ASSOCIATION AND COMMUNITY COLLEGES: Our concern is with the sunset provision in §1. All exemptions to public records would fall within that, inclusive of personnel discipline actions, real estate transactions, etc. Anything given in confidentiality and promised to be kept confidential, would suddenly become part of public record. We believe a study would be appropriate to determine what should be removed and what should not.

347 BUNN: The way the amendments are worded it would not only appeal the exemptions from future disclosure, but it would also be retroactive. Is that correct?

356 HAFNER: I don't know.

357 BUNN: For example, if someone, assured of confidentiality, had been an informant to a police case, on January 1, 1994 that record would no longer be confidential. Someone could find out who had been an informant, unless we specifically continue to exempt that information?

370 HAFNER: I would assume that would be the result.

371 CEASE: I share this concern.

376 OTTO: Then we would need to amend the bill further, right?

377 CEASE: If other people share this concern then we need to delete §1, pg. 1, of the -A14 amendments, Exhibit D.

381 RYDER: I believe the appropriate amendment would be to remove the -9 amendments from the -A14 amendments, Exhibit D.

388 BUNN: I would agree with Sen. Cease. Deleting §1 would accomplish it.

391 CEASE: I do and it seems there is other stuff in there. It is just renumbering.

393 RYDER: There are some minor changes in the relating clause language.

398 CEASE: The numbering in the -9 amendments may not relate to the -A14 amendments, Exhibit D. I would move to remove the sunset and anything else that needs to be done to achieve that.

409 OTTO: Sen. Bunn, you feel deleting §1 would achieve that?

411 BUNN: I do.

418 MOTION: SEN. BUNN MOVED TO REMOVE THE SUNSET EITHER CONCEPTUALLY OR BY DELETING PG. 1, §1, OF THE -A14 AMENDMENTS, DATED 05/30/91, EXHIBIT D. MOTION CARRIED BY ACCLAMATION.

432 MOTION: SEN. CEASE MOVED HB 2974 A-ENGROSSED TO THE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.

451 VOTE: MOTION CARRIED: 6-0. EXCUSED: SEN. KITZHABER.

467 MOTION: SEN. BUNN MOVED TO REMOVE THE SUBSEQUENT REFERRAL TO THE WAYS AND MEANS COMMITTEE. MOTION CARRIED BY ACCLAMATION. SEN. BUNN WILL LEAD THE FLOOR DISCUSSION.

TAPE 105, SIDE B

036 RYDER: In §13, pg. 7, ln. 13, we need an effective date.

064 MOTION: SEN. BUNN MOVED TO DELETE §13 OF THE -14 AMENDMENTS, DATED 05/30/91, EXHIBIT D.

068 SMITH: I'm not sure the Committee knows what §13 does and I hesitate to delete it without knowing. It appears to me that the statutes described in §3 are the statutes that the committee is going to review.

076 BUNN: §13 did not come over as a part of the A-engrossed bill. If we don't know how we came up with it then we should delete it.

081 RYDER: It is part of the ONPA amendment.

082 SMITH: I think we ought to decide to drop it or keep it based upon the merits of the section.

084 CEASE: I would prefer not to make a ten year law based on something else, other than making the law.

088 SMITH: My understanding of §13 is any statute that is determined to be outside of the public records law is only good for 10 years unless the Legislative Assembly acts on it. If I am reading §13 correctly a review in action would be necessitated to remain confidential. I think an occasional review is good policy. The blank in §3 requires the council to come back to the legislature by the end of 1992 and propose legislation. To be safe the blank could say that it becomes effective on or after January of 1993. That would cover all action the council has taken.

110 BUNN: My understanding is that the provisions are designed so that any exemptions created sunset in 10 years. It is not right to create a confidentiality provision, someone provides information based upon that confidentiality and then in ten years that can disappear. If we want to go back and, as a body, make that decision that is one thing, but to grant the House, the Senate or the Governor the ability to force a sunset so that information provided in a confidential manner is no longer confidential, simply because they do not like it, is wrong.

120 OTTO: Concurr.

122 VOTE: MOTION CARRIED: 4-2. EXCUSED: SEN. KITZHABER. (VOTING NO: SEN. SMITH, SEN. SPRINGER).

131 MOTION: SEN. CEASE MOVED HB 2974 A-ENGROSSED, AS FURTHER AMENDED, TO

THE FLOOR WITH A DO PASS RECOMMENDATION.

136 VOTE: MOTION CARRIED: 5-1. EXCUSED: SEN. KITZHABER. (VOTING NO: SEN. SPRINGER).

(TAPE 105, SIDE B)

WORK SESSION

HB 2039 - RELATING TO THE JOINT LEGISLATIVE AUDIT COMMITTEE

Witnesses: John Lattimer, Legislative Fiscal Office Art Keil, Health Division Kathleen Beaufait, Legislative Counsel

145 RYDER: Distributes the -A5 amendments, dated 05/31/91, Exhibit F.

153 JOHN LATTIMER, LEGISLATIVE FISCAL OFFICE: The -A5 amendments remove the redundant language that was present last time this was heard. The amendments clarify that the fiscal officer and/or his designee are not allowed to disclose confidential information under the public records law.

161 GRENSKY: Although you couldn't disclose anything, with regard to medical information that you might have access to, you could examine and copy it, couldn't you?

167 LATTIMER: Yes, we could copy information. But we can't make any confidential information, copied or otherwise, public. It would not be my intention to copy personal records.

171 GRENSKY: Would you be opposed to inserting language on ln. 10, §2, of the A-engrossed bill to exempt all examination and copying of confidential and patient medical records?

185 LATTIMER: In evaluating programs, particularly in programs crossing agency lines, it is difficult to come up with the value of these statistics, if you can't look at the individual records. It is the same problem Revenue would have if they could not look at individual tax records.

199 GRENSKY: Are you examining these records now?

201 LATTIMER: No, the Joint Legislative Audit Committee (JLAC) is only about two years old.

205 SPRINGER: Other legislative committees have the subpoena process that provides protections, if the party objects. I am not sure that kind of protection is available with this language.

221 GRENSKY: Was it your intention to get into these records? If it is, there are legitimate reasons why someone wouldn't want medical records examined, for example it could spread that someone is Human Immunodeficiency Virus (HIV) positive.

232 LATTIMER: This bill was intended to address only the issue of records, that are normally a part of an agency's operations, but are held confidential. I can't think of a specific circumstance where we would want to explore individual medical records in that kind of depth. This is the same authority and language that the State Auditor has.

246 ART KEIL, HEALTH DIVISION: The Health Division's concern is with the language in §2, which gives an officer and/or designee access to examine and/or copy the records. Those include the Health Division's Acquired Immunodeficiency Syndrome (AIDS) records, as well as all confidential medical records in the Division. The language appears to be very broad, with all medical records, of all types, coming under this provision.

254 CEASE: You are not allowed to disclose those are you, aren't they confidential?

255 KEIL: They are confidential.

256 CEASE: The same would apply to anybody who got them with this bill and under the amendments.

259 KEIL: It is not a matter of disclosing but of the reluctance of our medical staff to even provide the copies for them. The chance is it could be disclosed.

272 CEASE: I believe we want our Fiscal Officer to uphold all of the aspects of the law and we would probably get rid of him if he didn't.

276 BUNN: Isn't this also giving the entire committee the information and not just the Fiscal Officer?

277 CEASE: No.

278 RYDER: No.

279 BUNN: What is the purpose of giving the Fiscal Officer the information, if the committee doesn't have the information to use?

282 CEASE: I assume for purposes of analysis, the same way the

Legislative Revenue staff looks at a taxpayer's records, but they can't tell me about it.

290 SMITH: It is my understanding only staff has access to this information for purposes of amassing broad information to present to the Audit Committee.

300 LATTIMER: This issue came up when we did an audit of student records to analyze dropouts. To look at those records under state and federal law, we needed authorization from the Superintendent of Instruction. The committee felt we should have the same authority as the State Auditor. I can't think where we might need individual medical records, but I don't want to hamstring our ability to do the reviews, analysis and audits that the committee might request.

328 BUNN: Is Sen. Springer accurate that all of this information is available through subpoena, without the bill?

332 LATTIMER: We do not have that authority, unless it is under general statute.

335 BUNN: I would like a clarification of that, if subpoena authority exists it seems that would be the way to go.

341 LATTIMER: We are not seeking subpoena authority. It has a chilling effect. We want the legislation as back up so we can obtain needed information in a cooperative manner with the agency.

355 BUNN: It is not chilling as long as you look at them and they don't know, but if you must go through the subpoena then there is a problem.

361 KEIL: We are not comfortable with the word "unlikely" when it comes to our confidential medical records.

371 GRENSKY: Try to paint a scenario for me where you would need to look at personal medical records? If you can't think of something, I don't think we have much to talk about here.

382 LATTIMER: I couldn't have thought of it with the student records either, we may need the same access to health records.

398 GRENSKY: The Fiscal Officer can't give the information to the committee anyway, so if stops there what good is it?

402 LATTIMER: The Fiscal Officer can provide analysis for the committee. This is the same language as is currently available to the State Auditor.

427 GRENSKY: You could audit other records of that particular agency couldn't you?

434 KEIL: If there were a desire to audit the Health Division's HIV program we would provide all information available to do that, but we would be extremely reluctant to share the individual medical records of people in that program.

444 LATTIMER: We are not interested in creating a problem for the Health Department or the committee. If the language was changed to prohibit copying individual health records, that would be fine with me, however I can't speak for the Legislative Audit Committee.

456 GRENSKY: I don't think you should even be able to review them. If the Governor's name were seen as HIV positive that might get around.

463 LATTIMER: It better not or we are in violation of the law.

465 SMITH: Does the committee have subpoena power?

475 CEASE: I think the bill is important having worked on the Audit Committee. If we are going to have the bill we need the -5 amendments because they clean up some messy language on one part. Beyond that I would go with the will of the Committee on the medical part, I don't have a problem.

493 SMITH: I have no problem with the -5 amendments as they are, however if there are not the votes to get the bill out of Committee, I would be willing to agree to additional amendments to set out that the context of individual medical records, in terms of their medical history, would be subject to subpoena.

TAPE 106, SIDE B

037 CEASE: Would be subject? They are not subject to disclosure now.

037 SMITH: The committee could only access those through subpoena, however you want to say it.

040 LATTIMER: I am not sure these records remain confidential if they are subpoenaed. I think we need those same kinds of authority that the State Auditor has, if we are to evaluate individual health programs.

059 GRENSKY: There is a potential for people to be exposed by having information revealed that they don't wish to have revealed.



070 CEASE: If we subpoena things, and it becomes a part of the public record, then what is your comfort level on the medical question?

073 GRENSKY: I did not suggest the subpoena authority. I have no problem with their copying and examining everything else. There is no reason to examine personal, confidential patient medical records.

082 LATTIMER: Perhaps we could suggest some language that would say "the Legislative Fiscal Officer under this Act would not have authority to access or copy individual, confidential medical records."

089 CEASE: Legislative Counsel could word it right.

092 BUNN: Suggests a scenario of an agency like State Accident Insurance Fund (SAIF), with six chiropractors doing a total practice of x amount of dollars, and it involves this type of a case. If you were doing that type of an audit would you need the individual records?

099 LATTIMER: I'm not sure we would do the kind of audit that you suggest. We tend to do program-wide kinds of evaluations rather than specific cases relating to a specific group of individuals.

103 BUNN: If you were dealing with an audit where federal grant monies were provided to the state for tuberculosis, as it relates to the immigration laws, would you use individual records to verify what had been happening?

108 LATTIMER: Without knowing more, it sounds like something we might do. The information reported would be summarized statistically.

111 BUNN: The summary would be referred to the committee, but to get to that report you would potentially need the individual records?

113 LATTIMER: Yes.

115 KATHLEEN BEAUFIT, LEGISLATIVE COUNSEL: The subpoena authority granted by statute, requiring a majority vote of the committee, refers to any statutory standing, special or interim committee of either house of the legislative assembly. I would conclude the Audit Committee has subpoena authority.

122 CEASE: Does that information then become a matter of public record?

124 BEAUFIT: Probably, it does become part of the record. If it is turned over to each member of the committee your control over access becomes limited.

128 BUNN: We could amend the statute to say that information would remain confidential?

131 BEAUFIT: There are several ways to handle it. One is to say "they shall not have access to individual confidential medical records". The other is to limit the authority to copy. Access is the strongest approach to take by saying "nothing in this Act authorizes the Audit Committee to have access to individual confidential medical records".

143 MOTION: SEN. GRENSKY MOVED THE CONCEPTUAL AMENDMENT TO HB 203 9 A-ENGROSSED STATING THAT "NOTHING IN THIS ACT AUTHORIZES THE AUDIT COMMITTEE TO HAVE ACCESS TO INDIVIDUAL CONFIDENTIAL MEDICAL RECORDS".

148 BUNN: I think we may do a part of a job and make the situation worse when we are done.

152 OTTO: I think you are right. We can hold the bill over until Friday.

159 CEASE: My preference would be to amend the -5 amendments, Exhibit F and send the bill out.

161 BUNN: I don't like the bill at all, but the direction we are headed in does not give enough time to resolve it.

165 SMITH: If Sen. Bunn is not comfortable with the bill at all I would be happy to vote on Sen. Grensky's amendment today and move the bill, if there are votes.

173 GRENSKY: Restates motion.

184 VOTE: MOTION CARRIED: 5-1. EXCUSED: SEN. KITZHABER. (VOTING NO: SEN. BUNN).

189 MOTION: SEN. SMITH MOVED THE -A5 AMENDMENTS TO HB 2039, DATED 05/31/91, EXHIBIT F.

195 VOTE: MOTION CARRIED: 6-0. EXCUSED: SEN. KITZHABER.

199 MOTION: SEN. CEASE MOVED HB 2039 A-ENGROSSED TO THE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.

204 VOTE: MOTION CARRIED: 4-2. EXCUSED: SEN. KITZHABER. (VOTING NO: SEN. BUNN, SEN. SPRINGER). SEN. CEASE WILL LEAD THE FLOOR DISCUSSION.

219 Meeting adjourned at 5:00 p.m.

Submitted  
By:

Joan Green  
Muñiz  
Assistant  
istant

Reviewed By:

Julie

Ass

EXHIBIT LOG

A - SB 802-2 amendments, Becker, 2 pgs. B - HB 3206-1 amendments, Meek, 1 pg. C - Staff measure summary, Staff, 1 pg. D - HB 2974-A14 amendments, Staff, 7 pgs. E - Fiscal impact statement, Staff, 1 pg. F - HB 2039-A5 amendments, Staff, 1 pg.