

Senate Government Operations June 7, 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 7, 1991Hearing Room "B" 3:00 p.m. Tapes 109 - 110

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 John
Houser, Committee Administrator Julie Muñiz, Committee Assistant

MEASURES CONSIDERED: SB 802 - Relating to public
printing, WS HB 3533 - Relating to supplemental budget of local
governments, WS HB 2688 - Relating to public contracts, WS HB 2045 -
Relating to insurance for state agencies, WS HB 2484 - Relating to
employees of State Board of Higher Education, PH/WS HB 3498 - Relating
to annexations, PH/WS

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TAPE 109, SIDE A

005 CHAIR OTTO: Called the meeting to order at 3:13 p.m.

(TAPE 109, SIDE A)

PUBLIC HEARING

SB 802 - RELATING TO PUBLIC PRINTING

Witnesses:Grover Simmons, Pacific Printing Industries Association Cindy
Becker, Administrator, Printing Division Gary Marsh, Printing Industries
of the Pacific Kathleen Beaufait, Legislative Council

020 GROVER SIMMONS, PACIFIC PRINTING INDUSTRIES ASSOCIATION: Reviews
written testimony, Exhibit A.

050 CEASE: Was it the -2 amendments we were talking about? I don't see
anything that says that the printing needs to be done in Salem.

055 SIMMONS: It would allow intergovernmental agreements to be entered
into and allow the State Printing Division to bring in work to be run
here or contracted back out.

057 CEASE: I don't see that it says it will be done in Salem.

059 SIMMONS: The printing plant is located here.

059 CEASE: But the rest of the bill doesn't say that all the printing is
done in the printing plant. There's nothing that says "Salem"; that's
not my understanding of what the bill would do.

063 SIMMONS: You're correct. There are two systems that could be used.
The State Printer could do the work at the state facility, or they could
put it out to bid.

070 CEASE: It seems it would depend on what the job was and where it
could be done the best.

075 SIMMONS: Continues review of written testimony, Exhibit A.

111 CEASE: Can someone tell me exactly what S2, (3) of the amendments
does?

115 SIMMONS: By deleting "publicly owned" it means the entire section

would only apply to the university and not to local publicly owned printing facilities.

122 CEASE: This section applies more to the university now?

125 SIMMONS: It currently applies to local public printing establishments as well. The title is a summary. If the "publicly owned" words are eliminated and the line saying "or the political subdivision owning the printing plant" are added, you've deregulated local printing. They could then go out and do business with the private sector. We have people here who have case histories of these problems.

143 CEASE: Requests Cindy Becker explain the amendment.

147 CINDY BECKER, ADMINISTRATOR, PRINTING DIVISION: When I met with Kathleen

Beaufait, she suggested that ORS 282 was poorly worded. The amendments from section 2 came from Legislative Council (LC). That section only deals with higher education. This amendment was recommended by LC.

127 CEASE: He was talking about section 2. I understood it related only to higher education and the university either before or after the amendments.

171 BECKER: That's correct. I have the existing statutes here.

172 CEASE: This isn't the existing statute, it's the amendments. I just wanted to get that clear.

174 BUNN: You're saying this is limited to higher education because it's in a higher education statute, even though it doesn't specify when it says "any publicly owned printing plant within the state." The language itself isn't limited to higher education.

179 BECKER: Reads §2, ln. 24, pg. 1. Everything else is underneath the Department of Higher Education.

188 SIMMONS: I have checked with LC regarding the operation of §2. The heading doesn't control, it's a summary.

195 CEASE: It's not the heading. Reads ln. 24, pg. 1. Everything else relates to what the Department of Higher Education can do. That's not the heading, that's the statute.

203 SIMMONS: Are you looking at the part that begins with "No printing shall be done..."

206 CEASE: No, I'm looking at what that relates to. It says, "Subject to (2) and (3)... the Department of Higher Education may operate:" So it only implies...

211 BUNN: It would appear that §1 is limited by §2 and §3, but §2 and §3 are not limited by §1.

214 SIMMONS: That is correct.

215 BUNN: So the subject of §2 and §3 does apply...

217 SIMMONS: That's correct. But §3 can stand alone. That's where the local public printing is involved. Funds used to pay at the local level emanate from that phraseology. That's what deregulates local public printing.

223 BUNN: Is Gail contacting LC?

224 OTTO: Yes.

226 GARY MARSH, PRINTING INDUSTRIES OF THE PACIFIC: Sen. Cease has brought up a problem with this bill. It's poorly written and doesn't stress what will and will not be limited by this bill. It opens up the door for the State Printing Department to do local work outside the Salem area. The limitations Ms. Becker has talked about relate to the intent. That's not a good way to talk about the bill. This bill is ambiguous. I do work for several organizations that could potentially be affected by this bill.

263 GRENSKY: A local government isn't going to contract work with the State Printing office unless it's done cheaper there, is that right?

270 MARSH: That is probably true.

273 BECKER: The private sector goes out and seeks business. The Printing Division gets printed products to the customer, regardless of whether we do them in plant or contract them out. We contract out over \$10 million in printing. We can get more competitive prices because of the purchasing power of the Division.

287 GRENSKY: A local government would not use the state printer unless they could get it for less than the private sector.

292 BECKER: Yes, but we competitive bid many of the jobs we do. The State Printer is more than the printing plant, it's the contract mechanisms well.

293 GRENSKY: How are you going to end up with more work because of this bill?

295 BECKER: We may not. We have to turn people away now. We want to be able to provide assistance when it's asked for. Right now we can't.

302 GRENSKY: It's possible you might do the work?

303 BECKER: Yes.

309 CEASE: We're trying to figure out the -2 amendments. Ms. Becker said LC wanted to clarify the language in §2. We got into a discussion of how section 2 reads.

329 KATHLEEN BEAUFIT, LEGISLATIVE COUNCIL: I don't know why this is in the bill. The bill is structured in a strange way because it starts out talking about the university printing, but (3) relates to everybody. The -2 amendments make it applicable to just the university system.

340 CEASE: We've heard testimony that LC wanted to clarify the language because (unintelligible).

345 BEAUFIT: The language is clarified so it makes it applicable only to the university. When they wanted the state printer to enter into intergovernmental agreements and not authorize the printing facility uses, it was done to clarify that one relates only to the university and the other relates only to what the state printer would control.

356 BUNN: This would remove restriction on school districts so they could print for local businesses?

379 BEAUFIT: Yes. I believe that is correct.

382 BUNN: I think the -2 amendments make a huge policy change that we didn't deal with before. I'm not supportive of it. I think there was no purpose in the bill without the amendments.

393 MOTION: SEN. BUNN MOVED TO TABLE SB 802.

405 VOTE: MOTION FAILED, 3-2. VOTING NO: SEN. CEASE, SEN. SMITH. (EXCUSED: SEN. KITZHABER, SEN. SPRINGER).

405 BUNN: I don't think there are enough votes to move it.

413 CEASE: LC is waiting.

417 BEAUFIT: The language in (3) would limit the scope of the intergovernmental agreements. If it's intergovernmental agreements, it is governmental funds. You can get where you want to go without section 2.

434 BUNN: That's true, but you're back to the situation where one governmental agency buys a larger machine than they need to compete with private industry.

447 SMITH: I look at this from a different angle. Governments don't have any money. If they can get their work done cheaper, we should support that. If we could fix this amendment so we're talking about government agencies contracting amongst themselves, I'd be in support of that.

465 BUNN: We have no shortage of printers in the state. The government would put people out of work. We don't need to do that.

472 SMITH: Did they testify they would buy a larger press as a result of this legislation?

480 BUNN: The state bought a web press that would allow them to compete with private industry. They didn't know this would become law when they bought the press. They might have hoped it would.

490 CEASE: The point is, they own the press now so we might as well use it as much as we can and save local governments money in the process.

TAPE 110, SIDE A

033 OTTO: This is a long standing argument, but we're going to have to move on.

(TAPE 110, SIDE A)

WORK SESSION

HB 3533 - RELATING TO SUPPLEMENTAL BUDGET OF LOCAL GOVERNMENTS

051 CEASE: I was ready to move it to the floor before.

053 MOTION: SEN. CEASE MOVED HB 3533 TO THE FLOOR.

056 SMITH: I'm concerned about legislation that cuts out the public in the budget process. That's what this bill does and so I'll be voting against it.

058 BUNN: I'll support it, but if we find abuses, I'll support the court repealing it two years from now.

062 GRENSKY: Can you give me just one minute to review the bill?

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

(TAPE 110, SIDE A)

WORK SESSION

HB 2688 - RELATING TO PUBLIC CONTRACTS

Witnesses: John Gervais, National Electrical Contractors Association
Laticia Maldonado, Portland Public Schools Kim Mingo, Associated General Contractors

088 HOUSER: We heard this bill on Wednesday. We have the amendments now.

095 JOHN GERVAIS, NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION: Discusses changes in and reviews -A6 amendments, Exhibit B.

113 CEASE: Are we in the -6 amendments?

115 GERVAIS: Yes. Section 3, pg. 1, ln. 20. Continues review of -A6 amendments, Exhibit B.

155 LATICIA MALDONADO, PORTLAND PUBLIC SCHOOLS: Discusses changes requested by legal counsel, Exhibit D.

173 MOTION: SEN. BUNN MOVED -A6 AS FURTHER AMENDED BY THE PORTLAND PUBLIC SCHOOLS, EXHIBIT D.

185 GRENSKY: John, do you object to these amendments?

186 GERVAIS: No.

189 VOTE: HEARING NO OBJECTIONS, SO ORDERED.

191 MOTION: SEN. BUNN MOVED HB 2688 TO THE FLOOR WITH A DO PASS RECOMMENDATION AS AMENDED.

196 CEASE: Can someone tell me about the new language in section 2? Are these standard references that are understood by people who deal with this?

202 GERVAIS: We took the federal language and applied that with some modifications.

209 KIM MINGO, ASSOCIATED GENERAL CONTRACTORS: I'm not sure which part of §2

you're questioning.

212 CEASE: It was looking like too much government. I want to make sure with adding so much new language that there's clear case law with no new twists. Actually, never mind. I don't like that much new language.

225 GRENSKY: In private contracts this language is fairly (unintelligible). I can't comment on the private contracts.

231 CEASE: I feel better.

238 VOTE: MOTION CARRIED, 5-0. (EXCUSED: SEN. KITZHABER, SEN. SPRINGER). SEN. GRENSKY WILL LEAD THE FLOOR DISCUSSION.

(TAPE 110, SIDE A)

PUBLIC HEARING

HB 2045 - RELATING TO INSURANCE FOR STATE AGENCIES

Witnesses: Dave White, Administrator, Risk Management Division

250 DAVE WHITE, ADMINISTRATOR, RISK MANAGEMENT DIVISION: This bill is really

just an update of ORS 278. Reviews written testimony, Exhibit E. This bill was approved by Joint Ways and Means and has been crafted in the budget. I don't think it needs to be referred to Ways and Means again.

300 OTTO: It's been in Ways and Means? There have been no changes in the House?

301 WHITE: Yes.

302 CEASE: Did your budget pass out?

302 WHITE: It did.

WORK SESSION

329 MOTION: SEN. SMITH MOVED HB 2045 TO THE FLOOR WITH A DO PASS RECOMMENDATION AND A LETTER TO THE PRESIDENT'S OFFICE TO RESCIND THE REFERRAL TO WAYS AND MEANS.

348 VOTE: MOTION CARRIED, 5-0. (EXCUSED: SEN. KITZHABER, SEN. SPRINGER). SEN. SMITH WILL LEAD THE FLOOR DISCUSSION.

(TAPE 109, SIDE A)

PUBLIC HEARING

HB 2484 - RELATING TO EMPLOYEES OF STATE BOARD OF HIGHER EDUCATION

Witnesses: Scott Bartlett, Legislative Assistant to Rep. Bill Dwyer Roger Bassett, Director of Government Relations, State System for Higher Education Wendy Van Elverdenghe, Oregon Public Employees Union

355 SCOTT BARTLETT, LEGISLATIVE ASSISTANT TO REP. BILL DWYER: Reviews legislative history of HB 2484. There was a problem that needed to be addressed. There wasn't ample statutory language to deal with conflict of interest situations within the State Board of Higher Education. There is no clear language that governs what people should do when they have potential conflict of interest problems. Reviews bill.

417 ROGER BASSETT, DIRECTOR OF GOVERNMENT RELATIONS, STATE SYSTEM FOR HIGHER EDUCATION: It makes sense that the public service role of the faculty and staff be exercised. We are also dealing with it on the campuses and within the state system staff and rule form.

440 WENDY VAN ELVERDENGHE, OREGON PUBLIC EMPLOYEES UNION: Urges support of bill.

WORK SESSION

455 MOTION: SEN. CEASE MOVED HB 2484 TO THE FLOOR WITH A DO PASS RECOMMENDATION.

465 VOTE: MOTION CARRIED, 5-0. (EXCUSED: SEN. KITZHABER, SEN. SPRINGER). SEN. CEASE WILL LEAD THE FLOOR DISCUSSION.

(TAPE 109, SIDE B)

PUBLIC HEARING

HB 3498 - RELATING TO ANNEXATIONS

Witnesses: Phillip Fell, League of Oregon Cities Terry Smith, Deputy Public Works Director, City of Eugene Ted Hughes, Representing Rod Adams, Attorney at Law Diana Godwin, Oregon Sanitary Service Institute Pam Hodge, Legislative Assistant for Sen. Joyce Cohen Bibby Lee, Citizen Bill Koran, Citizen Robert Thomas, Citizen

025 PHILLIP FELL, LEAGUE OF OREGON CITIES: Encourages support of bill. It makes one change in statute and clarifies a current statute. It extends the delay period of annexation up to 10 years. The clarification is in §2 and §4 makes it clear that a consent to annexation agreement applies to property, not to the land owner. It's a problem that has state-wide implications.

049 TERRY SMITH, DEPUTY PUBLIC WORKS DIRECTOR, CITY OF EUGENE: I spent 18- 19 months discussing some public works problems with representatives of property owners. Many of them have expansion plans and concerns about sewer and storm drainage service. That service is very expensive. Under current policy an industry would have to annex a city in order to get delivery of that service. Imposing both the property tax of that city and the expense of the service. We would desire the ability to provide the service with an effective annexation. When that's paid off the annexation would be effective.

073 OTTO: During this 10 year period, you could use differential annexation where there's a payment every year?

077 TERRY SMITH: There is a different statute that allows for tax differential for property taxes upon the effective date of annexation. This would make no annexation effective for 10 years, then the property tax could be paid at that time or use a differential. You could do one and then the next. We've submitted a letter, Exhibit F. These statutes provide no new authorities for cities regarding annexation.

100 CEASE: The -5 amendments, Exhibit I, are the amendments that are the property owner clarification amendments.

102 RYDER: Yes.

106 CEASE: The amendments just referred to are the -A5, Exhibit I, correct?

106 OTTO: Correct.

111 TED HUGHES, REPRESENTING ROD ADAMS, ATTORNEY AT LAW: Discusses -A4 amendments, Exhibit J. Tells story of garbage hauler that brought forth the -A4 amendments. Language is needed that says if an area is annexed, the haulers that serve the commercial accounts in that area should be allowed to keep their accounts. The language does nothing unless a municipality annexes a territory. I wanted to explore the possibility of this.

172 DIANA GODWIN, OREGON SANITARY SERVICE INSTITUTE: I've been instructed to

oppose any amendments that affect this franchise. Most of the franchises include commercial accounts so such a franchisee must be compensated for the loss of those commercial accounts.

197 CEASE: I'm familiar with this issue. I think that it would be prudent not to consider these amendments.

211 GODWIN: I will agree to work this out and address concerns through the association.

213 BUNN: When this says you continue to contract for not less than 5 years from the annexation, will you allow annexation to happen 10 years after the agreement? Does that extend to 15 years for a franchise?

220 HUGHES: It could, but that's not my intent.

223 BUNN: I have no problem with the amendments if we clarify that, but I don't see a point in making a motion right now.

227 HUGHES: It did seem just and right.

WORK SESSION

230 CEASE: Do you want a motion on the amendments the property owners wanted?

243 MOTION: SEN. CEASE MOVED THE -5 AMENDMENTS, EXHIBIT J, DATED 6/5/91 TO HB 3498. HEARING NO OBJECTION, SO ORDERED.

261 MOTION: SEN. CEASE MOVED HB 3498 TO THE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.

PUBLIC HEARING

285 PAM HODGE, LEGISLATIVE ASSISTANT FOR SEN. JOYCE COHEN: Relays Sen Cohen's comments on the bill. Reads written testimony, Exhibit K. Submits written testimony from citizen concerned with Tanner Basin Project, Exhibit L.

333 CEASE: This bill doesn't have anything to do with that situation.

336 HODGE: This bill provides a statutory blessing for delayed annexation and there are unintended side effects from this that are unaddressed in the bill. If you're delaying annexation it will provide a climate where the cities will try to encourage pre-annexation development in the area...

350 CEASE: Doesn't that happen with or without the bill?

252 HODGE: There's less of an incentive with more rapid annexation because when a property is annexed immediately they have to provide services...

357 CEASE: When property's annexed ...

359 HODGE: Immediately, then they would have to provide those services right away.

360 CEASE: Which services?

361 HODGE: Sewer, water, other infrastructure costs.

363 CEASE: That never happens immediately. There's no way you can just do it. I think we're getting far afield from the bill itself or any of the statutes.

372 HODGE: These citizens that have come today have had a series of conversations with West Linn based upon the development in the Tanner Basin.

380 OTTO: We'll listen to them briefly.

382 BUNN: Have they seen the -5 amendments, Exhibit I?

384 HODGE: No.

385 BUNN: The -5 amendments require that you would have to sign an agreement for the annexation in order for the 10 years to apply. If the fear is the 10 year provision, the amendments take care of that, if not, I don't know what other provision of the bill that would change anything.

390 CEASE: It doesn't.

392 BUNN: We're creating one window for a group of people that want to be annexed, and we're not bringing anyone else into it. If it's a hostile annexation, then they're not covered by the bill; it doesn't apply.

402 BIBBY LEE, CITIZEN: The City of West Linn is planning to use this delayed annexation to allow development to take place.

412 CEASE: They're doing that under current legal statute. The City of West Linn isn't asking for this legislation.

414 LEE: They had a bill for five year delayed annexation submitted to committee. It is my understanding that it didn't leave that committee. This matter is going before the West Linn City Council. They will continue working for annexation under this bill to allow development to take place. They are considering it to be a viable method.

430 BUNN: Have those in West Linn agreed to sign a consent to

annexation?

434 LEE: No.

436 BUNN: Then the bill would not apply as we've amended it. West Linn cannot use it because of our amendment.

444 LEE: But doesn't it also state that a city can initiate an annexation and name an entire district that will be annexed...?

446 BUNN: No. This deals with areas that are not hostile annexation.

454 LEE: I guess we should look at the revisions.

456 HODGE: Sen. Cohen hasn't looked at those amendments.

460 BUNN: I think they were drafted to deal with this concern and do so adequately.

463 OTTO: There's a motion on the floor to move the bill.

469 Audience interruption. Short discussion between members and audience follows.

TAPE 110, SIDE B

029 BILL KORAN, CITIZEN: We would like the opportunity to see and comment on these amendments.

038 CEASE: With or without the amendments, the bill doesn't apply to your situation at all.

040 KORAN: Without the amendments, I believe it does.

041 CEASE: No.

042 KORAN: West Linn planned to develop a large area, put in the infrastructure and possibly take great financial risk to residents by doing so. By allowing for delayed annexation, they can let future property owners come into the city as much as 10 years hence. The people outside of the city will be island annexed. This legislation still gives a signal to the city to make these financial investments and get some payback in 10 years. I think there is great financial risk in doing so because there is no guarantee the city will go ahead as planned.

070 BUNN: If, as we amended it, it means you have 99 people out of 100 that vote to be annexed, that one cannot be taken in with this provision, then is that ok with you?

073 KORAN: Yes, but that one can still be island annexed.

075 BUNN: But not 10 years later. They would have to force the whole thing in that one year.

075 CEASE: That's current law.

075 BUNN: Right. That one individual could not have this provision used against them.

077 KORAN: The one individual could then block the whole thing for being delayed for 10 years?

078 BUNN: Can block the provision of this statute, yes.

079 KORAN: That sounds great.

082 BUNN: I think it would be good to have the City of Eugene confirm this.

085 KORAN: I still have reservations.

086 TERRY SMITH: That interpretation of this law is correct. This bill gives no new authorities to cities to annex people against their will. That doesn't change, with or without the amendments.

096 KORAN: I think the concern is still valid. The concern is how big an area can be involved that place the people at risk. A huge area goes to this deferred annexation and an investment is made, if that city doesn't go through as planned, it places a financial burden on the

people of that area. By allowing it to be delayed, it allows the city to make a bigger investment in the hopes that things will develop on schedule.

110 CEASE: Shares what happened in northeast Portland. This bill didn't exist when everything in my area was happening. This bill will not change anything.

117 KORAN: I'm not making myself clear.

117 CEASE: Yes, you are.

118 BUNN: At least with this bill you're dealing with the elected representatives of a city and an agreement with a voluntary property owner that says this can happen in 10 years. It prevents people being pulled into the city any sooner than it has to happen.

127 KORAN: I'm not against the annexation. What I am opposed to is the financial risk that may develop over the next 10 years.

133 ROBERT THOMAS, CITIZEN: The push for this bill is connected with the idea of delayed annexation. It's symptomatic of a problem that relates to a view of dealing with what's already wrong by doing something that doesn't face the basic problem. This bill doesn't pay for certain things, only what developers are allowed to pay for. This bill is a seductive enticement to the cities with far reaching implications. It's a band-aid approach; legislators aren't facing the real problem of developers not being required to pay the full impacts of their costs. The cities are left to pick up the tab.

225 BUNN: System development charges are another topic that I hope we don't spend a lot of time on.

227 KORAN: The City of West Linn thinks this bill impacts them.

229 CEASE: It doesn't matter, they're wrong. It's very clear that this bill doesn't change that situation.

233 THOMAS: Infallible judgement.

235 CEASE: My judgement is always fallible. I'm going by legal advice. I don't believe this changes your situation. Growth will happen, we have to deal with it whether or not we have this bill.

243 THOMAS: I think it does...

243 CEASE: Well, we have a disagreement.

WORK SESSION

246 MOTION: SEN. BUNN MOVED HB 3498 TO THE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.

NO ACTION TAKEN ON PREVIOUS MOTION (TAPE 109, SIDE B, COUNT 261).

252 BUNN: There's no way I'll support a bill that allows hostile annexation to expand. I don't think this does that and I support it.

262 VOTE: MOTION CARRIED, 4-0. (EXCUSED: SEN. GRENSKY, SEN. KITZHABER, SEN. SPRINGER). SEN. BUNN WILL LEAD THE FLOOR DISCUSSION. Meeting adjourned at 4:58 p.m.

Submitted By:

Julie Muñiz
Assistant

EXHIBIT LOG

A - Written testimony, Grover Simmons, 2 pgs. B - HB 2688-A6 amendments, Staff, 8 pgs. C - Handout on HB 2688, Staff, 1 pg. D - HB 2688 proposed amendments, Laticia Maldonado, 1 pg. E - Written testimony, Dave White, 1 pg. F - Letter, Roger Rutan, 2 pgs. G - Letter, Gail Overgard, 1 p. H - Testimony, Phil Fell, 1 pg. I - HB 3498-A5 amendments, Staff, 1 pg. J - HB 3498-A4 amendments, Ted Hughes, 3 pgs. K - Written testimony, Joyce Cohen, 2 pgs. L - Memorandum, Joyce Cohen, 1 pg. M - Television transcript, Bill Koran, 4 pgs. N - Written testimony, Bill Koran, 3 pgs.

Reviewed By:

Joan Green
Assistant