

SENATE COMMITTEE ON LABOR

May 24, 1991

Hearing Room 50 3:00 p.m.

Tapes 123 - 124

MEMBERS PRESENT: SEN. GRATTAN KERANS, CHAIR SEN. LARRY HILL,
VICE-CHAIR SEN. BOB KINTIG RH SEN. BOB SHOEMAKER MEMBER EXCUSED: SEN.
PETER BROCKMAN

STAFF PRESENT: ANNETTE TALBOTT, COMMITTEE COUNSEL ROBERTA WHITE,
COMMITTEE ASSISTANT MEASURES CONSIDERED: SB 588 - REQUIRES SPECIFIED
FINDING AND PUBLIC HEARING BEFORE PUBLIC EMPLOYER MAY CONTRACT WITH
PRIVATE ENTITY TO PERFORM DUTIES OR PROVIDE SERVICES PERFORMED OR
PROVIDED BY PUBLIC EMPLOYEES HB 2151 - TRANSFERS RESPONSIBILITY FOR
DEFERRED COMPENSATION PROGRAM FROM ACCOUNTING DIVISION OF EXECUTIVE
DEPARTMENT TO PUBLIC EMPLOYEES' RETIREMENT SYSTEM HB 2238 -REQUIRES THAT
PERSON SEEKING RETIREMENT CREDIT IN PUBLIC EMPLOYEES' RETIREMENT SYSTEM
FOR YEARS SERVED WITH ARMED FORCES BE EMPLOYED BOTH BEFORE AND AFTER
ENTERING SERVICE BY EMPLOYER PARTICIPATING IN SYSTEM IN POSITION
NORMALLY REQUIRING 600 HOURS OR MORE

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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 123, SIDE A

001 CHAIR KERANS: Calls meeting to order. (3:10 p.m.) · We will carry
over HB 2151, HB 2238, HB 2527, HB 2643, and HB 2809 until May 27, 1991
at 3:00 p.m.

SB 588 - REQUIRES SPECIFIED FINDING AND PUBLIC HEARING BEFORE PUBLIC
EMPLOYER MAY CONTRACT WITH PRIVATE ENTITY TO PERFORM DUTIES OR PROVIDE
SERVICES PERFORMED OR PROVIDED BY PUBLIC EMPLOYEES - WORK SESSION

030 ANNETTE TALBOTT, COMMITTEE ADMINISTRATOR: Outlines changes in draft
of SB 588, dated May 24, 1991 (EXHIBIT A) Senate Committee on Labor May
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· Section 2 is policy statement in regards to the contracting for public
services; basically it is self explanatory. 047 TALBOTT: Section 3
provides what kinds of factors a public agency should consider prior to
contracting.

· Indirect overhead costs should be part of the comparison. CHAIR
KERANS: That should be split out; the benefit side should be split out
as a deduction of the value of the agency for income.

110 TALBOTT: Continues describing amendments, see (Exhibit A).

· This bill is limited to service contracts, which is defined in sub
section 6.

180 CHAIR KERANS: We will take out "control mechanisms" and insert
"contract management".

· Continues reviewing amendments, see (Exhibit A).

252 TALBOTT: The wording in the bill assumes that the agency wouldn't
contract if they weren't going to save money.

CHAIR KERANS: Then we must tie this to some kind of savings, such as 5% or 10%.

- We should set a policy saying that it isn't worth the agency to disrupt their workforce, causing dislocations and other change over costs for nickels and dimes.

- We should also include a requirement that they have a protection against, during the life of the contract, cost fluctuations or increases.

292 SENATOR KINTIGH: This makes private business prove that they are equal to or better and it seems it should be the other way around.

CHAIR KERANS: We are trying to get the local government to make sure that when they contract out they understand all the costs attributed to that. ~

345 CHAIR KERANS: Reviews sub 4; I would suggest allowing a minimum of 30 days.

- We need a percent and dollar amount.
- Reviews section 5, see (Exhibit A).

435 CHAIR KERANS: Reviews section 6; we need a dollar amount that is more than \$2500 and less than \$15,000. . These minutes contain materials which paraphrase and/or summarize statanents made during this session. Only text enclosed in quotation marks report a speaker's exact words. For completc contents of the procoedings, please refer to the tapes. Senate Committee on Labor May 24, 1991 - Page 3

- Section 7 remained the same in exclusions?

TALBOTT: It is modeled after SB 982 from last session with the addition of the exemption for qualified non-profit agencies and other situations.

- It also exempts contracts under prevailing wage laws.

475 CHAIR KERANS: We have barred civil action accept for purposes of compliance. TALBOTT: Yes, but there might be collective bargaining agreements or provisions under the Public Employee Collective Bargaining Act that would allow someone to challenge sub contracting or such, but this act doesn't provide additional rights in that regard.

TAPE 124, SIDE A

055 CHAIR KERANS: On line 6 we'll use \$10,000.

065 TALBOT: On page 2, sub 3, SENATOR HILL suggested "the public agency shall find that proposed savings for the contract period are sufficient to insure that estimated savings aren't eliminated" . CHAIR KERANS: We will take out the first sentence; what we want is to assume we have that local governments are smart enough to write contracts for services that include some kind of renegotiation clause in the event of unexpected cost increases. 121 SENATOR SHOEMAKER: I understood that any. existing contract is protected against contracting out by collective bargaining agreements. CHAIR KERANS: If it isn't in the contract they are free to contract out at any time. 128 TALBOTT: The Employment

Relations Board, (ERB) has said that they will take an all things considered approach by balancing the right of the employer to manage their business with the impact the decision will have on the bargaining unit itself. SENATOR SHOEMAKER: To what extent has there been abuse of this? 150 MARI ANNE GEST, OREGON SCHOOL EMPLOYEES ASSOCIATION: We have a contract in place and if the district should decide to go to contracting out, they serve notice to the union. · In all of our contracts it says we can't strike during the life time of the contract. · When they serve notice, we sit down and discuss it with them; we can't do anything else. SENATOR SHOEMAKER: What have the results been? GEST: Contracting out and maybe a months severance pay.

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· I have found that 33% of school buses are contracted out; custodial services would be less than 1/3.

186 SENATOR SHOEMAKER: Is the bill, as drafted, limited to contracting out services that had previously been done in-house?

TALBOTT: Yes; section 6 has a definition of service contracts.

231 GEST: The point is that we want the facts; we are tired of employees being displaced.

SENATOR KINTIGH: Could you name and locate some recent examples?

GEST: The Dalles, Eagle Point, Silverton, Forest Grove, Corbett, Medford, Phoenix, Talent; the list goes on and on. 252 CHAIR KERANS: On page 2, lines 10 - 12 says that we don't have a bar to lower wages or benefits, just that the savings may not be based solely on that fact.

275 TALBOTT: The Washington State Budget Office did a study because they found that the contract costs were exceeding what the state had allocated and the overall conclusion was that the cost effectiveness of contracting for school buses was in question and that existing school district budgets didn't accurately portray the cost of providing the service. 304 CHAIR KERANS: Reviews changes being made for Senator Shoemaker. 388 CHAIR KERANS: An operative date of July 1, 1992 would make me feel better. 405 TALBOTT: Do you intend to include a union representative under "affected worker"?

CHAIR KERANS: Yes.

CHAIR KERANS: Yes.

418 TALBOTT: On page 2 we conceptually added the frequency and quality services.

TAPE 123, SIDE B ~ 040 ~ SENATOR SHOEMAKER: I agree that cost saving in wages and benefits isn't an appropriate basis, but what if it is the sole basis?

CHAIR KERANS: Then they can still do it.

· In sub 3 we are trying to say that you don't have cost savings if they only thing you have is lower salaries and benefits.

075 CHAIR KERANS: The purpose was to say that if you do the equation

required in sub 2 of section 3, you haven't got a savings in the mind of the bill as far as creating a template for comparison, if the only thing you've got is wages and benefit reduction.

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101 SENATOR SHOEMAKER: Lets put this statement in the policy of the State of Oregon for contracting with the private sector.

CHAIR KERANS: We'll do that as sub 3 of section 2.

113 TALBOTT: Start with "It is the policy of the State of Oregon that any cost savings from the contracting out of public services shall not be based solely on the payment of lower wages or benefits to the employees under the service contract than is or was paid to the public employees performing the same duties or services."

SENATOR SHOEMAKER: That I agree with.

142 CHAIR KERANS: We can exempt any public entity that has a collective bargaining contract that has these standards at the least.

SENATOR SHOEMAKER: We could use "comparable". 168 CHAIR KERANS: I will amend my earlier motion making the effective date 1/1/92.

185 ART JAMES, EXECUTIVE DEPARTMENT, STATE OF OREGON: The Employment Relations Board, (ERB) requires that prior to contracting out, the decision and its impact on employees be collectively bargained before it is implemented. . This is a new bill and I have no way of projecting what the impact will be on state government as a result of passage. . Our position would remain the same in that currently public sector contracting is heavily regulated and any time you talk about displacing current employees, that is a mandatory subject of bargaining.

253 JAMES: I would read this bill to go beyond what is in the current provisions of law and collective bargaining. . The employer can't lawfully implement a contracting out plan until it has completed bargaining over the decision itself and the impact on employees.

338 VALERIE SALISB URY, LEAGUE OF OREGON CITIES: This bill still covers any services provided by any public employee in the state. SENATOR SHOEMAKER: On line 8 of page 4 "by public employees at that agency". SALISB URY: That does address a serious problem. . The 30 day period of time for filing a challenging is going to be a very generous period of time; I would suggest 7-10 working days. 415 STEVEN KAFOURY, KAFOURY AND ASSOCIATES: Architects and engineers are the recipients of many public contracts; we agree with the intent.

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· We don't want to see local governments hindered.

487 SALISB URY: The bill seems to assume that local governments currently don't do a good job of taking a rational analysis approach.

TAPE 124, SIDE A 035 SALISBURY: I am not aware of any cases that would indicate that that is true; this bill creates a uniform procedure that will not allow us to account for unique differences in our own communities and we would prefer flexibility.

043 CHAIR KERANS: We will recess for approximately 3 minutes.

SENATOR SHOEMAKER: I don't understand the last part of the second sentence in the indirect overhead cost definition; what does it say now?

CHAIR KERANS: We broke apart the costs and the savings. SENATOR SHOEMAKER: Suggests language; after materials "attributable to the service to be contracted out." striking the rest.

064 CHAIR KERANS: We will take a short recess.

CHAIR KERANS: Calls the hearing back to order. \, 067 MOTION:
CHAIR KERANS MOVES THE ADOPTION OF THE AMENDMENTS TO SB 588 DATED MAY
24, AS FURTHER AMENDED BY THE COMMITTEE. 070 VOTE: HEARING NO
OBJECTION, THE MOTION CARRIES. 077 MOTION: CHAIR KERANS MOVES SB 588
AS AMENDED TO THE FLOOR WITH A "DO PASS". RECOMMENDATION. 080 VOTE:
IN A ROLL CALL VOTE, THE MOTION CARRIES WITH A 4-1 VOTE. MEMBERS VOTING
NO: SENATOR KINTIGH MEMBERS EXCUSED: SENATOR BROCKMAN 087 CHAIR
KERANS: The meeting is adjourned. (4:37 p.m.)

Submitted by: Reviewed by:

Roberta White Annette Talbott Assistant Committee Counsel

EXHIBIT LOG:

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A - SB 588: Proposed amendments submitted by CHAIR KERANS, pp 5

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