

Senate T&E Committee
March 18, 1991
Page
SB 165 - PH
SB 332 - PH
SB 334 - PH

SENATE LEGISLATIVE COMMITTEE
ON TRADE AND ECONOMIC DEVELOPMENT

March 18, 1991Hearing Room 343
3:00 P.M.State Capitol
Salem, OR

Tapes 47 - 48
Duties of Foreign Trade Officers
European Trade Office
Export Manager For Hire

MEMBERS PRESENT: SEN. WAYNE FAWBUSH, CHAIR
 SEN. SCOTT DUFF
 SEN. JEANNETTE HAMBY
 SEN. JIM HILL
 SEN. PEG JOLIN
 SEN. EUGENE TIMMS

MEMBERS EXCUSED:

STAFF PRESENT: JOSEPH CORTRIGHT, EXECUTIVE OFFICER
 TAMIRA MILLER, POLICY ANALYST
 JERI CHASE, OFFICE MANAGER
 HOLLY BROWN, COMMITTEE ASSISTANT

WITNESSES:LYNN YOUNGBAR, LEGISLATIVE LIAISON, ECONOMIC
DEVELOPMENT DEPARTMENT
WENDY ROBINSON, ASSISTANT ATTORNEY GENERAL, JUSTICE
DEPARTMENT
DORIS PENWELL, EXECUTIVE ASSISTANT, ECONOMIC
DEVELOPMENT DEPARTMENT
GLENN FORD, MANAGER, INTERNATIONAL TRADE DIVISION,
ECONOMIC DEVELOPMENT DEPARTMENT

NOTE: These minutes contain materials which paraphrases and/or summarizes
statements made during this
meeting. Only text enclosed in quotation marks reports a speaker's exact
words. For complete contents of the
proceedings, please refer to the tapes.

TAPE 47, SIDE A

000 CHAIR FAWBUSH convenes the meeting at 3:14 p.m.

SB 165 (Duties of Foreign Trade Officers) - Public Hearing

005 TAMI MILLER: Presents Staff Measure Summary on SB 165 (EXHIBIT A).

034 LYNN YOUNGBAR: This bill was introduced to help us be legal with the attorney general and also have as little fiscal impact as possible.

046 WENDY ROBINSON: In the past the Economic Development Department used personal service contracts and we realized that there were legal concerns about the process so we stopped accepting these personal service contracts.

064 CHAIR FAWBUSH: Why can't we continue the personnel service contract?

070 ROBINSON: The Executive Department has a rule which sets out, by example, the kinds of things that are personal services contracts. There is also a new statute within the workers compensation statute which defines the criteria by which to distinguish between independent contractors and personal service contractors. Also there was an unconstitutional delegation of governmental authority.

082 CHAIR FAWBUSH: Why was the delegation of authority unconstitutional?

086 ROBINSON: The delegation of authority is that these managers in these offices in the three countries that they are located in are, from the perspective of the people who come to those offices, the state of Oregon. Those people have broad authority to give information to those people to work with the department and to that extent they are perhaps making policy for the state of Oregon. That is unconstitutional delegation. It is not a definite unconstitutional situation but a risky one.

100 CHAIR FAWBUSH: Then wouldn't any kind of contract service be in doubt of being in violation of that constitutional provision?

105 ROBINSON: The contractual services are not the problem. The problem is that they are representing the state of Oregon.

115 CHAIR FAWBUSH: But these people do carry out some pretty specific instructions.

126 ROBINSON: I see a lot of different kind of contracts. Part of the problem is that we are telling them what to do and then they become employees instead of independent contractors. This also makes the employer liable for any kinds of court liability.

165 SEN. DUFF: Are we required to pay workers comp or taxes?

170 ROBINSON: No. If they are overseas for over 11 months in one year there is no requirement by the state to withhold federal income tax on them. The problem is PERS which we are obligated to pay. If they are an independent contractor you don't need to pay PERS. The problem was they were being

put into an employee category.

245 MILLER: What are the amendments you are requesting?

254 ROBINSON: In Section 3 it says that the unclassified service shall include managers and employees in the foreign trade office. Section 4 incorporates the fact that these people are members of the unclassified service.

262 CHAIR FAWBUSH: This only deals directly with foreign trade officers and the only foreign trade officers we have are in the three offices run by the department.

300 SEN. JOLIN: On page 2 it says that this would raise the personnel cost of the Economic Development Department by 17%.

321 DORIS PENWELL: The bill did not have the amendment which further clarified the personnel situation. There is a 17% increase in cost for us if we include these people as employees in the PERS system.

334 ROBINSON: Presents the proposed amendments to SB 169 (EXHIBIT B).

375 MILLER: I don't understand what higher ed has to do with this?

387 PENWELL: Recently we found they had employees overseas and we don't want this to affect them.

434 CHAIR FAWBUSH: It seems like you ought to be able to hire foreign nationals and not have to pay them state retirement. It also seems that if you have a person who is a resident of the state of Oregon and who maybe wants to be in the PERS system s/he ought to be able to negotiate for PERS.

455 PENWELL: That is exactly what we would like to achieve.

TAPE 48, SIDE A

025 CHAIR FAWBUSH: If you define the class as trade officers then you exclude everyone else. You just generically deal with a class of state employees who are qualified under Robinson's definition and it seems you have solved their problem.

041 ROBINSON: These amendments are general and would apply to any public employee who serves abroad. I don't think we would have to make it that broad.

SB 332 (European Trade Office) - Public Hearing

114 SEN. TIMMS: I would like to see someone prioritize the money the department is spending overseas.

127 SEN. JOLIN: I think we should look at the whole picture first, and hold this until the lottery money has been allocated.

133 SEN. HILL: If it is going to go to Ways and Means then I think it would have to go with the specification that it not be funded with lottery money.

142 CHAIR FAWBUSH: Lottery money is the only source of funding for this program.

155 SEN. TIMMS: When do they approve the economic development budget for foreign offices? That has to come before they see our lottery bill. I would like to see Ways and Means look at the total picture.

SB 334 (Export Manager For Hire) - Public Hearing

227 LYNN YOUNGBAR: Presents letter to the committee (EXHIBIT C).

238 CHAIR FAWBUSH: This list isn't proof that what you are doing couldn't be duplicated or done with more facility by a private contractor.

240 FORD: Our goal is to put a company on it's feet in an overseas market. We don't negotiate the final deal. There is an industry, called brokers, that will do that and we feel we don't need to do that part.

265 CHAIR FAWBUSH: Do you do any contracting at all?

268 FORD: No, except around trade missions that we take to countries in which we don't have offices in.

276 CHAIR FAWBUSH: How many people do you have involved with this?

282 FORD: We have trade officers for China, Korea, Japan, 2 wood products people, 1 European person and they are matched up with trade officers, 3 in Japan, 2 in Taiwan and 1/2 a person in Korea.

287 CHAIR FAWBUSH: Is there a waiting list to get help?

293 FORD: No, because there are other state services that help companies at different stages.

401 SEN. JOLIN: Is this General Fund or lottery?

412 CHAIR FAWBUSH: It would be General Fund.

424 SEN. JOLIN: Do you think you are doing a pretty decent job already with what this bill says?

440 FORD: I am not saying we do what this bill does, we don't negotiate a trade deal for somebody. My feeling is that we should not be negotiating the deal.

TAPE 47, SIDE B

020 CHAIR FAWBUSH: This bill is more intensive then what the department does.

034 FORD: Any activity we take on overseas is done on a cost return basis.

064 CHAIR FAWBUSH: Would it be possible for you to tell us where you put emphasis?

085 FORD: We average 1,500 inquires a month. That list (EXHIBIT C) reflects the companies we worked with to get into a new market.

120 FORD: This state has a group of councils in several communities called international trade councils. They have become a very critical contact point for all state services. We would like to guarantee the existence of the international trade councils.

148 MILLER: Would all of the businesses on you list be able to pay a fee?

160 FORD: There are two types of companies. The companies that go to brokers tend to not want to build staff capacity to manage an overseas market they want to give it to someone else to take care of it. Our group feels they want to manage the overseas market from the beginning. Our intention is to add a fee aspect to our program.

184 MILLER: When do you expect to have enough information to establish a fee schedule?

188 FORD: I think sometime over the next biennium.

201 CHAIR FAWBUSH: You may want to consider accelerating your fee schedule.

263 CHAIR FAWBUSH adjourns the meeting at 4:32 pm.

Submitted by,

Jeri Chase
Office Manager

EXHIBIT SUMMARY

EXHIBIT A - Staff Measure Summary on SB 165, submitted by Tami Miller, pgs. 2.

EXHIBIT B - Proposed Amendments to SB 165, submitted by Wendy Robinson, pgs. 3.

EXHIBIT C - Letter to the committee, submitted by Lynn Youngbar, pgs. 26.