

CONFERENCE COMMITTEE ON HB 2479

HOUSE JUDICIARY COMMITTEE

July 21, 1981 1:00 p.m. 354 State Capitol

MEMBERS PRESENT: Rep. Tom Mason, Chairperson
Sen. Ted Kulongoski
Rep. Bill Rutherford
Sen. Jan Wyers

STAFF: Steve Griffith, House Judiciary Legal Counsel
Felicia Gniewosz, Senate Justice Legal Counsel
Pamela Burke, Committee Assistant

WITNESSES: Sen. Ruth McFarland, District 12
Bob Oliver, Governor's Office
Kay Terran, Affirmative Action Office

MEASURE: HB 2479 - Relating to crime of intimidation

TAPE: H-81-JUD-560

TAPE H-81-JUD-560, SIDE A

006 CHAIRPERSON MASON convened the meeting at 1:10 p.m.

HB 2479 - Relating to crime of intimidation

008 CHAIRPERSON MASON briefed the committee on the bill.

030 SEN. RUTH McFARLAND, District 12, testified on HB 2479. She stated that "or sex" was inserted at her request. A woman is often harassed because she is in the "wrong place".

070 FELICIA GNIEWOSZ, Senate Legal Counsel, defined ORS 163.160, 163.90, 164.345 and L66.065.

079 SEN. JAN WYERS stated that including "or sex" would help women in the case of job harassment.

083 SEN. RUTH McFARLAND stated that men are also harassed on the job.

087 SEN. WYERS stated that there are other elements of a misdemeanor in order if this comes into effect.

102 SEN. WYERS stated that "serious" should be removed.

180 BOB OLIVER, Governor's Office, in response to Sen. Wyers, stated that he never said that he wanted "sex" eliminated from HB 2479.

194 SEN. RUTH McFARLAND stated that to have "sex" included in HB 2479 was requested by the Senate Women's Caucus.

218 KAY TERRAN, Affirmative Action Office, testified on HB 2479. She stated

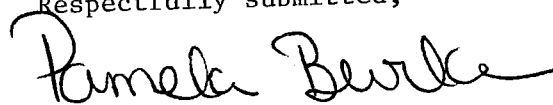
that "sex" should not be included in the bill because Title 7 already addresses the problem of sexual harassment.

313 SEN. RUTH McFARLAND stressed her point that sexual harassment does not have to be physical harassment.

370 SEN. KULONGOSKI stated that "sex" should be included in the bill.

435 CHAIRPERSON MASON adjourned the meeting at 1:40 p.m.

Respectfully submitted,



Pamela Burke
Committee Assistant

TAPE LOG: H-81-JUD-560, SIDE A

CONFERENCE COMMITTEE ON HB 2479

HOUSE JUDICIARY COMMITTEE

July 22, 1981 1:00 p.m. Hearing Room 354

MEMBERS PRESENT:

Rep. Tom Mason, Chairperson
Rep. Bill Rutherford
Sen. Ted Kulongoski
Sen. Jan Wyers

STAFF PRESENT:

Steven Griffith, Legal Counsel
Felicia Gniewosz, Legal Counsel
Diane Daggett, Committee Assistant

WITNESSES:

Bob Oliver, Governor's office

MEASURES:

HB 2479 - Relating to crime, declaring an emergency

TAPE H-81-JUD-563, SIDE A

Work Session

004

CHAIRPERSON MASON convened the Work Session at 1:15 p.m.

HB 2479

005

MOTION: CHAIRPERSON MASON moved reconsideration of the motion which would discharge the committee.

There being no objections, the motion carried.

SEN. KULONGOSKI stated that he had not had a chance to talk with Sen. McFarland.

REP. RUTHERFORD stated that the measure passed the House without one effort to include the word "sex" in it. There are a large number of women representatives in the House. None of them seemed to be compelled to insert the word into the measure.

SEN. KULONGOSKI stated that Sen. McFarland has a strong position on the measure and he feels that before they take a vote or discharge the committee he would like to be given the

opportunity to talk with Sen. McFarland about the importance of the measure. He feels the measure is important, it is the Governor's bill and one that he is very committed to.

061

BOB OLIVER, Assistant to Governor Atiyeh, indicated that the Governor would be very unhappy if the word "sex" were used in the bill. The Governor has not expressed a conclusion and a determination as to what action he would take on the bill if it were passed in its present form. He has not indicated that he would sign it nor has he threatened to veto it.

REP. MASON stated that he would hate to see the Governor veto the bill just because the word "sex" was included in the language.

REP. RUTHERFORD stated that by including the word, the focus of the bill will be changed. If there is a desire to have a new sex discrimination bill then there should be a law that addresses that question. There is no reason to suggest that this bill is exhaustive.

The committee decided to meet again on Friday the 24 of July, 1981.

190

CHAIRPERSON MASON adjourned the meeting at 1:33 p.m.

Respectfully submitted,



Diane Daggett
Committee Assistant

TAPE LOG:

Tape H-81-JUD-563

HOUSE COMMITTEE ON JUDICIARY

Conference Committee

August 1, 1981 7:30 p.m. 354 State Capitol

Members Present: Representative Tom Mason, Chairperson
Representative Bill Rutherford
Senator Jan Wyers
Senator Ted Kulongoski

Staff: Stephen L. Griffith, Legal Counsel
Kris LaMar, Legal Counsel, Senate Justice
Pearl Bare, Committee Assistant

Witnesses: Jim McCandlish, Oregon Criminal Defense Lawyers
Association
Allison Smith, Oregon District Attorneys Association
Bill Gary, Solicitor General

Measures: HB 2030 - Relating to evidence
HB 2479 - Relating to crime

Tapes: H-81-JUD-584, Sides A and B
H-81-JUD-585, Sides A and B

Tape 584 - Side A

003 CHAIRPERSON MASON opened the meeting.

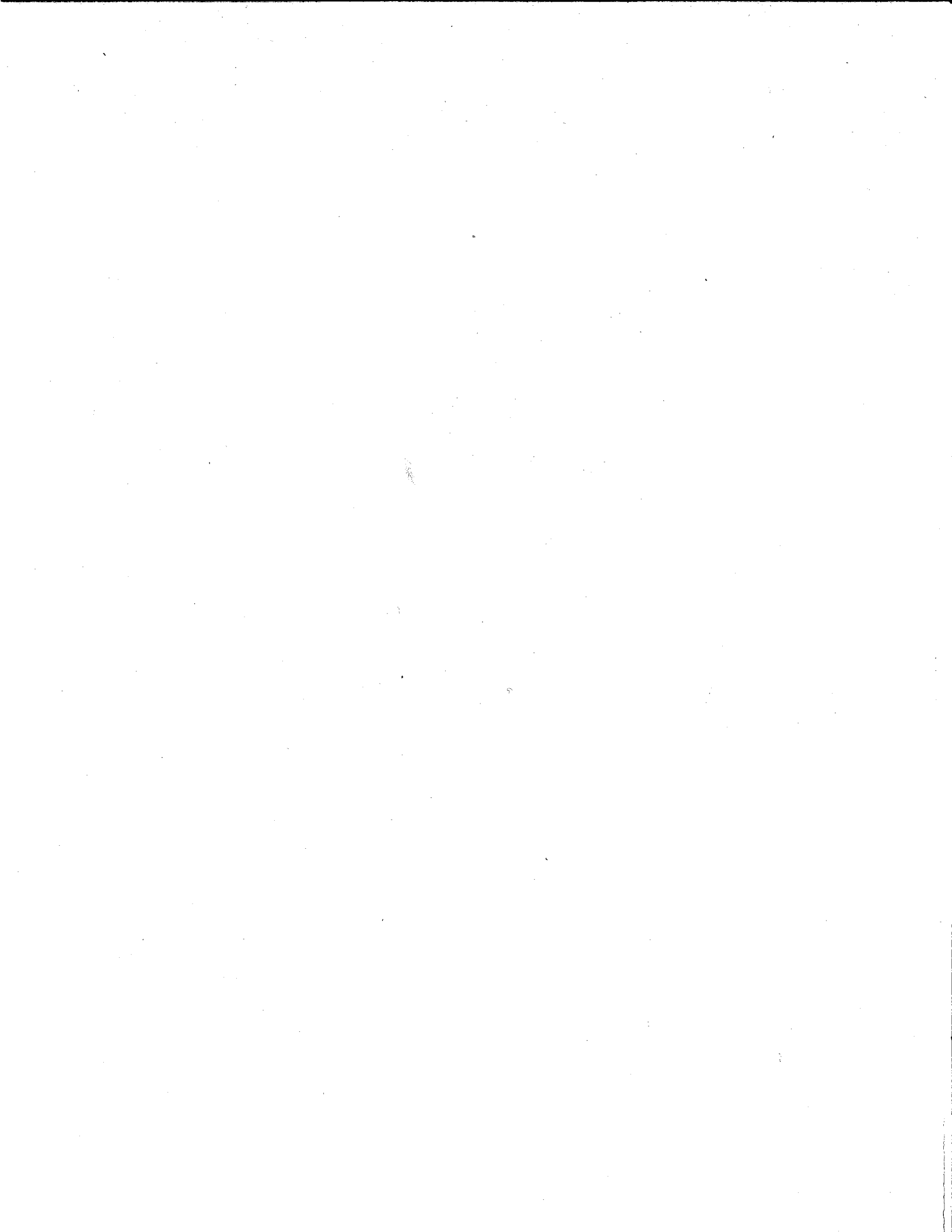
004 HB 2030 - Relating to evidence

020 MR. GRIFFITH stated that the issues in Rule 801 were in the text and in the commentary (Exhibit A, HB 2030). The House adopted the position of the Oregon State Bar Ad Hoc Committee. The Senate restored the limitations found in the federal rule. In the commentary, the Senate was under the impression that its rule would exclude statements made before a grand jury; this is not the case under the federal rule.

046 SEN. WYERS stated that the Senate wanted to recede from the position in the commentary that grand jury statements could not be used. There was a misunderstanding about that in testimony.

056 MR. McCANDLISH, Oregon Criminal Defense Lawyers Association, stated that he supported the federal rule.

097 MR. GRIFFITH stated that this applied more to criminal cases than to civil. Oregon law has not admitted prior inconsistent statements as substantive evidence. The House version is a further departure from Oregon practice than is the Senate.



- 154 ALLISON SMITH, Oregon District Attorneys Association, stated that he agreed to the federal rule that was adopted by the Senate.
- 159 MOTION: CHAIRPERSON MASON moved to adopt the Senate version.
- 164 MOTION PASSED: There were no objections.
- 165 MR. GRIFFITH stated that the next issue was Rule 101(4)(b) (Exhibit B, HB 2030).
- 194 MOTION: SEN. WYERS moved to amend ORS 132.320 to have language stating that the Oregon Rules of Evidence apply; to have a statement in the Code that grand juries are excepted, with the exceptions listed; and to take the Senate position on disavowing State v. McDonald.
- 211 MR. GRIFFITH stated that would be in line 3, ORS 132.320, after "the" to insert "Oregon Evidence Code shall apply to proceedings before the" and to end the sentence after "grand jury".
- 245 SEN. KULONGOSKI had no problem with that.
- 246 REP. RUTHERFORD stated he thought this would place an undue burden on the grand jury. He would like the least amount of change in existing law as possible.
- 287 HB 2479 - Relating to crime
- 288 MOTION: SEN. WYERS moved to adopt the conference committee report excluding the word "sex".
- 290 MOTION PASSED. Aye - Kulongoski, Mason, Rutherford, Wyers.
- 293 HB 2030 - Relating to evidence
- 315 MOTION: CHAIRPERSON MASON moved adoption of the House version of Rule 101(4)(b).
- 320 SEN. WYERS stated that he wanted to disavow State v. McDonald.
- 334 MR. McCANDLISH stated that he would support the other way around.
- 335 BILL GARY, Solicitor General, stated that he would not.
- 336 ALLISON SMITH, representing the Oregon District Attorneys Association, stated the he would not. He would support the Senate version.
- 348 The committee agreed to adopting the Senate version of Rule 101(4)(b).