

THE PUBLIC COMMISSION ON THE OREGON LEGISLATURE
THE COMMITTEE ON MANAGEMENT AND HUMAN RESOURCES

July 19, 2006
9:00 A.M.

Hearing Room
Tapes 7 - 10

MEMBERS PRESENT: **John Lattimer, Co-Chair**
 Connie Seeley, Co-Chair
 Dave Barrows
 Daniel Bernstine
 Jane Cease
 Jim Hill
 Greg Merten
 Sen. Frank Morse

MEMBERS EXCUSED: **Sonja Sorenson Craig**
 Delores Pigsley

STAFF PRESENT: **Marjorie Taylor, Committee Administrator**
 Kellie Whiting , Committee Assistant

PROPOSALS/ISSUES HEARD:

- **Committee Discussion on Legislator Compensation – Review of Commission Structures**
- **Opportunity for Public Comment on Topics Related to Legislator Compensation**
- **Committee Discussion on Staffing for Legislative Counsel, Fiscal and Revenue Offices**
- **Committee Discussion on Staffing and Policy and Issue Areas**
- **Committee Discussion on Professionalization of Staff**

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 7, A		
002	Co-Chair Seeley	Calls the meeting to order at 9:05 a.m. Updates the committee about the proposal for a Legislative Audit Function.
014	Marjorie Taylor	Commission Administrator. Submits and refers to an informational packet, which includes tables, charts and keys comparing past and current trends of legislators' age, number of sessions served and occupations (EXHIBIT A). Elaborates on the occupation trends. Refers to printed webpages about the Washington Citizen's Commission on Salaries of Elected Officials (EXHIBIT B). Refers to the Oregon's Public Officials Compensation Commission statutes (EXHIBIT C).

- 117 Co-Chair Seeley Explains the agenda items for the next meetings.
- 122 Co-Chair Seeley Opens the committee discussion on legislator compensation – review of commission structures.

COMMITTEE DISCUSSION ON LEGISLATOR COMPENSATION - REVIEW OF COMMISSION STRUCTURES

- 126 Ann Boss Legislative Counsel. Indicates that Washington has a specific constitutional amendment authorizing the 16-member compensation commission. Speaks to Oregon’s Compensation Commission, which is only empowered to make recommendations and is advisory in nature. Explains that when salaries are attempted to be set by legislation without a constitutional amendment, there are two constitutional provisions that may be violated by the legislation: the separation of power doctrine, and separation of powers.
- 167 Doug McKean Senior Deputy, Legislative Counsel (LC). Refers to LC 1072 (2006) (**EXHIBIT D**). Explains that LC 1072 (2006) would change the role of the compensation commission by allowing it to establish salaries for public officials, unless the legislature within 60 days of session, passed a bill to amend or repeal the salary levels, and is subject to the legislature’s ability to appropriate the money. By delegating the legislature’s authority to establish salaries, LC has questions about its constitutionality. The commission, as re-formulated in LC 1072 (2006), would be executing the law and the constitutional question is whether this executive branch body can set the salary levels for other branches of government. Questions whether the established salaries set by the re-formulated commission would be binding on the legislature.
- 207 Boss Highlights the appropriation issue and that the legislature has the decision-making power regardless of what a compensation commission decides. Cites a Supreme Court case for guidance.
- 233 Bernstine Asks if the theory behind having a citizen compensation commission and LC 1072 (2006) is to remove the politics of legislators giving themselves a raise.
- 240 Co-Chair Seeley Responds that majority of the members on the Washington Citizen Compensation Commission are members of the public.
- 253 Co-Chair Lattimer Asks if the legislature’s ability to override through the appropriation process, mitigates the separation of powers issues.
- 261 Boss Responds that it mitigates one of the constitutional problems, in that it is not a delegation, but it creates another constitutional problem, in that it is not binding.
- 269 Co-Chair Lattimer Asks for clarification.
- 274 Boss Explains that LC 1072 is considered a “super-recommendation”, being more than what is currently in statute, in that it shall be binding unless the legislature chooses not to follow it.
- 284 McKean Explains that there have been Attorney General opinions that the legislature cannot delegate its authority to another body to write law. Indicates that giving the commission the authority to create law would be an unlawful delegation. Notes that the legislature could come back through a bill, and not adopt the established salaries set by the

commission or choose not to appropriate the money.

296 Co-Chair Seeley Clarifies that LC 1072 (2006) was requested by Mark Nelson.

303 Barrows Notes that in Washington, once the Citizen Commission on Salaries for Elected Officials establishes a salary, it cannot be changed.

312 McKean Clarifies that is because the authority is in the Washington Constitution. Explains that in order to eliminate the constitutional problems in Oregon, it would take a constitutional amendment.

318 Co-Chair Lattimer States that the legislature gives the Executive Branch authority to set salaries for its own employees. Clarifies that the legislature could establish salaries by law for itself and the Executive Branch.

326 McKean Suggests creating three compensation commissions for each branch of government to avoid problems. Questions whether the legislature can give the Speaker and Senate President the ability to appoint members to an Executive Branch agency.

358 Co-Chair Seeley Asks if Washington has the same appropriation issues that Oregon would have if it embarked on a compensation commission structure.

360 Boss Concurs. Explains.

378 Bernstine Clarifies that the legislature can adopt salaries based on a recommendation by the Public Commission on the Oregon Legislature.

385 McKean Answers that the legislature has the authority to set salaries for all three branches of government.

390 Mark Nelson Oregon Judges Association. Talks about the concept of LC 1072 (2006), allowing for an independent review, based on a certain criteria, to establish salaries that do reflect the responsibilities of the job, to remove some of the political aspects and to retain the legislature's final authority to make the decision. Talks about the membership of the proposed compensation commission.

TAPE 8, A

020 Mr. Nelson Continues.

061 Merten Suggests addressing a strategy to determine salary ranges for Oregon legislators.

082 Boss Responds about what Washington and Oregon's criteria is for determining salaries; NCSL comparisons of other states, County and City Officials' salaries, qualifications, neighboring states, the cost of living, job responsibilities, and other aspects in the public interests.

100 Merten Responds about neighboring states.

107 Co-Chair Seeley Clarifies that in Washington, seven of the legislative commission appointees are required to have Personnel/ Management experience. Notes that a compensation commission could discuss the criteria.

120 Cease Speaks to the role of the Public Commission on the Oregon Legislature and reasonable approaches for determining legislator compensation.

147 Co-Chair Lattimer Refers to **(EXHIBIT D)**. Asks how district attorney's salaries are set.

150 Mr. Nelson Answers by the legislature.

167 Sen. Morse Asks for discussion about the position description and expectations for

- Oregon legislators.
- 182 Bernstine Speaks to a citizen legislature versus a professional legislature.
- 196 Barrows Speaks to the changes over time in terms of legislator occupations, and suggests an undesirable change is the decline of lawyers within the body.
- 241 Merten Asks about the discussion and the basis for the recommendation. Suggests that the committee needs context for what it is claiming in terms of what type of people are wanted to serve and what the expectations are.
- 256 Co-Chair Seeley Asks if the committee wants to go with a commission model, or to make a recommendation on a salary level, workload, or citizen or professional legislature though the Public Commission on the Oregon Legislature. Asks for a committee consensus.
- 290 Merten Answers he does not want to give the issue to a compensation commission.
- 292 Bernstine Answers that the Public Commission on the Oregon Legislature should make the recommendation.
- 297 Co-Chair Lattimer Suggests that a citizen legislature may not be possible in current times. Suggests that the unpredictability of the time spent in session is a problem. Asks what a citizen legislator is. States that experience, background and ability is needed given the current complexities. Suggests that without a process to pay legislators well enough, it will be difficult to attract good public officials with experience and ability.
- 340 Cease Speaks to a special interest legislature, and notes she does not think it is a part-time legislature given the demands and increased size of districts.
- 366 Co-Chair Seeley Asks if the committee wants to make a recommendation to the legislature, or recommend having the issues be placed in a compensation commission to study the issues.
- 393 Cease Suggests that the committee can make a distinct recommendation.
- 402 Co-Chair Lattimer States that a commission model could be part of the committee's recommendation.
- 416 Hill Asks what prevents attracting good legislators. Asks if the current legislators are adequate. Asks if citizens who are interested in the process feel that they cannot serve themselves. Acknowledges the degree of sacrifice with public service.

TAPE 7, B

- 010 Hill Asks if there is enough legislative business to be considered full-time. States that there should be an opportunity for a recommendation about legislative compensation. States that there should be flexibility and integrity in setting salaries for legislators.
- 081 Merten Provides clarification.
- 094 Bernstine Clarifies. Expresses opposition to allowing a compensation commission to decide every aspect of legislator compensation.
- 114 Hill Expresses that the PCOL needs to set something in place in perpetuity and to be ongoing. Expresses that it is important to acknowledge the

- will of the people.
- 143 Co-Chair Lattimer Feels that the committee should pursue a compensation commission approach, with defined parameters from the PCOL. Expresses that the discussion should conclude about what kind of legislature is desired.
- 161 Merten Responds.
- 165 Cease Asks if the compensation commission would be statutory.
- 167 Co-Chair Lattimer Concurs.
- 176 Co-Chair Seeley Asks for suggestions.
- 182 Merten Responds.
- 194 Bernstine Suggests not discouraging a citizen legislature, but rather focusing on the time spent conducting legislative business with a reasonable compensation level, whether it is full or part-time.
- 209 Barrows Suggests that a job description cannot be created for legislators and notes that voters elect members. Suggests talking about the increasing workload, and attracting competent people without breaking the bank.
- 250 Barrows Suggests that the committee needs to decide if the recommendations made by a compensation commission can be changed by the legislature or the governor.
- 266 Sen. Morse Suggests directing the commission to create an environment that creates access to people of all walks-of-life to participate in the legislative process, and balance it with the concept of public service. Suggests that the PCOL should create a process that will survive and work.
- 302 Taylor Suggests that the members focus on whether or not to have a citizen or professional legislature; if it is full-time or part-time; defining a realistic job description and to develop a strategy to develop a salary.
- 320 Merten Elaborates on a strategy to develop compensation.
- 305 Bernstine Suggests having a set salary without additional expense allowances.
- 385 Cease Asks if the salary would include per diem.
- 399 Co-Chair Seeley Explains that a recommendation could set a salary that does not include per diem.

TAPE 8, B

- 002 Hill Suggests that the cost of campaigns is a larger barrier to service than the compensation factor.
- 020 Merten Suggests they are two separate questions.
- 022 Hill Asks what is accomplished if compensation is raised, but people still do not serve due to the expense of campaigns.
- 037 Taylor Responds the Process Committee has talked about the issue.
- 038 Sen. Morse Reads the Washington Citizens' Commission on Salaries for Elected Officials mission and mandate from the public (**EXHIBIT B**).
- 065 Hill Concurs.
- 066 Boss Recommends reading the report from the Human Resource Consultant retained by the Washington commission.

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075	Bernstine	Asks if the legislature could pass a statute to appoint a compensation commission.
063	McKean	Responds there are concerns about LC 1072 (2006).
065	Bernstine	Clarifies that the legislature could act on a recommendation from the PCOL.
093	McKean	Responds that the current statute states that the legislature shall review and make recommendations, and shall set the salary.
096	Co-Chair Seeley	Clarifies that if its anything more than a recommendation, it would have to go to the voters.
104	Merten	Suggests not trying to avoid recommendations that will avoid constitutional amendments if the commission feels it is appropriate.
114	Cease	Asks for clarification.
121	Co-Chair Seeley	Clarifies on the suggestion to examine Washington's model, which would be constitutional matter.
130	Sen. Morse	Concurs.
135	Co-Chair Lattimer	Concurs.
139	Sen. Morse	Suggests reviewing Washington's mission and mandate and adding the concept of public service, and having staff draft a recommendation to be discussed and/or adopted at the next meeting.
163	Bernstine	Acknowledges being sensitive to people willing to serve who have families.
178	Co-Chair Seeley	Asks for discussion about the commission structure.
180	Sen. Morse	States that is essential that the appointed members of the compensation commission have personal experience and is weighted with impartial citizens. Suggests having expertise with citizen majority.
199	Cease	Responds about the composition of Washington's compensation commission.
202	Co-Chair Seeley	Talks about ways to establish membership consistent with Sen. Morse's suggestion. Speaks in support of having a citizen majority with expertise.
215	Barrows	Speaks about the congressional districts.
222	Cease	Speaks about geographical districts.
227	Sen. Morse	Suggests that the randomly selected commission members should have voted in four-of-four elections.
239	Hill	Agrees with the sentiment, but notes that would mean that the citizen would have had to live in Oregon for eight years.
257	Barrows	Speaks to the election cycle.
276	Bernstine	Agrees with having the randomly selected commission members have participated in the last two general elections.
288	Co-Chair Seeley	Points out that by requiring the participation of the last two elections, they must be registered voters and there is an age criteria.
290	Boss	Asks that LC be able to review the recommendation.

- 300 Merten Inquires about the how the compensation commission's recommendations could be handled by the legislature.
- 315 Co-Chair Seeley Responds.
- 320 Barrows Questions if the recommendations made by the compensation commission can be changed, absent the legislature not funding it.
- 331 Co-Chair Seeley Speaks to the committee discussion.
- 339 Cease Expresses concern about constitutional amendments.
- 349 Merten Speaks to the separation of power issue.
- 371 Sen. Morse Recommends incorporating the language of LC 1072, with respect to the requirement of the legislature to have the final authority.
- 382 Merten Clarifies that the legislature would have to act in order for the recommendation to not go into effect.
- 402 Co-Chair Seeley Asks if the committee would like staff to circulate a list of public officials whose salaries could be set by the compensation commission.
- 418 Taylor Responds about the salaries for Judges and Chief Judges. Acknowledges that in Washington, the Speaker, President and Caucus Leaders have different salaries than members. Notes it would have to be set in statute.

TAPE 9, A

- 002 Barrows Supports the concept of having a 60-day period, giving the legislature the option to reject the recommendation or part of the recommendation.
- 014 Taylor Comments about Delaware's compensation commission.
- 016 Hill Asks about the salaries for district attorneys.
- 022 Co-Chair Lattimer Expresses his surprise that district attorneys are on the list.
- 025 Hill Speaks about the differences in geographic districts.
- 035 Bernstine Expresses that the PCOL mandate is to review the legislature, not other governmental agencies.
- 037 Sen. Morse Requests hearing from Mr. Nelson about his rationale for including district attorneys.
- 051 Bernstine Questions taking up other governmental entities.
- 058 Merten Comments that in terms of limiting the list to just legislator positions, it raises the question of how many commissions are needed.
- 074 Co-Chair Seeley Differentiates the scope of the legislature, and the PCOL.
- 088 Hill Comments on the conflict in terms of the legislature setting its own salaries.
- 119 Co-Chair Seeley Questions the preview of the PCOL. Recesses for a 10 minute break.
- 138 Co-Chair Lattimer Brings the committee back to order. Opens the committee discussion about staffing for Legislative Counsel, Fiscal and Revenue Offices.

COMMITTEE DISCUSSION ON STAFFING FOR LEGISLATIVE COUNSEL, FISCAL AND REVENUE OFFICES

- 165 Co-Chair Lattimer Refers to the proposal for a Policy and Research Office (**EXHIBIT E**). Asks for a discussion about how staff will be affected with an annual or

- a retimed session.
- 192 Ann Boss Legislative Counsel. Explains the staffing changes that are currently taking place within LC. During session, LC staff is predominately focused on bill drafting and the Oregon Revised Statutes. During an annual session, staff will have to conduct bill drafting at the same time as publication of the ORS. Proposes to have funding to keep the eight session copy editors throughout the interim and to hire at least five new additional attorneys.
- 273 Co-Chair Lattimer Asks if LC reviewed other states in terms of staffing during an annual session.
- 275 Boss Answers no.
- 289 Sen. Morse Asks what assumptions were made for the length and involvement for the even year session.
- 290 Boss Answers that the even year session drafting requirements would be the same.
- 314 Sen. Morse Asks about the disproportionate staffing levels.
- 316 Boss Explains the number of staff is dependent on how limited the session is and the actual end time.
- 334 Sen. Morse Asks for clarification.
- 349 Boss According to the PCOL retiming and annual session recommendation, it is hard to predict what the workload and affects on staff will be in the even year.
- 373 Co-Chair Lattimer Asks if the workload would be affected if one session is strictly a budget session.
- 384 Boss Agrees.
- 386 Co-Chair Seeley Asks if there would be an impact on staff if there was a limitation on bills in the second session.
- 391 Boss Answers between 3-6 attorneys will be needed, but LC would still need professional copy editors.

TAPE 10, A

- 002 Co-Chair Seeley Responds about the staff needed.
- 007 Boss Explains the staff dedicated to test the bill draft system and assist with the workload.
- 012 Co-Chair Seeley Clarifies.
- 014 Paul Warner Legislative Revenue Office. Speaks about current staffing levels within the office. Speaks to the workload and increased number of bills with an annual session. Speaks about a budget-focused session and notes it could be very extensive for LRO. Acknowledges the possibility of needing another economist with an annual session.
- 077 Ken Rocco Legislative Fiscal Office. Speaks to the current staffing levels within the office. Suggests that the first year of an annual session would not significantly affect staff; the second year is of question, which would be contingent on politics and budgets. If budgets decisions are deferred to the second year, it has the potential of affecting LFO's staff and

- workload. Assumes the Emergency Board would be minimal or diminish with the approach. Suggests needed FTE for the office with an annual session approach.
- 155 Co-Chair Lattimer Reads Mr. Rocco's questions in terms of the retimed and annual session proposal. Suggests that more staff is needed.
- 190 Sen. Morse Asks what impact the ending date of August 1 will have on staff.
- 197 Rocco Expects little or no difference for staff in the first year.
- 224 Sen. Morse Asks about a target end-date of June 1.
- 227 Bernstine Indicates that the staffing levels are predicated on determining if the legislature is a full-time or part-time job.
- 246 Co-Chair Lattimer States there are two questions to address 1. What happens if you have a full time legislature? and 2. What kind of work is needed from staff and at what quality? Questions if there is enough staff to accommodate a modern legislature's need and to assess what is happening in the state.
- 265 Barrows States that being a legislator is a full-time job, and some of the demands are outside of the building. Speaks to the time spent during the interim doing legislative work in their districts.
- 295 Bernstine Asks about the relationship between staffing and the time spent in Salem.
- 303 Cease Refers to **(EXHIBIT E)**. Expresses she does not feel that there is enough full-time, permanent committee staff.
- 340 Co-Chair Seeley Comments that if the PCOL determines that the legislator's are full-time, the hydraulic is about personal staff.
- 354 Co-Chair Lattimer Differentiates about personal staff and policy staff.
- 363 Sen. Morse Speaks to the issue around full-time and part-time staff and notes it is predicated on the expectations and amount of work in the interim. Suggests that the expectation should be clearly identified to new and returning members. Asks if the concept is changed to full-time, with an active interim period, would change the staffing dynamics.
- 410 Warner Answers it has potential to increase productivity.

TAPE 9, B

- 003 Rocco Comments that under the scenario, the interim period is shorter.
- 010 Barrows Talks about utilizing the interims in a productive way.
- 037 Co-Chair Seeley Suggests that term limits had an effect on productive interims, but acknowledges that the body is finally getting back to productive interims.
- 070 Rocco Responds about the potential end dates and the timing for interim.
- 085 Co-Chair Lattimer Opens the committee discussion on staffing of policy and issue areas.

COMMITTEE DISCUSSION ON STAFFING OF POLICY AND ISSUE AREAS

- 096 Co-Chair Lattimer Refers to **(EXHIBIT E)**.
- 105 Co-Chair Seeley Explains the proposal **(EXHIBIT E)**. Explains it would dissolve the Committee Services Office, create a Research//Policy Office, and have committee staff work under the desks.

154	Cease	Comments on the hiring of administrators and assistants.
177	Co-Chair Seeley	Comments that the administrative employees would work for the desks, the policy people would work for a director of a statutory Legislative Policy Office. Expresses policy staff needs to be accessible to all members.
243	Cease	Asks if policy people would staff committees.
255	Co-Chair Seeley	Indicates that the policy person would follow their assigned bills into committee.
272	Cease	Asks about subject matter expertise.
278	Barrows	Provides an example.
292	Co-Chair Seeley	Indicates that the policy person would be assigned bills, based on subject matter expertise, and would follow those bills in and out of committee.
308	Cease	Asks about the current process.
316	Co-Chair Seeley	Points out that the idea is to have policy experts who are accessible to every member.
331	Barrows	Illustrates the model used by Way and Means and The Emergency Board.
345	Co-Chair Seeley	Responds about issue area expertise and staff who can assist in the administrative process.
348	Sen. Morse	Encourages having the best content and resources available to the members.
378	Co-Chair Seeley	Speaks to the need of keeping and retaining staff with developing expertise.
395	Co-Chair Lattimer	Provides an example.
TAPE 10, B		
003	Barrows	Asks if a digest will be available to indicate what policy person has been assigned certain bills.
009	Co-Chair Seeley	Concurs.
014	Cease	Asks about the FTE needed for a Policy and Research Office.
023	Co-Chair Lattimer	Acknowledges it will not be a small staff.
039	Cease	Asks who will provide oversight for the proposed office.
044	Co-Chair Seeley	States she would like to have the Legislative Policy Office independent of Legislative Administration, with a director who could devote all their time managing and protecting it. States the way in which policy people are hired is up for discussion.
066	Dave Henderson	Legislative Administrator. States that the Legislative Administration Committee tires to meet quarterly.
071	Cease	Comments that there needs to be a directive.
075	Co-Chair Lattimer	States the relationships between the staff directors is important.
080	Sen. Morse	Encourages joint committees to increase productivity.
090	Barrows	Remembers when interim committees were joint.

099	Co-Chair Lattimer	Concurs.
100	Taylor	States the issue has been discussed.
103	Hill	Asks for caution when talking about having a full-time legislature versus the job being full-time.
111	Barrows	Agrees.
113	Co-Chair Lattimer	Agrees. Provides an example. Speaks to the uncertainty in time commitments.
123	Sen. Morse	Asks about the opportunity to offer amendments to PCOL recommendations.
133	Barrows	Provides an example in Delaware.
140	Co-Chair Lattimer	Adjourns the meeting at 12:49 p.m.

EXHIBIT SUMMARY

- A. Informational packet, Staff, 19 pp**
- B. Legislator Compensation, webpages, staff, 11 pp**
- C. Legislator Compensation, statutes, staff, 5 pp**
- D. Legislator Compensation, LC 1072 (2006), Mark Nelson, 8 pp**